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☞ Details: Legislative Audit Bureau Letter Report (May 2005): Multifamily Dwelling Code

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Joint

(Assembly, Senate or Joint)

Committee on Audit...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (October 2012)

Letter Report

Multifamily Dwelling Code

May 2005



Legislative Audit Bureau

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STATE OF WISCONSIN

Legislative Audit Bureau

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Leg.Audit.Info@legis.state.wi.us

Janice Mueller
State Auditor

May 26, 2005

Senator Carol A. Roessler and
Representative Suzanne Jeskewitz, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Roessler and Representative Jeskewitz:

As required by s. 13.94(1)(n), Wis. Stats., we have completed a review of the statewide design and construction standards that apply to multifamily dwellings, which are housing units that are typically two- or three-story, four- to eight-unit apartment buildings. These standards are administered by the Department of Commerce.

For approximately seven years, builders and local safety officials were required to comply with requirements of two separate building codes: the Multifamily Dwelling Code, which took effect in April 1995, and the existing Commercial Building Code. Because differences between the two codes created some confusion among builders, a single code covering multifamily and other commercial buildings was adopted in 2002. The 2002 Commercial Building Code is based on international standards and includes elements of Wisconsin's prior codes. Commerce staff and other interested parties believe the new combined code addresses many of the concerns that existed when multifamily construction had its own separate code. We note, however, that steps could be taken to improve the timeliness of plan reviews and compliance with refund requirements.

We appreciate the courtesy and cooperation extended to us by the Department of Commerce and members of the Multifamily Dwelling Council in completing this review.

Sincerely,

Janice Mueller
State Auditor

JM/DB/bm

Enclosure

MULTIFAMILY DWELLING CODE

The Multifamily Dwelling Code that took effect in April 1995 established uniform statewide standards for the design and construction of multifamily dwellings, which are defined as "an apartment building, rowhouse, town house, condominium or manufactured building ... that does not exceed 60 feet in height or 6 stories and that consists of 3 or more attached dwelling units" These standards are administered by the Division of Safety and Buildings in the Department of Commerce. The Multifamily Dwelling Code addressed many design and construction issues related to multifamily dwellings, such as the types of exits, steps, stairs, and ramps within dwelling units. However, for some major components, such as heating, ventilation, and air conditioning (HVAC), multifamily dwellings were required to comply with sections of the Wisconsin Commercial Building Code, which applied to other types of commercial building construction, such as office buildings, large apartment buildings, motels, and hotels.

Implementation of the Multifamily Dwelling code was contentious because some believed the existence of separate codes for multifamily dwellings and other commercial buildings would lead to confusion and reduced safety. After approximately seven years with two separate codes, Commerce adopted the International Code Council model group of building codes. The new Wisconsin Commercial Building Code, which took effect in July 2002, included several provisions of the former codes. The Commercial Building Code Council and the Multifamily Dwelling Code Council believed that for builders, safety officials, and others in the building industry, the new code would be more effective and practical than separate codes.

Section 13.94(1)(n), Wis. Stats., requires the Legislative Audit Bureau to provide periodic performance audits of the Division responsible for inspections of multifamily housing. In conducting this review, we assessed:

- the merger of the separate Multifamily Dwelling Code and the Commercial Building Code;
- the number of multifamily dwelling plans reviewed by the Division of Safety and Buildings, types of actions taken during this review, and the timeliness of plan review actions; and
- the amount of revenue collected from multifamily dwelling plan reviews.

We interviewed Commerce staff as well as the members of the Multifamily Dwelling Council, which represents builders, designers, fire services personnel, and municipalities. The Council advises Commerce on statewide uniform rules for the construction, operation, and maintenance of multifamily dwellings.

Code Implementation

Building standards in the code are enforced by Department of Commerce plan reviewers and inspectors. In addition, 150 municipalities have delegated authority to conduct both plan reviews and inspections, and 19 additional municipalities have authority to conduct only inspections. All plans for the construction of multifamily dwellings are reviewed, and all building sites are

inspected by either Commerce or municipal staff. Division of Safety and Buildings staff conduct activities for all types of commercial buildings, of which multifamily dwellings are a subset. The Division has approximately 54.0 full-time equivalent (FTE) authorized staff who are involved in various phases of the plan review and inspection process. For fiscal year (FY) 2004-05, the Division's budget was \$16.7 million. Our review focused on the way in which Commerce enforces code provisions for multifamily dwellings.

Data provided by Commerce show that 997 plans were reviewed by Safety and Buildings staff in FYs 2002-03 and 2003-04, the two-year period after enactment of the Commercial Building Code. These plans represented 2,174 buildings under construction or renovation. Commerce could not provide us with the exact number of multifamily dwelling inspections it conducted in this two-year period but noted that staff conduct an average of 2.5 inspections per building.

A final action—which Commerce defines as approval, denial, or withdrawal—was noted in 906 of the 997 plans reviewed. As we also found in a 1997 review, the vast majority of plans were approved. During our current review period:

- 883 plans, or 88.6 percent, were approved;
- 14 plans, or 1.4 percent, were denied; and
- 9 plans, or 0.9 percent, were withdrawn by the submitter.

For the remaining 91 of the 997 plans reviewed in FYs 2002-03 and 2003-04, the last action noted varied. For example:

- 29 plans were submitted for a preliminary consultation with reviewers, with complete plans submitted at later dates;
- 11 plans were awaiting additional information from the submitter at the time we reviewed the data; and
- 10 plans were granted approval to begin work on the footings and foundation, with complete plans submitted at later dates.

In addition to reviewing plans for the structure of buildings, Commerce staff also review plans for HVAC systems, roof and floor trusses, and precast structural components. These plans may be submitted with the structural plan or separately, and a plan for these components may encompass one or more buildings. For example, if a builder is constructing five multifamily buildings and the HVAC system is the same for each building, the submitter may choose to submit one plan for review or five. Commerce data for FYs 2002-03 and 2003-04 show that plans for 617 HVAC systems, 136 trusses, and 6 precast components were reviewed.

Cost of Enforcement

In accordance with statutes, Commerce has established fees for multifamily dwelling plan reviews and inspections. Fees are based on the gross floor area of each building or area of renovation:

whether the plan is for the structure, the HVAC component, or both; and whether Commerce or a local inspector conducts the inspection. For an average-sized multifamily building, which has an area of 27,000 square feet, the fee for a plan review is \$1,100, with an additional fee of \$540 for the HVAC plan review. Our review of Commerce data shows that in FYs 2002-03 and 2003-04, an estimated \$237,000 in fees was collected.

Refunds for Delayed Plan Reviews

Under s. Comm 61.31(3)(a) and s. Comm 2.07(1), Wis. Adm. Code, Commerce is required to make a decision on a submitted building plan within 15 business days of receipt of the application and all information required to complete the review, and to refund 50 percent of fees paid when the 15-day limit is exceeded. In 1997, we found that 12.7 percent of plans had not been reviewed within the 15-day limit, and Commerce staff could not provide information on the number of refunds made to builders, although they believed refunds were rare. Our 1997 review included a recommendation for Commerce to improve compliance with plan-review timeliness requirements and to ensure that builders are aware of refund options.

As part of our current review, we examined 50 randomly chosen multifamily dwelling plans for compliance with the 15-day requirement. For four plans, or 8.0 percent of our sample, the review took more than 15 business days but refunds were not issued to submitters. Commerce staff indicate that their workload and appointment scheduling system may result in plans being reviewed more than 15 business days after receipt of all information. We also identified a total of \$6,450 in refunds authorized in FYs 2002-03 and 2003-04 for plans that were not included in our sample.

Recommendation

We again recommend the Department of Commerce implement monitoring procedures to ensure compliance with plan-review timeliness and refund requirements.

Future Considerations

As noted, implementation of the Multifamily Dwelling Code in 1995 was contentious because some believed the existence of separate codes for multifamily dwellings and other commercial buildings would lead to confusion and reduced safety. There may be similar discussions about the clarity and effectiveness of the new Commercial Building Code in the future. However, we identified several instances in which the new code appears to provide more consistency and safety in construction standards. For example, it requires an automatic sprinkler system for buildings with more than 16 dwelling units or more than two stories; in contrast, the former Multifamily Dwelling Code required automatic sprinkler systems only for new multifamily dwellings with more than 20 dwelling units or more than three stories.

In addition, unlike the former Multifamily Dwelling Code, the new code does not recognize an exterior rescue platform, such as a deck that may be located ten feet or more above ground level, as a means of egress from a dwelling. Some fire officials had argued that such decks would be

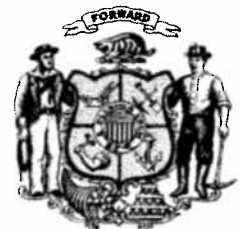
less safe than additional doors or stairways because their use could require firefighters to concentrate on rescuing individuals from platforms rather than fighting fires.

The new code also strengthens fire safety standards by requiring additional smoke detectors. While the former Multifamily Dwelling Code required installation of a smoke detector within each sleeping area of a dwelling unit or within six feet from the doorway of each sleeping area, the Commercial Building Code requires smoke detectors both in every sleeping area and within six feet of each sleeping area.

The original concerns that prompted our ongoing audits appear to have been addressed through implementation of the Commercial Building Code, which has reduced confusion and addressed many of the safety concerns raised in the past. Therefore, the Legislature may wish to consider repealing sections 13.94(1)(n) and 101.973(11), Wis. Stats., which require periodic performance audits by the Legislative Audit Bureau. Instead, any future concerns about administration of the inspection process could be directed to the Joint Legislative Audit Committee for consideration.



WISCONSIN STATE LEGISLATURE





WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Carol Roessler
State Representative Suzanne Jeskewitz

June 1, 2005

Ms. Mary P. Burke, Secretary
Department of Commerce
201 West Washington Avenue, 6th Floor
Madison, Wisconsin 53703

Dear Ms. Burke:

We have received and reviewed the evaluation of the Multifamily Dwelling Code, which was released by the Legislative Audit Bureau as a letter report on May 26, 2005.

As outlined under s. Comm 61.31(3)(a) and s. Comm 2.07(1), Wis. Adm. Code, the Department is required to make a decision on a submitted building plan within 15 business days of receipt of the application and all information required to complete the review. When this time limit is exceeded, the Department is required to refund 50 percent of the fees paid. In both its 1997 and 2005 reviews, the Legislative Audit Bureau found instances in which the timeline was exceeded and no refunds were issued. In both years, the Bureau recommended that the Department of Commerce implement monitoring procedures to ensure compliance with plan-review timeliness and refund requirements.

We ask that you submit a written report to the Joint Legislative Audit Committee that describes the current status of the Department's efforts to improve monitoring procedures and ensure compliance with plan-review timeliness and refund requirements, including an identification of the action steps implemented to date and those yet to be implemented. We request receipt of this report by September 2, 2005.

We thank you for your cooperation and look forward to reviewing your report. Please contact our offices with any questions.

Sincerely,

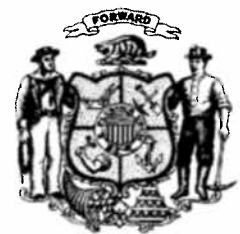
Senator Carol A. Roessler, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

cc: Janice Mueller
State Auditor



WISCONSIN STATE LEGISLATURE





P. O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018
TDD #: (608) 264-8777

Jim Doyle, Governor
Mary P. Burke, Secretary

June 24, 2005

Senator Carol A. Roessler
PO Box 7882
Madison, WI 53707-7882

Representative Suzanne Jeskewitz
PO Box 8952
Madison WI, 53708-8952

Dear Senator Roessler and Representative Jeskewitz:

Thank you for your letter concerning the Multifamily legislative audit report. Managers in the Division of Safety and Buildings will review the internal process as well as the code itself, and submit a report to you by September 2, 2005.

We look forward to working with you to improve our services.

Sincerely,

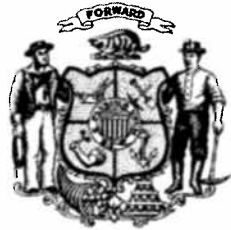
A handwritten signature in black ink that reads "Mary P. Burke". The signature is written in a cursive style with a large, prominent "M" and "B".

Mary P. Burke
Secretary

cc: Randy Baldwin, Division of Safety and Buildings



WISCONSIN STATE LEGISLATURE





Wisconsin State Fire Chief's Association, Inc.

Together We Can Make A Difference

- Education
- Prevention
- Safety
- Suppression
- EMS

June 30, 2005

Senator Carol A. Roessler and
Representative Suzanne Jeskewitz, Co-Chairpersons
Joint Legislative Audit Committee
P.O. Box 7882
Madison, WI 53707

Dear Senator Roessler and Representative Jeskewitz:

As chairman of the Department of Commerce's Fire Prevention Council, I am writing on behalf of the council regarding the legislative audit report you recently received concerning the multi-family dwelling code. I would like to express some deep concerns that the Fire Prevention Council had concerning this report.

The report focused primarily on the issues of plan review and the timeliness of these reviews as well as refund for delayed plan reviews. The report did not address the issues of safety, which is of the utmost importance to the Wisconsin fire service.

Specifically, the Wisconsin State Statutes 101.02 (7M) prohibits a local community from adopting a local automatic fire sprinkler code that is more restrictive than the current statutory provisions for multi-family dwellings. Only those communities that had a more restrictive automatic fire sprinkler requirements prior to the passage of 101.02(7M) may retain such requirements. With residential fires accounting for the majority of injuries and deaths, it is not reasonable to prohibit local communities from providing a more desirable level of fire protection for their citizens. This specific statute should be repealed to allow local communities to adopt local automatic fire sprinkler ordinances.

The second issue of concern to the Fire Prevention Council deals with the statutory provisions regarding building issues. There are very specific fire safety construction requirements for multi-family dwellings located in the state statutes as well as in the Wisconsin Commercial Building Code. Wisconsin has adopted the International Building Code, a national model building code. The provisions for fire safety construction in the IBC are different (more up to date) than what is in our state statutes, thereby requiring Wisconsin to forego use of some of those more up to date provisions in order to reflect the specifics in state statute. The Fire Prevention Council recommends that the very specific fire safety construction requirements be removed from state statutes with reliance on the provisions adopted under the Wisconsin Commercial Building Code. This would allow Wisconsin to stay current with the state of the art fire safety provisions found in national model building codes.

P.O. Box 44743, Madison, WI 53744-4743
Phone: 1-800-375-5886 Fax: 608-274-8262

Senator Roessler/Representative Jeskewitz
June 30, 2005
Page 2

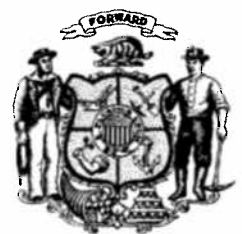
These issues are of great concern to the Wisconsin fire service and these statutory requirements should be repealed. I would be more than willing to discuss these issues with you concerning any questions you may have. My office phone is 715-486-2090 and my email address is gcleland@wsfca.com.

Respectfully,



Gregg A. Cleveland, Fire Chief
Wisconsin State Fire Chiefs Association

cc Janice Mueller
WSFCA Board of Directors



WI Fire & EMS Legislative Leadership Coalition

7/22/05

Senator Carol A. Roessler and
Representative Suzanne Jeskewitz, Co- Chairpersons
Joint Legislative Audit Committee
P.O. Box 7882
Madison, WI. 53707

PROFESSIONAL
FIRE FIGHTERS OF
WI, INC.

WI CHAPTER
INTERNATIONAL
ARSON
INVESTIGATORS
ASSOCIATION

WI FIRE CHIEFS
EDUCATION
ASSOCIATION

WI FIRE
INSPECTORS
ASSOCIATION

WI SOCIETY OF
FIRE SERVICE
INSTRUCTORS

WI STATE FIRE
CHIEFS
ASSOCIATION

WI STATE
FIRE FIGHTERS
ASSOCIATION

WI EMS
ASSOCIATION

Dear Senator Roessler and Representative Jeskewitz,

On July 14th, 2005, the Wisconsin Fire & EMS Legislative Leadership Coalition, a Coalition made up of all fire and EMS entities here in the great State of Wisconsin, unanimously endorsed the Wisconsin State Fire Chief's Association letter to you dated June 30, 2005. (See Attached).

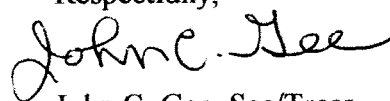
The Wisconsin Fire Chief's Association letter accurately reflects the thoughts and concerns of our Coalition and quite frankly the Coalition's membership concerns for some time.

We feel that repealing Wisconsin State Statute 101.02 (7M) and allowing local communities to provide a more desirable level of fire protection when it comes to multi-family dwellings and necessary automatic fire sprinkler protection is the appropriate thing to do at this time.

In addition, the Coalition endorses the WSFCA recommendation that the very specific fire safety construction requirements be removed from state statutes with reliance on the provisions under the Wisconsin Commercial Building Code, thus allowing Wisconsin to stay current with the fire safety provisions found in national model building codes.

We thank you for your time and attention in this matter and certainly are available at any time should you have questions.

Respectfully,



John C. Gee, Sec/Treas.

WI Fire & EMS Legislative Leadership Coalition

Paul S. Gale Professional Fire Fighters of Wisconsin, Inc.

PROFESSIONAL
FIRE FIGHTERS OF
WI, INC. Paul R. Hammerick WI. Fire Chiefs Education Association

WI CHAPTER
INTERNATIONAL
ARSON
INVESTIGATORS
ASSOCIATION Mark J. Hoppeman WI. Fire Inspectors Association

WI FIRE CHIEFS
EDUCATION
ASSOCIATION Arthur M. Scola WI. Society of Fire Service Instructors

WI FIRE
INSPECTORS
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WI SOCIETY OF
FIRE SERVICE
INSTRUCTORS Jack Brunning WI. State Fire Chiefs Association

WI STATE FIRE
CHIEFS
ASSOCIATION Larry Plummer WI. State Fire Fighters Association

WI STATE
FIRE FIGHTERS
ASSOCIATION

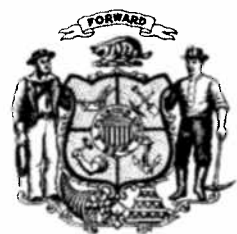
WI. EMS
ASSOCIATION Richard M. Miller WI. EMS Association

Lawrence Eastman WI. Chapter International Arson Investigators Assoc.





WISCONSIN STATE LEGISLATURE





WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Carol Roessler
State Representative Suzanne Jeskewitz

August 15, 2005

Mr. Gregg A. Cleveland, Chairman
Department of Commerce Fire Prevention Council
c/o Wisconsin State Fire Chief's Association, Inc.
P.O. Box 44743
Madison, Wisconsin 53744-4743

Dear Mr. Cleveland:


Thank you for your letter, dated June 30, in which you share the Fire Prevention Council's concerns related to the Legislative Audit Bureau's recent letter report on the Multifamily Dwelling Code (May 2005). We appreciate the opportunity to review your comments.

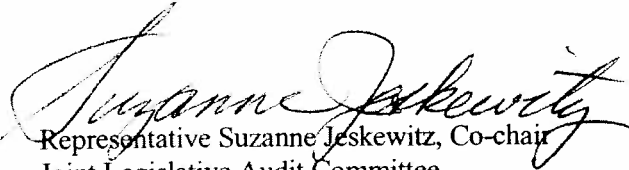
As noted in your letter, the Bureau's May 2005 letter report focused primarily on the issues of plan review, the timeliness of plan review, and refund issues for delayed plan review, which were items the Bureau noted as concerns in its first review of the Multifamily Dwelling Code in 1997. The recent letter report also reviewed how the new Commercial Building Code addresses issues of safety, such as the installation of smoke detectors and the use of exterior rescue platforms.

Concerns about the prohibition of local automatic fire sprinkler ordinances, like those outlined in your letter, were also discussed in the Bureau's 1997 audit report. To reflect changes made to the International Building Code, we understand that the Department of Commerce has begun planning for the next update of the Commercial Building Code. One of those changes is a requirement that all multifamily dwellings, regardless of the number of units, have sprinkler systems.

We wish to assure the members of the Council that we will take your concerns under advisement as we engage in follow-up related to this report later in 2005. In addition, as the code is updated, the Joint Committee on the Review of Administrative Rules and the appropriate standing committees of the Senate and Assembly will conduct public hearings on the revised content. We hope that members of your organization will participate actively in the review process and inform the Legislature of your specific policy concerns.

Thank you for your comments.

Sincerely,

Senator Carol A. Roessler, Co-chair
Joint Legislative Audit Committee


Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

cc: John C. Gee, Secretary/Treasurer
Wisconsin Fire and EMS Legislative Leadership Coalition

Mary Burke
Department of Commerce

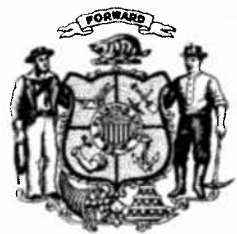
Janice Mueller
State Auditor

SENATOR ROESSLER
P.O. Box 7882 • Madison, WI 53707-7882
(608) 266-5300 • Fax (608) 266-0423

REPRESENTATIVE JESKEWITZ
P.O. Box 8952 • Madison, WI 53708-8952
(608) 266-3796 • Fax (608) 282-3624



WISCONSIN STATE LEGISLATURE





Jim Doyle, Governor
Mary P. Burke, Secretary

September 2, 2005

Senator Carol A. Roessler
P.O. Box 7882
Madison WI 53707-7882

Representative Suzanne Jeskewitz
P.O. Box 8952
Madison WI 53708-8952

Re: May 26, 2005 Letter – Audit of Multifamily Code Program

Dear Senator Roessler and Representative Jeskewitz:

We have reviewed the information and recommendations contained in the Audit Report regarding the internal process and code requirements for refunds in cases where the plan review exceeds 15 days from date of receipt.

The Division of Safety & Buildings will be taking the following two actions to implement the recommendations and resolve the identified issues:

1. Implement a reporting system to better identify which plans are approaching or exceeding the 15-day time frame. This will allow managers to better evaluate and monitor the situation and reallocate available resources to complete the reviews or refund half the fees, if the plans are not reviewed within the required 15 days.
2. Work with the Multi-Family Dwelling Code and other advisory code councils to modify code sections, such as Comm 61.31(3)(a) and Comm 2.07(1) to better reflect our current plan review scheduling system.

If you have any questions regarding the actions that the Department will be taking in response to this audit, please contact Ronald L. Buchholz, Acting Administrator of the Division of Safety and Buildings at 608/266-1817 or at rbuchholz@commerce.state.wi.us.

Sincerely,

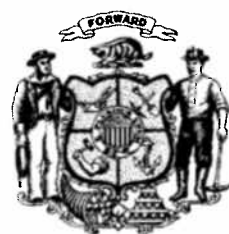
A handwritten signature in cursive script that reads "Mary P. Burke".

Mary P. Burke
Secretary

cc: Ronald L. Buchholz



WISCONSIN STATE LEGISLATURE





WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Carol Roessler
State Representative Suzanne Jeskewitz

November 2, 2005

Ms. Mary P. Burke, Secretary
Department of Commerce
201 West Washington Avenue, 6th Floor
Madison, Wisconsin 53703

Dear Ms. Burke:

On September 2, 2005, you submitted a letter in response to our request for additional information that would describe the current status of the Department's efforts to improve monitoring procedures and ensure compliance with plan-review timeliness and refund requirements under the Multifamily Dwelling Code. Your letter identified two actions the Department planned to implement in the future.

We thank you for your letter and ask that you continue to keep the Joint Legislative Audit Committee apprised of the Department's progress in these areas. Thank you for your cooperation.

Sincerely,

Senator Carol A. Roessler, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

cc: Mr. Greg Jones, Administrator
Division of Safety and Buildings
Department of Commerce

Ms. Janice Mueller
State Auditor