



## LEGAL SERVICES DEPARTMENT

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**TO:** Alderperson Matt Reed, Chair  
Members of the Community and Economic Development Committee

**FROM:** James P. Walsh, City Attorney *James Walsh*

**DATE:** September 5, 2019

**RE:** Soldiers Square Dedication

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This office has been requested to provide an opinion regarding the status of Soldiers Square and its position regarding the conveyance from Amos Lawrence. At the outset, it is important to identify that the property was conveyed in 1851. The 1851 conveyance contains the following language:

“To the use of said town as a public highway and for no other use and when no longer used as a public highway or when used for any other purpose whatsoever than to revert to the said parties of the first part their heirs or assigns.”

The language of the conveyance requires the property conveyed, the Soldiers Square 80-foot street, shall be used as a highway. The term highway is not defined in the Deed. It is a basic tenet of contract interpretation, that when words are subject to different meanings, a resort to a commonly used dictionary is acceptable. Webster’s 9<sup>th</sup> Collegiate Dictionary defines “highway” as “[a] public way especially a main direct road.” In addition, §340.01(22) of the Wisconsin Statutes defines “highway” as “[a]ll public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular traffic.”

Given the definitions indicated above, it is clear that the City’s use of Soldiers Square for a street and parking area is consistent with the terms of the conveyance. Hopefully this information is helpful to the Committee. If you have any questions please do not hesitate to contact me.

JPW:jlg