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February 22, 2016

To the Honorable Common Council
Of the City of Milwaukee
Room 205 – City Hall

Re: C.I. File No. 1048-2014-2340
Communication from RON HARMEYER LAW OFFICE LLC
117 North Jefferson Street, Suite 201
Milwaukee, WI 53202, on behalf of
CATHOLIC MUTUAL INSURANCE,
by its representative, JEN BROKMEIER,
P.O. Box 178, Menomonee Falls, WI 53052, and
also on behalf of BLESSED SAVIOR SCHOOL
8607 West Villard Avenue, Milwaukee, WI 53225

Dear Council Members:

Claimant, Blessed Savior School, alleges that Milwaukee Water Works damaged a sewer lateral while repairing a water line. On March 6, 2014, the claimant's water line ruptured. Water entered the sanitary sewer and, because of the damaged sewer lateral, it backed up into a building on their south campus, at 4059 North 64th Street. Damages exceed the statutory cap of \$50,000.00.

A Notice of Claim was filed on August 12, 2014. Wisconsin Statute §893.80(1d)(a) requires that a notice of the circumstances of the claim be filed within 120 days after the happening of the event giving rise to the claim. Also, the claimant is not the recorded owner of the property, according to information from the assessor's office.

MWW records indicate that on September 21, 2005 at 7:45 a.m. their control center received a report of a leak in the street at North 64th Street and West Capitol Drive. They dispatched a utility investigator who confirmed a branch leak at 4059 North 64th Street. After the underground facilities were marked, a MWW distribution crew excavated in the street and in the process damaged the sewer. Heiden Plumbing was hired by MWW to repair the sewer, which was done the following day.

On October 13, 2005 MWW received a report of a leak in the street at North 64th Street and West Capitol Drive. They dispatched a utility investigator who confirmed a branch leak at



4059 North 64th Street. MWW contacted Digger's Hotline to mark the underground facilities in the area. The MWW distribution crew excavated in the street and completed the repairs.

On March 6, **2014**, MWW control center received a call from the claimant's plumber, Heiden Plumbing, regarding a water leak at 4059 North 64th Street. MWW dispatched a utility investigator who confirmed a leak on the water service lateral on the owner's side of the service pipe near the sidewalk. The investigator also turned the water off. While making repairs, Heiden Plumbing reported that the sewer was damaged near a MWW excavation. The MWW distribution supervisor responded to determine the exact location of the break and found that it was in the street.

MWW did not conduct any repair activity at 4059 North 64th Street since **2005**. They did not receive any calls or complaints regarding their repair activity until Heiden Plumbing contacted them in 2014. In addition, the 2005 excavation and repair work was performed in the street and not in the curb or sidewalk area.

There is no evidence that the City was negligent in this matter. As such, the City would not be liable. Therefore, we recommend that this claim be denied.

Very truly yours,

GRANT F. LANGLEY
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PATRICIA A. FRICKER
Assistant City Attorney

PAF/cdr

Enclosure

1048-2014-2340/225609