

April 13, 2023

For immediate release:

- Door County Pulse
- Door County Advocate
- Green Bay Press-Gazette
- Milwaukee Journal Sentinel
- Wisconsin State Journal

Issued by The Village of Egg Harbor, WI

Re: Appeal of “Sidewalk Case” to the Wisconsin Supreme Court

Yesterday, the Village of Egg Harbor filed a petition with the Wisconsin Supreme Court seeking review of a recent Court of Appeals decision. (Appeal No. 2021AP1589). That decision reverses judgment in favor of the Village granted by Door County Circuit Court Judge David Weber in the first of three recent lawsuits brought by Sojenhomer, LLC (d/b/a Shipwrecked Brew Pub).

In 2019, the Village condemned approximately 392 square feet of property running along the County Highway G side of the Shipwrecked building. Property was also acquired from other properties located along the opposite side of the street. The purpose of these acquisitions was to widen the narrow right-of-way to accommodate the reconstruction and urbanization of County Highway G. Improvements included, among others, the installation of sidewalk.

Prior to the County Highway G reconstruction, pedestrians were forced to share the motorable portions of the road with vehicular traffic to get around the Shipwrecked building. The Village made a significant effort to negotiate the purchase of the small sliver needed to complete the sidewalk (see attached). When those negotiations failed, the Village was forced to acquire the property by condemnation. The Village, through a cooperative agreement with Door County, reconstructed CTH G in 2020/2021 and installed sidewalk along the eastside of the road.

Sojenhomer sued the Village arguing that recently enacted language in sec. 32.015 Wis. Stats., invalidates the acquisition. That statute reads:

Property may not be acquired by condemnation to establish or extend a recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).

The Village argued that the term “pedestrian way,” as used in the statute is not intended to include “sidewalk,” which is a roadway safety feature. The definition in Wis. Stat. sec. 346.02(8)(a), references each term individually suggesting that they are unique features. The circuit court agreed stating, in part, that a sidewalk is not something that stands in isolation. It is, instead, an integral part of a road. Judge Weber granted the Village’s motion for summary judgment. Sojenhomer appealed.

The March 14 Court of Appeals decision reverses and remands the case back to the circuit court finding that because the acquisition area has been utilized for sidewalk, the statutory language bars the

acquisition. The decision is the first to analyze the applicability of the term “pedestrian way” to roadway “sidewalks.”

The case sets new precedent. If left unchallenged, it will prohibit all Wisconsin municipalities from utilizing their condemnation power to provide sidewalks within street rights-of-way. The Village Board believes that it is the Village’s responsibility to pursue review by the Wisconsin Supreme Court and anticipates strong support from the Wisconsin Department of Transportation, among others. The Board’s view is that the Appeals Court incorrectly determined that a sidewalk is a “pedestrian way” as that term was intended by the legislature versus a distinct roadway feature.

John Heller, Village President stated “A complete street is designed to enable safe use by all people regardless of their age or ability and regardless of whether they are traveling as a driver or a pedestrian. The ultimate outcome of this case will have a major impact on Wisconsin municipalities’ ability to urbanize, make safety related improvements and/or reconstruct their roads. It will also impact the ever-so-important availability of grant funding which often requires the installation of a sidewalk. The Court of Appeals’ decision, if left unchallenged, will deter sidewalk construction and safety improvements on future streets in our State. This will undoubtedly have a negative impact on the health, safety, and welfare of the general public.”

For information contact:
Megan Sawyer, Administrator
Village of Egg Harbor
920-868-3334

EXHIBIT A

30 15 0 30



SCALE - FEET



DOCK ROAD

LEGEND

- PROPOSED AREAS OF THE FUTURE SIDEWALK LOCATED WITHIN THE EXISTING PUBLIC RIGHT-OF-WAY
- PORTIONS OF THAT SIDEWALK THAT ARE A PART OF THE PROPOSED ACQUISITION OF THE PLAINTIFF'S PROPERTY
- PORTIONS OF THE PLAINTIFF'S PROPERTY THAT WILL BE CONDEMNED FOR LIGHTING AND OTHER ROADWAY PURPOSES
- AREAS OF THE PLAINTIFF'S PROPERTY FOR TEMPORARY LIMITED EASEMENT (TLE)

