



Alberta Darling

Wisconsin State Senator
Member, Joint Committee on Finance

Thank you Chairman Farrow and committee members.

Every day in Milwaukee, school kids are walking past a taxpayer-funded vacant school to hop on a bus to go across town, because the Milwaukee Public School System is refusing to sell buildings they aren't using.

This is a problem we've tried to deal with before, but MPS has found loopholes in an effort to force kids into failing schools. Somehow Milwaukee Public Schools *lowered* the number of unused buildings after we passed 2011 Act 17. They've played shell games with what buildings are being used for and created token use for vacant schools just because they don't want competition.

They are wasting money on maintenance that should be spent in the classroom. MPS is depriving kids the possibility of going to school in their own neighborhood simply because they may not like who could be running the schools.

In the recent school report cards, MPS finished dead last in the state.

Think about it, the largest school district in the state in the most important city to our economy in the state is the worst in the state. And we wonder why employers say they can't find qualified candidates for the jobs they have available. Hiding vacant schools from proven high-quality education operators isn't going to make those report cards improve.

It's time to give parents options.

Good schools help anchor neighborhoods and increase property values, vacant buildings don't help at all. It's not fair to taxpayer and it's not fair to the children and parents.

This legislation closes loopholes that MPS has used to prevent improved educational opportunities for Milwaukee students. A building will be eligible for sale if it was designated as surplus, underutilized, or vacant on any resolution adopted by the MPS board within the previous five years. To prove a building is still in use, MPS will have to staff it and utilize it to educate children.

Thank you for your time on this important matter.



Tom Barrett
Mayor, City of Milwaukee

October 9, 2013

Testimony of Milwaukee Mayor Tom Barrett

Senate Bill 318

Senate Committee on Government Operations, Public Works and Telecommunications

Thank you Chairman Farrow and committee members for the opportunity to testify regarding Senate Bill 318 today. This legislation would require the City of Milwaukee to sell eligible vacant and underutilized school property to limited types of education-only purchasers. It is a follow-up to 2011 Wisconsin Act 17, which authorized a new procedure for the City of Milwaukee to sell city-owned property used for school purposes without the approval of the Board of Directors of the Milwaukee Public Schools (MPS).

Let me be clear. When 2011 Wisconsin Act 17 was being debated in the legislature, I supported it. I recognized that with an 18% decrease in traditional MPS enrollment from nearly 93,000 students to just fewer than 73,000 students over the previous 10 years, our community was facing a real asset management challenge. I believed that the City was better positioned to put surplus real estate back into productive use to meet community needs, such as senior housing or a community cultural center. In some instances, we might have found that the best use for a vacant building would be continued educational use by high-performing non-MPS schools, but this was not the main thrust of my support.

2011 Wisconsin Act 17 attempted to provide the City with the ability to use its real estate expertise to take a more holistic approach to the management of these assets by addressing the needs and concerns of neighborhoods where buildings stand vacant, as well as allowing the City to meet the educational needs of its residents where it made sense. However, it was flawed in a way that inhibited our ability to move forward with the sale of any property that MPS did not agree to let us sell. After the bill was passed, we determined that state law still required our City

Attorney to represent MPS as well as the City in real estate matters. Therefore, the new law presented a conflict whenever there was disagreement between the City and the District about the sale of a property.

After Act 17 was enacted, my staff and I had numerous meetings to determine how best to put this new tool to use. Through these discussions, it became clear to me that the conflict inherent in our shared legal representation with MPS made it impossible for us to dispose of these assets without their consent. To date, we have only received four properties from the District that are eligible for city marketing. Section 1 of this bill attempts to fix this problem but the language needs some improvement.

My main concern about Senate Bill 318 centers on the provision that would inhibit our ability to sell property the City owns to buyers other than educational operators for 48 months after the properties show up on the required inventory of eligible property. This would require MPS to continue spending significant funds for building maintenance for a lengthy period, even if another interested party wished to buy a building and convert it to housing or another use.

This provision is a major overreach and sets a terrible precedent that should concern private property owners across the state. As far as I am aware, there is no statutory precedent for the State to dictate to whom a property owner can sell its property, not to mention for how much and under what conditions. This proposal is contrary to free market real estate principles you and I both espouse.

One project that is an excellent example of the creative reutilization of an MPS school is the transformation of the former Jackie Robinson Middle School, a vacant school building in the Sherman Park Neighborhood that had been closed since 2005. Using tax credits, the building was redeveloped and repurposed by Gorman and Company into a senior living center with 68 apartment units and is now a wonderful asset to that neighborhood.

This \$16 million redevelopment is a perfect example of what is wrong with Senate Bill 318 as this project never would have happened had this law been in place. Senate Bill 318 proposes eliminating the ability for the local real estate market to determine the highest and best use of large and valuable public real estate assets. Simply put, there are cases where it makes sense to repurpose school buildings that are no longer needed by MPS for uses other than education. In this case, the new use, senior housing, converts this building into a much-needed community treasure.

Another example of where this legislation, if enacted, will create a problem for future development is a housing project that has been proposed by Milwaukee Public Schools in conjunction with the Greater Milwaukee Committee's TeachTown MKE initiative. This proposal would repurpose the former Dover Elementary School in the Bay View Neighborhood into housing for teachers and school professionals. Senate Bill 318 would put an end to this project by shutting out prospective buyers who are not education operators out of the sales process for 48 months.

There are other problems with the legislation as well. Sale prices for city-owned property are generally set on a case-by-case basis subject to evaluation of the property, comparable sales of similar buildings and a determination of the site's highest and best use, which together determine

fair market value. Under our internal policy, school prices would be adjusted upward or downward for specific properties based on factors such as renovation costs, the availability of air conditioning or an elevator in the school, the age of the property, the amount of open space adjacent to the building, length of time on the market and the location of the property. Senate Bill 318 does not allow for this.

Consistent with general city procedures for the sale of commercial property, our internal policy is that all MPS property would be offered for sale initially through a competitive request for proposal (RFP) process. The use of an RFP is a fairly standard procedure for the sale of government assets at all levels of government because it allows all eligible parties to be considered for the property and provides the taxpayers the best return on their investment. Senate Bill 318 does not allow for this either. It also does not allow the City to place many of its standard conditions on the closing of the sale, such as the successful acquisition of building permits and zoning entitlements.

Just as it was in 2011, the status of vacant school property continues to be of great concern for Milwaukee's neighborhoods, taxpayers and elected officials. I am confident that if you adopt language limited to a correction of our legal conflict, we will have the tools we need to move surplus property onto the market. This legislation is an unnecessary hindrance to our efforts.

For these reasons, I urge you not to support this bill, thereby leaving the determination of the best use of surplus school property to local policy makers who are closest to the community affected by the issue.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom Barrett". The signature is written in a cursive, flowing style.

Tom Barrett
Mayor



MPS testimony in opposition to SB 318

Mr. Chairman, members of the committee, I am here to testify in opposition to Senate Bill 318 which would severely limit and in many instances eliminate ongoing efforts on the part of Milwaukee Public Schools to use our facilities to expand and replicate quality school programs and which would mandate the sale of buildings and the subsequent eviction of nearly 3,000 public school students from facilities in which they are currently being educated.

The bill would evict those 3,000 students from what we believe would be eight schools and would put the status of these students in limbo. Those evictions would occur based on what appear to be arbitrary trigger points in the bill and would occur without local community input and without any consideration of efforts to expand quality programs within Milwaukee Public Schools.

The bill forces the sale of publicly funded buildings to private entities, including private real estate firms and private schools that do not have similar requirements as their public school counterparts to educate all children, nor do they have similar requirements to be accountable to the public for their performance. The bill represents an unprecedented violation of local control, is exceptional in its reach as it pushes public school students out of their own schools without any consideration of the choices made by their parents nor the interests of local taxpayers, and harms the ability of the Milwaukee community to use its own, publicly funded buildings to educate all students.

MPS has plans in place for the use or sale of school district facilities and has been executing those plans over the past several years. As a result, the district has leased eleven facilities to charter school partners, expanded quality MPS programs into eight more sites and has sold four buildings to school operators and developers. In addition to those 23 facilities, the district is in discussions that could lead to five more charter school partnerships in MPS buildings as soon as the 2015-16 school year.

Because of this action, MPS has halted what had been an annual decline in enrollment and the district will see a year to year increase in student enrollment for the first time in many years. Let me repeat that, we have stabilized and have increased enrollment, and as we plan for the future and begin to understand the possible ramifications of the new accountability bill that is currently in discussion at the state level it appears that there could be additional changes in enrollment trends and we need to be prepared for that eventuality.

Much of what we have heard in the lead up to today's hearing is that the MPS has no plans for its buildings, that they are sitting idle and that the district is refusing to put any effort into using them in a way that benefits the citizens of the City of Milwaukee. This version of events is simply not true and it does not match with what has actually been happening in Milwaukee over the past several years.

MPS went through a rigorous facilities planning process a number of years ago and as a part of that process created a theory of action around MPS school expansion predicated on facility flexibility that has allowed us to make strategic decisions around building use. The district is focused on creating schools that are incubators of new education models, replicating successful programs, and establishing models to turn around low-performing schools.

This bill threatens and will likely eliminate the district's ability to continue to move forward with its plans and given the retroactive language included in the bill, will negate some of the efforts that are already in progress to expand quality programs. Given the parameters for occupancy defined in the bill, ongoing projects to grow highly successful and

popular school programs up subsequent grade levels will be cut short. Similar efforts to change school cultures and turn around low performing schools before expanding the number of seats in a building will have to be reconsidered and the flexibility that the districts needs to reopen quality programs under the guidelines of federal law may be all but eliminated.

In fact, had this bill been law two years ago, we would not have had the flexibility to reopen and expand successful schools such as Howard Avenue Montessori, Garland, WCLL and others. The fact is that while this bill focuses on a number of underutilized buildings we know that there are nearly 40 buildings within MPS where we don't have enough space for the students in those schools using the parameters described in our facilities master plan.

We've been working hard with families to look at options so these programs can grow and expand and we can take students off our own school wait lists. But it takes two things to do that: time to develop a plan of action and access to existing buildings that are underutilized today, but that we can repurpose for our own successful programs.

As you have seen in other communities, closing schools is difficult and emotional work and changing the culture of a school and reopening a facility with a quality program can take time. Context matters and timing matters and in the wake of the economic collapse of 2008, some of the plans to develop our sites had to be put on hold. During that time we received offers for public buildings that were pennies on the dollar when compared to fair market value and selling buildings under those circumstances would have been irresponsible. It's also a challenge to put plans into action when dealing with the reality of severe budget cuts and while we have worked through those and continued to successfully put our finances in order we have maintained a vision of the class sizes and qualities we want to see in our schools and we are hopeful that without any setbacks in the availability of resources we can continue to move our plans in a positive direction.

Simply put, this bill goes too far and it will take away the flexibility that is needed that allows a school district to use its own public funded buildings to improve student achievement. Current law already allows for a process for the sale of buildings and the reality is that as a number of MPS buildings are well over 100 years old they are less and less attractive as places to educate children, in fact, when we have raised some of those sites for discussion they have been quickly turned down.

Our record demonstrates that we are not delaying action on these buildings and we would ask you to not take action on this bill, to not remove students from their schools and to ensure that the district has the flexibility to continue to move forward in putting quality programs in our schools.

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**Testimony of Heather Heaviland
Director of Real Estate Services, IFF**

**Before the Wisconsin Senate Committee
on Government Operations, Public Works, and
Telecommunications**

**Regarding Senate Bill 318
October 9, 2013**

Thank you, Chair Farrow, Vice-Chair Gudex and members of the Committee on Government Operations, Public Works, and Telecommunications for the opportunity to testify today in support of Senate Bill 318, which would provide an additional mechanism to promote the sale of under-utilized school buildings to qualified users. And thank you, Senators Darling, Farrow, Vukmir, Lazich, and Grothman and their cosponsors for introducing this important piece of legislation.

My name is Heather Heaviland, and I am the Real Estate Services Director for IFF, a nonprofit lender and real estate consultant that is located in Milwaukee and serves all of Wisconsin, as well as four other Midwestern states. IFF provides real estate consulting and project financing to nonprofit corporations and through its work has spurred \$1.3 billion in investments into low-income communities across the Midwest.

IFF's work includes the financing and development of community health clinics, early childhood facilities, and affordable housing, for example, but it is schools that serve low-income communities that have constituted the largest part of our work in recent years. In fact, since 1988, the year we were founded, IFF has:

- Invested over \$100M of IFF funds in education facilities;
- Consulted on more than 147 different campus projects; and,
- Created 36,000 new student slots and managed construction or renovation of over 730,000 square feet of school space.

IFF strongly supports SB 318. We support it because:

- (1) It will provide essential transparency in the availability of school buildings, allowing school operators to identify and target facilities through which they could deliver needed education services;
- (2) It will promote maximum efficiency in the use of our valuable community assets – buildings will not be allowed to sit idle or be held captive to prevent quality school operators from using them to meet the education needs of Milwaukee children because the source of their funding is not controlled by Milwaukee Public Schools (MPS); and,

- (3) It will provide, as a recent IFF study recommended the City with a powerful tool to increase the number of good schools located in the eight Milwaukee zip codes where two-thirds of the school-age children that lack access to an academically performing school live.

As IFF's Director of Real Estate Services in Wisconsin, a major emphasis of my work is to help schools of all types, whether public or private, to overcome the obstacles associated with securing appropriate space so as to keep them focused on their primary mission – educating children. Over the past four years, I have helped 23 Milwaukee schools navigate through the Milwaukee facilities landscape. While we have had successes, we have also faced substantial challenges and our biggest frustration has been with vacant school buildings controlled by MPS. Identifying available school buildings is a game of smoke and mirrors. Buildings are often tagged for some generic use such as “lease to MPS charter” or “potential redesign” and non-MPS operators are therefore told they are not available, despite obviously sitting vacant or near-vacant for years at a time. MPS documents, for example, currently list Dover School as “lease to a charter” despite recent conversations published in the Milwaukee Journal Sentinel that cite intent to convert this property to teacher housing.

Many of our school clients have an urgent need to address the education crisis in Milwaukee and can't afford the uncertainty involved with pursuit of a District building. They instead are forced to pour millions of dollars into warehouses or new construction space – dollars that could've been invested in children instead of buildings if a lower-cost alternative like a ready-to-go school property were available.

Since Act 17, the legislation that originally opened the door to sale of city-owned District buildings, MPS has made great strides in making their buildings available to MPS charter schools. Schools like Highland Community School and Carmen High School of Science and Technology have been able to expand their high-performing schools through these efforts and the District should be applauded for these acts. Unfortunately, too many other high-performing schools – St. Marcus, Woodlands School, and Milwaukee College Prep to name a few—have been denied the same opportunity.

SB 318 overrides MPS's preferential policy and opens the door for some of Milwaukee's best performing schools to gain access to vacant public school buildings. But SB 318 does more. It also creates an opportunity for the City of Milwaukee to take head-on the concentrated need for good schools that exists in a relatively small number of areas.

Based on information gleaned from MPS files through an open records request, 770,000 square feet of space is currently sitting empty. A sizeable amount of space is believed to be well-underutilized. Some may not be useable. Some of it may not be in a community that needs more schools. But much of it is. With less than half of it, we could potentially provide 3,000 kids a better education every year.

For every square foot we can reuse, we can put money back in the classrooms – instead of in the bricks and the mortar. For every dollar we can recapture, we can build a better future for Milwaukee children.

Thank you.

**Senate Committee on Government Operations, Public Works, and Telecommunications
October 9, 2013**

**Department of Public Instruction
Testimony on 2013 Senate Bill 318**

On behalf of the State Superintendent, I want to thank Chairperson Farrow and members of the committee for the opportunity to provide background information and outline the department's concerns related to 2013 Senate Bill 318, which creates an alternative process for selling public school buildings in Milwaukee.

My name is Jeff Pertl, and among my many roles at the Department, I currently serve as the Federal Funds Trustee for the Milwaukee Public Schools (MPS). In that role, I am involved with federal corrective action requirements, financial monitoring, and issues around student choice (open enrollment, virtual schools, charter schools, and parental choice programs).

While the department has identified multiple questions and potential issues related to this bill, the underlining concern rests with how this bill impacts the authority of locally-elected school boards and municipalities to conduct "their local affairs and government." [Art. XI, s. 3(1), Wis. Const.]

The issues around access to public school buildings for charter and voucher school are not unique to Wisconsin. However, in the ever evolving portfolio of Milwaukee's educational landscape, resolving issues of equitable accountability, funding parity, asset allocation, and taxpayer fairness can be difficult. To that end, the State Superintendent continues to work with local leaders, district administration, and education advocates to provide the best opportunities for all our kids and protect the taxpayer's investment in public infrastructure.

Existing efforts under state law and federal corrective action

2009 Wisconsin Act 215 (Masters Facilities Plan): Required MPS to develop a "master facilities plan" governing the use, repair, renovation, and demolition of public school building. The facilities plan was completed on June 30, 2011 and identified a facilities portfolio of 220 buildings, with an average building age was 66 years and constructed around 1945 (41.3% of buildings were constructed *prior* to 1930 and 52.8% were built between 1930-1980).

2011 Wisconsin Act 17 (City Council Authority to Sell): Authorized that if the common council finds city-owned property used for school purposes has been unused or underutilized for at least 18 consecutive months, then the common council may sell or lease the property.

Progress to Date: Through his statutory and federal authority, State Superintendent Evers has worked closely with MPS Superintendent Thornton to increase enrollment and reduce excess capacity by improving educational opportunities and expanding district charter options (adding 15 charter schools since 2005). To that end, MPS has closed 23 buildings, selling four, leasing 11 to charter schools, and using eight to expand successful programs.

Potential issues and unintended consequences

Local control: This bill mandates certain, specific actions for both the Milwaukee Common Council and MPS school board, infringing on local control and eroding their constitutional “home rule” authority. There may be broader policy implications if the state legislature, which is overwhelmingly made up of officials elected outside the city of Milwaukee, establishes state statutory policies for the sale of public building that would usually be governed by local ordinance—especially if there is adverse impact on the sale price or local property taxpayer.

Market distortion: The bill initially restricts eligible purchasers to educational entities, which may have the effect of artificially driving down the sale price by reducing the number of eligible buyers. Additionally, this would restrict the City’s ability to consider private purchase offers that would convert the buildings into taxable property.

Limits district flexibility and innovation: This bill reduces MPS’ flexibility to grow successful traditional schools or attract successful charter schools by reducing one of the district’s more important assets—buildings. Moreover, the bill also eliminates the City’s ability to repurpose buildings to meet community needs such as the proposal to use the former Dover Street School as teacher housing.

Undefined terms: The bill specifically states that operators of specific educational entities are eligible; however, the term “operator” is not defined. Additionally, while previous legislation has referred to “city-owned property,” the term “school building” is not defined in statute and may not adequately distinguish between administrative and educational buildings. In districts with older buildings, central administration is usually housed in a decommissioned/retro-fitted school rather than a separate administrative building.

Unintended consequences: The parameters and conditions outlined in the bill establish arbitrary occupancy thresholds, which could result in local buildings that are utilized to the best effect being sold out from underneath the district as a function of state statute. Moreover, the 40 percent threshold may require the district to rebalance enrollment in order to preserve essential infrastructure and access to neighborhood schools.

Possible increased transportation costs: One of the challenges around the increased educational options available to parents *within* the district is constraining transportation costs. Ensuring high quality school options exist in every neighborhood is an important strategy to increase quality, while managing cost. In order to avoid expensive construction projects, high performing but smaller neighborhood schools are sometimes located in existing buildings with a larger footprint. Converting that school to charter or choice school with no enrollment zone may reduce neighborhood school options and increase transportation costs.

The issues raised today are intended to help the legislature as you contemplate this complex set of issues. Thank you for the opportunity to testify on this bill today, and I am happy to answer question you might have.

Date: **October 9, 2013**

To: **Wisconsin Senate Committee on Government Operations, Public Works, and Telecommunications**

From: **Jim Bender, President, School Choice Wisconsin**

RE: **Testimony on Senate Bill 318**

Chairman Farrow and committee members, thank you for taking testimony on Senate Bill 318 regarding vacant and underutilized school buildings in Milwaukee. In essence, this is the second time this topic is being brought before the legislature.

Last session, ACT 17 was passed and signed into law to achieve a simple goal – to put vacant school buildings back into service in the community. Through a collaborative process, the legislature required Milwaukee Public Schools (MPS) and the City of Milwaukee to create a working process to achieve that goal.

The result has been a manipulative process that has not garnered any real outcomes. The goal of ACT 17 has not been reached.

The reasons for this failure are multi-faceted, but the motivation is not. MPS attempts at every turn to keep buildings out of the hands of school operators that teach children who fall outside of their revenue stream.

For MPS, allowing private schools in the Milwaukee Parental Choice Program or independent charter schools to use empty school buildings could mean additional students leaving the district, which would further erode its capability to fund expenses tied to the district's enormous legacy costs. Simply put, MPS is implementing a policy based on financial motivation designed to maximize cash flow into their system without consideration for what may be best for students and families in the City of Milwaukee.

Milwaukee has a shortage of seats in high performing schools. So when quality schools are looking to expand but cannot find the physical space in this urban setting to accommodate that growth, vacant school buildings become very important. SB 318 establishes a clear process by which high performing schools in the education reform arena are given an opportunity to acquire these buildings.

For the students and families that would benefit from the opportunities provided by growing, productive schools interested in these buildings, we support Senate Bill 318.

Thank you for taking time to consider this legislation.

October 9, 2013



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Dear Chairman Farrow and members of the Senate Committee on Government Operations, Public Works, and Telecommunications:

Thank you for giving me the opportunity to testify. My name is CJ Szafir. I'm Associate Counsel and Education Policy Director at the Wisconsin Institute for Law & Liberty ("WILL"), a not for profit legal organization with offices in Milwaukee. I am appearing before you today for informational purposes only to discuss our work on the unused school building issue.

Background. In December 2010, the Milwaukee Journal Sentinel reported that the City had 27 vacant, unused school buildings and MPS was blocking private and charter schools from purchasing those buildings. This led to an outcry for change. At the time, even though the City owns the buildings, no building could be sold without MPS approval.

This led to the legislature passing 2011 Act 17 which permitted the Milwaukee Common Council to sell unused or underutilized buildings without the approval of MPS. There was second way to sell empty school buildings. However, for reasons only known to them, the Common Council and City of Milwaukee have not used their Act 17 power. It's even more perplexing because the City of Milwaukee lobbied for Act 17 more than any other organization. In the past year, at least two reports – the Wisconsin Reporter and another by the Pew Charitable Trust – showed that Milwaukee still had at least 21 vacant school buildings. This was clearly not what the legislature had in mind when it passed Act 17.

As a result, on March 29, 2013, WILL filed open records requests with the City of Milwaukee (Department of Administration and Department of City Development) and officials at Milwaukee Public Schools in an attempt to find out what, if anything, the City and MPS were doing about the unused school buildings problem. Based on the findings, WILL released two reports over the summer. We concluded that MPS is blocking charter schools and private schools in the choice program from purchasing empty, unused school buildings. Because the City has ignored its power to sell the buildings under Act 17, it deserves an equal share of the blame. Our findings:

- **The City refuses to use its Act 17 power.** Even though the City asked for the ability to unilaterally sell its vacant school buildings, the City's own policy in 2013 states that MPS must first designate unused buildings as "surplus" prior to them being sold. In other words, it has returned its newly obtained authority right back to the entity whose foot dragging caused the legislative change in the first place. This happened despite the fact that Milwaukee School Board President Michael Bonds stated that he would never sell school buildings to schools in the choice program because it would be like "asking the Coca-Cola company to turn over its facilities to Pepsi."
- **City policy discriminates against choice schools.** For those buildings that MPS agrees to sell, the City's policy prohibits the selling of unused school buildings to any private school in the choice program or "for profit" charter school. A complete ban. But the City is not satisfied by simply refusing to sell to these entities. City policy also places a permanent deed restriction on the buildings to prevent future buyers from selling to private schools. These deed restrictions raise serious legal and constitutional questions. A similar deed restriction policy on unused school buildings in Cincinnati was recently held to be unconstitutional by the Ohio Supreme Court.
- **MPS has no interest in selling its unused buildings.** Because the City has abdicated all of its power to MPS, we also performed an open records request with MPS. What we found were that high-performing charter and choice schools are still being prevented by MPS from purchasing empty, unused schools, even though there is substantial demand for these buildings. MPS seems actively hostile to the idea, preferring to keep buildings it does not need in order to restrict alternatives for families because it apparently believes it cannot compete with those alternatives.

Of the 23 buildings that are vacant (according to MPS), we have identified charter and choice school interest in *purchasing nearly every single one*. In other words, practically every vacant school building could have a charter or private school in it - if MPS (or the City) was minimally cooperative. For example, Lighthouse Academies, a charter school, offered to buy Carleton (398 students) or Garfield (453 students) in 2010. MPS refused to negotiate so Lighthouse purchased an abandoned warehouse instead. Carleton and Garfield sit empty today.

- **MPS plays a "shell game" with its unused property:** Finding out what buildings were used or unused was, not surprisingly, very difficult. In April 2013, MPS told WILL that only 4 buildings were on the market, ie surplus - Carleton, El Centro Del Nino, MSE, and North 5th. But, in March 2013, MPS had a "Disposition List" that included at least 19 other buildings that were empty and not surplus. Does MPS have plans for these buildings? Why aren't they on the market?

MPS hostility extends to adopting basic business practices. We requested that MPS give us its most recent portfolio of its buildings including routine information such as whether the buildings were used, the number of students served, expenses incurred, and the months the buildings are occupied. MPS told us that such a "real-time", centralized portfolio does not exist. To get that information, MPS would have to contact all 160 schools and it would charge WILL over \$7,000 for the information. Instead, MPS referred WILL to a 2011 document with the information.

- **The Story of Malcolm X and St. Marcus Story.** Perhaps nothing better summarizes the travesty of the unused school building issue than St. Marcus' unsuccessful attempts to obtain Malcolm X. St. Marcus, a private school in the Milwaukee choice program, serves over 600 students, and although 90% come from low-income families, over 95% of its students graduate from high school in 4 years or less. Consider:

- On October 30, 2012, St. Marcus inquired about purchasing one of three vacant MPS buildings, including Malcolm X - all of which are located within 8 blocks of St. Marcus. The City's Real Estate Manager said no because "MPCP [choice] schools are not eligible to purchase vacant MPS property." She also revealed that MPS was using the empty schools as a political pawn by stating that: St. Marcus should "join the City of Milwaukee in *lobbying vigorously for repair of the [funding] formula*" (emphasis added) – meaning that MPS would only sell the empty schools if MPS got a change in the state funding formula.
- The funding flaw was fixed in the 2013 state budget. Yet, on August 21, 2013, the MPS Board rebuffed St. Marcus' latest attempt to purchase Malcolm X and instead, voted to have the building be used for a "Community Center."
- President Bonds and the MPS Board claim that they have been committed to turning Malcolm X into a Community Center for over a year.
- But their records tell a different story. In 2012, MPS gave tours of Malcolm X to numerous educational operators, including Believers Institute (4/24/12), CYD and School of Excellence (4/20/12), Milwaukee College Prep (8/20/12), Heritage (5/1/2012), and American Quality Schools (9/6/2012). Superintendent Thornton signed off on the MCP, AQS, and CYD tours. Emails indicate that School Board President Bonds was notified on CYD's tour. There were discussions of it being shown as recent as December 2012. If the building was to be used as a "community resource center," why show it to anyone?
- *Nowhere in our records – going up to April 2013 – did MPS have any plans to turn Malcolm X into a "community center."*

➤ **MPS' response:** MPS responded to our report by arguing that: "Since 2011, MPS has sold four school buildings, including three to successful independent charter schools—Milwaukee College Prep and Hmong American Peace Academy—and one that has been successfully redeveloped as senior housing . . . Eleven charter or partnership schools are currently leasing MPS site."

But that's the equivalent to a football team (we trust it would be the Bears) celebrating that they scored two touchdowns in a game – only to end up losing 55-14. They want credit for the four buildings they have sold when 20 or so sit idle right now. It is also noteworthy that MPS' response did not deny our claim that there exists at least 20 buildings *right now* that are empty and not on the market. Nor did they deny that they were discriminating against charter and choice schools.

Members of the committee, how this issue gets solved is ultimately up to you, the City of Milwaukee, or even MPS. But, our findings make clear that the status quo is broken – thousands of children are denied access to high performing schools and taxpayers are spending over \$1.5 million a year on maintaining these empty, unused facilities. Children and taxpayers deserve better.

Thank you for your time and I would be happy to answer any questions you have. Our reports and exhibits are available on our website and upon request.

Sincerely,

CJ Szafir
Associate Counsel and Education Policy Director
Wisconsin Institute for Law & Liberty

October 9, 2013

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Stacy A. Stueck

October 9, 2013

Dear Chairman Farrow and members on the Senate Committee on Government Operations, Public Works, and Telecommunications:

Thank you for giving me the opportunity to testify. My name is CJ Szafir. I'm Associate Counsel and Education Policy Director at the Wisconsin Institute for Law & Liberty ("WILL"), a not for profit legal organization with offices in Milwaukee. I am appearing before you today for informational purposes, only to discuss our work on the unused school building issue. WILL takes no position on the legislation under consideration.

- **Background.** In December 2010, the [Milwaukee Journal Sentinel](#) reported that the City had 27 vacant, unused school buildings and MPS was blocking private schools in the choice program and charter schools from purchasing those buildings. At the time, even though the City owns the buildings, no building could be sold by the City without MPS approval.

The public outcry from the story led to the legislature passing 2011 Act 17 which permitted the Milwaukee Common Council to sell unused or underutilized buildings without the approval of MPS. However, the Common Council and City of Milwaukee have not used their Act 17 power despite lobbying for it. In the past year, at least two non-partisan reports – the [Pew Charitable Trust](#) and the [Wisconsin Reporter](#) – showed that Milwaukee still had at least 21 vacant school buildings.

On March 29, 2013, WILL filed open records requests with the City of Milwaukee (Department of Administration and Department of City Development) and officials at Milwaukee Public Schools in an attempt to find out what, if anything, the City and MPS were doing about the unused school buildings problem. Based on the records, WILL released two reports over the summer. We concluded that MPS is blocking charter schools and private schools in the choice program from purchasing empty, unused school buildings. Our findings:

- **The City refuses to use its Act 17 power.** Even though the City asked for the ability to unilaterally sell its vacant school buildings, the City's own policy in 2013 states that MPS must first designate unused buildings as "surplus" prior to them being sold. This happened despite the fact

that Milwaukee School Board President Michael Bonds stated that he would never sell school buildings to schools in the choice program because it would be like “asking the Coca-Cola company to turn over its facilities to Pepsi.”

- **City policy discriminates against choice schools.** For those buildings that MPS agrees to sell, the City’s policy prohibits the selling of unused school buildings to any private school in the choice program or “for profit” charter school. This was, according to the City, due to the funding flaw. However, since the 2013-2014 budget fixed the funding flaw, one would think choice schools can start purchasing the vacant buildings. If this is true, we have not seen it yet.

City policy also places a permanent deed restriction on any school building sold in order to prevent future buyers from selling to private schools in the choice program. These deed restrictions raise serious legal and constitutional questions. A similar deed restriction policy on unused school buildings in Cincinnati was recently held to be unconstitutional by the Ohio Supreme Court.

- **MPS has no interest in selling its unused buildings.** Because the City has abdicated its power to MPS, we also made an open records request to MPS. What we found were that high-performing charter and choice schools are still being blocked by MPS from purchasing empty, unused schools, even though there is substantial demand for these buildings.

Of the 19 or so buildings that are currently vacant (according to MPS), we have identified charter and choice school interest in *purchasing nearly every single one*. In other words, practically every vacant school building could have a charter or private school in it - if MPS (or the City) would permit it. For example, Woodlands School, an independent charter, has been in Milwaukee since 1936 and boasts strong test results – all eighth grade students achieved proficient or higher in reading, math, language, and science. In July 2012, Woodlands, seeking to expand, sent MPS a letter of intent to purchase three vacant school buildings: Dover (holds 452 students), 88th Street (334 students), or Hayes Elementary (280 students). Then, on August 31, 2012, without any justification, MPS declined the offers. These buildings still sit empty.

MPS responded to this claim by saying: “Since 2011, MPS has sold four school buildings, including three to successful independent charter schools . . . and one that has been successfully redeveloped as senior housing. Eleven charter or partnership schools are currently leasing MPS sites.” We will acknowledge that over the last few years there has been some activity (though it has been to MPS affiliated schools).

But that’s the equivalent to a football team (we trust it would be the Bears) celebrating that they scored two touchdowns in a game – only to end up losing 55-14. They want credit for the four buildings they have sold when at least 19 sit vacant *right now*.

- **MPS plays a “shell game” with its unused property:** Finding out what buildings are used or unused was, not surprisingly, very difficult. In April 2013, MPS told WILL that only 4 vacant buildings were on the market, i.e. surplus - Carleton, El Centro Del Nino, MSE, and North 5th. But, in March 2013, MPS had a “Disposition List” that included at least 19 other buildings that were empty and not surplus. Does MPS have plans for these buildings? According to the Disposition List, these buildings will be used for such purposes as: “alternative use,” “records storage,” unspecified “MPS programming,” and, of course, “TBD” (to be determined). And why aren’t they on the market right now?

Furthermore, we requested that MPS give us its most recent portfolio of its buildings including routine information such as whether the buildings were used, the number of students served, expenses incurred, and the months the buildings are occupied. MPS told us that such a “real-time”, centralized portfolio does not exist. To get that information, MPS would have to contact all 160 schools and it would charge WILL over \$7,000 for the information. MPS, instead, referred WILL to a 2011 document with the information.

- **The Story of St. Marcus and Malcolm X.** Perhaps nothing better summarizes the vacant school building issue than St. Marcus’ unsuccessful attempts to obtain Malcolm X. St. Marcus, a private school in the choice program, serves over 600 students, and although 90% come from low-income families, over 95% of its students graduate from high school in 4 years or less. Consider:
- On October 30, 2012, St. Marcus inquired about purchasing one of three vacant MPS buildings, including Malcolm X - all of which are located within 8 blocks of St. Marcus.
 - On December 5, 2012, the City’s Real Estate Manager said no because “MPCP [choice] schools are not eligible to purchase vacant MPS property.” She also revealed that the City was using the empty schools as a political pawn by stating that: St. Marcus should “join the City of Milwaukee in *lobbying vigorously for repair of the [funding] formula*” (emphasis added) – meaning that MPS would only sell the empty schools if MPS got a change in the state funding formula.
 - The “funding flaw” was fixed in the 2013 state budget on July 1, 2013. Yet, on August 21, 2013, the MPS Board rebuffed St. Marcus’ latest attempt to purchase Malcolm X and instead, voted to have the building be used for a “Community Center.”
 - President Bonds and the MPS Board claim they have been committed to turning Malcolm X into a Community Center for over a year. But their records tell a different story. In 2012, MPS gave tours of Malcolm X to numerous educational operators, including Believers Institute (4/24/12), CYD and School of Excellence (4/20/12), Milwaukee College Prep (8/20/12), Heritage (5/1/2012), and American Quality Schools (9/6/2012). Superintendent Thornton signed off on the MCP, AQS, and CYD tours. Emails indicate that President Bonds was notified of CYD’s tour. There were discussions of Malcolm X being shown as recently as December 2012. If the building was to be used as a “community resource center,” why show it to anyone?
 - *Nowhere in our records – as recent as May 2013 – did MPS have any plans to turn Malcolm X into a “community center.”*

Thank you for your time and I would be happy to answer any questions you have. Our reports and exhibits are available on our website and on request.

Sincerely,

CJ Szafir
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9 October 2013

To: Members, Senate Committee on Government Operations, Public Works and Telecommunications

From: Katy Venskus, VP-Policy, Rocketship Education

RE: Support for Senate Bill 318

Rocketship Education is a network of non-profit public charter schools serving students in grades 4K-5. Our schools in California and Wisconsin serve predominantly low income children in neighborhoods where access to excellent schools is limited. We believe that transformative schools not only educate children, they empower teachers, engage parents and stabilize communities.

In 2013, in response to significant community demand, we opened our first of a planned eight schools in Milwaukee. While we plan to grow to eight high performing schools in Milwaukee, it will be difficult to achieve that goal without access to some of the existing surplus school facilities currently held by the Milwaukee Public Schools.

Senate Bill 318 is a necessary clarification of the 2011 Act 17. Access to facilities is a critical factor when Rocketship and other high quality charter networks are determining whether or not to locate in a Milwaukee. SB 318 will not only make better use of scarce taxpayer resources, it will make Milwaukee more competitive as it seeks to bring other high quality national school networks to the city.

It was clear during our initial charter process, that a surplus facility was not an option. As a result we were compelled to renovate a non-traditional industrial facility for our current school located on Milwaukee's southside. While we are very proud of the state of the art facility we developed, it was very costly. In addition, it required us to navigate a lengthy rezoning process over and above our initial charter review. It is not a sustainable model for Rocketship and other networks long term.

Clearly, a collaborative process that matched education operators with suitable facilities would have been ideal. Act 17 was clearly intended to empower that collaboration. Like many schools in the city, we attempted to work with the district to secure a building. All of our efforts were rejected. As quality school operators we need a fair, transparent facilities policy that allows us to serve more children and maximize the value of these public resources.

Senate Bill 318 will ensure Milwaukee is able to remain competitive with other cities trying to recruit high performing national networks to our city. Many states have



improved facility access in recent years. This proposal includes many of the best practices from those states.

Texas	2013 Senate Bill 2 gives non-district operators right of first refusal before a surplus school facility can be repurposed. All school operators must be notified and given a chance to purchase the building before it can be sold to any other buyer.
Tennessee	Charter schools in the Achievement School District are given a public school facility as part of their charter
Washington DC	Surplus school facilities can ONLY be sold to non-district operators. There is a competitive RFP process for each building. Buyers are selected based on school quality, investment and community development.
Indiana	Surplus district facilities are made available to non-traditional operators using standards and processes similar to those in SB 318. One significant difference however – the price of the facility for a non-traditional publicly funded operator is set in statute at \$1.00
California	Proposition 39 requires school districts to make facilities available to charter schools at the charter operator's request. In addition, CA created the Charter School Facilities Program to provide direct funding for charter school facilities as well as state supported bonding for charter school facility investment.

We thank Senator Darling and her colleagues for their continued commitment to ensuring all high quality schools have fair, transparent access to school facilities. It is the right thing to do for taxpayers, our neighborhoods, our schools and most importantly, our kids.



Metropolitan Milwaukee
Association of Commerce

DATE: OCTOBER 9, 2013

**TO: SENATE COMMITTEE ON GOVERNMENT OPERATIONS, PUBLIC
WORKS, AND TELECOMMUNICATIONS**

**FROM: STEVE BAAS, VICE PRESIDENT FOR GOVERNMENT AFFAIRS
METROPOLITAN MILWAUKEE ASSOCIATION OF COMMERCE**

RE: SB 318

On behalf of the Metropolitan Milwaukee Association of Commerce (MMAC) I want to thank you for holding a public hearing today on this important issue and to urge your support for this bill creating a clear process for the disposition of surplus school property owned by the City of Milwaukee.

With our member companies employing over 300,000 workers throughout the metro Milwaukee region, the MMAC is acutely aware on a daily basis that a key to our region's economic and social health is a well-educated workforce. As such, one of our top priorities is increasing the number of seats in high-performing schools available to Milwaukee children. One factor that often frustrates the recruitment or expansion of high performing schools in our city is a scarcity of appropriate available school buildings.

To help us address this problem, last session the legislature passed Act 17, giving the City of Milwaukee the ability to make surplus Milwaukee Public School District (MPS) school buildings available for sale to other education operators. Unfortunately, the intent of Act 17 has been frustrated by MPS's aggressive – and largely successful - attempts to block the City's ability to access to these underutilized school buildings.

SB 318 addresses this problem by creating a clear, prescriptive, and non-discriminatory process for both defining what constitutes a surplus or underutilized school building and for how eligible properties must be made available for sale by the City of Milwaukee. This legislation will help realize the promise and potential of 2011 Act 17 and help expand access to high quality educational options for Milwaukee area schoolchildren.

We recognize the City of Milwaukee's interest in making some of these properties available for private development not related to direct educational activity and understand if the committee felt the need to explore modifications to this bill that might expedite access by alternative users. However, we remain firm in our belief that the highest and best use for these vacant buildings is revitalization as quality schools and any alternative considered must ensure that the rights and interests of educational operators are not compromised.

Thank you for your consideration of this important legislation.

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