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June 21, 2021

VIA EMAIL ONLY

Mr. Samuel Schultz
Community Development Director
sschultz@mtpleasantwi.gov

Mount Pleasant
Community Development & Planning
8811 Campus Drive
Mount Pleasant, Wisconsin 53406

RE: Erickson Truck Sales & Salvage, Inc./ Violation Notice

Dear Mr. Schultz:

Our firm represents Erickson Truck Sales & Salvage, Inc. I am writing in response to the violation notice, dated March 29, 2021, and your conclusion that my client is maintaining a public nuisance because its property is blighted as defined in § 62-7(a)(13) of the Village Code of Ordinances. We disagree with that determination.

Under the Village Code, a public nuisance is defined as “(a) thing, act, occupation, condition or use of property which continues for a length of time so as to:

- 1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- 2) In any way render the public insecure in life or in the use of the property.
- 3) Greatly offend the public morals or decency.
- 4) Unlawfully and substantially interfere with, obstruct or tend to obstruct, or render dangerous for passage, any street, alley, highway, navigable body of water or other public way or the use of public property.

§ 62-1(a), Village of Mount Pleasant Code of Ordinances. None of these criteria applies to my client's property.

As you know, the Village exercised its eminent domain authority to take 1.556 acres of my client's property as of February 26, 2020, including all access rights to the public road. That taking left my client with landlocked acreage totaling 11.724 acres. The taking destroyed my client's

ability to operate its business at that location. The former driveway entrance is now barred by a locked gate and cement barriers installed at the direction of the Village.

The public is not allowed access to the property. In fact, the owners of Erickson Truck Sales & Salvage are not allowed access to their property. Jack Erickson received a citation for trespassing when he went to the property for the purpose of ascertaining how much equipment was left for removal from the premises. Given that the property is currently inaccessible, it does not impose any threat to public safety nor does it obstruct passage on any street, alley or other public way. It is not offensive to public morals and its condition is not life threatening. The general definition of a public nuisance in § 62-1(a) does not apply.

With respect to your determination that the property is blighted within the meaning of § 62-7(a)(13), and thus a public nuisance under that section, again we disagree with that determination. That section applies to blighted buildings and premises, which it describes as premises having faulty design or construction, premises that are not in a proper state of repair or that have an accumulation of junk or unsightly debris, premises with structurally unsound fences or other items which depreciate property values or jeopardize the health, safety and welfare of the public. In response to your conclusion that my client's property meets this definition, a brief history of the use of the property, its zoning, and its owners' dealings with the Village is in order.

Erickson Truck Sales & Salvage, Inc. had been operating a used truck and trailer sales and parts salvage business at its Mount Pleasant location since 1997. The company has two other business locations, one in Texas and the other in Minnesota. Throughout its history, the business has operated successfully at each location, without incident or issue with any of the respective municipalities. That is, until the Foxconn project came along, at which point the Village attempted to purchase my client's Mount Pleasant property and, failing that, took away its access rights.

You may recall that in early 2017 my client developed plans to construct a new building at its Mount Pleasant location. The Village approved the plans, subject to confirmation that the well could handle the additional sprinklers. The Foxconn development killed that initiative. I have attached as Exhibit A an photograph of my client's Texas facility to show what could have become of the Mount Pleasant operation. Attached as Exhibit B is a photograph of one of the new belly dump trailers manufactured at my client's Minnesota facility. The Ericksons operate clean, orderly establishments when they are afforded the ability to do so.

We do acknowledge that after the taking, the Village twice extended the time period during which it allowed my client access to its property in order to remove equipment from the premises. Unfortunately, that extended time period occurred during the pandemic, when scrap yards either were closed or operated on a limited basis. Nonetheless, my client removed 2,343,130 pounds of scrap metal during the allotted period. The property is now substantially less encumbered by what the Village apparently considers unsightly junk or debris than it had been in the years before, prior to Foxconn.

Your violation notice does not detail what aspect(s) of the property fall within the ambit of § 62-7(a)(13). The operation of a truck repair and salvage business is allowed under current zoning. Businesses of that nature inherently involve the placement of trucks, truck parts, tires and related equipment on the premises. It is unclear what has changed in regard to the premises which the Village now finds offensive, the business having been a successful employer and taxpayer for many years.

Nonetheless, my client has attempted to "clean up" the property to the satisfaction of the Village over the course of a challenging year. Recognizing that the property is now landlocked and that the Village wanted the removal of any parts and equipment not stored indoors, in April we submitted to counsel for the Village a proposal that my client would complete the removal of the remaining items in 120 days after obtaining access. Since the Village has raised concerns about potential environmental clean-up which may be necessary, the proposal stated that my client had remediation companies lined up to do site visits once access was permitted. My client's proposal stressed that access was a precondition to any further assessment because Jack Erickson, one of the owners, had been cited for trespass. The Village rejected the proposal in its entirety.

The Village's violation notice constitutes an ultimatum that is impossible for my client to comply with. In Catch-22 fashion, my client has been directed to clean up its property, but its owners and employees are not allowed on the premises. Although we dispute that the property is blighted in any sense, my client is willing to meet the Village's remedial demands on a workable schedule, after being afforded access to the property. This would appear to be a more constructive approach than litigating the violation determination.

Very truly yours,

LAWTON & CATES, S.C.

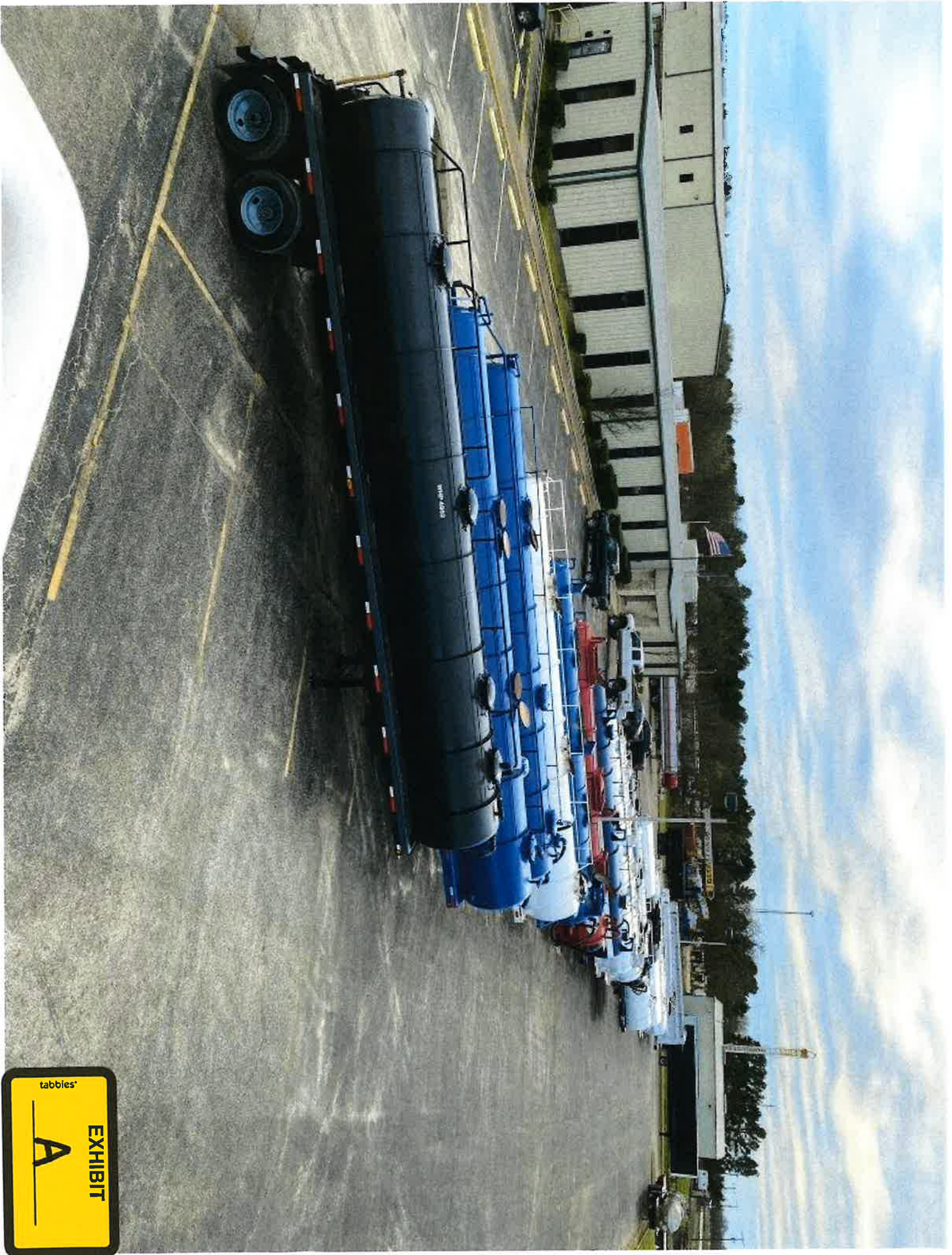


Daniel P. Bach

DPB/kaf

Enc: As stated

C: Erickson Truck Sales & Salvage, Inc
Claude Lois
Alan Marcuvitz (via Email)



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A

EXHIBIT



tabbles®

B

EXHIBIT