

November 21, 2005

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

Re: Communication from Debbie Griffiths, Risk Manager  
On behalf of SBC (252005505-50-0020)  
C.I. File No. 05-S-152

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, SBC, by its representative Debbie Griffiths, Risk Management Office, 2140 Davidson Road, Floor 1, Waukesha, WI 53186 alleges that on May 1, 2005 their conduit package at South 20<sup>th</sup> and West Lincoln Avenue was damaged when the City excavated in the area. They claim damages in the amount of \$114,328.15.

The claimant's assertions do not match the records of the Water Works with regard to their response to the water main break that is connected to this claim. The claimant states that a Water Works crew simply began digging at the site when a locator arrived to mark the area at 8:30 a.m. The records of the Milwaukee Water Works, however, reveal a much more careful response to the report of the break.

Our investigation reveals that the Milwaukee Water Works records indicate that their control Center received a report of a suspected water main break at 2300 South 20<sup>th</sup> Street at 6:27 a.m. on May 1, 2005. Their investigator arrived at the scene at 6:53 a.m. and throttled a 6 inch water main. The Water Works records indicate that their repair crew arrived at 9:46 a.m., notices were

To the Hon. Common Council  
November 21, 2005  
Page 2

served to property owners by 10:22 a.m. and the main was taken out of service at 11:52 a.m. They did not begin excavation for this break until after the main had been shut down.

The claimant also stated that the first customer trouble report regarding this conduit came in at 9:36 a.m. and that an air pressure alarm was received at 10:15 a.m. These times, however, precede the time when the Water Works began excavation.

The claimant has also provided certain photographs of the subject area. The Water Works indicates, however, that the claimant's photographs show damage to the conduit that appears consistent with water pressure damage. The photographs of the area adjacent to the main break do not show "punch holes" made prior to excavation which would have indicated that the exact location of the break was unknown.

It is the view of the Water Works that the damage to the conduit was caused by water coming from the main break and not from negligent excavation made by their work crew. The Milwaukee Water Works was not negligent regarding their response, repair or minimization of damages. As such, 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  
1048-2005-1415:98092