

**CITY OF MADISON ETHICS BOARD
COMPLAINT FORM**

MAR 03 2017

1. All complaints must be made in writing. Completion of this form is not required, but this form is designed to assist you in providing the required information. For more information please refer to the Ethics Board Policy Manual and Madison General Ordinance Section 3.35. For additional information, contact The Office of the City Attorney at (608) 266-4511. The Ethics Board Policy Manual is available on the Office of the City Attorney's website.
2. Complaints shall be directed to the attention of the Ethics Board at the City of Madison, c/o City Attorney's Office, 210 Martin Luther King, Jr. Boulevard, Room 401 City-County Building, Madison, WI 53703.
3. The complaint shall be made under oath and may be made on information and belief.¹

COMPLAINANT INFORMATION

YOUR NAME Janet Etnier		
ADDRESS 3528 Atwood Avenue, Apt. 118		
CITY Madison	STATE WI	ZIP 53714
HOME PHONE (715) 225-9046	DAYTIME PHONE	EMAIL ADDRESS DETNIER@uwec.edu

SUBJECT OF COMPLAINT

NAME Sarah Eskrich		
ADDRESS (IF KNOWN) 502 Edgewood Avenue		
CITY Madison	STATE WI	ZIP 53705
POSITION/OCCUPATION WITH THE CITY Alder/Common Council	PHONE (IF KNOWN)	

The purpose of the Ethics Board is to see that the Code of Ethics as outlined in Section 3.35 of the Madison General Ordinances is uniformly applied to all City of Madison employees and officials. The areas of responsibility include, but are not limited to: (a) Fair and Equal Treatment, (b) Conflict of Interest, (c) Incompatible Employment, (d) Disclosure of Confidential Information, (e) Gifts and Favors, (f) Political Activity, (g) Campaign Contributions, (h) Disclosure of Economic Interests, and (i) Real Estate Disclosure.

NATURE OF COMPLAINT²

SECTION VIOLATED	
<p>In response to an open records request submitted to: Sarah Eskrich, Eric Knepp, Parks Superintendent, Claire , Parks Community Service manager. Copies of correspondence demonstrates that Alder Sarah Eskrich violated the Code of Ethics she is bound to as a City of Madison Alder. The records from both the Parks Department and Sarah Eskrich demonstrate that she had significant and extended involvement connected to a Parks Department Request for Proposal (RFP), and the concept of a Biergarten in a Madison Park. Her husband (Erik Kesting) was recently awarded the RFP, which will allow him to establish a Biergarten in Olbrich Park.</p>	

¹ "Information and Belief" means that, while you may not have firsthand knowledge, you are willing to swear under oath that you have a firm belief that it is true.

² The "Nature of the Complaint" is a short general statement of the alleged breach of ethics. For example, a statement related to a violation of the above-listed areas of responsibility: (a) Fair and Equal Treatment, (b) Conflict of Interest, (c) Incompatible Employment, (d) Disclosure of Confidential Information, (e) Gifts and Favors, (f) Political Activity, (g) Campaign Contributions, (h) Disclosure of Economic Interests, and (i) Real Estate Disclosure, is appropriate.

FACTS

The facts constituting the alleged breach of ethics must be set forth in detail with clearness and certainty. Please reference specific sections within Madison General Ordinance Section 3.35 which you believe to have been violated. Attach additional sheets as required.

Alder Sarah Eskrich first used her position as Alder in November 2015, by sending an e-mail on behalf of Mike Bare (her husband's business partner in BKM Group, LLC) to introduce Mike Bare to Parks Superintendent Eric Knepp to discuss a Biergarten in a Madison Park. Alder Eskrich used her position to ensure a positive outcome for Mike (meeting or phone call). She received immediate response from Eric Knepp, Parks Superintendent.

Following this introduction, Alder Eskrich involved herself in the continuing discussions between the Parks Department and Mike Bare about a Biergarten in the Park. According to the records received, she participated in the process and discussion in person, and by e-mail.

Because Alder Eskrich was involved in this discussion from the beginning, she would have received insider knowledge about the details and aspects of the project that would succeed in gaining approval from the Parks Department. This knowledge and information was likely not shared with other businesses potentially interested in opening a Biergarten in a Park. However, it is likely she was able to use details to ensure the successful acceptance of BKM Groups proposal.

In May 2016, the Parks Department issued a Request for Proposal for Placemaking at Olbrich Park (and Marshall Park). Following the December 8, 2016 Board of Parks Commissioners meeting, Parks Superintendent, Eric Knepp stated that the Parks Department had called Mike Bare once the RFP was posted, so that he could respond with a proposal. It appears that BKM Group LLC is the only possible alcohol vendor that was involved in any part of the discussion about a Biergarten, before during and after the release of the RFP, despite numerous well-qualified vendors in the immediate community that might have been interested.

Mike Bare, and partners Eric Kesting (Alder Eskrich's husband) and Travis Mueller of BKM Group LLC responded to the RFP to open a Biergarten at Olbrich Park. They were ultimately awarded the project. It is unimaginable that a married couple would not have detailed discussions about opening a business. It is very reasonable to assume that Alder Eskrich and her husband discussed the project in detail before, during, and after the RFP, and that these discussions also included partners Mike Bare and Travis Mueller.

Because of her involvement in developing a beer garden in a City of Madison Park with the Parks staff, she clearly had an inside advantage to improve the response to the RFP to receive a favorable response by the Parks Department. She abused her position as Alder to benefit the success of her dear friend Mike Bare, and her husband Erik Kesting, which also provides Alder Eskrich with direct personal financial benefit.

The undersigned, under oath, states that he or she has read the foregoing complaint and that the information contained in it is true and correct based on his or her personal knowledge, except for those matters alleged on information and belief and as to those matters, the undersigned believes them to be true and correct.

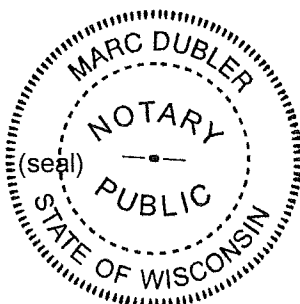
James L. Etnier

Subscribed and sworn before me
this 3 day of March, 2017.

Marc Dubler
NOTARY PUBLIC

My Commission expires (is permanent)

11/8/2021



None of the developers have experience developing a business, developing a space, operating a tavern, or restaurant, let alone operating a bar without physical boundaries in a place frequented by minors with a several hundred person capacity. Considering the significant involvement of Alder Eskrich, it is curious whether her position allowed this lack of experience to be overlooked.

Additionally, the RFP included a reference to a Sample RFP, and stated the conditions in the sample would apply for this project. The sample RFP stated that projects including alcohol would not be considered. The project also did not include appropriate codes on VendorNet to indicate this project could involve alcohol. Even if this was in error, it may have eliminated competition in response to this RFP, and perhaps other more qualified applicants self-screened out of applying for an alcohol business in the Park. Considering that BKM Group was exempt from this prohibition, it again creates concern as to whether or not this was overlooked for the Alder's husband's business, or perhaps even done intentionally.

Final note on the RFP. Another business was awarded the RFP—Rutabaga Paddlesports to rent watercraft at the space at Olbrich Park. They have over 35 years' experience in the paddlesport industry. They rent watercraft on Lake Monona at their existing business. The other award recipient was Wingra Boats to also rent boats on Lake Mendota at Marshall Park. These businesses are both well established in the service they provide. Further, they model existing businesses at Brittingham Park, and Wingra Park. Still the Parks Department decided to still award BKM Group with the contract for the Biergarten at Olbrich Park.

Alder Eskrich delayed filing Conflict of Interest paperwork until the end of July 2016. Yet her husband's business had responded to an RFP to do business with the City of Madison (Parks) in June 2016. Alder Eskrich has maintained that she hasn't used her position to influence any officials regarding this project, and has recused herself on voting regarding this project. The latter is certainly true, but the former concern's validity is murky at best. All principals of BKM Group, LLC, the Parks Department, and Alder Eskrich, did not disclose her relationship (and interest) until Mike Bare was questioned about the relationship at a public meeting regarding this project on December 8, 2016. Mike Bare responded that yes Eric Kesting, the "K" in BKM Group LLC was married to Alder Eskrich but not to worry she hasn't been involved and will recuse herself from voting. The open records (attached) received clearly show that her lack of involvement is untrue, and very concerning.

Even after BKM Group received the RFP for opening a Biergarten at Olbrich Park, Alder Eskrich continued to maintain communication with Mike Bare regarding this project using her City of Madison e-mail account. In some cases, she wouldn't have likely been included in these communications if she was not a City of Madison Alder. Also in late 2016, Alder Eskrich, again using her City of Madison e-mail, reached out to a group "Merlin Mentors" to help her husband obtain support and mentoring for his business—the Biergarten at Olbrich Park. As one would expect, as an Alder she received a rapid and positive response from this group. This is presumably why she sent the e-mail directly, and the reason one of the three Principals and Business partners weren't the ones to ask for assistance.

I think this summary, in conjunction with the timeline included, and numerous attached public documents received by a recent open records response, demonstrate that Sarah Eskrich abused her position as a City of Madison Alder in order to secure a favorable outcome for her husband's response to the RFP issued by Parks, and continued to engage in the project well

after she should have isolated herself in her role as Alder from the project. The public documents mostly include e-mails and a meeting agenda. No handwritten notes, or documents were provided by any parties. It is assumed these notes exist, but did not constitute open records.

It appears that Alder Eskrich's behavior significantly violated Section 3.35(4)5(a)1. And Section 3.35(4)5(a)3.b. of Madison General Ordinances related to Code of Ethics.

Timeline summary of events gleaned from public records, and via open records requests related to progress of Park's Department Biergarten plans October 2015 – December 2016.

The persons listed below are as follows:

Alder Sarah Eskrich: City of Madison Alder, District 13; wife to BKM LLC Business owner, Erik Kesting

Erik Kesting: Married to Alder Sarah Eskrich, co-owner of BKM Group, LLC., agent listed on the liquor license application.

Mike Bare: Co-owner of BKM Group, LLC.

Erik Knepp: City of Madison Parks Superintendent

Claire Oleksiak, City of Madison Parks Community Services Manager

Charles Romines: City of Madison Parks Assistant Superintendent of Park Operations

- **October 2015:** Alder Eskrich co-sponsors a permanent alcohol ban at Olbrich Park.
- **November 22, 2015:** Alder Eskrich contacts Parks Superintendent Eric Knepp to introduce her "*dear friend Mike Bare*" who "*has a question/proposal that he would like to discuss with you.*"
- **November 23, 2015:** Mike Bare responds to Eric Knepp "*The question/proposal relates to public beer gardens.*"
- **December 17, 2015:** Eric Knepp and Mike Bare meeting.
- **January 24, 2016:** Eric Knepp e-mails Charles Romines following Alder Eskrich's "Introduction" that (Mike Bare's) "*idea is to use an existing facility that is underutilized (Brittingham Boats).*"
- **March 16, 2016:** Alder Eskrich forwards Beer Garden in Olin Turville with attachments to Erik Kesting (her husband) and Mike Bare.
- **April 4, 2016:** Claire Oleksiak and Mike Bare meeting.
- **April 7, 2016:** Mike Bare is listed on an agenda as an interested citizen attending Park's Beer Garden Concept meeting
- **April 8, 2016:** Claire Oleksiak emails Alder Eskrich regarding talking points for a (Traveling) Beer Garden concept which suggests three parks (Olin, Tenney, and Vilas) with a timeline to present before Parks Commission on 5/11/16 for approval.
- **May 24, 2016:** Mike Bare has phone conversation with Claire Oleksiak.

- **May 25, 2016:** Parks Department issues an RFP for “Placemaking” for Olbrich and Marshall Parks following their determination of underutilized facilities at these parks.
- **June 20, 2016:** BKM Group registers with State as an LLC.
- **June 22, 2016:** deadline: BKM Group submits proposal to open Olbrich Biergarten.
- **July 31, 2016:** Alder Eskrich files a Statement of Interest with the City Attorney’s office.
- **September 13, 2016:** Claire Oleksiak sends email invitation to Alder Eskrich regarding 9/22 Site Visit Milwaukee Beer Gardens in Park. Alder Eskrich replies same day that she cannot attend due to work.
- **September 19, 2016:** BKM Group notified of contract award pending city approvals.
- **October 19, 2016:** BKM Group applies for Alcohol License, file created in Legistar.
- **November 7, 2016:** Alder Eskrich receives email from Susie Younkle re MERLIN Mentors: *“I’d be happy to talk to your husband Erik (Kesting) about his Olbrich beer garden concept and help him figure out the best startup resource(s) for him.”*
- **November 13, 2016:** Alder Eskrich responds *“I’m ccing Erik (Kesting) so you can connect.”*
- **December 8, 2016:** Recorded ~ 1hr 15 min. into public meeting at Lake Edge church:
 - Resident question: *How did you guys hear about this RFP? I know you guys said you saw it out there and then you just decided to submit a proposal.*
 - Mike Bare: *It was announced on the City website and one or two other sites that the city uses to announce.*
 - Resident: *And then the K in the BKM is that a husband of the alder for the City of Madison?*
 - Mike Bare: *Erik Kesting is married to Alder Sarah Eskrich and she has not been involved in our process. and she will, is my understanding, she will recuse herself as required because she has a conflict uh and that's how we'll handle the issue. Absolutely no improprieties whatsoever, she has not been involved.*

Timeline does not include neighborhood informational meetings other than Dec. 8th, ALRC meetings or Parks Commission meetings.