

## MEMORANDUM

**TO:** Honorable Members of the Senate Committee on Government Operations and Consumer Protection

**FROM:** Daniel Bahr, Government Affairs Associate

**DATE:** December 17, 2015

**SUBJECT:** Opposition to Senate Bill 446

Thank you for the opportunity to address Senate Bill 446 (SB 446) relating to lodging establishments and restricting a local government's ability to prohibit or restrict a person from renting out of the person's residential dwelling. Listed below are some of the Wisconsin Counties Association's (WCA) concerns:

- Residences will become primarily short-term recreational rentals, thus increasing the potential for land use conflicts.
- The proposal creates a potential loophole to avoid public health codes.
- Counties will have the burden to track the frequency and duration of rental agreements. A creative landlord will simply develop a 7-day rental agreement for anyone only wanting a weekend rental. The bill does not require a person to occupy the rental for seven or more days, rather, only that the rental agreement reflects a seven-day rental period.
- As vacationers are seldom concerned with water use, the potential of septic system failures may increase.
- A potential disparity may be created between legitimate vacation rentals and those who employ this law as a potential loophole. The proposal has the potential to create an unfair competitive advantage.

Many counties have enacted ordinances relating to Tourist Rooming Houses. Such ordinances have typically been enacted to address an increase in land use issues within established neighborhoods where people have been renting out their homes on a weekly basis to other individuals. In many cases, the ordinances target behavior that generates noise, trespassing, loitering, and alleviates other neighborhood concerns.

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Many counties also have a conditional use permit process in place that is designed to take neighboring property owner concerns into consideration and specify conditions for these types of rentals. This proposal would prohibit this locally driven process and usurp local government's ability to address local issues that are not of statewide concern.

Thank you for considering our comments. Please feel free to contact WCA at 608.663.7188 for further information.



# Memorandum

**To:** All Legislators  
**From:** Tom Larson, Senior Vice President of Legal and Public Affairs  
**Date:** December 12, 2015  
**Re:** Protecting the Ability of Homeowners to Rent Their Homes – AB 583/SB 446

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The Wisconsin REALTORS® Association supports AB 583/SB446, legislation that seeks to protect the rights of homeowners to rent their homes by prohibiting local governments from adopting or enforcing ordinances that ban or unreasonably restrict home rentals for 7 days or longer.

## **Background**

Thousands of Wisconsin homeowners choose to rent out their homes every year. Some rent their homes when they must move away on a temporary basis for work, school or military duty. Others purchase homes in popular vacation areas for investment purposes and rent them out to tourists who travel to Wisconsin for vacation. During the downturn in the real estate market, many homeowners had to rent out their homes, rather than sell them at significant losses.

Local regulations, however, are making it more difficult and, in some cases, impossible for homeowners to rent out their homes. In fact, a growing number of communities are banning all rentals of single-family homes for less than 30 days.

## **Impact on Homeowners and the Real Estate Market**

Prohibiting homeowners from renting out their homes is harmful to Wisconsin families, homeowners and the real estate industry for the following reasons:

**+ Negative impact on second-home markets** -- Many people have purchased second homes as an investment, with the intention of renting them out on a seasonal basis to generate income or to help pay for ownership costs. Banning the rental of homes by ordinance undermines the investment-backed expectations of these homeowners and prevents them from using the property for the primary purpose for which they purchased it. Moreover, without the ability to rent, prospective homebuyers may be less likely to purchase homes in these areas, which could negatively impact the prices and/or marketability of these homes.

**+ Increase in foreclosures** -- Many homeowners who didn't intend to rent out their homes were forced to do so during the downturn in the economy. Renting out their homes provided these homeowners with a necessary income source to provide for their family and avoid

foreclosure. Prohibiting these homeowners from renting their homes cuts off a major income stream and could result in a greater number of foreclosures

+ **Greater difficulty obtaining financing** – Obtaining financing to purchase or refinance real estate has become more difficult. Appraisers and loan underwriters are scrutinizing more closely all conditions that could affect the value of the property, including local ordinances. Ordinances which prohibit the rental of homes could negatively impact the value and thus the ability to obtain financing for these homes.

+ **Hurts tourism** – The ability to rent a cottage or cabin “up north” is part of Wisconsin’s cultural heritage. For generations, families from Wisconsin and other parts of the country have rented cottages and cabins to spend time together hunting, fishing and boating. For those families who cannot afford to own a second home, renting a cottage or cabin for one or two weeks out of the year presents them with a special opportunity to enjoy Wisconsin’s wonderful water resources. Local ordinances that ban the rental of cottages and cabins, and/or subject them to expensive inspection requirements, limit the ability of families to vacation in Wisconsin and ultimately hurts our state’s tourism industry.

### **Proposed legislation**

To protect the ability of homeowners to rent their homes, the proposed legislation would:

- Disallow the enforcement or adoption of local ordinances that prohibit or unreasonably restrict the ability of homeowners to rent out their homes for periods of 7 days or longer.
- Continue to allow municipalities to
  - a. Ban the rental of homes for less than 7 days; and
  - b. Impose reasonable regulations on all rentals regardless of rental period (e.g., registration requirements, fees, inspections, nuisance regulations)

These changes would encourage local communities to create a reasonable regulatory framework that allows people to rent their homes and ensure any concerns about the behavior of renters can be appropriately regulated.

We respectfully request that you support AB 583/SB 446 and encourage you to contact us at (608) 241-20147 if you have any questions about this legislation.



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To: Senate Committee on Government Operations and Consumer Protection

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: December 17, 2015

**Re: SB 446, Prohibiting a Municipality from Prohibiting Homeowners from Renting out their Homes for 7 days or longer**

The League of Wisconsin Municipalities opposes SB 446, prohibiting any municipality from prohibiting, regulating the duration or frequency of, or unreasonably restricting the rental of a residential dwelling for seven consecutive days or longer. This bill eliminates the ability of local elected officials to make local policy decisions designed to preserve the unique character and fabric of their community and to address the concerns of their constituent homeowners over traffic, parking and noise issues caused by short term renters. This is an issue best left for local officials to resolve. They, not the state, are in the best position to balance the competing interests and concerns of private property owners within the community.

Many communities include provisions in their zoning ordinances that prohibit a homeowner from renting his or her home for less than 30 consecutive days. Such restrictions are designed to address homeowner concerns about their neighbors renting their entire home or extra bedrooms for short periods of time and causing traffic, parking, and noise problems in the neighborhood.

Some communities believe that single-family homes in residential neighborhoods were meant to be used as a home, not a commercial enterprise. A homeowner renting or leasing their home to someone to be used as a home for a long period of time is often allowed, but such contractual agreements are not the same as short term leasing that is potentially disruptive in a residential neighborhood.

The League opposes SB 446 as too severely interfering with the ability of municipalities to prohibit short-term home rentals. We urge you to vote against recommending passage of SB 446 and for local control. Thanks for considering our comments.



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The Wisconsin Bed & Breakfast Association (WBBA) was founded in 1987, and with over 125 members strong, is the largest association of its kind in the United States. We oppose Senate Bill 446, relating to: lodging establishments and restricting a local government's ability to prohibit or restrict a person from renting out of the person's residential dwelling.

The WBBA has adopted the Professional Association of Innkeepers International (PAII) position statement on Short-Term Rental Legality, Fairness, and Safety. Please see the attached copy for your review and reference.

In summary of the attachment, the WBBA:

- Believes property owners, managers and tenants involved in the leasing or subleasing of their property to the traveling public should abide by all the state and local laws and agreed-upon covenants and restrictions with regard to short-term tenancy.
- Web site marketing and short-term lodging opportunities should give property owners the ability to acknowledge they are in compliance with applicable laws, have been licensed/inspected by proper authorities, and carry liability insurance.
- Short-term owners benefit financially from the influx of both leisure and business travelers, and therefore should contribute in the same or similar manner as other lodging businesses. Because of the size and scope of these properties, we believe taxation on short-term rentals should be similar to the taxation on B&B's and small inns in their markets. This includes payment of income, sales, and room tax.

The Association is calling on local and state officials to regulate these rentals by enforcing existing licensing for lodging properties and the existing tax collection requirements.

This is an issue of both safety and fairness. Our member inns are all licensed by the state, have undergone a rigorous quality standards inspection to be considered for our membership in our Association, collect room tax and pay sales tax. We owe it to travelers and to Wisconsin residents to extend this same level of oversight to those providing short-term rentals in their homes and apartments.

Kerri Thiel  
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## **Professional Association of Innkeepers International (PAII)**

### **Position Statement on Short-Term Rental Legality, Fairness and Safety**

The leadership of the Professional Association of Innkeepers International (PAII), the trade association for owners and operators of bed and breakfasts and inns, believes in a vibrant travel and lodging marketplace, and recognizes the emergence of in the short-term rental market over the past few years. The PAII leadership is concerned about matters of fairness and safety which need to be addressed by many businesses and individuals involved in the short-term rental market.

### **Following the Law**

Local laws and regulations that address the existence and allowance of short-term rentals in residential properties (i.e. apartments, houses, condos, etc.) vary greatly from city to city in North America and beyond. Above all, PAII believes property owners, managers and tenants involved in the leasing or subleasing of their property to the traveling public should abide by all local laws and agreed-upon covenants and restrictions with regard to short-term tenancy. If the laws are overly restrictive with regard to short-term rental permissions, rather than circumventing law, property owners, managers or tenants should seek to change the law. PAII encourages governmental authorities to allow reasonable alternative use of residential properties for the purpose of offering lodging to the traveling public.

### **Marketing Intermediaries**

Websites which market short-term lodging opportunities should take reasonable measures to encourage compliance with local laws and regulations related to renting rooms, apartments or houses. At minimum, these websites should make those seeking to rent rooms on their sites aware of their obligation to abide by local laws. We advise all short-term rental intermediaries give property owners or managers the ability to publicly acknowledge they are in compliance with local laws on their property listings, have been inspected by proper authorities, and carry liability insurance. Travelers should have confidence they will be staying in legal establishments, and marketing companies can help travelers choose such properties.

### **Taxation Fairness**

Nearly every hotel and B&B is required to collect sales taxes or occupancy taxes (or both). These taxes often support numerous efforts to recruit additional commerce and well-being in the province, state or city (i.e. transportation infrastructure, tourism marketing, etc.). Short-term rental owners benefit financially from the influx of both leisure and business travelers, and therefore should contribute in the same or similar manner as other lodging businesses. ~~Because of the size and scope of these properties,~~

we believe taxation on short-term rentals should be similar to the taxation on B&Bs and small inns in their markets. Related to this, if online intermediaries are collecting room revenue from travelers on behalf of the property owners or managers, they should collect and dispense the proper taxes.

### **Safety**

When inviting the traveling public to stay in homes, apartments and rooms, greater safety standards and requirements should be in place and followed by short-term rental owners and managers. We encourage local authorities to put fire, health and safety standards in place for short-term rentals that are commensurate with the economic feasibility and potential volume of room rentals, such as annual fire inspections, working fire suppression equipment, egress management, food safety, etc. We are concerned about awareness and adherence to safety and security when people, who are not formally in the lodging business or haven't been properly educated and trained on safety and security matters, invite the traveling public to stay in their rooms, condos and homes. The onus is on the property owner or manager to follow all the proper inspections and reporting to authorities. In addition, property owners should secure ample liability insurance to protect themselves and their guests.

Adopted by the PAII Board of Directors February 5, 2013

Reaffirmed by the PAII Board of Directors April 29, 2015

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*formerly the  
Wisconsin Innkeepers Association*

Serving the lodging  
industry for more than  
100 years

December 17, 2015

To: Senate Committee on Government Operations and Consumer  
Protection  
Senator Duey Stroebel, Chair

From: Trisha A. Pugal, CAE  
President, CEO

RE: **Opposition to SB 446 Residential Dwelling Rentals**

On behalf of over 700 lodging properties ranging from small family resorts and vacation homes to B & B's to motels and hotels of all sizes throughout the state, we are asking you to oppose SB 446 as it stands.

Our organization welcomes competition from owners and operators renting lodging to the general public, whether it is through commercial online or phone bookings.

We also understand the difference between a homeowner renting out their own residence on occasion, such as during a major PGA event or the EAA's annual AirVenture, and an owner renting out their investment properties as a commercial transaction. One is an occasional unique transaction involving one's own home and the other is a business transaction involving structures of all types that are not the owner's residence.

This bill will create numerous challenges as written, only a few of which we wish to share with you today, such as:

- SB 446 first and foremost carves out an exemption from state health and safety regulations, licensing, and inspections – not just for the occasional rentals of the owner's own residence as described before, but for a broadly defined and large group of structures being rented out to the public for overnight stays that are being rented out as pure and simple commercial transactions.
- The exemptions provided in the bill's language under the definition of "residential dwelling" refers to any building that is primarily used and occupied for human habitation or intended as such. This broad definition could easily extend to many resorts around the state with cabins or cottages, condo property rentals, extended stay hotels, and more. This would mean that law-abiding licensed lodging properties that follow the state health & safety regulations, are inspected, and pay licensing fees to the state would no longer need to do so, eliminating checks and balances protecting consumers renting rooms or units around the state.

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- Municipalities are given a few ordinance rights in this bill to charge permit fees, provide their own inspections with fees, require payment of local room tax, and a nuisance ordinance, however these are all optional, with no requirement to do so.
- The bill's stipulation that the rentals must be 7 consecutive days or more is not exactly unique, as many resorts, motels with kitchen units, and extended stays rent by the week. In addition, it is next to impossible to know how many days a lodging property is rented for with online transactions that authorities cannot access.
- This bill does not reference the requirement to collect and remit state and county sales tax from these commercial transactions. If these properties were no longer required to be licensed at the state or local level, the state would not have a mechanism to receive the considerable lost state sales tax revenue from these commercial sales transactions.

If the purpose of pursuing this legislation is to help out homeowners renting out their own residence on limited occasions, then we would be happy to work with others to find a more narrow definition to resolve this.

If the purpose is to exempt owners of properties intended for commercial investment, then the question would be why should they not be required to follow the state health and safety regulations to protect the travelling public?

It is our state's reputation that is at stake here if there are unsafe conditions or if the travelers encounter negative experiences in our communities after the tourism industry has invested so much in drawing them into the community and our state. Do we really want to wait for a horrible comment to be posted online after the fact and rely upon that for consumer protection?

This bill sets a precedent that would be both unfair to the travelling public and costly to the state in lost sales tax revenue. We ask you to oppose this bill as it stands, and again we offer to assist with suggestions to help to minimize the numerous negative effects currently in this bill.

Cc: WH&LA Board of Directors  
Kathi Kilgore, Contract Lobbyist



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# SCOTT ALLEN

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REPRESENTATIVE • 97<sup>TH</sup> ASSEMBLY DISTRICT

17 December 15

## Testimony on AB 583/SB446

Thank you Chairman Strobel for scheduling this hearing on this important property rights bill. Thank you committee members for your consideration.

We all care about the economy of the State of Wisconsin. Property rights are the bedrock of our economy.

I authored this bill because I believe that homeowners have a fundamental right to rent out their own homes on a temporary basis if their circumstances require them to do so or as a means to make owning a second home more affordable.

The opponents of this bill have suggested that municipalities should have the right to regulate rentals to protect their neighborhoods regarding issues of noise, parking, health, safety, nuisance behavior. This bill does nothing to deny municipalities of their regulatory authority. This bill simply says that municipalities cannot prohibit a property owner from renting his or her property.

In recent years some families have faced financial circumstances such that they have had to accept short term employment in another state in order to make ends meet and yet had no desire to leave Wisconsin. There are also military families that may have had a short term call of duty in another part of the country or the world where a temporary relocation was necessary and yet they still called Wisconsin home.

In both of these scenarios, I believe, it is important for us to make sure that they have the ability to retain their homestead here in Wisconsin and not be forced to sell because their local government would not allow them to rent their property.

Furthermore, many Wisconsin families have long traditions of owning second homes in more rural areas or on many of Wisconsin's lakes or rivers. For those families and even younger generations who may be interested in purchasing second homes, the ability to rent those properties when they are not using them may make the acquisition or retention of the second home more attainable.

It is appropriate for a local unit of government to regulate rentals to a reasonable extent to protect the quality of life within their community. It is, in my opinion, unreasonable and inappropriate for a community to ban rentals altogether. State law should protect the ability of every homeowner to rent their home for a week or longer. That is what this bill does.

Some people have asked me about the circumstances of a condo or homeowners association prohibiting rentals. To clarify, this bill does not prohibit that. In that case, the homeowner makes a covenant with the association that allows for the prohibition, in essence, they do so by choice.

This bill will help support demand for housing in Wisconsin. It will make it clear to those families who need to relocate out of Wisconsin, that we want them to come back, and it will give them the means to do so. It will also encourage people to consider purchasing a second home here in Wisconsin and make Wisconsin their annual vacation destination.

Mr. Chairman and committee members, I ask for your support for this bill.



# Frank Lasee

**WISCONSIN STATE SENATOR**  
FIRST SENATE DISTRICT



## Senator Lasee's Testimony Senate Bill 446 – Right to Rent

It's easy to see that the way people stay overnight when they are traveling is changing. Technology and consumer forces are creating an emerging market for vacation rentals. We need to create the framework for municipalities to adopt and regulate this new marketplace to balance consumer demand and the unique needs of each community.

With the growth in short-term rental options, some areas in our state have responded to the new market by creating prohibitions for rentals of people's homes for anything less than 30 days. This is bad for Wisconsin's economy. It forces consumers to accept a rental product that they don't want. This creates a disincentive for travelers to stay in areas that don't offer the rental choices that they are seeking.

Prohibitions of short-term rentals also have a negative impact on second-home ownership. Many second-home owners use short-term rentals to more easily afford their mortgage or property tax payments, handyman services, painters, landscaping and lawn care services, property management services, and all of the other costs associated with second home ownership. Because of all of the capital that circulates due to their property, owners of second homes contribute greatly to Wisconsin's economy.

Short-term rentals are also frequently used by homeowners who experience the negative effects of an economic downturn or a life hardship. They use short-term rentals as a way to stay afloat, squeak by for one more month before their home sells, and keep their family from entering into foreclosure or bankruptcy. By prohibiting short-term rentals, municipalities are forcing people who have been using short term rentals to barely make mortgage payments, to violate those prohibitions. It often makes them choose between breaking the law and avoiding financial disaster for their families.

With some out-of-the-box thinking, I authored this bill with the above problems in mind. With this new short-term rental market emerging, this bill creates a framework that gives local governments additional tools that they should use to foster this new market. It provides structure for regulations to ensure that the conventional lodging industry is competing with the emerging market on a similar playing field, while fostering the appropriate economic growth, and it provides a needed safety bridge for those homeowners facing financial hardships.

Thank you for supporting this legislation.



December 16, 2015

Wisconsin State Senate  
Committee on Government Operations and Consumer Protection  
Wisconsin State Capitol  
2 East Main St.  
Madison, WI 53703

Dear Chairman Stroebel, Vice-Chairman LeMahieu, and Members of the Senate Committee on Government Operations and Consumer Protection:

The Travel Technology Association is the trade association for online travel companies, global distribution systems and short-term rental platforms. Our members include well-know short-term rental companies such as Homeaway, TripAdvisor/FlipKey and Airbnb.

On behalf of the world's leading short-term rental providers, I write to you today in support of Senate Bill 446, which recognizes the value of short-term rentals to both travelers and the local communities they visit. Increasingly, travelers are looking for short-term rental accommodations that provide flexible housing options and allow them to spend longer periods of time in communities, in a unique setting, all while contributing to the local economy. As such, municipalities should embrace this economic opportunity by working with industry stakeholders to establish a reasonable framework for regulating short-term rental activity so that all may benefit. AB 583 is a powerful and positive step forward that will help facilitate that discussion, benefitting homeowners, travelers, and communities across Wisconsin.

Short-term rental technology companies have created a vibrant marketplace for travelers and property owners, expanding the travel landscape by offering alternative accommodations and providing economic benefits to communities around the world. As the Committee considers this "Right to Rent" legislation, it is important to recognize the value of short-term rentals, and we urge you to support this policy that allows both travelers and residents the ability to benefit from the options and flexibility that short-term rentals provide.

We are hopeful that the committee recognizes the positive impact that this legislation would have throughout the state. And we would ask that the Committee show its support for Wisconsin homeowners and travelers by ensuring that short-term and vacation rentals are available as overnight accommodations in the future. With that in mind, we recognize the value of SB 446, but also believe the bill should further support Wisconsin's tourism economy by prohibiting municipalities from restricting the ability of homeowners to rent their home for a period of one day or longer. The current draft prohibits municipalities from restricting the ability of



homeowners to rent out their home for seven days or longer. As the average stay for a short term rental traveler is 6.2 nights, continuing to afford these visitors the flexibility they desire by reducing the seven day provision to one day would enable the state and communities to realize the full potential of the economic benefit of short-term rentals in Wisconsin.

Throughout Wisconsin, homeowners, hosts, and property managers currently offer residential accommodations to travelers looking for unique travel options. And as a result, many travelers looking for that authentic and special experience choose short-term rentals for their stay. This accommodations option often allows them to book longer stays that result in increased economic benefits to both the state and the local community. In fact, studies prove that travelers staying in short-term rentals tend to stay longer and spend more money during their visit.

Furthermore, the ability to select a short-term rental when traveling is in fact the determining factor in how certain segments of the travel population choose their destination. Some, such as large families, travelers on a budget, or parents traveling with children who have special needs, will often select their destination based upon the ability to book a short-term rental for their stay. Given the growth in popularity, and the tremendous benefits of the industry, this legislation is an important opportunity for Wisconsin's travel and tourism industry.

We are hopeful that the committee recognizes the positive impact that this legislation would have and respectfully request your support for Wisconsin travel by ensuring that short-term and vacation rentals are available for travelers as alternative overnight accommodations in the future.

The Travel Technology Association is available to the Committee as a resource as you continue to develop short-term rental policy. We look forward to having the opportunity to work with you.

Sincerely

A handwritten signature in black ink, appearing to read "Steve Shur", written in a cursive style.

Steve Shur, President  
The Travel Technology Association

"The Island City"

## TOWN OF MINOCQUA

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ANDREW R. GEE, Chief of Police  
ANDREW J. PETROWSKI, Fire Chief

December 15, 2015

TO: Committee on Government Operations and Consumer Protection

**PLEASE READ INTO THE RECORD AT THE PUBLIC HEARING ON DECEMBER 17, 2015**

**RE: SB 446 - Restricting a local government's ability to prohibit or restrict a person from renting out of the person's residential dwelling**

Dear Committee Members:

The proposed bill referenced above is no doubt a different wrapper for very similar bills that were proposed in March of 2012 (SB482 and AB617).

I am concerned about all such attempts to degrade municipal and county zoning authority, and occasional signs that the Legislature does not appreciate that local government is the most pure and closest to the people they represent.

Just like the federal government should let individual states govern themselves to the maximum extent possible, so too should states leave local subdivisions of government to determine what's best in their jurisdictions. Let individual communities determine their land use preferences.

We've already had to accept the fact that telecommunications companies can now place a tower anywhere they want, even on a lot in the middle of a single family residential neighborhood, and there's virtually nothing a town, village or county can do about it. We need towers, but no local input on shaping the pattern of development?

I'm troubled when local communities are not consulted or given an opportunity to weigh-in on new legislation like the tower-siting law, or when the Legislature recently overrode municipalities' ability to control their own roads with respect to weight restrictions. This is to say nothing of policy items being placed routinely in state budgets, thereby circumventing public awareness, public participation and public scrutiny.

**I hope you'll give priority to the voice and self-determination of local communities, not special interest groups.** In our particular case, the local zoning code already allows short-term rentals in some residential districts, but (by design) not in single family residential districts. Why? Because in our neck of the woods, single family residential is the one place where owners know that their peaceable and quiet enjoyment of their property is protected from certain uses allowed in other districts. This in turn protects property values and preserves owners' ability to continue to enjoy or to market their property.

*(continued, next page)*



In addition to grabbing local control from municipalities, this bill would force many towns to create new ordinances, inspection staffs and the fees that go along with it.

Imposing a blanket restriction on local governments across the state is illogical, and would do harm to the nature and character of single family residential areas in our community. Don't let special interests force a fix on a system that isn't broken and introduce new problems that will be difficult to manage.

Please take into consideration the uniqueness and variety of communities throughout our great State and allow them to preserve or modify local preferences and priorities as they see fit—not as dictated by Madison.

Please oppose bypassing local control. Please respect the self-determination of local subdivisions of government, which are in the best position to do what makes sense in their individual communities.

Thank you, and a Merry Christmas to you and your families.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Hartzheim', with a long horizontal flourish extending to the right.

Mark Hartzheim, Chairman  
Town of Minocqua