

WILL: Sues Madison over bird-safe glass ordinance that undermines Wisconsin's uniform building code

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The News: The Wisconsin Institute for Law & Liberty (WILL) [filed a lawsuit](#) in Dane County Circuit Court against the City of Madison over a mandatory bird-safe glass ordinance that is preempted by state law. WILL represents Associated Builders and Contractors of Wisconsin, the Commercial Association of Realtors of Wisconsin, NAIOP Wisconsin – the Commercial Real Estate Development Association, the Wisconsin Builders Association, and the Wisconsin Realtors Association. The legal challenge asserts the city ordinance undermines and violates Wisconsin's uniform building code.

The Quotes: WILL Deputy Counsel, Lucas Vebber, said, "Wisconsin's uniform building code is a critical component of a successful economic environment. Madison's bird-safe glass ordinance violates state law and creates significant uncertainty and added costs for developers, building owners, and their tenants." "The City of Madison's disregard for the State's Uniform Building Code threatens our collaborative efforts with local leaders to build thriving communities," according to Jim Villa, CAE, NAIOP Wisconsin CEO. "Their actions endanger the \$1.6 billion the industry contributed to Wisconsin's economy and the \$573 million in wages it supported in 2020."

"This unnecessary overstep not only undermines the law, but will result in increased costs which will be passed on to consumers in the form of higher rental costs," said WBA Executive Director Brad Boycks.

"The City of Madison's ordinance sets a dangerous precedent for communities looking to attract and expand business and create jobs," said Tracy Johnson, President and CEO for CARW. "It could create a competitive disadvantage for cities where the uniform building code is not adhered to." "Businesses and their commercial real estate partners rely on the uniform building code to ensure

certainty in cost and delivery.”

Background: In August 2020, the Madison Common Council adopted an [ordinance](#) that “all exterior construction and development activity” for buildings over 10,000 square feet, skyways, and other glass features, must meet new “bird-safe glass treatment requirements.” The ordinance went into effect on October 1, 2020.

Since 2014, Wisconsin has had a uniform commercial building code. To ensure Wisconsin’s code is uniform, [state law](#) provides that no city “may enact or enforce an ordinance that establishes minimum standards for constructing, altering, or adding to” buildings unless that ordinance “strictly conforms” to the uniform building code adopted by the Department of Safety and Professional Services (DPS). The [administrative rules](#) make clear that cities may not enact or enforce a local ordinance that imposes “additional or more restrictive” standards than the uniform building code.

Madison’s ordinance is illegal and preempted by state law. It violates the settled expectations of builders, contractors, developers, and property owners. It imposes “additional or more restrictive” standards for glass and violates Wisconsin’s uniform building code. Additionally, the ordinance would hinder the creation of good-paying jobs, raise housing costs and commercial rents, and drive investments away from the City of Madison.

WILL filed a [Notice of Claim](#) on March 4, 2021 with the City of Madison on behalf of a group of real estate, development, and building associations. A notice of claim is required before a lawsuit can commence.