

# Assembly Hearing Slip

(Please print plainly)

Date: 6/5/97

Bill No. AB 58

Or  
Subject \_\_\_\_\_

E. Joe Murny

(Name)

4801 Forest Run Rd

(Street Address or Route Number)

Madison, VT 53704

(City & zip Code)

VT Realtors Assoc.

(Representing)

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:

Room 411 West

State Capitol

Madison, VT 53702

Assembly Hearing Slip

(Please print plainly)

Date: 6-5-97  
Bill No. AB 58  
Subject

(Name) Michael P. Stapleton  
(Street Address or Route Number) 400 Dewitt, P.O. Box 77  
(City & Zip Code) Portage 53901  
(Representing) Columbia Co. and Wis. Administrators (WCCA)

- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only:
- Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 6/5/97  
Bill No. AB 58  
Subject

(Name) Carol Turrell  
(Street Address or Route Number) 322 So Hamlin St #4  
(City & Zip Code) Madison WI 53703-3201  
(Representing) John Hair Chapter Sierra Club

- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only:
- Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 6/5/97  
Bill No. AB 58  
Subject

(Name) George Meyer  
(Street Address or Route Number) WDNR  
(City & Zip Code) Box 7921 Mendota WI 53711  
(Representing)

- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only:
- Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 5 June 97

Bill No. AB 58

Or Subject Sen Robert Welch

(Name) Sen Robert Welch

(Street Address or Route Number)

(City & ZIP Code)

(Representing)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

As Per Conversation  
6-5-97 w/ Les Waterfield

Assembly Hearing Slip

(Please print plainly)

Date: 6-5-97

Bill No. AB-58

Or Subject More confounding

Subject fuel tank owners

(Name) W. C. R. C.

(Street Address or Route Number)

(City & ZIP Code) Delbart WI 54904

(Representing) Self (author)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 6/5/97

Bill No. AB 58

Or Subject Shoeland Floodplain zoning

Assistant Attorney General

Idane F. Kloppenburg

(Name) P.O. Box 9859

W.D. 003 123 W. Washington Ave

(Street Address or Route Number)

Madison WI 53707-9859

(City & ZIP Code)

Attorney General Doyle

(Representing)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

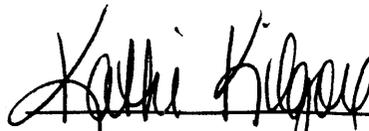
Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

# Committee Meeting Attendance Sheet

## Assembly Committee on Land Use

Date: June 5, 1997 Meeting Type: Hearing  
Location: Room 328NW, State Capitol

<u>Committee Member</u>	<u>Present</u>	<u>Absent</u>	<u>Excused</u>
Rep. Michael Powers, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. John Ainsworth	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Carol Owens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Peter Bock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. John Steinbrink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	<u>0</u>



Kathi Kilgore, Committee Clerk



# **CAROL OWENS**

WISCONSIN STATE REPRESENTATIVE

TESTIMONY BEFORE THE ASSEMBLY COMMITTEE ON LAND USE  
BY REPRESENTATIVE CAROL OWENS  
ON ASSEMBLY BILL 58  
(Thursday June 5, 1997)

THANK YOU CHAIRMAN POWERS AND COMMITTEE MEMBERS IN ALLOWING ME THIS OPPORTUNITY TO TESTIFY IN SUPPORT OF ASSEMBLY BILL 58, RELATING TO LIMITATIONS ON IMPROVEMENTS OF NONCONFORMING BUILDINGS IN SHORELANDS AND ON IMPROVEMENTS OF CERTAIN NONCONFORMING BUILDINGS IN FLOODPLAINS.

FIRST OF ALL, I WOULD LIKE TO MENTION THAT THE LANGUAGE CONTAINED IN ASSEMBLY BILL 58 AND THE BILL ANALYSIS DO NOT MATCH. WHEN I DRAFTED THIS LEGISLATION, MY INTENT AT THAT TIME REFLECTS IN THE ACTUAL LANGUAGE OF THE BILL.

UNDER EXISTING LAW, A LEGAL NONCONFORMING STRUCTURE IN A FLOODPLAIN OR SHORELAND AREA MUST BE BROUGHT INTO COMPLIANCE WITH CURRENT STATE FLOODPLAIN AND SHORELAND ZONING REQUIREMENTS IF IT IS DESTROYED OR DAMAGED BY A FLOOD IN EXCESS OF 50% OF ITS EQUALIZED ASSESSED VALUE (SUBSTANTIALLY DAMAGED). IF A STRUCTURE IN THE FLOODPLAIN IS SUBSTANTIALLY DAMAGED BY A NON-FLOOD DISASTER (FIRE, WIND, HAIL, ETC.), IT MAY BE REPAIRED, RECONSTRUCTED OR IMPROVED UNDER THE LESS STRINGENT REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP). THIS DISTINCTION BETWEEN A FLOOD AND NON-FLOOD DISASTER WAS CREATED WITH

TESTIMONY BEFORE THE ASSEMBLY COMMITTEE ON LAND USE  
BY REPRESENTATIVE CAROL OWENS  
PAGE TWO

THE ENACTMENT OF 1995 WISCONSIN ACT 455 ON JUNE 26,  
1996.

ASSEMBLY BILL 58 REMOVES NONCONFORMING FROM TODAY'S REQUIREMENTS OF SHORELAND, AND ONLY SAYS BE ELEVATED TO REGIONAL FLOOD ELEVATION. IT ALSO STATES THAT ANY NONCONFORMING BUILDING IN A SHORELAND OR FLOODPLAIN AREA...DAMAGED OR NOT...COULD BE REPAIRED, RECONSTRUCTED OR IMPROVED SUBJECT ONLY TO THE MINIMUM FEDERAL REGULATION.

WHAT I AM TRYING TO ACHIEVE WITH PASSAGE OF THIS BILL IS TO PROTECT THE RIGHT OF A HOMEOWNER (ESPECIALLY THOSE WHO HAVE LIVED ON THIS PROPERTY FOR SEVERAL YEARS) FROM BEING DISPLACED IF THEIR HOME IS DESTROYED. THINK OF THE INDIVIDUALS WHO FIRST BUILT THEIR HOME WITH THE INTENTION OF THIS BEING THEIR RETIREMENT HOME UNTIL THE DAY THEY DIE.

I AM SURE YOU HAVE RECEIVED A COPY OF THE FISCAL ESTIMATE ON THIS BILL SHOWING THE ONE-TIME LOCAL AND STATE GOVERNMENT COST FOR REVISING LOCAL ORDINANCES. I FIND THIS COST HARD TO BELIEVE, AS ORDINANCES ARE PRINTED AND UP-DATED EVERY YEAR AND COULD BE ADDED AT A MUCH LOWER COST.

AGAIN, THANK YOU FOR ALLOWING ME THE OPPORTUNITY TO TESTIFY IN SUPPORT OF THIS BILL AND I WILL ATTEMPT TO ADDRESS ANY QUESTIONS YOU MAY HAVE AT THIS TIME.

TESTIMONY OF ATTORNEY GENERAL JAMES E. DOYLE  
IN OPPOSITION TO 1997 ASSEMBLY BILL 58

Hearing Before The Committee On Land Use  
June 5, 1997

A generation ago the Legislature provided that:

To aid in the fulfillment of the state's role as trustee of its navigable waters and to promote public health, safety, convenience and general welfare, it is declared to be in the public interest to make studies, establish policies, make plans and authorize municipal shoreland zoning regulations for the efficient use, conservation, development and protection of this state's water resources. The regulations shall relate to lands under, abutting or lying close to navigable waters. The purposes of the regulations shall be to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses and reserve shore cover and natural beauty.

Sec. 281.31 (previously 144.26), Stats.

In contravention of this mandate, Assembly Bill 58 effectively exempts all existing structures from shoreland and floodplain zoning by allowing a property owner to "improve" any existing nonconforming structure within a shoreland setback or a floodplain. AB 58 acts as a perpetual grandfather clause, precluding government's ability ever to get rid of existing nonconforming structures. In the real world, this means that someone could take a nonconforming cottage 20 feet from a lake or in a floodplain and turn it into a palace for the next few generations. That development is bad news for everyone that wants to protect and preserve our public waters.

The Legislature and the courts have until now (or actually last year, before AB 424) regulated nonconforming structures so as to result in their eventual demise, because of the harm they present to public health and welfare and to the environment, specifically the waters of the state. AB 58 is a direct rejection of that regulation, and of the public trust in which the waters of the state are held. The Attorney General opposes AB 58, both because it undoes current, scientifically justified restrictions on nonconforming structures in the most environmentally sensitive areas of the state so as to threaten public health and safety, and because it is an abdication of the Legislature's public trust.

The nonconforming structure/use principle acts as a modified grandfather clause, allowing government to modernize and tighten land use regulations--and gradually bring all structures into compliance--while permitting existing owners to realize continued use and economic benefits of their nonconforming structures over

the life of the structure. Under most existing ordinances, an owner is allowed to spend up to 50% of the value of a structure to repair it, over the lifetime of the structure. Eventually, time will lead to its demise and removal.

AB 58 undoes the balancing of private and public rights on which the nonconforming structure/use principle is based. The effect of AB 58 is even more drastic because the limitations purported to be provided by the bill do not exist. First, contrary to the analysis of the bill, its reach is not limited to situations where a structure has been damaged. In fact, the bill eliminates the requirement that the building have been damaged or destroyed by a nonflood disaster. Thus, a perfectly intact nonconforming structure may be "improved" under this bill without restriction.

Second, the linkage to federal flood rules is a link to nothing. The federal flood rules impose certain minimal requirements related to floodproofing and insurance, but they are not appropriate for Wisconsin's climate, they are exceedingly difficult to understand and follow, and they are less protective than current state regulations. Most critically, the federal flood rules only apply to floodplain development; those rules do not regulate shoreland development. If the offending structure is not located in a floodplain, federal law has no application. The federal regulatory safety net to which this bill purports to refer simply does not exist.

In sum, the bill creates a statutory right to repair, reconstruct or improve a nonconforming structure, essentially without limitation. And that right runs smack into the countervailing, and superior rights of the public over navigable waters, known as the public trust doctrine.

The Public Trust Doctrine emanates from art. IX, § 1 of the Wisconsin Constitution and it provides that all navigable waters are to be held in trust for the public. Early in the development of the Public Trust Doctrine, the Wisconsin Supreme Court declared that the rights of the public to enjoy navigable waters should be broadly construed. This expansive reading is set forth in Diana Shooting Club v. Husting, 156 Wis. 261, 271-72, 145 N.W. 816 (1914).

The wisdom of the policy which, in the organic laws of our state, steadfastly and carefully preserved to the people the full and free use of public waters, cannot be questioned. Nor should it be limited or curtailed by narrow constructions. It should be interpreted in the broad and beneficent spirit that gave rise to it in order that the people may fully enjoy the intended benefits. Navigable waters are public waters and as such they should inure to the benefit of the public. They should be free to all for commerce, for travel, for recreation, and also for hunting and fishing, which are now mainly

certain forms of recreation. Only by so construing the provisions of our organic laws can the people reap the full benefit of the grant secured to them therein.

The Legislature's duty to protect public trust rights is an affirmative duty. Milwaukee v. State, 193 Wis. 423, 449, 214 N.W. 820 (1927). Associated with this legislative duty is the requirement that no person may be authorized to destroy or impair navigable waters. State v. Adelmeyer, 221 Wis. 246, 256, 265 N.W. 838 (1936). Similarly, the state may not exercise its power under the Public Trust Doctrine to benefit private interests to the detriment of public interests. Priewe v. Wisconsin State Land & Improvement Co., 93 Wis. 534, 552, 67 N.W. 918 (1896).

Over the last one hundred years, particularly the last twenty years, the Wisconsin Supreme Court has increasingly emphasized the state's public trust duty to protect and preserve the state's natural resources for the enjoyment of its citizens. Wis. Environmental Decade, Inc. v. DNR, 85 Wis. 2d 518, 526, 271 N.W.2d 69 (1978) ("public trust' duty requires the state not only to promote navigation but also to **protect and preserve its waters** for fishing, hunting, recreation, and scenic beauty") (emphasis added); Just v. Marinette County, 56 Wis. 2d 7, 16-18, 201 N.W.2d 761 (1972) (under the trust doctrine the state has an active duty not only to promote navigation and protect and preserve navigable waters for fishing, recreation, and scenic beauty, but also to eradicate and prevent pollution, and to **maintain the natural environmental status quo**) (emphasis added); State ex rel. Chain O'Lakes P. Asso. v. Moses, 53 Wis. 2d 579, 582, 193 N.W.2d 708 (1972) (the "trust doctrine concept that sees all natural resources in the state as impressed with a trust for **usage and conservation as a state resource**") (emphasis added); Zealy v. City of Waukesha, 210 Wis. 2d 365, 382, \_\_\_ N.W.2d \_\_\_ (1996) (Wisconsin has a long history of protecting its water resources).

The public trust doctrine that recognizes the rights of the public to enjoy navigable waters is to be broadly and beneficently construed. Muench v. Public Service Commission, 261 Wis. 492, 512, 53 N.W.2d 514, 55 N.W.2d 40 (1952); Diana Shooting Club v. Husting, 156 Wis. 261, 271-72, 145 N.W. 816 (1914). The construction or reconstruction of structures that enhance private use of a lake but make public use of the lake for "travel, for fishing, bathing, recreation and hunting," Doemel v. Jantz, 180 Wis. at 229, or for "sailing, rowing, canoeing, bathing, fishing, hunting, skating, and other public purposes," Nekoosa-Edwards Paper Co. v. Railroad Commission, 201 Wis. 40, 47, 228 N.W. 144 (1929), less attractive, compromise the public use of navigable waters and make those waters no longer "truly public." Diana Shooting Club v. Husting, 156 Wis. at 272.

The Department of Natural Sources has documented the threat to state waters (and the people who live near them and who use them)

posed by unrestricted development in shorelands and floodplains. DNR staff routinely advise counties and property owners that shoreland development negatively impacts natural shoreline aesthetics, causes increased runoff and erosion of soil into lakes and rivers, disturbs ecological habitats, and can adversely affect wildlife and fishing. It is clearly stated in Wis. Admin. Code § NR 116.01 that floodplain regulations are designed to prevent universally recognized dangers to public health, property and the environment that may be posed by land use and development in floodplain areas. DNR staff have testified that a building in a floodplain is likely in the event of a flood to incur damage and endanger the welfare of its inhabitants, and to pose a threat to health and property downstream.

The destruction of navigable waters facilitated by AB 58's lifting of restrictions on nonconforming structures is prohibited. Adelmeyer, 221 Wis. at 256. As our supreme court has explained:

Our navigable waters are a precious natural heritage; once gone, they disappear forever. . .

A little fill here and there may seem to be nothing to become excited about. But one fill, though comparatively inconsequential, may lead to another, and another, and before long a great body of water may be eaten away until it may no longer exist. Our navigable waters are a precious natural heritage; once gone, they disappear forever.

Hixon v. Public Service Commission, 32 Wis. 2d 608, 630, 631-32, 146 N.W.2d 577 (1966). Substitute for "a little fill," "a little improvement here or a little palace there," and the problems with AB 58 become apparent.

The Public Trust Doctrine is a limitation upon the Legislature to protect public rights in navigable waters from dissipation or diminution by acts of the Legislature as trustee of such waters. Omernik v. State, 64 Wis. 2d 6, 14, 218 N.W.2d 734 (1974). The bottom line is that the Legislature cannot authorize conduct that violates the public trust. Priewe v. Wisconsin State Land & Imp. Co., 103 Wis. 537, 549-50, 75 N.W. 780 (1899) (the Legislature cannot free itself from the public trust, even under the guise of promoting public health); In re Crawford County Levee and Drainage District, 182 Wis. 404, 407-09, 196 N.W. 874 (1924).

Despite these trust obligations, this bill carves out for special treatment structures located next to the public's navigable waterways. While a property owner elsewhere is still fully subject to the nonconforming use rule, riparian owners are being given special treatment, based apparently on the belief that shoreland and floodplain regulation is excessive and unwarranted. Yet, it is in the area of shoreland and floodplain development that the public

trust demands the most rigorous regulation. The "anything goes" spirit that underlies AB 58 is directly contrary to the protections of the state's navigable waters, and the rights of the public to use and enjoy them, enacted by the Legislature and "jealously guarded" by the courts. Delta Fish and Fur Farms v. Pierce, 203 Wis. 519, 523, 234 N.W. 881 (1931). The Attorney General urges the Legislature to honor its trust to the public over the waters of the state and to reject this bill.



**Wisconsin  
County Code  
Administrators**

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June 5, 1997

Rep. Michael Powers, Chair  
Assembly Committee on Land Use  
Room 30 West, State Capitol  
P.O. Box 8953  
Madison, WI 53708

RE: Assembly Bill 58, relating to limitations nonconforming buildings in shoreland and floodplain areas.

Dear Rep. Powers,

The Wisconsin County Code Administrators is an association of county employees responsible for administration and enforcement of land use regulations, including zoning, private sewage systems, subdivision control, and other related programs. I currently serve as the Southern District Representative for WCCA and am a member of its Executive Board.

The Executive Board has reviewed Assembly Bill 58 and has voted to oppose it for the following reasons:

- 1) The bill is completely contrary to the basic purposes of floodplain zoning as they are stated in NR 116.01(2)(a) through (h), Wisconsin Administrative Code.
- 2) It will encourage substantial improvement and enlargement of buildings in the floodway district, where the highest degree of hazard exists. Such development will inevitably lead to increased costs to the public for rescue and relief services, infrastructure improvement and maintenance, federal disaster relief programs and flood insurance subsidies.
- 3) The effect of this measure will be contrary to one of the basic principles of zoning, that nonconformities are to be phased out over time or brought into compliance. This would perpetuate existing nonconforming buildings by changing the basic intent of the law so that these buildings could be declared "conforming", despite the continued hazard and cost to the public due to their enlargement and perpetuation.
- 4) It represents a lowering of the compliance standard for the floodproofing of a structure. It should not be presumed that the federal standard is appropriate for Wisconsin, since it is known that flooding conditions here can and have exceeded the Base

Flood Elevation. Higher levels of structural damage would occur, with increased cost to the public.

5) The proposed definition of a nonconforming building is not only unsound for floodplain management purposes, it is completely inappropriate for shoreland zoning ordinances. From personal experience I would presume that the majority of lake property in Wisconsin is not in a designated floodplain, yet the only measure of nonconformity would be a building's relationship to a flood elevation that doesn't exist. This has the net effect of voiding the applicability of the 75 foot setback rule on all existing nonconforming buildings, while still maintaining it for vacant or complying properties. Not only does this create an unfair and unacceptable double standard, it also runs contrary to the basic principles of shoreland zoning, which include promoting the aesthetic quality of shoreline areas and buffering the adjacent waters from the effects of shoreline development. These basic purposes are established by state law (s. 238.31, Wis. Statutes). Again, the established principle of phasing out nonconformities would be eliminated, and instead current nonconforming buildings would be enlarged and expanded to the detriment of our surface waters and the public interest.

Because this measure would run counter to the basic purposes of floodplain and shoreland zoning, ignores the basic intent of zoning in the elimination of nonconformities, and creates an unfair and unacceptable double standard for the administration of shoreland and floodplain ordinances, we oppose the bill in its entirety. This measure is not sound public policy and should not be adopted.

Thank you for taking the time to consider our comments.

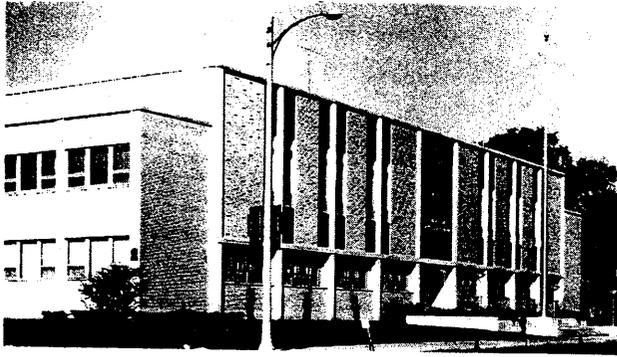
Sincerely,



Michael P. Stapleton  
Director of Planning and Zoning  
Columbia County  
WCCA Southern District Representative

MS

cc: WCCA Executive Board



*CARL C. FREDERICK  
COLUMBIA COUNTY ADMINISTRATION BUILDING*

**COLUMBIA COUNTY  
PLANNING & ZONING DEPARTMENT**

**P.O. BOX 177  
PORTAGE, WISCONSIN 53901**

**PHONE (608) 742-2191**

Rep. Michael Powers, Chair  
Assembly Committee on Land Use  
Rm. 30 West, State Capitol  
P.O. Box 8953  
Madison, WI 53708

RE: Assembly Bill 58, relating to nonconforming structures in shoreland and floodplain areas

Dear Rep. Powers,

The Columbia County Planning & Zoning Committee would like to express its opposition to AB 58 for the following reasons:

- 1) The bill seriously undermines the basic purposes of floodplain zoning, which are stated in Section NR 116.01(2)(a) through (h). These statements of purpose are also incorporated into the Columbia County Floodplain Zoning Ordinance.
- 2) This measure will encourage substantial improvement and enlargement of structures in the floodway, where the highest degree of hazard exists. Such development will lead to increased costs to the public for rescue and relief services, infrastructure improvement and maintenance, federal disaster relief programs and flood insurance subsidies.
- 3) The definition of a nonconforming structure is completely inappropriate for any purpose beyond floodplain zoning. It has no practical application for setback related nonconformities other than to allow for replacement or unlimited expansion regardless of the seriousness or potential negative impact of the current nonconformity, and eliminates any consideration of the ability to comply with established setback requirements. It is a well established principle of zoning that nonconformities are intended to be corrected or phased out over time, and this bill completely overturns that intent. The definition would apply in shoreland areas that are not floodplains (which would likely include the vast majority of lake property in Wisconsin), the result being that virtually all nonconforming buildings under shoreland zoning would simply be declared "conforming".

4) Several of the basic objectives of shoreland zoning, relating to promoting aesthetic quality of shoreline areas and buffering the adjacent waters from the impacts of development, are seriously undermined by the bill.

This measure has serious impacts that are not immediately obvious from a reading of the bill, impacts that we find to be contrary to the sound and well established purposes of floodplain and shoreland zoning. It is our opinion that AB 58 is not sound public policy and should not be adopted.

Thank you for taking the time to consider our views.

Sincerely,



Charlaire P. Brereton, Chair  
Columbia County Planning & Zoning Committee

MS

cc: Rep. Eugene Hahn  
Rep. Ben Brancel  
Rep. Robert Goetsch  
Rep. David Ward  
Eugene Fitzgerald, County Board Chairman  
Columbia County Executive Committee

NOV 26 1997

DATE: November 25, 1997  
TO: Rep. Powers  
FROM: Mark Patronsky (266-9280)  
SUBJECT: Assembly Bill 58

I have reviewed Assembly Bill 58, Rep. Owens' bill that restricts floodplain and shoreland zoning ordinances, as applied to nonconforming buildings.

I believe that the attached amendment resolves the problems with the bill, and makes it conform to Rep. Owens' intent. I have not given this amendment to Rep. Owens or to the LRB. She has not contacted me, and I don't know what you plan to do with the bill.

If I can do anything else, please give a call.





# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
P. O. BOX 2037  
MADISON, WI 53701-2037

ATTY. PETER J. DYKMAN  
ACTING CHIEF

LAWRENCE S. BARISH  
DIRECTOR OF REFERENCE AND LIBRARY

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LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-8522  
REFERENCE SECTION: (608) 266-0341  
REFERENCE FAX: (608) 266-5648

November 12, 1997

## MEMORANDUM

**To:** Representative Carol Owens

**From:** <sup>MH</sup> Mary Gibson-Glass, Senior Legislative Attorney

**Subject:** 1997 Assembly Bill 58

This memo is in response to your request that I redraft the analysis to 1997 Assembly Bill 58 since the analysis in the bill is incorrect. The analysis in the bill should have read as follows:

Under rules promulgated by the department of natural resources (DNR) pursuant to its authority to regulate the adoption of local floodplain and shoreland zoning ordinances, DNR has imposed some state requirements that are stricter than those under the national flood insurance program administered by the federal emergency management agency. These requirements apply to nonconforming buildings that are located in floodplains and that are damaged or destroyed by flooding and to nonconforming buildings that are located in shorelands. A nonconforming building is a building that is not in conformity with the provisions of the floodplain or shoreland zoning ordinance for the area of the floodplain or shoreland that the building occupies.

Under current law, for nonconforming buildings that are damaged or destroyed by fire or a natural disaster other than flooding and that are located in floodplains, the only limitations that a local floodplain zoning ordinance may impose on the cost of repair, reconstruction or improvement are those that are minimally required by the national flood insurance program (federal program). There are no parallel provisions under current law for shoreland zoning ordinances. This bill expands the scope of current law to include shoreland zoning ordinances and expands current law so that the only limitations that a shoreland or a floodplain zoning ordinance may impose on the cost of repair, reconstructing or improving a nonconforming building, regardless of the reason for the improvement, are those that are minimally required by the federal program.

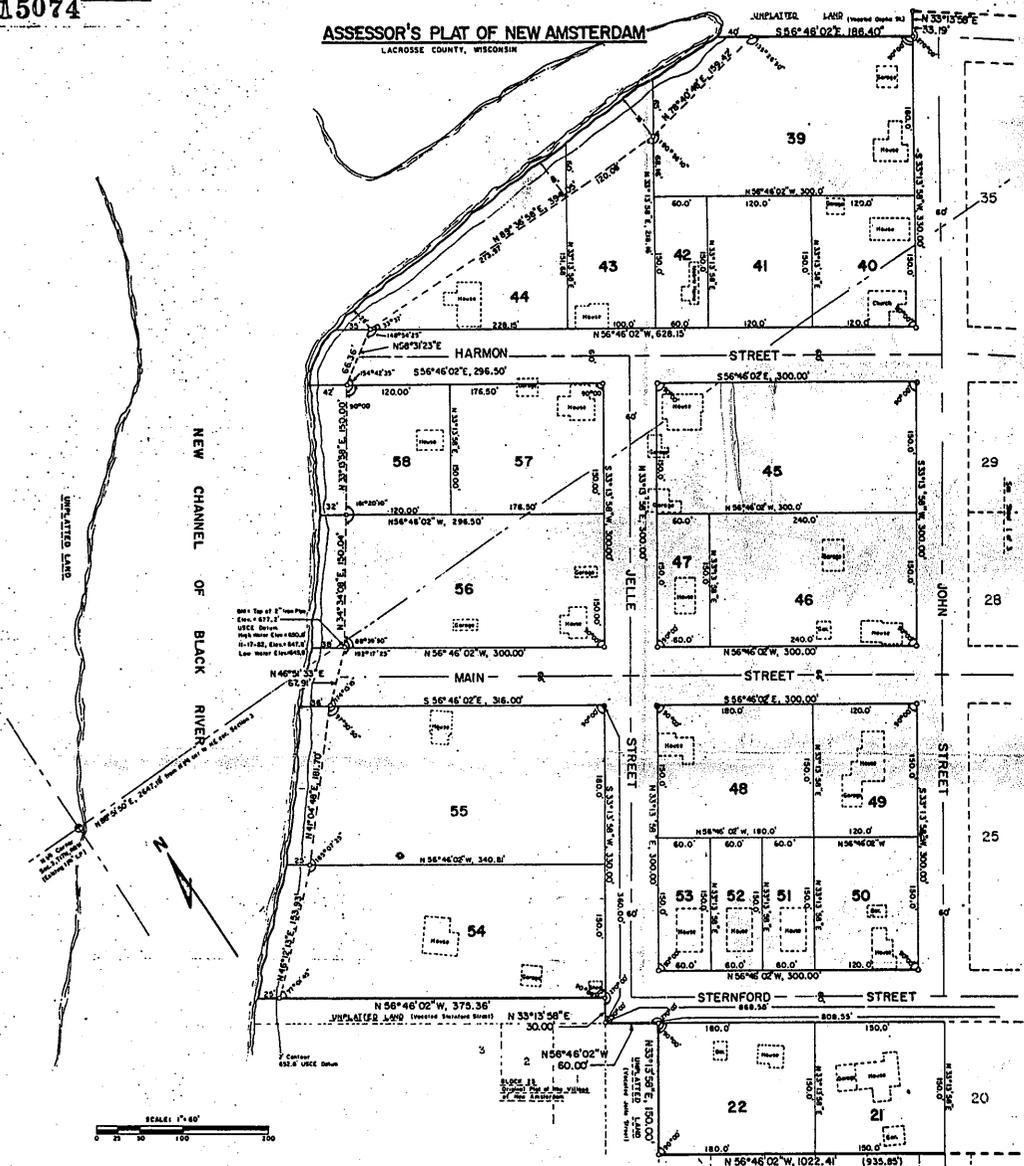
For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Powers, Owens, Patronsky sit down to discuss changes

- postpone exec

PLAT NO. 088 BA  
 FILED  
 15074  
 DATE RECEIVED  
 OCT 21 1988

**ASSESSOR'S PLAT OF NEW AMSTERDAM**  
 LACROSSE COUNTY, WISCONSIN



**RESOLUTION OF TOWN BOARD**  
 Be it resolved by the Town Board of the Town of Holland, that the ASSESSOR'S PLAT OF NEW AMSTERDAM as surveyed by Richard A. Berg and authorized on \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, being made in accordance with the Wisconsin Statutes, is hereby approved.

Town Chairman \_\_\_\_\_

**CERTIFICATE OF TOWN CLERK**  
 I, \_\_\_\_\_, Clerk of the Town of Holland, do hereby certify that I have compared the above copy of the resolution as passed by the Town Board on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, with the original on file and find it to be a true copy. I further certify that all provisions of the Wisconsin Statutes, Section 70.27 have been complied with.

Town Clerk \_\_\_\_\_

**CERTIFICATE OF REGISTER OF DEEDS**  
 STATE OF WISCONSIN  
 LA CROSSE COUNTY 155  
 I, Charles R. Whately, Jr., Register of Deeds, hereby certify that the ASSESSOR'S PLAT OF NEW AMSTERDAM Town of Holland, La Crosse County, Wisconsin, was returned to record this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

Register of Deeds, La Crosse County \_\_\_\_\_

There are no objections to this assessor's plat with respect to applicable provisions of Secs. 236.15 and 236.20 Wis. Stat.  
 Certified this 27th day of July, 1988  
 Jennifer O'Brien, Register  
 Department of Development

