



OFFICE OF CORPORATION COUNSEL

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September 6, 2024

Division of Hearings and Appeals
5005 University Avenue
Suite 201
Madison, WI 53705-5400

Fax: 608-264-9885

Re: Disposition Decision – Froedtert Tract #2 – MI-0527/BMI-0076

Dear Division of Hearings and Appeals,

Milwaukee County through its attorneys, Milwaukee County Office of Corporation Counsel, by James G. Davies, Assistant Corporation Counsel, and pursuant to Wis. Stat. § 227.42 writes to appeal the April 17, 2024, Memorandum of Disposition Decision issued by Christian W. Øverland, the Ruth and Hartley Barker Director & CEO of the Wisconsin Historical Society, a copy of which is attached as Exhibit 001. Milwaukee County previously filed a “Request for Wisconsin Burial Sites Preservation Board Review.”¹

The Director’s Memorandum of Disposition Decision issued pursuant to Wis. Stat. § 157.70(6) approved the Descendent Community of Milwaukee County Grounds Cemeteries, Inc. application and plan for “the dignified reburial of the 831 individuals in the assemblage, as well as the associated monument to honor them” their application was “approved and incorporated herein by reference.” The Descendent Community’s application, which was “approved and incorporated” in the Director’s decision by reference, requires the individual reburial of each disinterred individual at Forest Home Cemetery as well as the erection of a \$250,000 obelisk.

Milwaukee County respectfully objects to the Director’s Disposition Decision for:

- Failure to afford Milwaukee County adequate due process during the proceedings;
- Failure to follow the processes and procedures outlined in Wis. Admin. Code Ch. HS 2;
- Failure to abide by the definitions in Wis. Admin. Code § HS 2.02;

¹ It is the County’s understanding that on August 8, 2024 the Burial Site Preservation Board (BSPB) declined to review the Director’s disposition decision as allowed under Wis. Stat. § 157.70(2m)(e). Despite the fact that Milwaukee County had made its interests known, it was not provided with notice of the August 8, 2024, off-cycle meeting of the BSPB, so the County did not appear. The County has requested a written decision regarding its Request for Wisconsin Burial Site Preservation Board Review from counsel for both the BSPB and the Wisconsin Historical Society and has not received one. Milwaukee County also requested the minutes from the meeting but have not received them.

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- Exceeding the Director's authority in the specificity of the disposition decision which prohibits Milwaukee County to comply with its ordinances, and general good procurement processes.

Milwaukee County's requested relief is that the final disposition process contemplated under Wis. Stat. § 157.70(6) be restarted and carried out in compliance with all applicable statutes and provisions of administrative code. Milwaukee County respectfully requests a hearing before the Division on this matter.

Dated at Milwaukee, Wisconsin this 6th day of September, 2024.

By: /s/ James G. Davies
JAMES G. DAVIES
Wisconsin Bar No. 1097929
Assistant Corporation Counsel
Attorney for Milwaukee County

CC:

By Mail to: Wisconsin Historical Society, 816 State St., Madison, WI 53706

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Via Email to: Sarah K Larson, Attorney for Wisconsin Historical Society,
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