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November 2, 2009

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

Re: Resolution Relating to the Claim of E.B. & Minnie Garner  
C.I. File No. 09-L-103

Dear Council Members:

We return the enclosed document which has been filed with the City Clerk and ask that it be introduced and referred to the Committee on Judiciary & Legislation with the following recommendation.

Claimants, E.B. & Minnie Garner, 2832 West Vliet Street, Milwaukee, WI 53208, allege that on June 7, 2008 and June 19, 2009, they sustained damages when there were sewer back-ups at their home. They claim damages in the amount of \$3,800.00 for the 2008 loss and \$4,500.00 for the 2009 loss for a total of \$8,300.00.

This claim was filed on September 10, 2009. Wisconsin Statute § 893.80 (1)(a) requires that a claim must be filed within 120 days after the happening of the event giving rise to the claim. The portion of the claim dealing with the June 7, 2008 loss was not filed timely.

The Infrastructure Services Division (ISD) records relative to the June 19, 2009 incident indicate that because of the large amount and strong intensity of rain during this time, the City experienced flows that exceeded the capacity of the sewer system. The ISD received a backwater complaint for this address on June 19, 2009. The investigator found the City sewer system main to be in proper working order on that date. City records reflect that the main was last cleaned in

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October 2008.

There is no evidence, therefore, that the City was negligent. It would not, therefore, be liable and we recommend denial of the entire claim.

Very truly yours,

GRANT F. LANGLEY  
City Attorney

JAN A. SMOKOWICZ  
Assistant City Attorney

JAS:ms  
Enclosure

1029-2009-2491:150346