

March 24, 2021

Secretary Peter Barca
Department of Revenue
P.O. Box 8933 Mail Stop 624-A
Madison, WI 53708-8933

Dear Secretary Barca:

The League of Wisconsin Municipalities, the Wisconsin Realtors Association, and the Wisconsin Builders Association are concerned that the Department of Revenue is incorrectly interpreting Wis. Stat. sec. 66.0602(3)(m), a new levy limit law provision. The statute allows cities and villages to increase their allowable levy by \$1,000 for each unit of new single-family housing sold that meets certain specified lot size and affordability standards. Our organizations were intimately involved in the drafting and passage of the legislation that became Wis. Stat. sec. 66.0602(3)(m). Indeed, the Wisconsin Realtors Association recommended the relevant language to the authors of the legislation, Rep. Rob Brooks and Sen. Frank Lasee.

Village of Holmen administrator Scott Heinig has shared with us a series of emails between himself and Frank Bozich, Revenue Auditor for the Department. In those emails Mr. Bozich determined that the village was unable to claim the \$1,000 allowable levy increase for four new legally separate single family residential dwelling units that are zero lot line developments and therefore attached to one another. Mr. Bozich concluded that sec. 66.0602(3)(m) only applies to free standing, unattached dwelling units and because the structure the village was claiming the \$1000 levy adjustment for has “a shared wall and a shared roof and is considered part of a multi-family genre, ...it... is not considered for this adjustment as a single family dwelling.”

We strongly disagree with this interpretation of sec. 66.0602(3)(m). In our view, the Village of Holmen’s zero lot line duplex like structures clearly comply with the letter and intent of the statute. If the Legislature had intended to apply the levy adjustment to unattached, stand-alone single family homes only, they would have explicitly said so. However, they did not. The words “unattached” or “free standing” do not appear in the relevant statute. One reason they do not is because the Wisconsin Realtors Association lobbyist that suggested this provision to the authors of the legislation did not want it applied that narrowly.

We have attached Mr. Heinig’s well written and thoroughly researched March 22 letter to Mr. Bozich explaining why Mr. Bozich’s interpretation and application of Wis. Stat. sec. 66.0602(3)(m) was wrong and must be reversed. We urge you to read his letter. We fully endorse Mr. Heinig’s arguments and will not repeat them here. We join with the Village of Holmen in urging the Department to reverse its decision, approve the levy increases for which the Village clearly qualifies, and ensure that DOR staff consistently interpret the provision to apply to zero lot line developments going forward.

Thank you for considering our comments. Please let us know if you have any questions or need further information.

Sincerely,

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