

December 28, 2005

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

Re: Communication from Bhanu Mital
C.I. File No. 05-L-157

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, Bhanu Mital, 7912 Fielding Lane, Greendale, WI 53129 alleges that on September 17, 2005 he tripped and fell on an uneven part of the sidewalk located at 423 West Washington Street. He claims damages in the amount of \$21,500.00.

Our investigation involved in part a request for a review of the Infrastructure Services Division records from September 17, 2004 to October 3, 2005. When the Infrastructure Services Division is notified of any hazard in the roadway, sidewalk or alley, they will send a crew to investigate or patch the hazard.

Their records indicate that between September 17, 2004 and October 3, 2005 they received two complaints for this area. On October 23, 2004 the “Call Center” received a call about graffiti on the wheelchair ramp at the Intersection of West Washington Street and North 4th Street. Twelve days after the incident in question, on September 29, 2005, the Call Center received a call from the claimant about tree roots lifting up the sidewalk at 400 West Washington Street. A Street Maintenance crew shimmed an offset along the sidewalk at 425 West Washington Street on October 3, 2005.

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Our investigation also included a request for a review of Forestry Division records. The Forestry Division records do not include any notification directed to them of a root problem raising a sidewalk at the area in question at any time prior to the incident in question.

Prior to this complaint, therefore, the City had no notice of this hazard in the sidewalk. Because of this lack of notice, the City 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\
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