

December 1, 2005

To the Honorable
Judiciary and Legislation Committee
Common Council, City of Milwaukee
Room 205 – City Hall

Re: Resolution authorizing settlement of Lawsuit, O'Neil, Gail; Boyd, Damita L. v. City of Milwaukee, et al.; Case No. 04-CV-008518

Dear Committee Members:

Enclosed please find a proposed resolution. We ask that this be considered by the Committee on Judiciary and Legislation with the following recommendation.

On December 10, 2003 American Sewer Services, Inc. was performing sewer work in the 2100 block of West Roosevelt Drive under a City contract. American Sewer, an excavator, obtained City plans for this site and also requested that the City mark its water mains. The City is obligated under Wis. Stat. § 182.0175 to mark the location of water mains when requested to do so by an excavator. The City failed to mark a main which was not contained on the City plan. Under Wis. Stat. § 182.0175(1)(c), the City failed to comply with marking requirements.

While excavating, American Sewer Services, Inc. damaged a City water main causing water and sewage to back up into the basement of plaintiff, who resides at 2173 West Roosevelt Drive. Plaintiff sustained loss of personal property, but the majority of damages consist of structural damage to her basement.

Damages according to plaintiff total \$89,233.00 for replacement of personal property and for building restoration costs. The parties have agreed to settle for \$48,000.00.

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The City was negligent in this matter, and I am requesting approval to settle for that amount. We recommend payment of this settlement.

Very truly yours,

GRANT F. LANGLEY
City Attorney

PATRICIA A. FRICKER
Assistant City Attorney

GFL:PAF:enm
Enclosure

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