

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH 6

DANE COUNTY

ASSOCIATED BUILDERS & CONTRACTORS OF WI, INC., et. al

Plaintiffs,

v.

Case No. 2021CV001729  
Action for Declaratory Judgement

CITY OF MADISON,

Defendants.

**AFFIDAVIT OF KYLE BUNNOW**

STATE OF WISCONSIN    )  
  ) ss.  
COUNTY OF DANE        )

**Kyle Bunnow**, being duly sworn, states as follows:

1. I am the Plan Review and Inspection Supervisor with the City of Madison Building Inspection Division since April 2019. I have worked in the Building Inspection Division since July 2012.
2. In my professional capacity I work both with both City of Madison General Ordinances and the Wisconsin Commercial Building Code. I oversee permitting and inspection of all new construction within the City of Madison.
3. The uniform Wisconsin Commercial Building Code was established by 2013 Wisconsin Act 270 (“Act 270”) that went into effect April 18, 2014.
4. Act 270 prohibits local units of government from enacting or enforcing an ordinance that establishes minimum standards for the construction or alteration of, or an addition to, a

public building or a building that is a place of employment unless that ordinance strictly conforms to the Wisconsin Commercial Building Code.

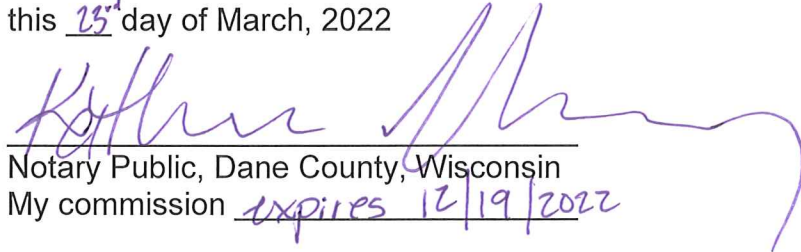
5. Chapters SPS 361 to 366 are commonly referred to collectively as the “Wisconsin Commercial Building Code.” This uniform statewide building code was adopted by DSPS as required by 2013 Wisconsin Act 270
6. Chapters SPS 361 to 366 (the administrative rules enforced by DSPS) contain standards for the design, construction, use, maintenance, alteration and inspection of public buildings and places of employment.
7. The Wisconsin Commercial Building Code does not regulate façade design features and or how materials are implemented into buildings, such as glass, brick, wood, or vinyl.
8. The Wisconsin Commercial Building Code does not address or regulate zoning codes. While both zoning and commercial building codes affect built environments, they are separate spheres of regulations.
9. Materials and facades, the exterior facing elements are the purview of zoning codes. Material functionality and the safety standards as outlined in Wisconsin Commercial Building Code are distinct from the role of zoning codes play in specifying building design features, including material usage and placement of building elements.
10. The bird-safe glass mitigation treatments as described in MGO § 28.129 is the regulation of a material, not a construction standard.
11. Specifying a material façade design feature like bird glass is not addressed in the Wisconsin Commercial Building Code.
12. Building codes are oriented toward ensuring that structures are constructed to an appropriate standard and are safe for the uses intended. Building codes protect buildings

and the people and property inside them from fire, earthquakes, windstorms and other extreme events. They also ensure structural integrity; electrical, plumbing and mechanical system safety, as well as accessibility and practical and achievable levels of energy efficiency.

Dated this 23 day of March, 2022.

  
\_\_\_\_\_  
Kyle Bunnow

Subscribed and sworn before me  
this 23<sup>rd</sup> day of March, 2022

  
\_\_\_\_\_  
Notary Public, Dane County, Wisconsin  
My commission expires 12/19/2022

