

**STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

Petition of the Sturgeon Bay Historical Society,
Inc. for a Hearing Pursuant to Wis. Stats. §§
101.02 and 227.42 on the Order to Raze and
Remove Structure Issued to the City of Sturgeon
Bay to Raze the Granary Structure at 92 East
Maple Street, in the City of Sturgeon Bay, Door
County, Wisconsin

TO: State of Wisconsin Department of Safety and Professional Services
Secretary Laura Gutierrez
1400 East Washington Avenue, Room 112
Madison, Wisconsin 53703

The undersigned Petitioner, Sturgeon Bay Historical Society, Inc. (the "Society"), a Wisconsin nonstock corporation organized and existing pursuant to ch. 181, Stats., whose address is P.O. Box 827, Sturgeon Bay, Wisconsin 54235, hereby requests a hearing to be held by the Department of Safety and Professional Services (the "Department") pursuant to Wis. Stats. §§ 101.02(6)(e) and 227.42.

The Department action that is the basis for the request for a hearing is the October 17, 2017 Order to Raze and Remove Structure (the "Raze Order") issued by the Department's deputy, Sturgeon Bay Fire Chief Tim Dietman, to the City of Sturgeon Bay (the "City") pursuant to Wis. Stats. § 101.14(1)(a). The Raze Order directs and orders the City to raze and remove the historic Teweles & Brandeis grain elevator located at 92 East Maple Street, Sturgeon Bay, Door County, Wisconsin (the "Granary"). The deadline specified in the Raze Order to raze the Granary is November 16, 2017. A copy of the Raze Order is attached hereto as Exhibit A and made a part thereof.

The substantial interests injured or threatened with injury by the Department action are:

1. Destruction of the iconic, 116-year old Granary, which is officially listed on the Wisconsin State Register of Historic Places upon an application sponsored by the Society and which is the last-surviving example of this type of grain elevator, reflecting the history of Door County agriculture production.
2. Loss of the investment of time and resources of the Society in funds and in-kind contributions for the listing of the Granary on the Wisconsin Registry of Historic Places and for its preservation and restoration.
3. Impairment to the public interest in the preservation and restoration of a historic structure.

There is no evidence of legislative intent that the Petitioner's interest is not to be protected. Wis. Stat. § 101.02(6)(e) grants standing to an interested person, including a person other than an owner or occupant of the affected structure, to petition for a hearing on an order of the Department in the manner provided by that section.

The injury to the Petitioner is different in kind or degree from injury to the general public caused by the agency action. The Society was formed in 2016 for the specific purpose of submitting a nomination for the listing of the Granary on the Wisconsin State and National Registers of Historic Places. The Society has raised significant funds and prepared plans for the preservation of the Granary. The Society is an interested person within the meaning of Wis. Stat. § 101.02(6)(e), and a substantial interest of Society is threatened with injury by the Department's action.

Grounds for the hearing and supporting facts: The Department's issuance of the order violates Wis. Stat. §§ 101.14(1)(a) based on the following facts. Petitioner's allegations create a dispute of fact for purposes of the Society's entitlement to a hearing pursuant to Wis. Stat. § 227.42.

1. On November 8, 2016, the Society was incorporated for the primary purpose of nominating the Granary for listing on the Wisconsin State and National Registers of Historic Places and to restore and preserve the Granary as a community venue and public space.
2. On August 1, 2017, following the City's closure of the Granary to the public due to unsanitary conditions, the Sturgeon Bay City Council adopted a resolution "to direct staff to obtain formal bids for the razing of the grain elevator located at 92 E. Maple Street and that the razing bid specification be written in such a way that *demolition commence no sooner than January 1, 2018*. In the meantime, should an offer be received from an interested party to save or restore the elevator, no City dollars will be used in that effort." (emphasis added).
3. On August 18, 2017, the Granary was officially listed on the Wisconsin State Register of Historic Places. A copy of the Wisconsin Historical Society certificate is attached hereto as Exhibit B and made a part thereof.
4. In connection with the listing of the Granary, the Wisconsin State Historical Society found that "The Teweles and Brandeis grain elevator is an excellent, highly intact example of a grain processing and storage building of a type that was once frequently encountered in communities in Wisconsin and in many other Midwestern states....It is now the only surviving historic resource in the city that can attest to the city's historically important role in agriculture production in Door County."

5. The historic designation and preservation of the Granary is consistent with the City's Comprehensive Plan adopted in March 2010, which provides in pertinent part: "Cultural resources encompass historic buildings or structures and archeological sites, as well as institutions and organizations which contribute to the cultural or artistic life of the community. Cultural resources help to provide the City of Sturgeon Bay with a sense of heritage, identity, and civic pride . . . and can also provide economic development opportunities for the city and its residents." The Plan lists five overall goals, one of which is to "*seek preservation and maintain the abundant natural and historic resources within and surrounding the City.*" (emphasis added).
6. As of October 6, 2017, the Society had received \$150,000 in contributions from the Sturgeon Bay community for the sole purpose of stabilizing and refurbishing the Granary. At that time, members of the Society began to initiate conversations with City staff concerning a Society-sponsored restoration and reuse project that would not use City funds.
7. On October 17, 2017, shortly after the Society initiated the above-referenced discussions, the Raze Order was issued, setting forth the grounds for the issuance of an order under Wis. Stat. § 101.14(1)(a), as follows:

"On the basis of inspection made by the Fire Chief of the Sturgeon Bay Fire Department, the Granary Building upon the property is hereby found and declared, by virtue of its dilapidated condition and location as it is so situated to endanger other buildings, persons or property, upon such site or adjacent property, as to require removal of the granary structure."

8. On October 26, 2017, the Society received a \$1.25 million commitment from an anonymous donor via the Door County Community Foundation for the repair, restoration, and future maintenance of the Granary.
9. As contemplated by the Sturgeon Bay City Council's August 1, 2017 Resolution, the Society has raised sufficient funds to repair and restore the Granary so that no City funds will need to be used for that purpose.
10. The Raze Order fails to comply with the standards for an order under Wis. Stat. § 101.14(1)(a) because it contains neither of the required findings under that statute and Wis. Admin. Code § SPS 314.01(g)1., that the Granary "**has either of the following characteristics:**
 - a. **It is especially liable to fire** and is so situated as to endanger other building or property.
 - b. **It contains combustible or explosive material or inflammable conditions** that are dangerous the safety of any building or premises or the occupants thereof, or hindering firefighters in the case of fire."

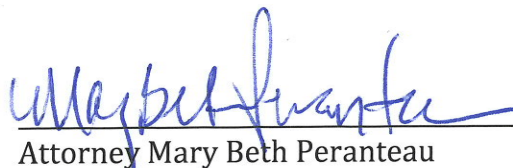
11. On July 31, 2013, Meyer Borgman Johnson Structural Design and Engineering (“MBJ”) conducted a thorough structural assessment on the Granary, in which “...a detailed computer analysis model was constructed to capture the elevator behavior. The model includes over 1,000 pieces, over 700 plates, and over 1,200 connections. Twenty-six different load combinations of wind, self-weight, and live load were considered. The computer analysis was supplemented by hand calculations and MBJ analysis spreadsheets to determine loads and to confirm the computer results.” MBJ concluded in its report that the “City of Sturgeon Bay intends to salvage and adaptively reuse the elevator as part of its waterfront redevelopment program. Based on the information gathered during the site visit report and subsequent calculations, it is our conclusion that the existing elevator is in generally good condition and retains sufficient capacity to support this intended use, with some modifications.”
12. Based on the MBJ assessment, Middleton Consulting and Contracting estimated that the total cost of the modifications would be between \$138,739 and \$148,739. This estimate was provided to the Society in July of 2017.
13. Upon information and belief, the City Fire Chief has no contemporary structural engineering reports or other professional report to substantiate the finding in the Raze Order as to the Granary’s asserted dilapidated condition such as would endanger other buildings, persons, or property and thus require removal.
14. The Raze Order is not a reasonable order for the removal of a building or other structure within the meaning of Wis. Stat. § 101.14(a)(1).

WHEREFORE, Petitioner requests that the Department order a hearing, to be held as a contested case hearing under ch. 227, Stats., to consider and determine the matters raised by the Petition, pursuant to Wis. Stats. §§ 101.02(6)(e) and 227.42.

Dated this 27th day of October, 2017.

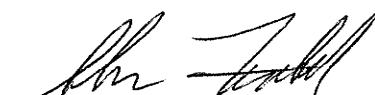
STURGEON BAY HISTORICAL SOCIETY, INC.

By Its Counsel:



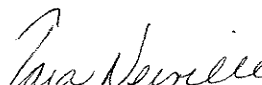
Attorney Mary Beth Peranteau
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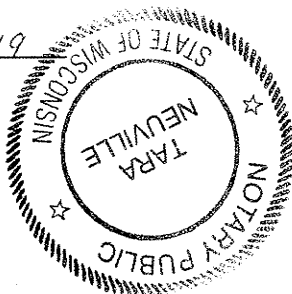
VERIFICATION

By: 
Shawn Fairchild, Board Member
Sturgeon Bay Historical Society, Inc.

STATE OF WISCONSIN)
) SS,
COUNTY OF DOOR)

Personally came before me this 27th day of October, 2017, the above named Shawn Fairchild, to me known to be the person who executed the foregoing Petition and acknowledges the same.


Notary Public, State of Wisconsin
My commission expires: 04/12/2019



cc: Deputy Tim Dietman
City of Sturgeon Bay Fire Chief
421 Michigan Street
Sturgeon Bay, WI 54235

ORDER TO RAZE AND REMOVE STRUCTURE

TO: City of Sturgeon Bay
c/o Stephanie Reinhardt, City Clerk
421 Michigan Street
Sturgeon Bay, WI 54235

YOU ARE HEREBY NOTIFIED, as representative of the City of Sturgeon Bay, which is the record owner of property containing a structure at 92 East Maple Street, City of Sturgeon Bay, Door County, Wisconsin, legally described as set forth in the legal description attached hereto and incorporated herein as Exhibit A, also known as Tax Parcel No. 281-12-10080101 as follows:

1. On the basis of inspection made by the Fire Chief of the Sturgeon Bay Fire Department, the Granary Building upon the property is hereby found and declared, by virtue of its dilapidated condition and location as it is so situated to endanger other buildings, persons or property, upon such site or adjacent property, as to require removal of the granary structure.

By reason of the above alleged facts, said premises are subject to an Order to Raze under Wis. Stats. §101.14 (1) (a).

Accordingly, in order that the above premises be made safe and not detrimental to the public health and safety, I do hereby direct and order you to raze the building described above and restore the site to a dust free and erosion free condition within 30 days from the date of service of this order upon you.

EXHIBIT A

Dated at Sturgeon Bay, Wisconsin, this 17 day of
October, 2017 at 4:20 o'clock in the p.m.

STURGEON BAY FIRE DEPARTMENT

By: [Signature]
Tim Dietman, Fire Chief

STATE OF WISCONSIN)
) ss
COUNTY OF DOOR)

Personally came before me this 17 day of October, 2017, the
above named Tim Dietman, to me known to be the person who executed
the foregoing instrument and acknowledged the same.

[Signature]

Notary Public, State of Wisconsin
My Commission: is permanent

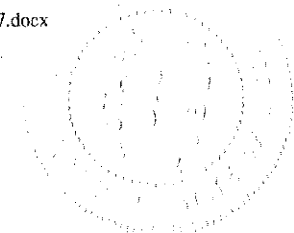


EXHIBIT A

Being a part of Lot One (1), Block Nine (9), according to the recorded Plat of Harris First Addition and also a part of Lots One (1), Six (6) and Seven (7), Block Eight (8) of Bay View Plat, and all of Lots Two (2), Three (3), Four (4) and Five (5), Block Eight (8), of Bayview Plat, and part of Subdivision 76, all in the Northeast Quarter (NE1/4), Section Seven (7), Township Twenty-seven (27) North, Range Twenty-six (26) East, in the City of Sturgeon Bay, Door County, Wisconsin, described as follows:

Commencing at the intersection point of the East line of Neenah Avenue and the North line of Maple Street; thence North 89 deg. 59 min. 38 sec. West, 91.92 feet along the North line of Maple Street to the point of beginning of lands to be described; thence North 13 deg. 34 min 55 sec. East, 47.11 feet; thence North 33 deg. 52 min. 22 sec. East, 263.80 feet; thence North 47 deg. 16 min. 59 sec. West, 200.38 feet; thence South 42 deg. 16 min. 00 sec. West, 229.08 feet; thence South 40 deg. 01 min. 00 sec. West, 33.71 feet; thence South 32 deg. 53 min. 44 sec. West, 33.77 feet; thence West 92.01 feet; thence South 06 deg. 01 min. 06 sec. East, 178.01 feet to the North line of Maple Street; thence South 89 deg. 59 min. 38 sec. East, 256.57 feet along said North line to the point of beginning.

Excepting therefrom:

Lot One (1) of Certified Survey Map No. 2952, recorded in Volume 18 of Certified Survey Maps, Page 57, as Document No. 788826, in Door County Register of Deeds, Door County, Wisconsin.



WISCONSIN
HISTORICAL
SOCIETY

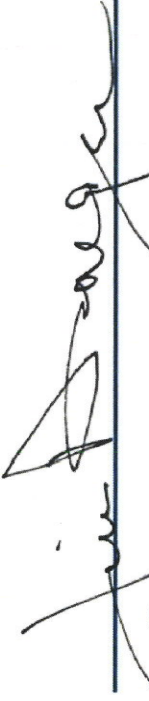
Teweles and Brandeis Grain Elevator

92 East Maple Street

Sturgeon Bay, Wisconsin

WAS LISTED ON THE
STATE REGISTER OF HISTORIC PLACES

ON
August 18, 2017



Jim Draeger
State Historic Preservation Officer



EXHIBIT B