



Resolution No. 54 (2017)
RESOLUTION IN OPPOSITION TO AB479 AND SB387

1 **WHEREAS**, SB 387 and AB 479 proposes to limit the authority of local government to
2 regulate development on substandard lots and generally prohibit the merging of substandard lots;
3 and
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5 **WHEREAS**, SB 387 and AB 479 are in part a reaction to the United State Supreme
6 Courts affirming the rights of State and local government to merge substandard lots in Murr v.
7 State of Wisconsin, et al; and
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9 **WHEREAS**, in 1968, the U.S. Congress enacted the Wild and Scenic Rivers Act (16
10 U.S.C. § 1271) to preserve and protect selected rivers because of their scenic beauty,
11 recreational, geological, historic, cultural, and other positive values; and
12

13 **WHEREAS**, in 1972, the U.S. Congress enacted the Lower St. Croix River Act (16
14 U.S.C. § 1247(a)(9)) in order to include the 52-mile section of the St. Croix River below Taylors
15 Falls to the confluence with the Mississippi River as part of the National Wild and Scenic River
16 System; and
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18 **WHEREAS**, pursuant to the Lower St. Croix River Act enacted by the U.S. Congress,
19 Wisconsin Statute § 30.27 was enacted to provide for protections of the Lower St. Croix River
20 and directed the Wisconsin Department of Natural Resources to adopt guidelines and specific
21 standards for Riverway zoning ordinances; and
22

23 **WHEREAS**, effective January 1, 1976, the Wisconsin Department of Natural Resources
24 adopted Administrative Code NR 118, providing regulations for the Lower St. Croix National
25 Scenic Riverway, including minimum standards for the “issuance for building permits” and the
26 “establishment of acreage, frontage and set-back requirements” for the “banks, bluffs and bluff-
27 tops” of the river; and
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29 **WHEREAS**, effective January, 1976, St. Croix County amended its zoning Ordinance to
30 include the St. Croix River Valley District in order to comply with Wis. Stat. § 30.27(3) and Wis.
31 Admin. Code NR 118.02(3) and has continued to update its zoning ordinance to reflect
32 subsequent changes by the Wisconsin Department of Natural Resources in NR 118; and
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34 **WHEREAS**, the County Riverway Zoning Ordinance and NR 118 were enacted to
35 reduce the adverse effects of overcrowding and poorly planned shoreline and bluff area
36 development, prevent soil erosion and pollution, to allow for the provision of sufficient space on
37 lots for sanitary facilities, minimize flood damage, maintain overall property values, and to
38 preserve and maintain the exceptional scenic, cultural and natural characteristics of the water and
39 related land; and
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41 **WHEREAS**, one of those regulations required that adjacent substandard lots of record as
42 of 1976 in common ownership be merged to allow for one building site; and
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44 **WHEREAS**, the lots in question in the Murr case lacked at least one acre of net project
45 area as required in the Ordinance; and

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47 **WHEREAS**, net project area is defined to exclude land that is not suitable for building,
48 including “slope preservation zones, floodplains, road rights-of-way and wetlands;” and

49
50 **WHEREAS**, the St. Croix County Ordinance requiring merger of adjacent substandard
51 lots in common ownership furthers the goals of the Riverway Act, State Statute and County
52 Ordinance by reducing overcrowding along the St. Croix River, thereby enhancing property
53 values; and

54
55 **WHEREAS**, merger provisions, like the one challenged in the Murr case and subject to
56 the proposed legislation, have been a common, well-accepted feature of zoning ordinances for
57 decades and are well within the reasonable expectation of land owners and attorneys; and

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59 **WHEREAS**, merger provisions have long been recognized as the most reasonable way
60 to reconcile a single land-owner’s interest in developing substandard lot with the community’s
61 interest in preventing congestion and preserving property values; and

62
63 **WHEREAS**, countless ordinances all over the country include merger provisions similar
64 to the one challenged in Murr; and

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66 **WHEREAS**, although the Murr Family claims to have been “flabbergasted” by the
67 impact of the merger clause in 2004, the rules had been in effect for 28 years prior; and

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69 **WHEREAS**, although the Murrs believe that they are being treated differently and
70 singled out, at least eight other property owners in the immediate area own contiguous
71 substandard lots along the St. Croix River with just one building site; and

72
73 **WHEREAS**, the State has previously taken away local control of nonmetallic mining,
74 livestock facility siting, wireless communication and shoreland regulation; and

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76 **WHEREAS**, this is one more attempt by the Wisconsin legislature to take away local
77 control from local governments.

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79 **THEREFORE, BE IT RESOLVED** that the St. Croix County Board of Supervisors is
80 strongly opposed to adoption of 2017 SB 387 and 2017 AB 479; and

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82 **BE IT FURTHER RESOLVED** the St. Croix County Board of Supervisors is
83 requesting that the state leaders continue their commitment to the Wild and Scenic Rivers
84 Program and the aesthetic and consequent impacts related to property values, quality of life and
85 tourism; and

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87 **BE IT FURTHER RESOLVED** that the St. Croix Board of Supervisors requests that
88 the Legislature reject this attempt at the State engaging in micromanagement of land use controls
89 and the continued erosion of local control; and

90

91 **BE IT FURTHER RESOLVED** the St. Croix County Board of Supervisors directs the
92 County Clerk to send a copy of this resolution to the Wisconsin Counties Association, State
93 Legislators, State of Wisconsin U.S. Legislators, and Governor Scott Walker.

Legal – Fiscal – Administrative Approvals:

Legal Note:

Fiscal Impact:



Scott L. Cox, Corporation Counsel 10/27/2017



Robert Mittet, Finance Director 10/27/2017



Patrick Thompson, County Administrator 10/30/2017

11/07/17 Community Development Committee RECOMMENDED

RESULT: RECOMMENDED [4 TO 1]
MOVER: Jill Ann Berke, Vice chair
SECONDER: Tammy Moothedan, Supervisor
AYES: Dick Hesselink, Tammy Moothedan, Jill Ann Berke, Daniel Hansen
NAYS: Tom Coulter

Vote Confirmation.



Daniel Hansen, Supervisor 11/7/2017

St. Croix County Board of Supervisors Action:

Roll Call - Vote Requirement – Majority of Supervisors Present

RESULT: **ADOPTED [15 TO 4]**
MOVER: Roy Sjoberg, Supervisor
SECONDER: Jill Ann Berke, Supervisor
AYES: Babbitt, Sjoberg, Moothedan, Nelson, Berke, Ostness, Larson, Hansen, Ard,
 Peterson, Anderson, Achterhof, Leibfried, Peavey, Matter
NAYS: Ryan S. Sicard, Tom Coulter, Bob Long, Andy Brinkman

This Resolution was Adopted by the St. Croix County Board of Supervisors on November 7, 2017

Cindy Campbell, County Clerk