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To: Assembly Committee on Insurance

From: Toni Herkert, Government Affairs Director, League of Wisconsin Municipalities
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Date: August 17, 2021

Re: AB 483, Limiting Municipal Raze Order Powers

Good afternoon Chairman Steffen, Vice Chair Petersen and members of the Assembly Insurance Committee. Thank you for holding this hearing today and allowing me the opportunity to testify on AB 483. The League of Wisconsin Municipalities opposes AB 483, limiting the authority of a municipality to order the razing of certain insured dwellings, as it is currently drafted. We acknowledge the relatively narrow focus of the bill, and we appreciate that the proponents of the bill reached out to us to discuss the goals of the legislation prior to it being introduced. We also appreciate the time the Senate committee spent listening to testimony and the Senator Stafsholt's willingness to listen to our concerns after the hearing. However, we remain concerned about the unintended consequences of limiting a municipality's ability to issue raze orders. Communities exercise these powers relatively rarely and only for the public health, safety, and general welfare of their residents. We are not aware of widespread abuse of municipal raze order powers. Indeed, municipalities typically provide additional latitude and flexibility to afford owners time to repair.

More specifically we have the following concerns about the bill:

1. The bill does not protect a municipality from the possibility that an insured abandons the property without repair. No requirement exists that an insured use claims proceeds to repair a building. The money could be used to purchase a new building instead.
In that scenario, the City is still subject to the more restrictive conditions but if the cost of repairs is, for example 50% of the policy limit, the City would not be able to obtain an enforceable raze order to eliminate the hazard.

2. The bill requires that a municipality, among other things, conduct an on-site inspection to assess the extent of damage. There is no requirement that owners consent to such inspection. This means a municipality would have to secure a special inspection warrant, which is another delay to the process.

3. When buildings are damaged by fire and rendered uninhabitable, municipalities are often not provided a new mailing address for communicating with the owner. As such, ascertaining

consent to inspect or to request information regarding a repair plan, is difficult.

4. The bill does not include a time limit by which an insurance company must commence repairs. Various safety issues may result in delayed renovations or demolition.

5. Under the bill, an insurance company could certify that the claim "may" qualify as covered damage subjecting the municipality to the new restrictions. After that certification, the insurance company is under no obligation to continue updating the municipality as to whether it concludes the damage is in fact covered. Insurance companies will undoubtedly submit this certification as a routine practice upon notice of damage.

6. If there is a substantial disagreement over repair costs between the insurer and the municipality, municipal raze orders are more likely to be challenged, further delaying remediation.

7. A municipality must accept and consider materials that establish the extent of damage or the reasonable cost of repairs from those who are not credentialed to provide information on building repair, structural and nonstructural damages, or cost of repair.

8. The calculation for repairs is "70% of the policy limit" but the bill does not require that the insurance company inform the municipality what the policy limit is in their certification. The certification need only warn that coverage might exist. How will a municipality determine whether repairs are presumptively unreasonable if they lack access to the necessary information with which to make the calculation?

After working in the Legislature for ten years, I fully understand the frustration when interest groups provide a detailed list of problems but do not attempt to offer any solutions. To that extent, the League has prepared a list of potential amendments that we would like to offer. This list has been shared with Senator Stafsholt after the Senate hearing. We would welcome any questions and would like to continue working with both authors on a path forward.

Raze Order SB 434 – Amendment Request

Information Requirements – Modify the proposed s. 66.0413(5)(b) to read:
No later than 10 days after real property has incurred damage, an insurer shall provide a certificate to a governing body, building inspector, or other designated officer of a municipality stating all of the following:

- That the dwelling is insured, and a claim may be or has been filed
- Policy limit of the residential structure at issue
- Date of the damage
- Insurance company contact person
- Insurance company's process for evaluating a claim and the anticipated date of a claims decision
- When a claims decision is made and what the decision is regarding the structure
- Whether the building will be rehabilitated or demolished and a time schedule
- Whether the insurance company will pay for demolition or pay the municipality to oversee the process

Reasonableness to Repair – If the legislation moves in the direction of using a different valuation rather than assessed value, we request the following:

- Whatever valuation is selected, the information needs to be provided to municipalities in a timely fashion (10 days recommended above) or be readily and publicly available.
- If market value is utilized, we recommend statutorily defining how that value is determined so all municipalities are conducting the same analysis.
- If insurance policy limits are retained, then the bill should be amended to require prompt disclosure of the policy limits once a loss occurs (see information requirements above).

Emergency Authority – The bill seems to apply to any residential insured dwelling and not just those that suffer instant and excessive damage. In this provision we would ask for two modifications.

- In cases where damage is instant or natural disaster, emergency raze order authority for health and safety must be maintained.
- In addition, in the absence of an occurrence of instant and excessive damage, municipalities need to retain raze order authority for cases of extreme deterioration as communities continue to eliminate blight, protect public safety, health, and general welfare, and revitalize their communities.

Abandonment – There is no guarantee, even with a settlement, that a dangerous property is removed. The bill should be amended to allow municipalities to initiate a raze order based on the existing reasonableness-to-repair calculation in cases where demolition has not occurred despite a claim settlement or where reconstruction has stalled for two years or more similar to the existing s. 66.0413(1)(b)2.

We would also request that insurance claims settled under this new statutory provision include funds set aside and paid to the municipality to cover demolition and debris removal if an owner vacates.

Security – Require insurance companies to secure the site of a damaged structure within 48 hours or to compensate municipalities for the expenses incurred for site security.

Credentialed Information – In s. 66.0413(5)(c)2 require that any information provided by a person entitled notice must be a credentialed or certified individual with experience and knowledge in the construction trades including engineering, structural damage, assessment, or inspection.

Also require that this information must be submitted within 10 days after the provision of notice.

We urge the committee to vote against recommending passage of AB 483 as introduced and seek amendments to remedy the issues outlined above. Thank you for considering our concerns.