From:	EDC
To:	Freedman, Andrea
Subject:	FW: Legistar 75280
Date:	Wednesday, January 18, 2023 2:25:13 PM
Attachments:	image005.png image006.png image007.png

From: Mike Testa <miket@ogdenre.com>
Sent: Wednesday, January 18, 2023 1:10 PM
To: EDC <EDC@cityofmadison.com>
Subject: Legistar 75280

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Economic Development Committee members:

I am writing today to ask for your to reconsider mandating building energy benchmarking and tune ups (Legistar 75280) and considering it a voluntary program, perhaps with an incentive to do so. Even if the new program remains mandatory, please revise it so that it does not require reporting of proprietary information to the city government. The ordinance makes the Madison city government the holder of the reported energy data, which is not appropriate, because once the city government has the data, it can be obtained by anyone through a public records request. This data is proprietary data of the building owners and their commercial tenants and should not be made public record that can be obtained by anyone.

My questions are below:

Why must this data be reported to the city government? What is the city government planning to do with this data in the future? We understand the goal of the ordinance was to require the building owners to look at their data, which can be accomplished without reporting to the city government.

In order for the Energy Star reporting tool to work, the building owner must provide information for the entire building, not just parts of it. They also need to provide information such as number of employees working in the building and number of laptops or other

computers being used in the building. If data for 50% of the building is missing, the Energy Star reporting tool will not allow the building owner to complete the report.

Many commercial tenants will refuse to provide building owners with their energy bills, number of employees in the building, number of laptops or other computers, or the many other items of information that the Energy Star tool requires in order to submit a report. Even if commercial tenants were willing to report the number of employees working in the building, in many cases, the number would be different every day, because so many employees continue to work from home post COVID.

Many stakeholders have raised this issue with the Mayor's office staff repeatedly, and the response received is that the building owner should just enter estimates if accurate data is not available from the commercial tenants. We object to making up estimated numbers to input into the Energy Star tool to complete a report that is of no value because the numbers are false, and to be coerced into doing so by the threat of being fined for failing to report.

When building owners have their HVAC systems checked by outside HVAC maintenance technicians, they ask for advice on how to make the HVAC system as efficient as possible. When boilers or windows or roofs need to be replaced, building owners invest in more energy efficient systems. Building owners are extremely aware of the cost of energy and motivated to reduce energy consumption and costs in order to decrease their operating costs. Lower operating costs mean two things: 1) A higher Net Operating Income (read: PROFIT and TAX REVENUE) or; 2) Lower NNN Expenses, which makes it easier to attract a tenant (read: PROFIT and TAX REVENUE). ***A mandatory program is not necessary, as our industry is absolutely incentivized to undertake these energy-saving projects ourselves.*** This is a violation of our rights as building owners, managers, and tenants, and infringes upon our freedom to operate in a competitive free market. The sharing of our proprietary information moves us closer to socialism and monopolism.

The cost of the “tune up” is vague because we do not know precisely what a tune up requires. In addition to paying the outside tune up consultant, the building owner will have to pay for weeks of work by its own staff to gather and provide the data required by the tune up specialists. It is unlikely that the tune ups will produce more savings than the total cost of the tune up.

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