

## Assembly Committee on Ways and Means

DATE \_\_\_\_\_

Moved by Goet Seconded by M-T

AB 176 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_ SJR \_\_\_\_\_

A \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt 0349

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

Passage

Introduction 16-0

Adoption

Rejection

Indefinite Postponement

Tabling

Concurrence

Nonconcurrence

	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Mickey Lehman, chair	1			
2.	Rep. Tom Sykora, vice-chair	12			
3.	Rep. Bob Goetsch	2			
4.	Rep. Mike Huebsch	3			
5.	Rep. Frank Lasee	4			
6.	Rep. John Ainsworth	5			
7.	Rep. Suzanne Jeskewitz	14			
8.	Rep. Carol Owens	6			
9.	Rep. Joan Spillner	7			
10.	Rep. Wayne Wood	8			
11.	Rep. John La Fave	9			
12.	Rep. Lee Meyerhofer	16			
13.	Rep. Johnie Morris-Tatum	10			
14.	Rep. Jeffrey Plale	11			
15.	Rep. Bob Turner	12			
16.	Rep. Bob Ziegelbauer	13			
	Totals	15	0		1

MOTION CARRIED

MOTION FAILED

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	Totals	15	1		

MOTION CARRIED

MOTION FAILED

# CITY OF MILWAUKEE

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Assistant City Attorneys

## MEMORANDUM

TO: Dextra Hadnot  
Intergovernmental Affairs Office

FROM: David R. Halbrooks, Assistant City Attorney *DRH*

DATE: December 23, 1998

RE: Assembly Bill 292 *178*

DEC 23 1998  
RECEIVED

Section 74.53 of the Wisconsin Statutes currently allows the City of Milwaukee to collect the costs of demolition of condemned buildings by suing individuals personally for those costs. This is in the alternative to placing the costs of demolition on the property tax bill for the specific property. Placing costs on the tax bills have proved to be almost totally ineffective as a collection tool, since our demolition costs typically approach \$8,000 for a typical Milwaukee residential unit. After the residential unit is demolished, the assessment on the property usually drops to around \$200.00 for a vacant lot. When the property owner receives the property tax bill for the vacant lot assessed at \$200.00 in the amount of \$8,000.00, their normal reaction is to ignore the bill and let the property go to the City for back taxes. We are then unable to collect a significant portion of our annual \$2,000,000.00 razing budget.

As such we have chosen to use § 74.53, Stats. to prod individuals into paying the costs of demolition as opposed to the taxpayers. However, a difficulty has arisen in that through a loophole in the statute, individuals have found a way to avoid liability under the current

language. The personal liability for the cost of demolition attaches if the person owned the property at the time of demolition. Therefore, when the City of Milwaukee issues an order to demolish to the owner of the property, the owners then transfer the title of the property to an asset-less corporation. When the City demolishes the property at City expense, and then attempts to collect for the demolition, there is no ability to collect from the asset-less corporation. Recently an owner of a property did this for a warehouse building in which the cost of demolition was almost \$200,000.00, leaving the City scrambling for a legal theory in which to collect money from the individual who used this legal trick.

We have suggested that a clause be added to the statute which will allow for liability to exist either at the time the order was issued or when the demolition occurred. If the bill passes, property owners will not be able to escape liability by using the new legal trick of assigning properties to assetless corporations when a demolition order is issued. Our suggested change would be added to § 74.53(1)(b), Stats. The language would be as follows:

*Legislation  
Should read  
as follows*

The cost of razing and removing property and restoring the site to a dust-free and erosion-free condition incurred under sections 66.05(2), (5), (8)(bg) or (10) or of filling and excavation incurred under section 66.05(6) if the person owned the property either when the order to raze the property was recorded in the Register of Deeds Office or when the property was razed and removed and the site restored or the excavation was filled.

This legislation is proposed to close the loophole which allows for absentee owners to escape liability and force the taxpayers to pick up the tab for demolishing condemned properties. If the proposed legislation is passed the loophole will be closed.

Thank you for the opportunity to share our thoughts and experiences with you.

DH/ksk  
16663

Ways & Means Committee  
Preliminary Report on Referred Legislation  
March 24, 1999

Bill: AB 178  
Author: **Rep. John LaFave**  
Date Referred: **03-08-1999**  
Public Hearing: **03-24-1999**  
Executive Session:

Relating Clause: *personal liability for razing costs.*

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**Comments from Department of Revenue-**

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**Comments from the Author-**

Author's reasoning for introducing legislation:

Author's intent:

To close statutory loop-holes that allow property owners to get out of paying for razing costs.

Does the Author want the legislation moved forward?

Yes      No

If no, do we have this in writing?

Yes      No

Is the legislation in its final form?

Yes      No

If major changes are required, the author shall prepare and introduce the necessary amendments.

One issue discussed involved the need to protect a good faith seller from future liability in a case where the property was fully disclosed in the sale and the buyer fell upon bad times rendering him unable to pay for the razing costs.

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**Comments from potentially affected parties-**

City of Milwaukee is an ardent supporter. This legislation would allow them to get restitution from property owners running a scam.

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RE: AB178

Department of Neighborhood Services  
Inspectional services for health, safety and neighborhood improvement

March 30, 1999  
Revised May 5, 1999

Lee C. Jensen  
Commissioner

Martin G. Collins  
Deputy Commissioner

Leo Rias  
Deputy Commissioner

Representative John Ainsworth  
State Capitol, Room 302  
Post Office Box 8952  
Madison, Wisconsin 53708-8952

Dear Representative Ainsworth:

During my recent testimony concerning AB-178 I indicated that escrowing the demolition cost may be a way for the buyer and the seller to protect themselves from unforeseen circumstances. We have had cases where the seller will escrow the demolition funds in order to have the buyer take on the responsibility of the rehabilitation of the property. The seller is faced with the possibility of having to pay for the demolition in any event if the buyer does not rehabilitate the property. By having the money escrowed, the seller can sometimes find a buyer who is willing to take on the rehab challenge.

I recognize that requiring escrowed demolition costs in this equation can sometimes discourage parties from working out a contract to rehabilitate the property. The escrow becomes a hurdle to discourage some of the would-be buyers and sellers from attempting the challenge. The seller who sells with already-escrowed funds must be sure that the buyer has the ability to carry out the rehabilitation if they want the escrowed funds to be released back to them after the demolition order is lifted.

I believe that some level of economic hurdle is appropriate because we have seen tragic circumstances occur where owners with little money but good intention attempt to repair condemned buildings. That attempt has in a number of cases fallen short of the code requirements and, in the end, the City has had to tear down the building even after the attempted rehabilitation. This means that the owner of the property has wasted acquisition cost and some of their funds for rehabilitation, a double loss. By requiring escrowed money, the buyer who wishes to escrow must have sufficient capitalization to take on the challenge. The seller who wishes to escrow and have the buyer take on the challenge must be sure that they are dealing with someone who has sufficient capitalization. While nota precise mechanism for screening out the unqualified, it does work better than any other available mechanism.

OVER



## **BILL SUMMARY**

**AB 178: Personal Liability for Razing Costs**

**Date:** November 9th, 1999

### **BACKGROUND**

Under current law, counties and municipalities may seek to recover costs related to razing property and restoring the site, from a person who owned the property at the time of the razing.

### **SUMMARY OF AB 178 AS AMENDED BY COMMITTEE**

Assembly Bill 178 would modify current law to also allow the costs of razing property to be charged against a person who owned the land when the order for razing was filed. *to ?*

### **AMENDMENTS**

**Assembly Amendment 1** to Assembly Bill 178 changes, "when" to "while." This change was to give greater flexibility in recovering costs from an owner[s] during the filing of the razing notification [adopted 16-0].

### **FISCAL EFFECT**

A fiscal estimate prepared by the Department of Revenue indicates that at the state level, there would be no fiscal effect. At the local level, the fiscal estimate indicates that localities may see reduced costs provided by the greater flexibility in potentially recovering razing costs.

### **PROS**

1. The bill closes statutory loopholes that currently allow property owners to escape paying razing costs by selling property slated for razing to a person or Dummy Corporation lacking assets.
2. If localities were able to recoup additional razing costs, they would experience corresponding savings regarding their own costs.

### **CONS**

1. The potential exists for honest sellers to get burned if they believe that a buyer has made a good faith purchase of the property with the razing notice attached to the property deed, only to later learn that the new owner has no assets to cover razing costs. Then the previous owner could be left footing the bill for the razing costs.

**Date:** November 9th, 1999  
Assembly Bill 178, page 2

### **SUPPORTERS**

Rep. John LaFave, author; Sen. Brian Burke, lead co-sponsor; City of Milwaukee; WI Alliance of Cities; WI Counties Association; League of WI Municipalities.

### **OPPOSITION**

None

### **HISTORY**

Assembly Bill 178 was introduced on 3-8-99, and referred to the Assembly Committee on Ways and Means. A public hearing was held on 3-24-99. On 5-5-99, the Committee voted 15-1 [Rep. Ainsworth voting No] to recommend passage of AB 178 as amended.

**CONTACT:** Andrew Nowlan, Office of Rep. Michael Lehman