

September 22, 2003

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

Re: Communication from Attorney John F. McNally  
on behalf of Dwight Pierce  
C.I. File No. 01-L-146

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, Dwight Pierce, 7869 North 60<sup>th</sup> Street, Unit A, Milwaukee, WI 53223, alleges through his attorney, John F. McNally, 633 West Wisconsin Avenue, Suite 2000, Milwaukee, WI 53203, that on October 22, 2001, he sustained injuries when he tripped and fell on the sidewalk at 4716 West Vliet Street. He claims damages in the amount of \$168,000.00.

Our investigation reveals that the Infrastructure Services Division records from October 19, 2000 to November 1, 2001 show no complaints of sidewalk defects in this area. On October 3, 2001 a crew working for the Electrical Services Section excavated in this area during a cable boring operation and then filled it with temporary asphalt. There were no complaints about this between October 3 and October 22, 2001. Upon notification of a defect the division will send a repair crew to correct it usually within 24 hours.

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Prior to this complaint, the City had no notice of this alleged defect and because of this lack of notice, the City would not be liable. Accordingly, we recommend that this claim be denied.

Very truly yours,

GRANT F. LANGLEY  
City Attorney

MICHAEL G. TOBIN  
Assistant City Attorney

MGT:beg  
Enclosure1029-2001-3272:72401