


**COUNTY OF MILWAUKEE**  
INTEROFFICE COMMUNICATION

Date: Tuesday, April 30, 2019  
To: County Executive Chris Abele  
cc: Milwaukee County Board of Supervisors  
From: County Board Chairman Theodore Lipscomb   
Subject: Repeal of 2015 Act 55 Land Sale Provisions

The Marcus Center revealed plans for an ambitious campus renovation in December 2018. Most controversial among the proposed changes is the removal of the grove of chestnut trees designed by Dan Kiley. This has resulted in an application for historic designation and great debate about the merits of the proposed design changes versus preservation. Within the debate the question of who has authority and charge over this public asset has been raised many times.

Some want the County Board of Supervisors to go on record on the issue of historic designation for the Marcus Center. This debate renews interest in correcting an anomaly in state statute created in the 2015 state biennial budget bill known as Act 55 which impacted only Milwaukee County. As you know, because of that legislative change, you alone possess authority over county land and buildings such as the Marcus Center that are not zoned parkland and the County Board has no authority on the issue.

You have stated that you would welcome the County Board weighing in on the Marcus Center designation. I take that sentiment as a reflection on our recent successes in working together and instead suggest that you join the County Board in supporting repeal of the 2015 Act 55 provisions that shifted the balance of power between the Executive and Legislative branch in Milwaukee County on issues affecting public properties that are not zoned parkland (please see attached Resolution 17-287 which was adopted unanimously). The Act 55 provisions also created numerous conflicts that remain unresolved to this day. The legislature did attempt to repeal all of the 2015 Act 55 provisions at issue here in the 2017 budget bill, Act 59, but Governor Scott Walker vetoed that action.

Rather than asking the County Board to participate in an advisory capacity on issues of public policy that impact public assets, work with us to restore in Milwaukee the same authority granted to all other counties in Wisconsin.

We can and should fix this statutory anomaly together!



2  
3 **A RESOLUTION**

4  
5 In support of the repeal of the provisions included in 2015 Wisconsin Act 55  
6 related to the scope of County Board and County Executive authority  
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9 WHEREAS, 2015, Wisconsin Act 55 ("Act 55") amended Wis. Stat. §  
10 59.17(2)(b)3 and delegated to the County Executive, rather than to the County Board,  
11 the authority to exercise those powers enumerated under Wis. Stat. § 59.52(6); and  
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13 WHEREAS, because the subsections of Wis. Stat. § 59.52 define the powers of  
14 the County Board, not the County Executive, many of the powers described under Wis.  
15 Stat. § 59.52(6) overlap with other powers of the County Board described under various  
16 other subsections of Wis. Stat. § 59.52;  
17

18 WHEREAS, as a result, Act 55 created irreconcilable conflicts in the Wisconsin  
19 State Statutes related to the definition of the powers of the County Executive and the  
20 County Board; and  
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22 WHEREAS, in a report dated March 3, 2017, the Office of Corporation Counsel  
23 (OCC) provided a written opinion (File No. 17-274) affirming the existence of these  
24 conflicts, stating that the provisions contained in Act 55 "cannot be reconciled by the  
25 Office of Corporation Counsel ("OCC") because in doing so, the OCC would be forced  
26 to decide the fundamental balance of powers between the board and the executive in  
27 Milwaukee County, which in turn would usurp the state legislature's function"; and  
28

29 WHEREAS, the OCC identified the following irreconcilable conflicts created by  
30 Act 55, including, but not limited to:  
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- 32 • Section 59.52(6)(b), which grants to the County Executive the power to  
33 "make all orders concerning county property," which is extremely broad  
34 language that does not seem to reconcile with other subsections of 59.52,  
35 such as 59.52(2)-(4), (14) (addressing county records), 59.52(11)  
36 (insurance), 59.52(19) (donations and gifts), 59.52(23) (reference  
37 materials), and 59.52(24) (parking on county lands); and  
38
- 39 • Section 59.52(6)(b), which grants to the executive the power "to  
40 commence and maintain actions," but does not reconcile with section  
41 59.52(12), which grants to the board the power to "[e]xamine and settle ...  
42 all claims, demands, or causes of action against the county and issue  
43 county orders therefor"; and  
44
- 45 • Section 59.52(6)(d)2, which appears to grant the County Executive  
46 unilateral authority to issue revenue bonds under 66.0621, while section

47 66.0621 requires County Board approval to issue bonds on behalf of the  
48 county; and

- 49
- 50 • Section 59.17(2)(b)3, which grants the County Executive the power to  
51 “s[ell], acqui[re], or lease as landlord or tenant” any non-park county  
52 property, notwithstanding Wis. Stat. § 59.60(12), which mandates County  
53 Board review of any “contract, lease or other obligation requiring the  
54 payment of funds from the appropriations of a later fiscal year or of more  
55 than one fiscal year”

56  
57 ; and

58  
59 WHEREAS, because the OCC is unable to reconcile these conflicts, the OCC  
60 thus recommended that these conflicts be resolved “through an opinion from the state  
61 Attorney General, a declaratory judgment action, and/or legislation.”; and

62  
63 WHEREAS, the Milwaukee County Board of Supervisors believes that the repeal  
64 of the provisions of Act 55, described above, provide the clearest, most expeditious  
65 method by which to de-conflict the statutes; now, therefore,

66  
67 BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby  
68 urges and supports repeal of all of the provisions included as part of 2015 Wisconsin  
69 Act related to the scope of County Board and County Executive authority; and

70  
71 BE IT FURTHER RESOLVED, that the Milwaukee County Board of Supervisors  
72 authorize and direct the Milwaukee County Government Affairs Staff to send a copy of  
73 this resolution to the Wisconsin State Legislature and lobby to effectuate the repeal of  
74 the provisions contained in 2015 Wisconsin Act 55.