

CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
PATRICK B. McDONNELL
LINDA ULISS BURKE
Deputy City Attorneys



OFFICE OF CITY ATTORNEY
800 CITY HALL
200 EAST WELLS STREET
MILWAUKEE, WISCONSIN 53202-3551
TELEPHONE (414) 286-2601
TDD (414) 286-2025
FAX (414) 286-8550

BEVERLY A. TEMPLE
THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
HAZEL MOSLEY
HARRY A. STEIN
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
MICHAEL G. TOBIN
DAVID J. STANOSZ
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DAWN M. BOLAND
KATHRYN M. ZALEWSKI

Assistant City Attorneys

July 30, 2004

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

Re: Communication from Chester Voss
C.I. File No. 04-L-78

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, Chester Voss, 5400 North 19th Street, Milwaukee, WI 53209 alleges that on May 14, 2004 he sustained damages when a City sewer backed up into his basement. He claims damages in the amount of \$20,000.00.

Our investigation reveals that the Infrastructure Services Division records indicate that they investigated a backwater at 5400 North 19th Street on May 14, 2004 and found the Milwaukee Metropolitan Sewerage District interceptor sewer to be surcharged causing the City main sanitary sewer to back-up into the basement. Saturated ground conditions and severe rain that

To the Hon. Common Council
June 30, 2004
Page 2

occurred on this date resulted in flows that exceeded the capacity of the system. As such, the City would not be liable. Accordingly, we recommend that this claim be denied.

Very truly yours,



GRANT E. LANGLEY
City Attorney



MICHAEL G. TOBIN
Assistant City Attorney

MGT:beg
Enclosure
1029-2004-1952:83568

CITY OF MILWAUKEE
RECEIVED

6.22.04

'04 JUL -2 PM 4:04

To whom it may concern,

CITY ATTORNEY

RECEIVED
MILWAUKEE
JUL 22 2004
CITY ATTORNEY

On May 14, 2004 at approximately 5pm rotten sewage began to enter my basement via the sewage drain pipe. Three days prior there was a smell in the house that caused a respiratory infection in my nose and throat.

I later learned that MMSD had chosen deliberately to hold the sewage in my area in an attempt to avoid having to pay fines for dumping sewage in the lake.

This was a malicious act and to this date they have not shown one sign of remorse. I have lost over \$20,000.00 because of this misdeed.

I ask that your office look into the matter and help with a resolution.

Chester Voss
5402 N 19th St
MILW WI 53209
PL# (414) 228-7112

THANK YOU

Chester Voss

LPCC, INC. COMMUNITY MEETING JUNE 12, 2004

(1)

The Lincoln Park Community Center, Inc. community meeting was called to order at 10:05 on Saturday, June 12, 2004. Ms. Varnado noted that the Milwaukee River water has ascended to the first step. In previous years when the water ascends to the second step there is water in the basements of homes in the neighborhood. She stated that a mitigation meeting had been held in the Blatz pavilion (upstairs) on Wednesday, June 9th. At that meeting those attending heard about the County Plan for solving the flooding/sewer back up problems. Need to hear about the City of Milwaukee plan, Shorewood, Glendale and Whitefish Bay all have plans, but Milwaukee has not been addressed. Ms. Varnado noted that in this area of homeowners, with very few rentals. She asked that a meeting be held during the evening or later in the day so working people in the area would be able to attend and address their concerns. Ms. Varnado then introduced the guests attending the meeting, including: Mayor Tom Barrett, Lisa Sherman- Department of Emergency Management, Aldermen Ashante Hamilton, Supervisor James, White and Supervisor Willie Johnson Jr.

Lisa Sherman, Department of Emergency Management which is the local level of FEMA, stated that her department is concerned about the life and prosperity of the people. DEM is a pre disaster mitigation planning entity which also handles situations after a disaster. She stated that there is a form for those who have experienced any kind of monetary loss to complete so that these forms can be submitted to the State of Wisconsin. This disaster must have a total loss of \$2.68 million in order to be classified as a disaster. She distributed a flyer describing Flood Clean Up Tips and the Seven Areas to be addressed. A question arose about the fact that calls had been made to various companies for estimates on damage and these companies would not provide an estimate unless they would be allowed to complete the repair. Ms. Sherman stated that all the State needed was an estimate of the damage and this damage would only cover the essentials-which would include items such as the washer, dryer, furnace, water heater and walls-not the furniture or furnishings if the basement had been updated.

It was noted that the Salvation Army provided clean up kits and those would be available after the meeting.

Sharon Gayan from the DNR explained the problems with the PCB contamination in the area near the dam. Questions arose about the dam not being opened and how one would have to call several people in order to get to the person who would open the dam, and then the gates still would not be opened. The gates are operated by the Milwaukee County Park System who is responsible for their maintenance. There is a dam order-showing at what level it should be placed and when it should be opened. When the dam opens it allows sediment and contaminated silt to flow down the river. Therefore, it is not opened at every "whim". The PCB levels are very high and a health concern. At this time there is an EPA grant and those involved are preparing a report concerning the sediments.

Much discussion was raised about the fact these reports have already been completed and results are already available. Mr Carl Porupcan stated, "Even though the river may be at the same height as it was long ago, it is not the same depth." This area is capturing all the sediment and contamination. The bottom line is that we must address the removal of the PCB's. Millions of dollars have been spent for flood control but this area must be cleaned.

It was noted that a solution is being worked on according to DNR calculations-on paper-there does not seem to be nay concern about the people, the real life situation. These people in this area are the ones suffering with the problems.

Mayor Barrett questioned who should really be involved in sitting down at the table and working out a solution. Now is not the time to be pointing fingers and who/he/she but in finding a solution that will

work. If it is the DNR that needs to be petitioned for a permit for the dredging and that needs to be done. Ms. Varnado stated that she had a letter written to the DNR noting that the lagoon needed to be dredged. No answer to this letter was ever received. Mayor Barrett asked for a copy of this letter.

Mayor Barrett appreciated concern from all those attending the meeting. It was noted that historical records regarding the purpose and study of this area are in the hands of Tom Reep and he would be very willing to talk with the Mayor and any others, including Ms. Varnado and Area 3 residents along with the engineers, to show them what he had. Previously the DNR had stated that they would NEVER allow the dredging of the river. However, there remain three possible solutions to the problem. 1) to remove the dam; 2) fix the dam; 3) close it. Money was found in other areas of the city to fix the flooding. No one can put a price on human life. Residents want this area fixed and made for what it was designed.

County Commissioner Willie Johnson stated that he would like copies of all information Mr. Reep has. He also stated that recently the Park System structure had changed. He was very willing to work to find a solution to the flooding and sewer back up problems in the area.


Alderman Ashanti Hamilton spoke, also expressing his willingness to work to find a solution to the problems. As a community we all have to work together to figure out just what needs to be done.

Resident Eric Reep questioned whether the residents should be living in the area due to possible disease and contaminants. It seemed that the City considers the river as #1 and the residents as #2. In his opinion there probably is an agenda somewhere and the area and properties will be worth more if the people and residents are no longer around. There seems to be a great deal of distrust, not because of paranoia but build on fact. Reports and reports and reports are supposedly being prepared, but nothing gets accomplished.

Resident Tom Reep asked that on outside, non biased firm provided results for what the possible solutions to the area problems are and not for what the governmental entities want them to be. He stated that the answers are already here-there is no need for further study.

Resident Dick Yar, a well known area historian, has crusaded for many years to keep the dam in. He explained one of his options for the area use, stating that this area is the "gem of Milwaukee" and that even though the cost of dredging is very high, perhaps rather than removing the contaminates, they could create additional landscape in the area.

The discussion then reverted back to the question about the type of flooding occurring in the basements involved. This time more of the water was due to sewer back up. Ruth Varnado and Tom Reep have maps of all the sewer systems feeders and bypasses in the area. Mr. Reep explained that there are many limitations in the sewer system. Basically, when water overflows it trickles into the sewer and then the sewer overflows as it can not hold all the additional water, thus causing back ups in basements. The MMSD has a potential for fines when it disposes into the water pipes. It is allowed up to 6 disposals a year.

 According to Mrs. Cora Lee Palmer of the MMSD, The MMSD makes a calculated decision on what and how much it can dump. The choice was made not to bypass. The MMSD has to look at the entire sewer area, it is a massive complex formula with many issues involved. She stated the MMSD is concerned.

Supervisor White stated that the residents in the area have been asking for answers for years. There are questions about the role of the dam, PCB's, etc. There have been 100 year rains/floods within just a few years. We have been told that the area was not created for flood control. However, historical records show the area was created specifically for flood control. The order was to regularly dredge. There have been meetings, meetings, and more meetings. Historical records proved that all the recent information being given to us is false. We have the answers. We don't need additional studies, etc.

Supervisor White also stated that there was a Lincoln Creek Flood Project which got to Green Bay Avenue and then stopped. It was supposed to continue past Green Bay Avenue. There must be some kind of legislation to get to the solutions we already know about. There are already all kind of studies. If the dam gates are supposed to be automated then lets get them to work. If we're talking about PCB's going down the river, then let's do something about them. If we have to get Federal money, lets get Federal monies? People often put the responsibility on what happened on other people, but the bottom line is that we have to look forward, not back. Lets get something done!

A question arose about when Glendale Housing units were build they asked to connect to the water pipes in the City of Milwaukee. Supposedly they paid \$300,000 for this.

Supervisor James White spoke on the past problems and how now some issues are still being addresses. How hard the LPCC, Inc. and residents worked to find closure to this problem in 1997, 1998 and 1999 and how a band aid was applied but the problem remains.

A new homeowner in the area stated he had been told when he bought the home that a check valve was fixed at the end of their road. He also stated that he could purchase a one way valve for his basement for around \$200.00 and a plumber would charge around \$900 to put it in. Perhaps the city could get a discount on purchasing these valves for each and every resident in the area-which would stop the sewer back up in these homes.

Another resident expressed concern about her loss which was not covered by homeowners insurance. She had been told that she did not live in a flood plain and would not need flood insurance. However, she experienced a large loss. The National Flood Insurance program was explained and a flyer was passed to the audience.

The question arose about how much of a health hazard this sewage being in the basements and back yards actually is. Would this involve E coli.

These questions were answered by Mat Wolter, MS Environmental and Disease Control Specialist.

Mr. Mike Martin, a Technical Director from MMSD was asked to discuss the deep tunnel and the possible reasons for the recent problems. It was noted that there was only one flood prior to the deep tunnel being created and since then there have been several. Mr. Martin stated that is a priority to prevent basement backup and obviously something happened. Systems were set up to resolve this type of problem. What has happened is not acceptable.

Peoples live and homes are at stake her in the Lincoln Park Area 3 community, Stated Ruth Varnado. It is up to the people to elect representatives who are willing to be held accountable to the residents.

It was decided that Mayor Barrett, Commissioner Johnson, Alderman Hamilton, Mr. Martin, Ruth Varnado, Mr. Virgil, Tom Reep and others would get together to discuss historical records and solutions to these problems, seeking State and Federal monies.

PRO-TECH MECHANICAL, INC.
HEATING & AIR CONDITIONING
16800 W. NATIONAL AVE.
NEW BERLIN, WI 53151

June 1, 2004

Chester Voss
5400 N. 19th St.
Milwaukee, WI 53209

Regarding Trane furnace and water heater. The controls of both pieces of equipment were in water. All warranties void. Recommend replacement.

Sincerely,



Ed Johnson

(262) 784-9446

(414) 321-1741

(1-800) 388-4105

FAX (262) 784-9325



BID: 2003446

Date: 06-01-04

BID To: Chester L. Voss
5400 N. 19th St.
Milwaukee, WI 53209
Phone: 414-228-7112

From: JW Home Improvement
6121 N. Teutonia Ave
Milwaukee, WI 53209
PHONE: (414) 461-3676

Description of Work to Be Done at:
5400 N. 19th Street for Chester L. Voss

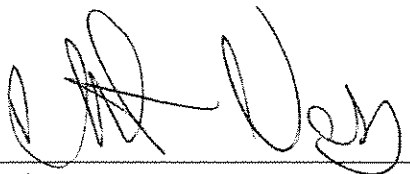
Remove moldy drywall and paneling and replace with new

Remove damaged studs and replace with new

Remove old carpet and replace with new

Tape & mud drywall, prime and paint

Total: \$6700.00


Signed

5/15/03
Date

This bid is good for 30 days from the date of this bid

| <u>DESCRIPTION</u> | <u>#</u> | <u>COST</u> |
|--------------------------|------------|-------------|
| WASHER | 44832 | 999.99 |
| DRYER | 84832 | 799.99 |
| DEHUMIDIFER | 54701 | 219.99 |
| REFRIGERATOR | 91499 | 249.99 |
| 55" PHILLIPS T.V. | 54353 | 1999.99 |
| BOSE SURROUND SOUND | 98521 | 999.99 |
| HP PAVILLION CPV 2.4 GHZ | 84383 | 1349.99 |
| DRILL/COMBO KIT | 9/11438 | 299.99 |
| DRILL BITS | 9/67029 | 99.99 |
| TRANE FURNACE | UX06UC936D | 3600.00 |
| SPADE BITS | 9/20919 | 19.99 |
| CIRCULAR SAW | 9/27111 | 119.99 |
| WRENCHES | 9/46936 | 69.99 |
| WRENCHES | 9/46937 | 79.99 |
| SOCKETS | 9/34248 | 299.99 |
| VAC | 9/17099 | 119.99 |
| FURNITURE | | 1000.00 |
| CLOTHING | | 1000.00 |
| UTILITY CABINET | | 200.00 |
| 4 BOXES CEILING TILE | | 400.00 |
| MISC. | | 750.00 |
| | TOTAL = | 14,679.85 |

CHECK LIST

- COMPRESSOR
 - SUCTION _____ PSI
 - HEAD _____ PSI
 - VOLTS _____ AMPS
- ELECTRICAL CONNECTIONS
 - CONTRACTS TIGHT & CLEAN
 - OIL LEVEL & CONDITION
- CONDENSER COIL
 - CLEAN COIL & CHECK FIN COND.
- REFRIGERANT
 - LEAK _____
 - CHARGE _____
- FAN AND MOTOR
 - VOLTS _____ AMPS
 - ELECTRICAL CONNECTIONS
 - CONTACTS TIGHT & CLEAN
 - FAN PULLEYS (ADJUST BELT)
 - CHECK: LUB BEARINGS & MOTOR OIL
- EVAPORATOR COIL
 - CLEAN COIL & CHECK FIN
 - ENT DR _____ F LGV DR _____ F
 - ENT WB _____ F LGV WB _____ F
- CONDENSATE AREAS
 - INSPECT & CLEAN DRAIN PAN
 - INSPECT & CLEAN DRAIN
- AIR FILTERS
 - CLEANED _____
 - REPLACED _____
- HEATING ASSY.
 - BURNER & HEAT EXCHANGER
 - FUEL SUPPLY & PRESSURE
 - PILOT ASSEMBLY
 - FLAME ADJUSTMENT
 - PRIMARY RELAY & FUSE
 - FAN & LIMIT SWITCH OPER.
 - BLOWER ASSEMBLY
 - RV VALVE
 - STRIP HEAT
 - DEFROST CYCLE
- ELECTRICAL COMPTS.
 - RELAYS _____
 - CONTACTORS _____
 - OVERLOAD _____ PRESS. SWITCH _____
 - THERMOSTAT _____
 - O.K. _____
 - REPLACE _____
 - RELOCATE _____

QUANTITY

ITEM OR PART DESCRIPTION

| | |
|---|--|
| 1 | Several Limit Switches Together 9's New Fan Motor |
| | Limit Blow From Blowers Rebuilt Fan Motor Cooling Fan Motor |

We wish to provide the highest level of professionalism and quality service along with the best customer assurance policy in the industry. Our service repair warranty policy is:

1. All parts replaced by us will be warranted to be free of defects for a period of Many service companies provide 30, 60 or 90 day warranties. We feel that the parts we install have been carefully selected and meet or exceed manufacturer specifications. For this reason we feel comfortable offering this excellent warranty. The labor to install the warranted part(s) is discussed in item #2 below.

2. Our repair labor is warranted for a period of This is the labor to repair or replace the part we installed in the initial repair, and not to correct other problems that may have arisen in the interim.

3. In the case of refrigerant (green) leak repairs, our parts and labor warranty is as stated above with the following qualifications:

a. You are strongly urged to let the technician show you the location of the leak prior to and after the repair. If this is not possible due to traffic or other inconvenient location, be sure the technician accurately describes the leak location on his service ticket. Our warranty is for the specific leak repaired.

b. Unfortunately many times there can be more than one leak in a system. We may only locate one and complete an effective repair only to be called out again later and find another one. Our warranty on the previous leak repair would not cover the new one. However, if within 90 days of the first leak location, we will provide a no charge diagnostic and leak search. You will then only pay for the repair of the leak, just as you would have done if we had located it on the first trip.

ENVIRONMENT CHECK LIST

| CHRG CODE | TYPE | SYSTEM | QTY | CHANGED OUT JOB | REPLACED? | YES | NO |
|-----------|--------------------------|--------|-----|-----------------|-----------|-----|----|
| 1 | RECOVERED? | | QTY | YES | | | |
| 2 | RECYCLED? | | QTY | YES | | | |
| 3 | RECLAIMED? | | QTY | YES | | | |
| 4 | RETURNED TO THIS SYSTEM? | | QTY | YES | | | |
| 5 | DISPOSAL | | QTY | YES | | | |

© DONALD B. DUFFEY 1992 REG NO TX 1359 56

PRO-TECH MECHANICAL, INC.

16800 W. NATIONAL AVE.
NEW BERLIN, WI 53151
(262) 784-9446 (414) 321-1741

8491

NAME: Hostet Bass DATE ORDERED: 5/16/09

STREET: 5400 N. 19th DATE SCHEDULED: 1/1

CITY: Waukesha STATE: WI ZIP: 53229

PHONE: _____

WK. PHONE: _____

MODEL: Furnace SERIAL NUMBER: 332576

REPAIR NUMBER: 021 DESCRIPTION: Diagnostic

JOB LOCATION: _____ PRICE LINE: _____

WARRANTY CONTRACT SERVICE CONTRACT NORMAL RES. COMM.

Our TRAINED PERSONNEL recommend:

| REPAIR NUMBER | DESCRIPTION | ACCEPT | DECLINE | SERVICE |
|---------------|-------------|-------------------------------------|--------------------------|---------|
| 02 | Diagnostic | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 130.00 |
| 021 | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 45.00 |

TECHNICIAN SIGNATURE: Meta High Limit

CUSTOMER REQUEST: (L190-30E) (2340366P02)

TECHNICIAN SIGNATURE: Don Hill CERT # _____

TERMS: DUE UPON COMPLETION

I HAVE THE AUTHORITY TO ORDER THE ABOVE WORK AND DO SO ORDER AS OUTLINED ABOVE. IT IS AGREED THAT THE SELLER WILL RETAIN TITLE TO ANY EQUIPMENT OR MATERIAL FURNISHED UNTIL FINAL & COMPLETE PAYMENT IS MADE, AND IF SETTLEMENT IS NOT MADE AS AGREED, THE SELLER SHALL HAVE THE RIGHT TO REMOVE SAME AND THE SELLER WILL BE HELD HARMLESS FOR ANY DAMAGES RESULTING FROM THE REMOVAL THEREOF.

AUTHORIZED SIGNATURE: [Signature]

DATE: 5/16/09

| | |
|------------------|--------|
| TOTAL | 175.00 |
| DIAG. CHARGE | 9.50 |
| TAX | |
| TOTAL AMOUNT DUE | 184.50 |