

December 20, 2005

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

Re: Communication from Jerome Thornton
C.I. File No. 04-L-98

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.

Claimant, Jerome Thornton, 610 West Wisconsin Avenue, #20, Milwaukee, WI 53203, alleges that on August 6, 2004 he sustained damages when the City of Milwaukee improperly evicted him from his property located at 2744 North 27th Street and disposed of his personal property items. He claims damages in the amount of \$542,000.00.

Our investigation reveals that the Department of City Development records indicate that on January 26, 2004 the City of Milwaukee acquired the property through tax-foreclosure. On February 25, 2004 they met with the claimant to explain the ownership statue. They also inspected the property and found it in poor condition. The basement stairs were collapsed, the first floor living room had dirty oily motor parts, old soiled clothing and old damp newspaper stacked to the ceiling; the attic had gaping holes in the roof, old soiled clothing, old damp newspaper and evidence of rat infestation.

To the Hon. Common Council
December 20, 2005
Page 2

The department mailed a Notice to Vacate Letter to the claimant on that same day informing him that he must be moved out of the property by April 30, 2004. They served him on March 25, 2004 with a 28 day Notice to Vacate. He refused to vacate the property voluntarily. On May 6, 2004 the City began eviction proceedings in Small Claims Court.

On June 8, 2004 a judgment was entered in favor of the City. A Writ of Restitution (Eviction) was issued to the Milwaukee County Sheriff to remove the claimant and his personal property items from the premises. The claimant received a stay on the writ until July 8, 2004. A hearing on the causes of action relating to damages owed was adjourned to July 27, 2004.

The claimant filed an appeal of the judgment with the Circuit Court on July 26, 2004. The appeal, however, was untimely. The City filed a Motion to Dismiss based upon this. On July 27, 2004 the claimant did not appear not in Small Claims Court. The hearing on damages was adjourned to August 17, 2004. Under the law, appeals do not stop the eviction process and, as noted above, the claimant's appeal was untimely. The stay had expired and the writ was valid. On July 29, 2004 the City delivered the writ to the Sheriff's Department in order to proceed with the eviction.

The representatives of the Sheriff's Department and Eagle Movers arrived at the property on August 6, 2004. The claimant was informed about the eviction process and was asked if he wanted his personal property items to be placed in storage by the movers or to be placed in front of the property to be moved by him. He was told that the movers would not accept anything which was damaged or bug infested and that these items would be placed in front for him to move. Any items left inside the house would be considered junk and the City would dispose of them. The claimant said that he wanted his items to be placed in storage. The movers accepted only a few items. Before the move was completed the claimant indicated that everything he wanted was out of the house. The claimant had a 1989 Oldsmobile Cutlass in the rear of the property. This was towed to the Milwaukee County Tow Lot. The claimant was provided with information to pick up his items and vehicle. Since the claimant did not owe rent and had been evicted from an uninhabitable property, the City sought and received dismissal of the damages causes of action by the Small Claims Court on August 17, 2004. The Circuit Court agreed with the City and dismissed, as not timely, the claimant's prior appeal on September 16, 2004.

To the Hon. Common Council
December 20, 2005
Page 3

The City acted appropriately in this matter and as such would not be liable. Therefore, we recommend that this claim be denied.

Very truly yours,

GRANT F. LANGLEY
City Attorney

JAN A. SMOKOWICZ
Assistant City Attorney

JAS:beg
Enclosure
1050-2004-2510:96885
c: John J. Heinen
Assistant City Attorney