

**GRANT F. LANGLEY**  
City Attorney

**RUDOLPH M. KONRAD**  
**LINDA ULISS BURKE**  
**VINCENT D. MOSCHELLA**  
Deputy City Attorneys



**THOMAS O. GARTNER**  
**BRUCE D. SCHRIMPF**  
**ROXANE L. CRAWFORD**  
**SUSAN D. BICKERT**  
**STUART S. MUKAMAL**  
**THOMAS J. BEAMISH**  
**MAURITA F. HOUREN**  
**JOHN J. HEINEN**  
**MICHAEL G. TOBIN**  
**DAVID J. STANOSZ**  
**SUSAN E. LAPPEN**  
**JAN A. SMOKOWICZ**  
**PATRICIA A. FRICKER**  
**HEIDI WICK SPOERL**  
**KURT A. BEHLING**  
**GREGG C. HAGOPIAN**  
**ELLEN H. TANGEN**  
**MELANIE R. SWANK**  
**JAY A. UNORA**  
**DONALD L. SCHRIEFER**  
**EDWARD M. EHRlich**  
**LEONARD A. TOKUS**  
**VINCENT J. BOBOT**  
**MIRIAM R. HORWITZ**  
**MARYNELL REGAN**  
**G. O'SULLIVAN-CROWLEY**  
**KATHRYN M. ZALEWSKI**  
**MEGAN T. CRUMP**  
**ELOISA DE LEÓN**  
**ADAM B. STEPHENS**  
**KEVIN P. SULLIVAN**  
**BETH CONRADSON CLEARY**  
Assistant City Attorneys

November 3, 2006

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

Re: Resolution relating to the claim of Rose Struck  
Through her attorney, Eisenberg, Riley, S.C.  
C.I. File No. 05-S-256

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, Rose Struck, 1567 North Prospect Avenue, Apt. 701, Milwaukee, WI 53202, alleges through her attorney, Eisenberg, Riley, S.C., 2228 West Wells Street, Milwaukee, WI 53233, that on July 18, 2005 she sustained injuries when she tripped and fell on an uneven part of the sidewalk at 1609 North Prospect Avenue. They claim damages in the amount of \$50,000.00.

Our investigation reveals that the Infrastructure Services Division (ISD) records from July 18, 2004 to July 31, 2005 indicate that they did not conduct any asphalt patching or receive any complaints of defects in the sidewalk in the 1600 block of North Prospect Avenue. After receipt of this claim, they conducted a field inspection of the sidewalk and located a WE Energies vault in the sidewalk at this location. WE Energies was notified

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of a hazard at this location, and as a precautionary measure a Street Maintenance crew shimmed the vault with asphalt on September 9, 2005. WE Energies is responsible for the alleged defect and as such, the City cannot be held liable. Therefore, we recommend that this claim be denied.

Very truly yours,

GRANT F. LANGLEY  
City Attorney

MICHAEL G. TOBIN  
Assistant City Attorney

MGT:beg  
Enclosure  
1029-2005-2378:111575