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September 28, 2021

To The Member of The Toledo City Council:

**Re: Women of the West End's Appeal of the Warren Commons Major Site Plan SPR-33-21**

#### I. Introduction

Advocates for Basic Legal Equality (ABLE) has been retained by TASC of Northwest Ohio ("TASC") for representation regarding whether there is a need for a Special Use Permit for the proposed permanent supportive housing development, Warren Commons. Please accept this letter as a response to the appeal filed before the Council by Women of the West End (WOWE), addressing why a Special Use Permit (SUP) is not legally needed. For the following reasons, TSC does not need a SUP for Warren Commons and the WOWE appeal should be overruled.

#### II. Procedural History and Facts

**1. The Toledo City Law Department has previously found Warren Commons is not a Drug and Alcohol Residential Facility and therefore does not need a Special Use Permit.**

In August of 2019, on behalf of TASC, ABLE sent a Request for Written Interpretation to the Toledo City Law Department and Plan Commission, as provided for under T.M.C. § 1111.1901. We requested a determination regarding whether Warren Commons met the definition of a Drug and Alcohol Residential Facility. In October of 2019 the Law Department determined that Warren Commons does not meet the definition of a Drug and Alcohol Residential Facility, does not require a SUP, and may properly be approved as a Major Site Plan. A copy of this determination is attached.

**2. The Planning Commission previously approved TASC's request for a Major Site Plan and the Toledo City Council previously denied WOWE's appeal of the same Major Site Plan.**

In 2019, TASC sought a Major Site Plan approval for Warren Commons from the Toledo City Plan Commission, which the Commission approved in 2019 pursuant to T.M.C. § 1111.0800. Once the Major Site Plan was approved, WOWE appealed the decision to the City Counsel. The Toledo City Council overruled WOWE's appeal. Due to the unprecedented times of 2020, and the events caused by the COVID-19 pandemic, TASC work on Warren Commons suffered a delay.

TASC once again applied for approval for the same Major Site Plan, which was again approved on August 12, 2021 by the Toledo City Plan Commission. WOWE once again appeals, arguing for a second time that Warren Commons should require an SUP.

### III. Argument for the classification of Warren Commons as a Multi-Dwelling Structure

#### **1. Warren Commons is a multi-dwelling structure that does not require a SUP.**

WOWE inaccurately described Warren Commons in its appeal, claiming it is a facility that requires a SUP when in fact it is a multi-dwelling structure. In their Appeal WOWE stated that, “the project is not merely a multi-dwelling structure, but is a unique form of housing which exists as part of the curriculum of care similar to transitional housing, residential treatment facilities, and other group facilities which require a special use permit under the existing Zoning Code.” WOWE accuses Warren Commons of being a: 1) residential treatment facility, 2) transitional housing, or 3) structure classified as other group facilities which require a SUP. This is an inaccurate representation of Warren Commons, which disregards all previous information offered by TASC to the Toledo City Council, Planning Commission, Law Department, and the public. WOWE’s allegations also disregard the Written Interpretation offered by the Toledo City Law Department.

Warren Commons is a multi-dwelling structure as defined by T.M.C. § 1116.0223(G). A multi-dwelling structure is defined as, “A structure that contains three or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-dwelling includes structures commonly called garden apartments, apartments, and condominiums.”<sup>1</sup> Warren Commons will offer multiple different apartments, which are furnished and include kitchen facilities. By the definition provided in the Toledo Municipal Code, Warren Commons is a multi-dwelling structure.

#### **2. Warren Commons does not meet the definition of a Drug and Alcohol Residential Facility**

A Drug and Alcohol Residential Facility is defined as “a home or facility that provides habilitation services for persons with drug and alcohol addictions but not including methadone treatment”<sup>2</sup>. Habitation services are further defined as “health care services that help you keep, learn, or improve skills and functioning for daily living.”<sup>3</sup> No health care services will be offered by Warren Commons. Warren Commons is an apartment complex, not a treatment facility.

Warren Commons will have an office that a case manager will occasionally be in. If a tenant needs help, they may choose to contact the case manager, when one is present. The case manager may then direct the tenant to any programs offered by providers in the community that the tenant qualifies for, but no habitation services will be provided by Warren Commons.

#### **3. Warren Commons does not meet the definition of Transitional Housing or other similar classifications**

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<sup>1</sup> T.M.C. § 1116.0223(G).

<sup>2</sup> T.M.C. § 1116.0221(D).

<sup>3</sup> HealthCare.gov Glossary, <https://www.healthcare.gov/glossary/habilitative-habilitation-services/>.

Warren Commons is not a Transitional Housing as defined under the Ohio Revised Code as, “housing and supportive services provided to homeless individuals and families, for no longer than twenty-four months, to enable them to obtain and maintain independent, permanent housing.”<sup>4</sup> Warren Commons will be providing permanent housing, which is not limited to twenty-four months. Warren Commons will not be providing any services, other than a place to meet and easy access to a case manager who can make referrals.

Warren Commons is not a Halfway House. A Halfway House is defined as a facility that is “typically state licensed, for the care and treatment of adult offenders.”<sup>5</sup> Warren Commons will not be obtaining any license from the Ohio State Government, nor will its purpose be to provide care or treatment for adult offenders. Warren Commons it is multi-dwelling structure.

Warren Commons is not a Rest Home. A Rest Home is defined as “a home or facility that provides personal care services but not skilled nursing services to adults who reside at the facility.”<sup>6</sup> Warren Commons will not be providing any form of personal care services. The residents will be able to discuss with a case manager where the residents should go to obtain personal care services, along with what places in Lucas County provide the services needed. Warren Commons will not be providing those services.

Nor is Warren Commons a Homeless Shelter. A Homeless Shelter is defined as “a home or facility that provides temporary housing, with or without meals, to indigent, homeless, or transient persons. Such home or facility shall not provide lodging on a regular basis.”<sup>7</sup> The residents of Warren Commons shall have a rental agreement. Warren Commons is designed as permanent housing, and in no way meets the definition of a homeless shelter.

#### **4. Warren Commons does not meet the definition for Other Group Living Facilities**

Warren Commons is not a Group Living Facility. According to the Toledo Municipal Code the definition of a Group Living Facility is “Residential occupancy of a structure by other than a household, where units or quarters do not each have its own kitchen facilities. Does not include transient habitation uses.”<sup>8</sup> Warren Commons does not meet the legal definition for group living facilities. Warren Commons will provide a fully functional apartment to each tenant, which includes a kitchen. Each tenant will be completely independent with their own living spaces, although there will be common areas, like in most apartment complexes.

Nor is Warren Commons a Large Residential Facility. Under the Toledo Municipal Code a Large Residential Facility is defined as a “State-licensed or State-regulated home or facility that provides room and board, personal care, habilitation services, and supervision in a family setting for more than nine but not more than 16 persons who require such care...”<sup>9</sup> As stated above, Warren Commons will not be a state licensed or regulated facility. Further, Warren Commons offers none of the forementioned services. There will be

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<sup>4</sup> OAC Ann. 122:6-1-01(F).

<sup>5</sup> T.M.C. § 1116.0221(E).

<sup>6</sup> T.M.C. § 1116.0221(G).

<sup>7</sup> T.M.C. § 1116.0221(J).

<sup>8</sup> T.M.C. § 1116.0221.

<sup>9</sup> T.M.C. § 1116.0221(C).

no supervision for residents, in the same way that any other apartment complex would not supervise its residents.

The other group living classification is defined as “Includes fraternity and sorority houses and other community-based housing not provided for elsewhere in this code.”<sup>10</sup> Warren Commons does not meet this definition either. Warren Commons is a multi-dwelling structure. There are no requirements to participate in any form of community or community events. Warren Commons will not be putting on any sort of events, nor will it require residents to join some form of community group. Warren Commons will provide a furnished apartment to each resident as part of a rental agreement.

#### IV. Conclusion

In conclusion, Warren Commons does not need a SUP as it has no plans to provide any form of medical, psychological, or Habilitative Services that are similar to transitional housing, residential treatment, or other similar group facilities. Warren Commons seeks to provide affordable and permanent housing to low-income individuals with major barriers and limited opportunities to obtain permanent housing. Warren Commons will have an office space for a case manager that will occasionally be on site, offering help to anyone that requests it. The case manager will put any resident who requests assistance in contact with organizations capable of providing the resources needed.

For all of the above reasons Warren Commons does not and should not require a SUP. Warren Commons meets the definition of multi-dwelling structure, and as such they only require a Major Site Plan. The Zoning Commission did not abuse its description by not requiring a SUP. The Zoning Commission simply followed the law as it is written.

Respectfully submitted,

A handwritten signature in black ink that reads "David Manor". The signature is written in a cursive, slightly stylized font. Below the signature is a horizontal line.

David Manor, J.D.  
Attorney at Law

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<sup>10</sup> T.M.C. § 1116.0221(K).

RE: Warren Commons Application - Message (HTML)

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Zoom

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Mon 10/28/2019 11:29 AM

Syring, Paul <Paul.Syring@toledo.oh.gov>

RE: Warren Commons Application

To

Thomas, George A; Burns, Taylor

Cc

Henderson, Karlene; Gibbons, Thomas

George and Taylor, please accept this email as a follow up of our call this morning when we discussed the zoning and planning approval process for the Warren Commons Housing Project. As clarified in recent meetings and communications this project will not require a SUP as it does not appear to meet the definition of a Drug and Alcohol Residential Facility as found in Toledo Municipal Code 1116.0221(D). The Plan Commission has requested the applicant hold a second neighborhood meeting in accordance with TMC 1111.0200 to clarify the Project it is not a Drug and Alcohol Residential Facility. Pending the second neighborhood meeting the zoning and planning review of the Project's application can proceed with the Major Site Plan Review process of TMC 1111.0800.

Should you need to discuss this matter in greater detail please don't hesitate to contact me. Otherwise please communicate directly with the Plan Commission office.

Thanks

**Paul F. Syring**  
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**City of Toledo Department of Law**  
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