



STATE OF WISCONSIN

Department of Safety and Professional Services
1400 E. Washington Ave.
Madison WI 53703

Governor Scott Walker Secretary Laura Gutiérrez

Mail to:
P.O. Box 8935
Madison, WI 53708-8935

Email: dsps@wisconsin.gov
Web: <http://dsps.wi.gov>

Voice: 608-266-2112 • FAX: 608-267-0644

November 16, 2017

ATTORNEY MARY BETH PERANTEAU
44 EAST MIFFLIN STREET, SUITE 1000
MADISON WI 53703

Re: Petitions for Hearing on Reasonableness of Raze Order and Extension of Time

Dear Sturgeon Bay Historical Society, Inc.:

The Department of Safety and Professional Services (Department) received a Petition for Hearing on the Reasonableness of a Raze Order and a Petition for Extension of Time Under Raze Order (Petitions), both dated October 27, 2017, from the Sturgeon Bay Historical Society, Inc. (Petitioners). The Petitions relate to an October 17, 2017 Raze Order from the Sturgeon Bay Fire Department Chief Tim Dietman to cause the former Teweles and Brandeis grain elevator, located at 92 East Maple Street, Sturgeon Bay, Wis. to be razed. The Raze Order was issued pursuant to Wis. Stat. § 101.14(1)(a), which allows the Department or a fire chief to order a building be razed if it is especially liable to fire and is situated to endanger the “safety of any building or premises or the occupants thereof or endangering or hindering fire fighters in case of fire.”

In addition to the Petitions, the Department received responses by the Sturgeon Bay Fire Department, counter responses from Petitioners, and correspondence submitted by the City of Sturgeon Bay. The Department has determined that Petitioners do not have standing to challenge the Raze Order.

Wisconsin Stat. § 101.02(6)(e) identifies who has standing to petition for a hearing regarding an order of the Department. “Any employer or other person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition....” Wis. Stat. § 101.02(6)(e). The statutory provision allows for three categories of employers or persons to petition the Department; owners, occupiers, or otherwise. As Petitioners do not fit into the first two categories as they are not owners or occupiers of the property, the arguments by both Petitioners and the Sturgeon Bay Fire Department focus on the interpretation of “or otherwise.”

The Department does not agree with Petitioner’s argument that “or otherwise” should be interpreted so broadly as to provide standing to Petitioner. While it may be true that Petitioners have an interest that is “different in kind and degree from that of the general public,” the Department contends that the interest is insufficient to provide standing under Wis. Stat. § 101.02(6)(e). The first two categories of petitioners allowed to challenge a Department order are

characterized by a legal interest in the property. The Department interprets the category of “or otherwise” to require a petitioner to have an interest in the property that is substantially similar to the interests held by the first two categories. The Department concludes that Petitioner’s interest does not rise to the level required by the statutory provision.

As a result, the Department denies Petitioner’s request for a hearing. Pursuant to Wis. Stat. § 101.02(6)(d), the Department also denies the petition for an extension of time as it finds it is unnecessary. However, should the City of Sturgeon Bay, the owner of the property, join the Sturgeon Bay Historical Society’s petition for review of the Raze Order, the Department will reconsider its decision.

Sincerely,

A handwritten signature in cursive script that reads "Al Rohmeyer".

Al Rohmeyer
Chief Legal Counsel

Cc:

Sturgeon Bay Fire Chief Tim Dietman
Sturgeon Bay City Administrator Joshua J. Van Lieshout
Attorney William J. Vande Castle