

MEANING OF BLIGHT – Statement of Patricia Usher, JD

September 9, 2014

I am a licensed Wisconsin attorney and mother of four children. I am speaking to you today as a private tax paying citizen very concerned about the growing local city debt and efforts to create a TIF to divert revenue from other city and municipal obligations over the next few decades.

As an attorney, I believe that the City is misapplying the term “blighted area” as used in the Tax Incremental Financing Statute Section 66.1105. While I have not ever practiced municipality law, rule of statutory construction apply in all regulatory law and I thought it might be helpful if we reviewed the definitions found in the Act itself using that construct:

There are actually two definitions of “blighted area” in the statute. We will start with the second definition, part (b) as it is my understanding that it is the one that the City is attempting to apply:

Please direct your attention to the very first page of the [Handout](#) – it contains the section as written and then the very same language in an easier to read format.....

What does this mean?

The area must be PREDOMINANTLY OPEN.

The reason it is open can be either of two conditions;

It is primarily part of an “abandoned highway corridor” – (the statute refers us to another area in the law for the actual definition of “highway corridor”
OR

It is on land upon which buildings or structures have been demolished, et. Seq.

Either way, for this section to be applied the land MUST BE PREDOMINANTLY OPEN. Under legal rules statutory construction (or, in lay person terminology – how you read a statute in its entirety for its meaning) you can not take words or phrases, such as “substantially impairs or arrests the sound growth of the community” and apply those words alone to any situation. That stands to reason. Otherwise, the city could take private property for any reason simply by reaching the conclusion that it “impairs or arrests growth of the community”. That would destroy private property ownership as a foundational principal, not to mention unconstitutional.

Bottom line, down town EC is NOT an open area. So, we now look to the first definition (part a) – please take a moment and look at the second page of the [Handout](#). Again, the statute as written with the break out for ease of reading.

Ok. What does this mean?

It lists various conditions that MUST be present, and it must lead to certain things (ill health, infant mortality, etc.) BEFORE the property is considered “blighted” and FINALLY, “must affect public welfare in a detrimental fashion.”

So, then, what is required under the law for “blight” in this definition?

To be deemed “blighted”, the building’s condition must be such that it is conducive to five issues (ill health, transmission of disease, infant mortality, juvenile delinquency and crime).

If those things are present in the expansion of the TIF area, they also must be detrimental to the public welfare.

If I am mistaken and we do, in fact, have those issues in the downtown area, I would expect that the City of EC would have had a long standing history of dealing with those property owners, police reports, efforts to remedy and assist those property owners (as evidenced by rampant health code violations, as one possible example etc.) and, then, as a final resort, have those areas condemned long ago. I think others and myself would have noticed that if that were the case. Downtown EC is NOT DETROIT.

You are charged with taking the facts as they are, and not trying to fit the law with the facts you wished you had.