



STATE OF WISCONSIN
Department of Safety and Professional Services
1400 E Washington Ave.
Madison WI 53703

Governor Scott Walker Secretary Dave Ross

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March 28, 2014

de la Mora & de la Mora, Attorneys at Law
Attn: Atty. Christopher T. Koehnke
15255 Watertown Plank Road
Elm Grove, WI 53122-2395

RE: Request for DSDPS assistance made by the City of Waukesha

Dear Attorney Koehnke:

The Department of Safety and Professional Services has received a request from the City of Waukesha for enforcement action of Wis. Admin. Code sec. SPS 362.0903(6)(3) requiring fire sprinklers in the building at 135 McCall Street, Waukesha. The basis for the requirement is that the building is operating as a Fraternity. The Department is also in receipt of your correspondence dated February 27, 2014 with your reasoning as to why the building should not be required to comply with the fire sprinklers requirement.

The department's interpretation of the statute is that a formal charter with a college or university is not required for a building to be a fraternity for purposes of the statute and therefore fall under the requirements for fire sprinklers. This interpretation is consistent with the Act Memo, prepared by the Wisconsin Legislative Council clarifying requirements of 2005 Wisconsin Act 78. This memo (enclosed) reads, in part, as follows:

2005 Wisconsin Act 78 extends automatic fire sprinkler requirements to all of the following:

1. All student residential facilities that are operated by fraternities, sororities, or other organizations authorized or sponsored by an institution of higher education.

The language used in the Legislative Council memo, in particular, “ , or other”, indicates that fraternities and sororities stands separate from other organizations authorized or sponsored by an institution of higher education. Had the wording been “ , and other”, this would have suggested that fraternities and sororities would have been other organizations authorized or sponsored by an institution of higher education.

The department has documentation provided from the City of Waukesha, Transcript of Proceedings, Case 13-CV-289, Oral Ruling, which recites the long history of this building operating as a fraternity. Its exact relationship to the college has changed over the years, but it has nevertheless operated as a fraternity throughout its history. The recent loss of its charter

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from Carroll College does not remove it from coverage by the statute or reduce the safety concerns that the statute is intended to protect.

As such, the City of Waukesha, as a delegated agent of the Department per Wis. Admin. Code sec SPS 361.60 is charged with enforcement of the provisions of Wis. Admin. Code sec. SPS 362.0903 and is directed to seek compliance with this section for the building at 135 McCall Street, City of Waukesha.

Sincerely,



Michael J. Berndt
Chief Legal Counsel
Department of Safety and Professional Services
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708

Enclosure

cc. James B. Smith, P.E.
Building Inspection Department
City of Waukesha
Community Development
201 Delafield Street
Waukesha, WI 53188-3633



WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO

2005 Wisconsin Act 78 [2005 Assembly Bill 544]	Fire Sprinklers in Student Residential Facilities
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All University of Wisconsin (UW) System residence halls and dormitories over 60 feet tall that were constructed before April 26, 2000, must be retrofitted with an automatic fire sprinkler system on each floor before January 1, 2006. (An exception to this requirement is Ogg Residence Hall at UW-Madison, which does not have to be retrofitted until January 1, 2008.)

Also, all UW System residence halls and dormitories that are constructed on or after April 26, 2000, must be built with an automatic fire sprinkler system on each floor, regardless of the height of the building.

2005 Wisconsin Act 78 extends automatic fire sprinkler requirements to all of the following:

1. All student residential facilities that are operated by fraternities, sororities, or other organizations authorized or sponsored by an institution of higher education.
2. Residence halls and dormitories that are owned or operated by other institutions of higher education.
3. "Private student residential buildings." A "private student residential building" is defined as a "privately owned and operated residential building" that:
 - Has a capacity of at least 100 occupants;
 - Is occupied by persons at least 80% of whom are enrolled in an institution of higher education; and
 - Has attributes usually associated with a student residence hall or dormitory such as a food service plan or occupancy by a resident advisor.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

The Act requires all buildings described under item 1., above, that were constructed before January 7, 2006, to be retrofitted with an automatic fire sprinkler system on each floor by January 1, 2014, regardless of the height of the building.

The Act requires all buildings described under items 2. and 3., above, that are over 60 feet tall and that were constructed before January 7, 2006 to be retrofitted with an automatic fire sprinkler system on each floor by January 1, 2014.

All buildings of the type described under items 1. to 3., above, that are constructed on or after January 7, 2006 must be built with an automatic fire sprinkler system on each floor, regardless of the height of the building.

Effective Date: The Act takes effect on January 7, 2006.

Prepared by: Mary Matthias, Senior Staff Attorney and
David L. Lovell, Senior Analyst

January 18, 2006

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