

May 19, 2005

Common Council of the
City of Milwaukee
City Hall, Room 205

Re: Communication and Notice of Claim from Gimbel, Reilly, Guerin & Brown,
D. Michael Guerin and Kathryn A. Keppel on behalf of Matthew R. Quist
C.A. File No. 05-L-96

Dear Council Members:

We return the enclosed document, which has been filed with the City Clerk, the Board of Fire and Police Commissioners (Board) and the Chief of Police, and ask that it be introduced and referred to the Committee on Judiciary and Legislation with the following recommendation:

The claimant, Matthew R. Quist claims that there is a vacancy, created on April 29, 2005 by the intended departure of Inspector Steven Settingsgaard. Mr. Quist and his attorneys assert that because of a clearly-established past practice of filling vacancies by “trickle down” promotions from within the department, a deputy inspector would be nominated to fill the vacant inspector position, a captain would be nominated to replace the nominated deputy inspector, and a lieutenant would be nominated to replace the captain and a detective would be nominated to fill the vacant position of lieutenant. Therefore, Mr. Quist, whose name appeared on a list of eligibles for promotion to the position of lieutenant of detectives, claims that he would ultimately be able to obtain a promotion to the position of lieutenant of detectives. Mr. Quist’s name appears on a list of eligibles that expired on May 9, 2005. Mr. Quist requested the Board to extend the life of the list until such time as he could be promoted to one of the anticipated vacancies.

This matter was heard by the Board on May 5, 2005. Mr. Quist appeared along with his attorneys.

Mr. Quist also claims there is past precedent for this practice regarding the filling of a position for lieutenant of police in the case of Mr. Gregory Thompson. In that case, Mr. Thompson was

Common Council
May 19, 2005
Page 2

next up on an eligible list for the position of lieutenant of police, and the list was due to expire of February 16, 1997. However, in that case there was one current vacancy and three anticipated vacancies in the position. The Board approved the promotion of Sergeant Gregory Thompson to the position of lieutenant of police on February 6, 1997, ten days before the list was due to expire. The promotion of Lieutenant Thompson went into effect on February 27th, but in that case there was an existing vacancy.

There was also a situation involving a Sergeant Thomas Hines. He sat on an eligible list for promotion to lieutenant which was set to expire on September 5, 2004. The promotion of Sergeant Hines was approved by the Board on September 2, 2004 and was made effective September 12, 2004. However, once again, there was an existing vacancy.

In the case of Mr. Quist, it is clear that there were no current and existing vacancies in the position of lieutenant of detectives or lieutenant of police at the time the list expired.

The past practice of the Board was not to promote an individual off an existing eligible list, unless there was also a vacancy into which the person could be promoted. The evidence presented to the Board demonstrated that there was no existing vacancy in the position of lieutenant of detectives before the date the subsisting eligible list for promotion to the position of lieutenant of detectives expired (May 9, 2005). Had the Board extended the eligible list to a point in time that a vacancy existed it would have departed from, not followed its past practice

Accordingly, we recommend that you deny this claim as it has no basis in law or fact.

Very truly yours,

GRANT F. LANGLEY
City Attorney

BRUCE D. SCHRIMPF
Assistant City Attorney

BDS:wt:93247

Enclosure

c: Ronald D. Leonhardt, City Clerk