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To: Senate Committee on Insurance, Licensing, and Forestry

From: Toni Herkert, Government Affairs Director, League of Wisconsin Municipalities  
Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities

Date: July 21, 2021

Re: SB 434, Limiting Municipal Raze Order Powers

The League of Wisconsin Municipalities opposes SB 434, limiting the authority of a municipality to order the razing of certain insured dwellings. 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. However, we remain unconvinced that there is a need to limit municipal raze powers. Communities exercise these powers relatively rarely and only for the public health, safety, and welfare. 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?

We urge you to vote against recommending passage of SB 434 as introduced. Thank you for considering our concerns.