

September 23, 2005

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

Re: Braun v. City of Milwaukee, et al., Case No. 04-C-0882

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.

Plaintiff, Robert C. Braun, claimed that certain of his constitutional rights were violated, when he was placed under arrest and cited by Milwaukee police officers, on or about June 28, 2003. In short, Mr. Braun was “evangelizing” with several of his associates, in front of the main gate of the Summerfest grounds, while the Summerfest festival was occurring. Apparently, Summerfest security personnel complained to Milwaukee police officers, who were on patrol at or around that location, that Mr. Braun and his colleagues were on premises which were permitted for private use by the Summerfest festival, without the permission of the Summerfest organizers. Officer Friedel was on horseback, while on the mounted patrol. He was the initial officer to respond on the scene. Other officers arrived. After attempts to have Mr. Braun and his colleagues “move along” from the location, Officer Friedel determined that they would be arrested for violating the City’s loitering ordinance, and cited accordingly. Specifically, Mr. Braun and three other gentlemen were placed under arrest, transported a short distance to the Milwaukee Police Department command post at the Summerfest grounds, and issued citations for loitering. The whole arrest and detention process lasted less than a half hour.

Mr. Braun claimed that his First Amendment rights were violated, by being arrested. Furthermore, he claimed that the officers arrested him without probable cause, and that therefore, they violated his Fourth Amendment rights. Finally, Mr. Braun also claimed that his Fourth Amendment rights were violated, because the officers used excessive force. The excessive force claim stemmed from the fact that after Mr. Braun was transported to the police command post, he was the last of the four gentlemen to emerge from the conveyance vehicle. Apparently, when he stepped out of the conveyance vehicle, he misstepped on one of his heels, causing an injury. As a result, he claims that he sustained approximately \$10,000 in chiropractic and other medical care.

The particulars of this matter were fully investigated, and complete discovery was conducted by this office. Furthermore, we attempted to have all issues in the case dismissed, via a motion for summary judgment. However, Judge Curran denied our motion, in a two-page written order. Therefore, the parties proceeded to a pretrial conference in August. At that time, Judge Curran offered to mediate the case, and a mediation was scheduled for September 22, 2005.

At the mediation, it was determined that the plaintiff's attorneys had incurred approximately \$75,000 in attorney's fees and costs. Should the case proceed to trial, that amount would increase significantly, and potentially exceed \$100,000. If the City defendants did not prevail on any of the claims, the City would have to pay the entirety of the attorney's fees and costs, in addition to any liability judgment awarded by the jury. Certain of the claims at issue involve questions of fact, and the outcome of a jury trial is unpredictable. In an effort to manage the risk associated with this case proceeding to trial, we negotiated a settlement amount of \$45,000.

Because settlement of this matter is deemed expeditious to the City of Milwaukee, we recommend payment of this settlement amount, and have enclosed an appropriate resolution for your convenience.

Very truly yours,

GRANT F. LANGLEY
City Attorney

SUSAN E. LAPPEN
Assistant City Attorney

SEL:dms
Enc.
1032-2004-2750:97116

