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April 17, 2001

Ronald D. Leonhardt, City Clerk
City Hall, Room 205

Re: Request for opinion as to City liability regarding File No. 001769
(revocation of the public passenger vehicle driver's license of Angrej Singh,
Public Passenger Vehicle License No. 0010855)

Dear Mr. Leonhardt:

Under cover of April 4, 2001, Assistant Chief of Police Roger Reinke has communicated with you the fact that Mr. Angrej Singh is currently the subject of a pending case issued by the District Attorney's Office for lewd and lascivious behavior. The incident centers around actions that he allegedly undertook on March 9, 2001 at 1:00 a.m. at 4215 West Spaulding Place in Milwaukee, Wisconsin.

Section 100-68-1 of the Milwaukee Code of Ordinances states in relevant portion: "Revocation or suspension proceedings for violations under this chapter may be instituted by the licensing committee upon written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any person."

We are of the opinion that when Assistant Chief Reinke filed his letter of April 4, 2001 with your office, he was acting as the Chief of Police, and that the letter of April 4, 2001 constitutes the requisite "written charges" filed with the City Clerk.

Section 100-68 requires notice to the licensee, and a hearing as provided for in Chapter 100-68, MCO. The penalty can include suspension or revocation of the license. (See 100-68-2 of the Milwaukee Code of Ordinances). Revocation or suspension proceedings must be for "violations under this chapter [referring to chapter 100]."

Section 100-54-2-h, h-1 through h-5 and specifically, § 100-54- h and h-3 requires that “. . . no person . . . [has] been convicted of any of the following offenses within the last 5 years. . . Any crime against sexual morality as specified in chapter 944, Wis. Stats., or for sexual assault, as specified in s. 940.225, wis. stats.” (Emphasis added). We note that lewd and lascivious behavior is a violation of § 944.20, Wis. Stats. As you can see, § 100-54-2-h and h-3 requires that Mr. Singh have been “convicted” in order to be subject to revocation or suspension of his public passenger vehicle permit.

On the facts provided by Assistant Chief Reinke’s letter of April 4, 2001, that has not occurred.

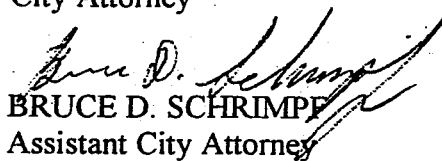
Since the Code of Ordinances of the City of Milwaukee require a “conviction” we are of the opinion that § 100-68-1 has not yet come into play by virtue of the restriction placed in 100-54-2-h and h-3.

Accordingly, we do not believe that revocation or suspension proceedings can, at this time, be initiated against Mr. Singh.

Sincerely,



GRANT F. LANGLEY
City Attorney



BRUCE D. SCHRIMPE
Assistant City Attorney

BDS:wt:39854

cc: Roger Reinke, Assistant Chief of Police
Leo Wagner, License Division Manager