

Workplace violence prevention: Warning signs, response and zero tolerance

By Anna M. Pepelnjak

On February 12, 2010, Amy Bishop, an associate professor at the University of Alabama in Huntsville, allegedly shot and killed three of her colleagues and injured three others during a faculty meeting. The violence reportedly was connected to a decision denying Bishop tenure. On November 6, 2009, the same day that U.S. Army doctor Maj. Nidel Malik Hasan killed 12 service men and women at Fort Hood, Texas, an Orlando, Florida man was accused of killing and wounding five in a shooting at a business where he once worked. The suspect later stated that he blamed the company for hindering his efforts to obtain unemployment compensation.

Workplace violence can happen anywhere, at any time. It can be any act of physical violence, threat of physical violence, harassment, intimidation, or other threatening, disruptive behavior that occurs at the work site. Workplace violence can affect or involve employees, visitors, contractors and others.

Different actions in the work environment can trigger or cause workplace violence. It may even be the result of a situation unrelated to work, such as domestic violence. Workplace violence can be inflicted by an abusive employee, manager, supervisor,

co-worker, customer, family member, or even a stranger. Whatever the cause or whoever the perpetrator, workplace violence is not to be accepted or tolerated.

Because there is no sure way to predict human behavior and, while there may be warning signs, there is no specific profile of a potentially dangerous individual. The best prevention comes from identifying problems early and dealing with them.

The following may be warning indicators of potential workplace violence:

- Intimidating, harassing, bullying, belligerent or other inappropriate and aggressive behavior.
- Numerous conflicts with customers, co-workers or supervisors
- Bringing a weapon to the workplace (unless necessary for the job), making inappropriate references to guns or making idle threats about using a weapon to harm someone.
- Statements indicating fascination with incidents of workplace violence, approval of the use of violence to resolve a problem, or identification with perpetrators of workplace homicides.
- Statements indicating desperation over personal problems to the point of contemplating suicide.
- Direct or veiled threats of harm.

- Substance abuse.
- Extreme changes in normal behaviors.

Once an individual in the workplace shows any signs of the above indicators, the following steps should be taken:

- If you are a co-worker, you should notify the employee's supervisor immediately of your observations.
- If it is a customer, notify your supervisor immediately.
- If it is your subordinate, then you should evaluate the situation by taking into consideration what may be causing the employee's problems.
- If it is your supervisor, notify that person's manager.

It is very important to respond appropriately, i.e., not to overreact but also not to ignore a situation. Sometimes that may be difficult to determine. Managers should discuss the situation with expert resource staff to get help in determining how best to handle the situation.

It is valuable to have a workplace prevention policy in place stating zero tolerance for threats or acts of violence, accountability and directives in the event of an incident of violence. **WBB**



Anna M. Pepelnjak
Employment Law and
Litigation
amp@wbb-law.com
414-270-2518

"Whatever the cause or whoever the perpetrator, workplace violence is not to be accepted or tolerated."

**Sample Workplace
Violence Prevention
Policy**
View a sample policy
online at wbb-law.com.

INSIDE

More tax case filings, complexity = More significant tax law development 2

Working Lands Initiative: New conversion fee for rezoning agricultural land 3

At the Firm... 4

More tax case filings, complexity = More significant tax law development

By Robert B. Teuber



Robert B. Teuber
Business and
Tax Law
rbt@wbb-law.com
414-270-2538

"The more imaginative the application of the tax law, the more creative the arguments and the more complex the cases."

There is no question that the current state of the economy is financially difficult on both individuals and businesses. Not even the government is safe from the hardship imposed by what is now regularly referred to as the "Great Recession." To address these problems, politicians are calling for tax increases, tax decreases, spending cuts and more. These measures result in a lack of funding on certain issues, a reallocation of funds to different areas and layoffs or furlough days for government employees. This is the state of affairs for the State of Wisconsin and the Department of Revenue.

A bad economy means that people are spending less. When people spend less, the government collects less in sales tax. It follows that the Department of Revenue has a motive to audit a larger number of taxpayers and increase its efforts to collect existing tax liabilities from businesses and their owners. On the other hand, businesses and their owners are motivated to fight harder to keep their money in their bank accounts. After all, if there is one bill that people hate to pay over all others, it is the tax bill. As these opposing motivations collide, we see an up-tick in the number of

cases that are being challenged by taxpayers beyond audits and administrative appeals to the Wisconsin Tax Appeals Commission.

In its December 7, 2009 edition, the *Wisconsin Law Journal* reported that the number of cases filed in the Tax Appeals Commission generally mirrors economic trends. As such, the commission expects that the number of cases under its consideration will continue to grow through 2010. The article further reported that the complexity of these cases is expected to increase as well. This is because the increased need for revenue motivates the Wisconsin Department of Revenue to interpret tax statutes more broadly and to apply these interpretations to unfamiliar facts. The more imaginative the application of the tax law, the more creative the arguments and the more complex the cases.

The Wisconsin tax system works like this:

- (1) a taxpayer is audited;
- (2) if the taxpayer is dissatisfied with the result of the audit, he/she can appeal to the Resolution Unit of the Department of Revenue;
- (3) if dissatisfied with the Resolution Unit's deter-

mination on the appeal, the case can be challenged in the Tax Appeals Commission;

- (4) after the Tax Appeals Commission renders a decision, a taxpayer can further contest the case in the local Circuit Court;
- (5) after the Circuit Court, a case can be appealed to the Wisconsin Court of Appeals; and
- (6) if the Court of Appeals does not render a favorable decision, the Wisconsin Supreme Court can be petitioned to hear the case.

Going through this whole procedure can take many years. As a result, due to the increased number of cases currently before the Tax Appeals Commission, we should expect to see an increase in the number of tax cases jamming up an already crowded circuit court system. Over the next few years, we will see these cases moving through the appellate courts, too. Because many of these cases are more complex than those that have worked their way through the courts in the past several years, we can expect to see more significant tax law development in the Wisconsin court system over the next five years. Why? Because of the bad economy today. **WBB**

Working Lands Initiative: New conversion fee for rezoning agricultural land

By Ann K. Chandler

Under a new Wisconsin Statute known as the Wisconsin Working Lands Initiative, effective January 1, 2010, any landowner requesting the rezoning of land which is either located in an exclusive agricultural zoning district or subject to a farmland preservation agreement must pay a conversion fee equal to the greater of: (i) three times the assessed value of the property as defined by the Wisconsin Department of Revenue under the use value program; or (ii) an amount adopted by the county in its farmland preservation zoning ordinance.

Conversion fees adopted by a county may vary from township to township. As an example, property to be rezoned from an A-1 Agriculture Zoning District in the Town of Ixonia in Jefferson County would owe a conversion fee equal to \$920 per acre for 2010 while property located in the Town of Watertown would be assessed a \$927 per acre fee when rezoned from an A-1 Agricultural District.

Proponents of the Working Lands Initiative cite the need for better regulation of the agricultural tax credits affecting the approximately eight million acres of land currently subject to farmland preservation programs in Wisconsin. The Working Lands Initiative

revises the tax credit structure previously available to Wisconsin farmers under farmland preservation agreements. Although farmland preservation agreements currently in existence will continue to remain in effect, no new farmland preservation agreements may be entered into by any farmer whose land is not located within an area designated by the Wisconsin Department of Agriculture, Trade and Consumer Protection ("WDATCP") as an agricultural enterprise area.

The Working Lands Initiative, which was strongly opposed by the Wisconsin Realtors Association and others in the developer community, also contains a comprehensive framework for adoption by local governments in their land use plans. Since local governments, and not the state, are empowered to zone property, the Act only suggests the adoption by counties of comprehensive plans providing for farmland preservation districts. If, however, a county fails to follow the suggestions of the Working Lands Initiative and does not identify land targeted for farmland preservation, the state may disallow tax credits to farmers within that county.

There is a provision in the Act, which allows farmers to petition the WDATCP to

designate their lands as an agricultural enterprise area, which would allow such farmers to enter into new farmland preservation agreements and obtain tax credits otherwise only available to farmers in a farmland preservation district.

Once an area has been designated by a county as a farmland preservation district, only the following uses are allowed within the district:

- (i) agricultural uses;
- (ii) accessory uses;
- (iii) agricultural related uses (agricultural equipment dealership, facility providing agricultural supplies, etc.);
- (iv) non-farm residences constructed in a rural residential cluster with approval of the cluster as a conditional use (limited to four non-farm dwellings with a 1 to 20 non-farm residential acreage to farm acreage ratio);
- (v) undeveloped natural resources and open space areas;
- (vi) a transportation, utility, communication or other use required under state or federal law authorized to be located in a specific place; and
- (vii) other uses identified by the WDATCP by rule.

The Working Lands Initiative's new rezoning conversion fee is in addition to the use value penalty, assessed since 2003, on lands changed from an agricultural to a non-agricultural use. **WBB**



Ann K. Chandler
Business and
Real Estate Law
akc@wbb-law.com
262-646-1534

"The Working Lands Initiative revises the tax credit structure previously available to Wisconsin farmers under farmland preservation agreements."



WEISS BERZOWSKI BRADY
LLP

Milwaukee Office

700 N. Water St., Ste. 1400
Milwaukee, WI 53202
P: (414) 276-5800
F: (414) 276-0458

Delafield Office

400-D Genesee St.
Delafield, WI 53018
P: (262) 646-5812
F: (262) 646-3340

All Business.

www.wbb-law.com

The WBB Reporter is a Weiss Berzowski Brady LLP publication. The newsletter is for general information purposes only and should not be construed as legal advice. Consult an attorney for interpretation and application of the law.

Subscription Information: To subscribe to the print or to the electronic version of *The WBB Reporter* send an email to reporter@wbb-law.com, go to our website at www.wbb-law.com or call 414-270-2559.

Comments? We'd like to hear from you. Please send an email to the editor: Faymarie Pluskota at reporter@wbb-law.com.

AT THE FIRM...

Welcome...**Charles Stone** has joined Weiss Berzowski Brady LLP as an associate. His practice includes general business law with an emphasis on Asia and China. Charles is fluent in Mandarin, Chinese and Japanese and lived and worked in China for five years. His knowledge of the Chinese language, culture and law not only serves to facilitate the resolution of legal problems, but also helps to facilitate business with China in general. Charles is a recent graduate of Marquette University Law School.

Randy Nelson has been reappointed to The American College of Trust and Estate Counsel (ACTEC) Business Planning Committee for the 2010-2011 College year.

Nancy Bonniwell has been appointed to the Board of Directors of the Oconomowoc Hospital Foundation.

Susan Marguet has been invited to serve on the Waukesha County Land Conservancy Board of Directors.

Robert Teuber recently spoke at the National Association of Bar Executives' mid-year meeting on the benefits and dangers of using social media and internet technologies and will be speaking at the Wisconsin Bar Leaders 2010 Annual Meeting in April. Rob is the co-chair of the State Bar of Wisconsin's Solo and Small Firm Practitioner Conference—Substantive Law Track and is a candidate for the State Bar Board of Governors.

2010 Schedule of Events

REAL ESTATE CONFERENCE
March 17, 2010

ESTATE PLANNING CONFERENCE
June 9, 2010

TAX & BUSINESS SEMINAR
September 29, 2010

EMPLOYMENT LAW CONFERENCE
October 20, 2010

All events will be held at the Wisconsin Club at 900 W. Wisconsin Ave., Milwaukee. Please check our website (wbb-law.com) for more event information.