

April 13, 2022

VIA E-MAIL

David L. Grindell, Corporation Counsel  
Burnett County Courthouse  
7410 County Road K, 121  
Siren WI 54872

**RE: Campground Ordinance Revisions**

Dear Corporation Counsel Grindell:

This letter is sent regarding the proposed revisions to the County Ordinances (“Campground Ordinance”) that the Burnett County Board is apparently considering at its upcoming April 19 Board of Supervisors meeting relating to the proposed campground density requirement.

We respectfully request the County Board reject the latest revisions. Rejecting the new density requirement (and the hard cap) provides flexibility for the Committee and applicants, and steers clear of potential legislative, constitutional, and process-related issues in the new regulations. Below are several issues for your review and consideration.

Excessive Local Regulation Spurs Statewide Legislation

Placing overly restrictive regulations on campgrounds may cause Burnett County’s regulations to be the “poster child” that encourages statewide regulation in this area.

The County is well-aware of Act 67’s enactment in response to Trempealeau County’s arbitrary denial of a conditional use permit. Attempting to subvert Act 67 by imposing excessive regulations that severely curtail private property rights and harm tourism is the type of action that may very well get the attention of legislators in Madison.

It is my hope the Burnett County acts reasonably so it does not become the next Trempealeau County for statewide regulation.

Regulatory Takings

I am uncertain if you have reviewed and weighed in on the per acre density requirement and the hard cap on campgrounds and whether those proposals will run into regulatory takings issues. The law surrounding takings is complex, but as you are aware, “while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking,” i.e., a regulatory

taking. *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922). When a regulatory taking occurs, even if temporary in nature, compensation is due to the property owner.

The County's current 10 sites/per acre limit has not been challenged and has provided flexibility for both the Committee to assess sites and applicants to make a beneficial use of their property. Cutting the density requirement to half of the existing density requirement is a substantial reduction in the economic value and practical use of the property. Investments were made in property taking into account the 10 sites/per acre density limit and the economic impact is substantial and adverse.

The same especially holds true for the hard cap of 150 sites, regardless of acreage in a campground. A zoning ordinance must be reasonably related to serving the public health, safety, and general welfare and a cap that limits the number of campsites without any tie to its density requirement has no rational basis. The 150-site cap is an arbitrary number and has a substantial adverse economic impact.

To paraphrase case law around zoning restrictions, if the County is interested in property owners not having campgrounds under reasonable regulations, then the County, and not the property owner, should bear the cost of such restrictive measures.

#### Work Group Authorization

The changes to the per acre density standard through the Work Group did not appear to be authorized by the County Board, and the Work Group appears to have exceeded that Board authorization. The minutes from the November 9, 2021 County Board of Supervisors meeting outlined the purpose and only two (2) narrow subjects were up for consideration and discussion at the Work Group: a hard cap on the number of sites and RR-3 zoning.

During the November 9 meeting, Supervisor Conroy acknowledged and represented these two subjects to the Board as the sole reasons to authorize reconstituting the Work Group. Conroy stated:

We very narrowly construed the two things we're gonna talk about are the two items we removed from the package that was adopted, ah, and we've and upon further reflection we think there's probably a better answer than a flat hard cap of 100 and we think there may be some room for discussion on how to manage RR3 and you know whether we should or shouldn't have campgrounds at a 25 unit cap there. Um, that's what our mission will be we'll meet and discuss we would've already done it until we realized that we the campground work group expired with the moratorium's expiration, we didn't really have authorization to do that, that's why we need it.

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The November 9 minutes are below and restricted the authority to the Work Group to work on only two specific issues:

**REACTIVTE THE LUI CAMPGROUND WORK GROUP FOR THE PURPOSE OF DISCUSSING CAMPING UNIT CAPS AND CAMPGROUNDS IN THE RR-3 DISTRICT**

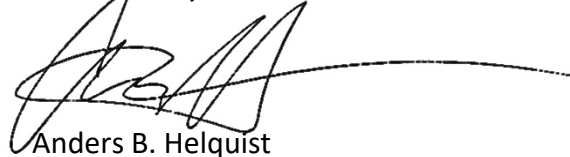
The Land Use and Information Committee felt it was necessary to reactivate the Campground Work Group to deal with two specific issues, the RR-3 zoning district and number of camping units allowed are being brought back to committee for a public hearing. The Campground Work Group will be reactivated to research and bring suggestions back to the full committee for consideration. Motion to reactivate the work group was made by Supervisor Blomberg, seconded by Supervisor Paden. Members of the group include Supervisors Awe, Conroy and Paden. Motion carried, voice vote.

Changing the per acre density requirement does not appear to be authorized before the Work Group and if memory serves correctly, was not even part of the Ordinance revisions the County Board considered last fall.

Thank you for your review and consideration and please let me know if you have any questions. We also request you provide this letter to the County Board of Supervisors in advance of their meeting, so they are not surprised if this issue comes up during their upcoming meeting.

Very truly yours,

**WELD RILEY, S.C.**

A handwritten signature in black ink, appearing to read 'A. Helquist', with a long horizontal line extending to the right.

Anders B. Helquist

ABH/aao

cc: Nathan Ehalt (via e-mail)  
Chairman Don Taylor (via e-mail)