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October 16, 2013

Chairman Weininger and committee members thank you for holding this hearing today on AB417.

This bill strengthens legislation passed last session that was intended to improve the process of selling vacant or underused school buildings in the City of Milwaukee. Unfortunately, loopholes in that law are being exploited by the Milwaukee Public School (MPS) Board. Frankly, it is a blatant, disgraceful attempt to deprive children in the City of Milwaukee an opportunity to receive a better education than MPS can offer.

AB417 more clearly defines what qualifies as a vacant or underused school building. It calls for the MPS board to supply the City and Legislature with an annual itemized inventory that indicates each building's purpose and level of usage. The bill also lays out a process by which operators of other non-MPS district schools may purchase these unused buildings. This paves the way for the expansion of successful choice and charter school programs, providing more education options for Milwaukee families.

MPS continues to fail in providing children of Milwaukee with the type of quality education needed for them to secure family supporting jobs. This failure has provided a one-two punch to the community in the form of high poverty and low employment that are rampant in certain parts of the city. This is the same city that relies on the only school district in the state to receive an "F" from the Department of Public Instruction to educate our children and prepare them for college and the workforce.

AB417 is not just about selling buildings, it is about educating children. Time and again, operators of successful choice and charter schools have been denied the opportunity to purchase some of MPS's vacant buildings. As a result, kids are being denied the opportunity to receive a quality education because these schools cannot expand. Passage of this bill will put an end to the entrenched establishment protectionist policy that places safeguards on the status quo rather than educating children.

Thank you for your time. I would be happy to answer any questions.



Testimony on Assembly Bill 417: School Facility Sales

Thank you Chairman Weiniger 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.



**MILWAUKEE
PUBLIC SCHOOLS**

**Milwaukee Public Schools:
Building Usage for Growth and
Expansion
of Successful Educational Opportunities**

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Start at MPS. Stay at MPS. Succeed at MPS.



**MILWAUKEE
PUBLIC SCHOOLS**

Where We Are

- 2013–14 unaudited MPS enrollment up 2% over projections
- 15 MPS charter schools since 2005; 78% increase since 2010
- Building capacity for 105,333 students
- Unaudited enrollment, 79,000 students

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MPS School Expansion Theory of Action

- Create schools that are visionary incubators of fresh ideas
- Replicate successful programs
- Establish models to turnaround low-performing schools

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Where we are

Facilities flexibility has let MPS make strategic decisions on building use



Milwaukee College Prep
(38th Street School
Campus)

4 buildings sold; 11 leased to charters; 8 used to expand successful programs

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Where we are

Facilities flexibility has let MPS make wise decisions



MacDowell Montessori –
Only K12 public
Montessori in Wisconsin

Expansion of high-achieving programs at Golda Meir, WCLL,
Garland, IDEAL, Reagan, MacDowell

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**MILWAUKEE
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Where we are

Facilities flexibility has let MPS make wise decisions



Vel Phillips facility leased to
BEAM Charter School, July 2011

Facilities available for continued MPS growth of high performing
charters

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**MILWAUKEE
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Where we are

Facilities flexibility has let MPS make wise
decisions



Robinson MS converted
to senior housing, Fall
2012

Buildings are repurposed to benefit community

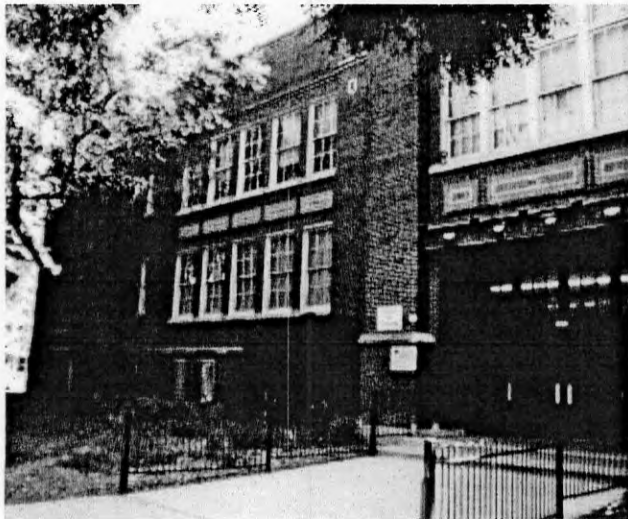
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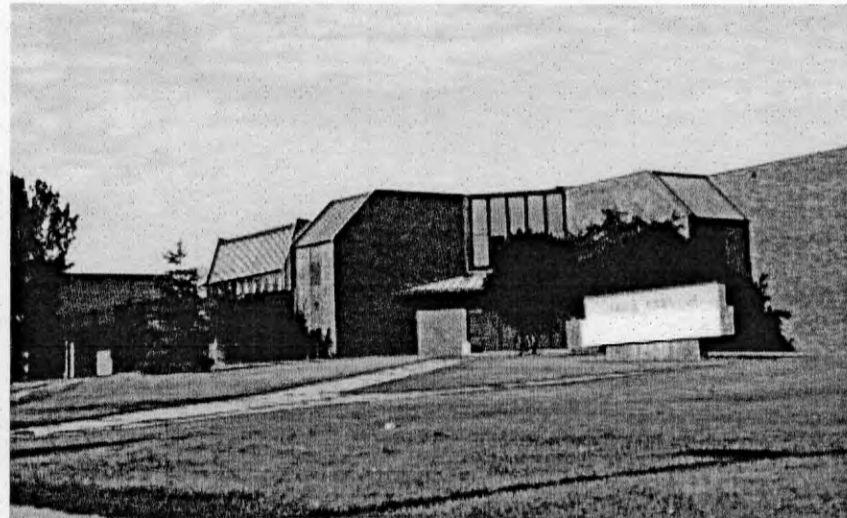
**MILWAUKEE
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Where we are

Excess capacity repurpose for use by high-quality charters



**Green Bay Avenue
School**



Webster Middle School

**Leased to Universal Charter Schools, a national charter school
organization**

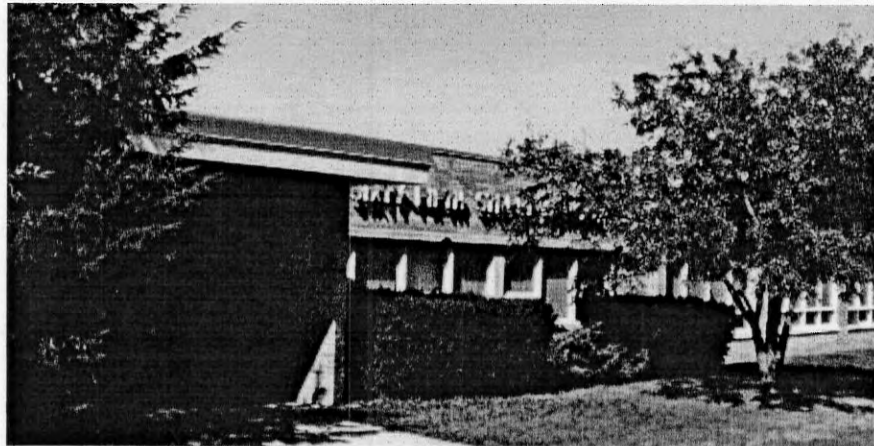
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Where we are

Strategic use of excess capacity to attract high-quality charters



65th Street School leased to MTEC Charter School; opened 2013

Projected MPS non-instrumentality enrollment for FY14 up
28%

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Where we're going

Loss of building flexibility would have significant impact

- Inability to grow successful MPS traditional schools
- Unavailability of space to attract successful charters
- Fewer educational program options for parents
- Currently, five new charter school opportunities are being planned for FY16

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**MILWAUKEE
PUBLIC SCHOOLS**

**Milwaukee Public Schools
Disposition of Vacant Facilities**

Facility	Address	Disposition	FCI*	Year Built
88th Street	3575 S. 88th Street	Early childhood site	36%	1957
Dover	619 E. Dover Street	Negotiating use	31%	1890
Malcolm X Academy	2760 N. 1st Street	Negotiating use	22%	1961
Hayes Bilingual	2431 S. 10th Street	Expansion of current MPS charter school	48%	1906
37th Street	1715 N. 37th Street	Possible sale	27%	1903
Carleton	4116 W. Silver Spring Drive	City surplus list	50%	1950
Frederick Douglass	3409 N. 37th Street	Possible sale	33%	1954
Lee School	921 W. Meinecke Avenue	Possible sale	30%	1892
Edison	5372 N. 37th Street	Possible sale	28%	1924
Philipp	4310 N. 16th Street	Possible sale	38%	1932
Wheatley	2442 N. 20th Street	Possible sale	35%	1902
Garfield	2215 N. 4th Street	Transferred to City		1888
Centro del Nino	500 E. Center Street	City surplus list	19%	1925
Fifth Street	2770 N. 5th Street	City surplus list	25%	1888
Wisconsin Avenue	2708 W. Wisconsin Avenue	Possible Sale	20%	1919
Milw. School of Entrepreneurship	6914 W. Appleton Avenue	City surplus list	23%	1965

*Facility condition index is a widely used indicator that provides a relative scale of the overall condition of a given facility. The index is derived by dividing the total repair costs, including educational adequacy and site-related repairs by the total replacement costs. An FCI of 21% or higher is considered below average condition. The district average FCI is 29%.

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Milwaukee Public Schools

Facility re-use by schools, facility leases and facility sales

Facility	Address	Current Use
REUSED BY MPS		
Fristche Middle School	2969 S. Howell Avenue	EXPANSION SITE for Dover/Tippecanoe/Parkside School
Former Garland School site	1420 W. Goldcrest Avenue	EXPANSION SITE for I.D.E.A.L. Charter
Juneau High School	6415 W. Mt. Vernon Avenue	EXPANSION SITE for MacDowell Montessori
Kosciuszko Middle School	971 W. Windlake Avenue	NEW SCHOOL Kosciuszko Montessori School / EXPANSION SITE Hayes Bilingual Sch.
MEC Middle School	227 W. Pleasant Street	EXPANSION SITE for Golda Meir School
Sarah Scott Middle School	1017 N. 12th Street	EXPANSION SITE for Wisconsin Conservatory of Lifelong Learning
Tippecanoe School	357 E. Howard Avenue	NEW SCHOOL Howard Avenue Montessori School
Urban Waldorf School	1312 N. 27th Street	NEW SCHOOL James Groppi H.S.
Former WCLL site	3120 W. Green Avenue	EXPANSION SITE for Garland School
Walker Middle School	1712 S. 32nd Street	NEW SCHOOL ALBA (building shared with Carmen H.S. – South Campus as noted below)
LEASED		
Former Browning School site	5575 N. 76th Street	LEASED Greater Holy Temple
Green Bay Avenue School	3872 N. 8th Street	LEASED Universal Acad. for the College Bound (Charter)
Happy Hill School	7171 W. Brown Deer Road	LEASED Banner School of Milwaukee (Charter)
Former MacDowell Mont. Site	1706 W. Highland Avenue	LEASED Highland Community School (Charter)
Northwest Secondary School	5496 N. 72nd Street	LEASED Carmen H.S. of Science & Technology – Northwest Campus (Charter)
Vel Phillips School	3620 N. 18th Street	LEASED BEAM (Charter)
65th Street School	6600 W. Melvina Street	LEASED Milw. Environmental Sciences (Charter)
35th Street School	3517 W. Courtland Avenue	LEASED CYD, Assata High School (Partnership)
Thurston Woods day care site	3333 W. Florist Avenue	LEASED Little Scholars (Day care)
Walker Middle School	1712 S. 32nd Street	LEASED Carmen H.S. of Science & Technology - South Campus (Charter)
Webster Middle School	6850 N. 53rd Street	LEASED Universal Acad. for the College Bound (Charter)
SOLD		
Lloyd Street School	1228 W. Lloyd Street	SOLD to Milwaukee College Prep
Former Morse site	4601 N. 84th Street	SOLD to Hmong American Peace Academy
Jackie Robinson Middle School	3245 N. 37th Street	SOLD Redeveloped into senior housing
38th Street School	2623 N. 38th Street	SOLD to Milwaukee College Prep

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Executive Director
Stacy A. Stueck

October 16, 2013

Dear Chairman Weininger and members on the Assembly Committee on Government Operations:

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. 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.

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 91% 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 - which is located just a few 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 requested 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.”*
- Two days ago, on October 14, the MPS Board voted to sell Malcolm X to 2760 Holdings, LLC for \$2.1 million. But, starting April 1, 2014 (or earlier), MPS has agreed to lease back one half of the building at an annual rent of one million dollars – essentially one half of the entire purchase price - for the next four years. The developer takes on no risk; yet, it can double its money in four years. Even worse, MPS has the option to pay the entire lease upfront, permitting the developer to cash out after closing and retains the ability to buy Malcolm X back at the end of the 4 year lease.

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



Metropolitan Milwaukee
Association of Commerce

DATE: OCTOBER 16, 2013

TO: ASSEMBLY COMMITTEE ON GOVERNMENT OPERATIONS AND
STATE LICENSING

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

RE: AB 417

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.

AB 417 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.

###

Fiscal Estimate - 2013 Session

Original Updated Corrected Supplemental

LRB Number 13-3194/1 **Introduction Number** AB-0417

Description
 Authorizing the city of Milwaukee to sell eligible school facilities to eligible purchasers

Fiscal Effect

State:
 No State Fiscal Effect
 Indeterminate
 Increase Existing Appropriations Increase Existing Revenues Increase Costs - May be possible to absorb within agency's budget
 Decrease Existing Appropriations Decrease Existing Revenues Yes No
 Create New Appropriations Decrease Costs

Local:
 No Local Government Costs
 Indeterminate
 1. Increase Costs 3. Increase Revenue 5. Types of Local Government Units Affected
 Permissive Mandatory Permissive Mandatory Towns Village Cities
 2. Decrease Costs 4. Decrease Revenue Counties Others
 Permissive Mandatory Permissive Mandatory School Districts WTCS Districts

Fund Sources Affected **Affected Ch. 20 Appropriations**
 GPR FED PRO PRS SEG SEGS

Agency/Prepared By	Authorized Signature	Date
DPI/ Donald Smith (608) 267-2003	Michael Bormett (608) 266-2804	10/15/2013

Fiscal Estimate Narratives

DPI 10/15/2013

LRB Number	13-3194/1	Introduction Number	AB-0417	Estimate Type	Original
Description Authorizing the city of Milwaukee to sell eligible school facilities to eligible purchasers					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, the city of Milwaukee (city) owns the school buildings and school grounds of the Milwaukee Public School (MPS) District. Generally, city-owned property used for school purposes may be sold only upon the written request of the MPS board and if the Milwaukee Common Council adopts a resolution approving the sale. However, if the common council finds that city-owned property used for school purposes has been unused or underutilized for at least 12 consecutive months, or if the MPS board has determined by resolution prior to January 1, 2011, that any city-owned property used for school purposes is surplus to the needs of the district, the common council may sell or lease that property if it adopts a resolution to do so. If the city sells or leases property identified as underutilized or surplus, the net proceeds must be deposited into the school operations fund, which is used to pay the principal, fees, and premiums due on bonds issued for school facilities.

This bill creates an additional mechanism for the sale of certain eligible, city-owned school buildings. The bill defines an eligible school building as an MPS school building that has been either 1) designated as surplus, underutilized, or vacant on any resolution adopted by the MPS board within the previous five years, provided the board is unable to demonstrate that the school building is no longer surplus, underutilized, or vacant; or 2) unused or satisfies any condition qualifying the building as underutilized for 12 consecutive months. The bill defines an underutilized school building as a school building that satisfies any of the following: a) less than 40 percent of the square footage of the school is used for the instruction of pupils on a daily, school day basis; b) with limited exceptions, the school is not staffed on a full-time basis by a principal and instructional staff assigned exclusively to the school; or c) the number of hours of pupil instruction offered in the school building in the previous school year was less than 80 percent of the number of hours of pupil instruction required to be offered by MPS. The bill requires the MPS board to annually prepare a detailed inventory of all school buildings in MPS and submit that inventory to the city clerk, the Department of Public Instruction, and the Joint Committee on Finance. The inventory must include the size and capacity of each school building and whether the building has ever been designated as surplus. The city clerk must publish information about eligible school buildings on the city's Web page.

Under the bill, once a school building has qualified as an eligible school building, only an education operator, with certain exceptions, may submit a letter of interest to the common council to purchase the building. The bill defines an education operator as any of the following: 1) the operator of a charter school established by the common council of the city, the chancellor of the University of Wisconsin-Milwaukee, the chancellor of the University of Wisconsin-Parkside, or the Milwaukee Area Technical College district board; 2) the operator of a private school; 3) the operator of a charter school that is not an instrumentality of MPS; 4) an individual or group that is pursuing a contract with an entity under item 1 to operate a school as a charter school; 5) a person that is pursuing a contract with MPS to operate a school as a charter school that is not an instrumentality of the school district; or 6) an entity or organization that has entered into a written agreement with any of the education operators identified in items 1 to 5 to purchase or lease a building within which that education operator will operate a school.

The bill requires the city to update its Web page when a letter of interest has been submitted and to solicit additional letters of intent for a period of 28 days. If more than one education operator submits a letter of interest, the common council must initiate a request-for-proposal process and select a committee to select the most suitable eligible buyer. If a building qualifies as an eligible school building for 48 consecutive months, any person may submit a letter of interest to the common council. Under the bill, the common council must, in a timely manner, negotiate a reasonable purchase price and terms for the purchase with the selected buyer. The bill specifies that a reasonable purchase price must be based upon the price paid for other comparable school buildings sold by the city within the previous five years or on an appraisal of the eligible school building in which comparable properties are compared.

Under current law, the city attorney also serves as the legal advisor for the board. Current law permits the board to retain a separate attorney to represent the board under specified circumstances: if the board

determines that the board requires specialized legal expertise; if the city attorney does not have sufficient staff to represent the interests of the board; or if a conflict of interest exists. This bill requires the board to retain a separate attorney if the mayor, the common council, the city attorney, or the board determines that any of the specified circumstances exist.

Local:

The bill restricts who is eligible to purchase a school building once it has been determined to meet the criteria in this bill. This may have the effect of artificially driving down the sale price by reducing the number of eligible buyers. If buildings are sold under the bill, it could reduce ongoing maintenance, utility and insurance costs for MPS for such buildings. It is unknown how many buildings meet the criteria in this bill. It is also unknown how many of those buildings would receive requests for purchase. The overall fiscal impact of this provision is indeterminate.

This bill could result in changing the overall usage of current MPS-controlled buildings. The number of buildings that would be altered in this way is unknown. The fiscal impact of any changes is indeterminate.

State:

There is no fiscal impact to the state.

Long-Range Fiscal Implications

If under the bill, buildings are sold by the City of Milwaukee to entities that operate schools under the parental choice program, and this results in more students being able to enroll in the choice program than would have under current law, the bill could increase GPR costs to the state for funding the parental choice program.



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Date: October 16, 2013

To: Wisconsin Assembly Committee on Government Operations and State Licensing

From: Jim Bender, President, School Choice Wisconsin

RE: Testimony on Assembly Bill 417

Chairman Weininger and committee members, thank you for taking testimony on Assembly Bill 417 concerning 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.

In the past 48 hours, MPS has taken action to sell the vacant Malcolm X building to a developer with a contract that has raised many eyebrows. The deal was put forth in a hurried attempt to usurp this legislation. It will grant a sweetheart deal with a no-bid process to an organization that has only existed for seven weeks.

The agreement lists this deed restriction: “the Property shall not be used for any use that has the effect of diminishing the annual average number of pupils enrolled in the Milwaukee Public Schools.” MPS clearly lays out its priority to retain market share at any cost.

Milwaukee has a shortage of available seats in high performing schools. So when quality schools are looking to expand but cannot find the physical space to accommodate that growth, vacant school buildings become very important. AB 417 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 that would benefit from the opportunities provided by growing, productive schools interested in these buildings, we support Assembly Bill 417.

Thank you for taking time to consider this legislation.

Should Public Taxpayers Pay for Discrimination? Why MPS should not sell Malcolm X to St. Marcus

by Bob Peterson

The St. Marcus School has been in the news for trying to bully the Milwaukee School Board into selling a large public school to St. Marcus, a private voucher school.

Amid the controversy, no reporter has asked whether the public should be forced to financially support homophobic, anti-woman beliefs that are at odds with democratic rights and public policy.

Unlike in MPS schools, for instance, the school council at St. Marcus is appointed, not elected. More important, only men are allowed to appoint the St. Marcus council members.

The St. Marcus Evangelical Lutheran Church, which oversees the St. Marcus School, is part of the conservative Wisconsin Evangelical Lutheran Synod. As a religious-based school, St. Marcus and its teachers are expected to defend and promote the synod's beliefs.

The Wisconsin Evangelical Lutheran Synod (WELS) was founded in Milwaukee in 1850. Its core beliefs include:

- Homosexuality is a sin.
- Living together outside of marriage is a sin.
- Women are not to hold positions of authority over men. (The synod's web page notes: "God gave to the man the unique calling of being a loving head and to his wife the unique calling of being a loving helper to him.")
- A literal interpretation of the Bible.
- The theory of evolution is wrong. (In explaining the discrepancy between the scientific view that the earth is 4-5 billion years old and the Biblical timeline of about 6,000 years, the synod's website notes: "The short answer is that the earth was created with the appearance of age. On the first day everything looked older than it was.")
- The Papacy of the Roman Catholic Church is the anti-Christ. (A "Doctrinal Statement on the Anti-

Christ" from the WELS website ends with the statement: "Scripture teaches that the Antichrist would be revealed and gives the marks by which the Antichrist is to be recognized (2 Th 2:6,8), and since this prophecy has been clearly fulfilled in the history and development of the Roman Papacy, it is Scripture which reveals that the Papacy is the Antichrist."

RELIGIOUS FREEDOM VS. DISCRIMINATION

I was raised Lutheran (in a more liberal synod) and I believe in religious freedom. One of the ways the United States has lessened problems of religious intolerance is by separating public money from the promotion of specific religious views that may deeply offend and discriminate against people of other belief systems.

The pastors of the St. Marcus church should be free to promote their religious views. But public policy is governed by principles of democracy. Should the taxpayers of Wisconsin be expected to fund the WELS' homophobic, anti-woman beliefs and its teaching of pseudo-science such as creationism?

Since 1998, the St. Marcus School has received almost \$22 million in public tax dollars via the voucher program, according to figures from the state Department of Public Instruction.

In the 2012-13 school year, 89 percent of the students at St. Marcus received a publicly funded voucher, according to the Public Policy Forum. This, in turn, calls into question why religious voucher schools, some of whom have all their students receiving publicly funded vouchers, are defined as a "private" school.

St. Marcus School wants to use the former Malcolm X school to enroll an additional 900 students — which could bring in an additional \$6 million a year in public funding.

It's a travesty that the Milwaukee mainstream media has never seriously investigated the curriculum at

private voucher schools, and whether the schools may be promoting beliefs that run counter to state anti-discrimination laws that all public schools must follow.

As for the St. Marcus School, there has been no public discussion of how the school essentially operates as a white-led, patriarchal organization serving predominantly African American students, and without even a minimal nod toward democratic principles. (The colonial, missionary aspects of the St. Marcus School operations are disturbing, but that's for another column.)

SCHOOL BOARD HEARING

The St. Marcus School has launched a public campaign, demanding that MPS sell to St. Marcus the former Malcolm X middle school, which encompasses an entire city block. The controversy was discussed at a public hearing before the MPS school board on Thursday, Sept. 12. Several hundred people showed up.

The School Board already has plans for the former Malcolm X building. It has been working for several years with community leaders, business people and government officials from the Bronzeville neighborhood to create a multi-use venue with low-income housing, a cultural and artist center and a school.

At the public hearing, one of the issues raised was that public schools are inherently more democratic, transparent and accountable than private schools.

Every MPS school, for instance, is required to have a democratically elected school council. The majority of the council is comprised of students' parents or caregivers, and elected by the school's parents/caregivers. The council also includes the principal and teacher representatives elected by their peers, and at least one community member elected by fellow council members. At high schools, students have a democratically elected representative. Discrimination on the basis of race, gender, sexual orientation or religion is illegal.

St. Marcus operates differently. According to the St. Marcus School charter, the school council is appointed by the church board of directors. According to the St. Marcus church's bylaws, the church's board of directors must be men.

WOMEN CAN NOT VOTE AT ST. MARCUS

Under church bylaws, directors must be "a voting member of the congregation." If you read the fine



St. Marcus Pastors

print, you will find that only men can be voting members. As the St. Marcus church constitution notes, "Voting members are **male** [emphasis added] communicant members at least 18 years of age. The voting members shall comprise the voters' assembly."

The St. Marcus church bylaws further stipulate that "directors shall be a voting member of the congregation."

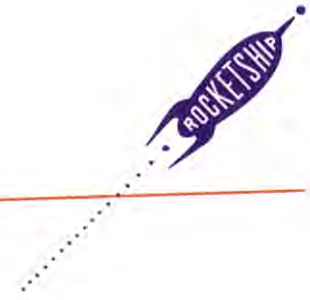
So, according to church regulations, only male members of the St. Marcus church elect the church board of directors. These directors, in turn, must be men. And they, in turn, appoint the St. Marcus School Council. The chair of the council must be a "voting member," — i.e., a male. Other school council members must be church members, and can presumably include women.

Yes, it gets a bit complicated — bylaws tend to be written that way. But the bottom line is clear: men make the decisions and women are not to have authority over men. It's hard in this day and age to find a clearer example of patriarchy.

In a democracy, why should the public be expected to fund institutions that, as a matter of principle, deny women the right to vote?

Here's another way of looking at it. What would be the public response — and the response of Milwaukee's political and business leaders — if the state of Wisconsin gave \$21 million to an institution that allows African American members, but prohibits African Americans from voting for the organization's leadership?

This essay originally appeared as the September 13 post in Bob Peterson's blog "Public Education: This is What Democracy Looks Like." For footnotes/links go to <http://www.bob-peterson.blogspot.com>



16 October 2013

To: Members, Assembly Committee on Government Operations and State Licensing
From: Katy Venskus, VP-Policy, Rocketship Education
RE: Support for Assembly Bill 417

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.

Assembly Bill 417 is a necessary clarification of the 2011 Act 17. Currently, access to facilities is a limiting factor for Rocketship and other high quality charter networks making the determination whether or not to locate in a Milwaukee. While Rocketship made a long term commitment to Milwaukee despite these challenges, it was with the understanding that Act 17 would create a more transparent equitable facilities policy that maximized high quality parent choice and the responsible use of taxpayer resources. AB 417 will not only restore these facilities to their highest and best use, it will make Milwaukee more competitive as it seeks to bring other high quality national school networks to the city.

Because a surplus facility was not an option during the initial charter process, 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 very thorough charter review by the Milwaukee Common Council. This facilities process 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 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 unanswered or rejected.



Assembly Bill 417 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 AB 417. 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 Representative Sanfelippo and their 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.

**Assembly Committee on Government Operations and State Licensing
October 9, 2013**

**Department of Public Instruction
Testimony on 2013 Assembly Bill 417**

On behalf of the State Superintendent, I want to thank Chairperson Weininger and members of the committee for the opportunity to provide background information and outline the department's concerns related to 2013 Assembly Bill 417, 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 schools 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 buildings. 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.



Tom Barrett
Mayor, City of Milwaukee

October 16, 2013

Rep. Chad Weininger, Chair
Committee on Government Operations and State Licensing
Wisconsin State Capitol
Madison, WI 53708

Dear Chairman Weininger and Committee Members:

I am writing to you today to express my opposition to Assembly Bill 417. 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 Assembly Bill 417 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 Assembly Bill 417 as this project never would have happened had this law been in place. Assembly Bill 417 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. Assembly Bill 417 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. Assembly Bill 417 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. Assembly Bill 417 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 cursive script that reads "Tom Barrett". The signature is written in black ink and is positioned above the printed name.

Tom Barrett
Mayor

Very Rev. Thomas Mueller
Chair, MICAH Education Committee
2515 South 30th Street
Milwaukee, Wisconsin 53215-2829
414 671 5819

Regarding proposed legislation on sale of MPS properties

Six generations of my family have been citizens of the City of Milwaukee. Many of our ancestors came to Milwaukee and Wisconsin to get away from the internecine religious conflicts that had devastated Western and Central Europe for 300 years. They established secular school systems to serve children of all religious or non-religious backgrounds without discrimination or any intent to proselytize. Generations of citizens' assets went to build and maintain these schools in Milwaukee, including mine and those of my forebears. They could not have imagined the scenario we now behold: a very narrowly sectarian and distinctly anti-ecumenical church and its religious school are now demanding that MPS sell its public asset to them. And they have mounted an aggressive campaign to force this sale. Make no mistake: this is not just about one educational entity selling property to another. St. Marcus Lutheran School is part of the mission of St. Marcus Wisconsin Synod Lutheran Church. The first line of the school's mission statement says that it means "to disciple" its students. That is, to make them disciples. They would say, disciples of Christ. But I would suggest that means disciples of Christ according to a very exclusive, narrow, sectarian, uber-Lutheran understanding of discipleship. St. Marcus Pastor Mark Jeske's blog on the church website on October 15, 2013 features an entry poking fun at the Catholic Church for a spelling error on a commemorative coin, suggesting that the Vatican is deficient in its knowledge of Latin. This crude joke leads into a denunciation of the doctrine of papal infallibility. While many of us do not ascribe to that doctrine, we do not attack it or mock it on our church web sites. Nor are they asking the State to enact special legislation to assist them in our mission. The tone of this blog entry is indicative of the polemical tone which the Wisconsin Synod takes toward other Christian denominations and even other Lutheran denominations. It harks back to the tone of inter-Christian rivalry in the 19th century, from which some of our forebears were seeking to escape.

Furthermore, I had always thought that the Republican Party stood against the notion of big government intruding into local affairs. The GOP in the State Senate and Legislature have embraced this very practice of big government, taking away local prerogative, micro-managing local governing bodies, and jumping to enact new,

intrusive laws every time a Milwaukee governance body does something they do not like. This is essentially hypocritical: fulminating against big government at the very same time as they make the State of Wisconsin a model of big government: intrusive, overly centralized, and hostile to local democracy. There are very many of us in Milwaukee County who would say: please just leave us alone. Stop your meddling. If you want to play big-daddy or big-mama government, do it in your own back yards in Washington County or Waukesha County or Cascade wherever. Or just concentrate on this isthmus round the State Capitol, which is rife with scandals concerning abuse of the civil service system, with sweetheart contracts for big donors like the one that almost cost the State millions of dollars in federal environmental funding, or with money handed out without accountability by the Wisconsin Economic Development Corporation. Clean up State government and stop meddling with local governmental bodies in Milwaukee County.