

May 4, 2005

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

Re: Communication from attorneys Derzon & Menard
On behalf of James & Iris Ghuman
C.I. File No. 04-L-117

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, James & Iris Ghuman, 6380 South 35th Street, Unit #4, Franklin, WI 53122, allege through their attorney, Derzon & Menard, 400 East Wisconsin Avenue, Suite 500, Milwaukee, WI 53202 that on September 15, 2004 they sustained damages when a city tree broke at its base and landed on the claimants' vehicle which was parked at 2527 South 11th Street. They claim damages in the amount of \$25,000.00.

Our investigation reveals that the Forestry Division reviewed their records from the previous nine years and found no notice of potential hazardous conditions or service requests for this location. They also note that, in keeping with the programmed pruning schedule, the tree was last pruned in 2000. The tree was given a general inspection in 2003 and no outward signs of decay were evident. In addition, prior to this incident the tree was alive. Finally, at the time of the loss the City was experiencing storm conditions which caused high wind gusts. The Division received several emergency calls for service on that day. The Infrastructure services Division

The Hon. Common Council
May 4, 2005
Page 2

records indicate that sidewalks were replaced in this area in 2002. The records also show that no root cutting was done at this tree and that the adjacent sidewalk was arced. This loss was not in any way related to negligence by the City of Milwaukee. As such, the City would not be liable. Therefore, we recommend that this claim be denied.

Very truly yours,

GRANT F. LANGLEY
City Attorney

MICHAEL G. TOBIN
Assistant City Attorney

MGT:beg
Enclosure
1068-2004-2735:92761