

CITY OF MILWAUKEE

Form CA-43



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Assistant City Attorneys

December 18, 2002

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

Re: Communication from Liberty Mutual
on behalf of James E. Ashford
C.I. File No. 02-L-155

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.

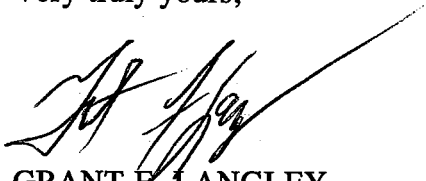
Claimant, James E. Ashford, alleges through Liberty Mutual, by its representative, Barbara Grotzinger, 6575 Snowdrift Road, Suite 101, Allentown, PA 18106 as subrogee that on November 1, 2002 a City water main broke and flooded the street and that there was no salting done or warnings posted; as a result the claimant's vehicle slid on ice and was damaged. They claim damages in the amount of \$6,482.27.

Our investigation reveals that the Milwaukee Water Works records indicate that they received notice of a possible water main break in the area of 3416 North 4th Street at approximately 5:08 a.m. on November 1, 2002. At 5:41 a.m. a Water Works supervisor requested that catch basins in the area be cleared and that the area be salted. The six-inch main was throttled by 6:27 a.m. The break was located in a construction area where a private contractor was engaged in a water main re-lay project. The private contractor was American Sewer Services, 6151 O'Connell St. Hartford, WI 53027. Water Works served notices to surrounding property owners and the main was turned off by 7:18 a.m. Because the break was located in the construction area, American Sewer Services made the necessary repairs. The Milwaukee Water Works followed

To the Honorable Common Council
December 18, 2002
Page 2

standard procedures in this matter regarding the response and repair. In addition, they immediately requested that the catch basins be cleared and the area salted. As such, the City would not be liable. Accordingly, we recommend that this claim be denied.

Very truly yours,



GRANT F. LANGLEY
City Attorney



MICHAEL G. TOBIN
Assistant City Attorney

MGT:beg
Enclosure

1048-2002-3669:61566



CITY OF MILWAUKEE
RECEIVED
'02 DEC 16 PM 2:33
OFFICE OF
Department of Public Works
Milwaukee Water Works

Mariano A. Schifalacqua
Commissioner of Public Works

James P. Purko
Deputy Commissioner of Public Works

Carrie M. Lewis
Superintendent of Water Works

December 12, 2002

Mr. Grant Langley
City Attorney
Room 800- City Hall

Dear Mr. Langley:

SUBJECT: Property Damage claim of James Ashford
C.I. File 02-L-155

In accordance with your request of December 3, 2002, we have investigated the subject claim.

Our investigation revealed that a possible main break in the area of 3416 North 4th Street was reported to the Milwaukee Water Works at approximately 5:08 a.m. on November 1, 2002. By 5:41 a.m., our supervisor reported from the site, where he called for catch basins in the area to be cleared and also for the location to be salted. At 6:27 a.m., our investigators reported that they had throttled a six-inch main break at the subject location. The break was located in a construction area, where American Sewer Services was engaged in a water main re-lay project

Notices were served and the main was turned off by 7:18 a.m. Because the break was located in the contractor's excavation, American Sewer Services made the necessary repairs.

It is our view that the Milwaukee Water Works followed standard procedures regarding the response to and repair of the main break in this case. In addition, we feel we acted responsibly by immediately requesting salting for the area and for the catch basins to be cleared. We feel we are not liable for any damages this case, and accordingly, we recommend that the claim be denied.

Very truly yours,

EARL SMITH
Water Business Manager
Milwaukee Water Works

ES: PK



Liberty Mutual Fire Insurance Company

6575 Snowdrift Rd Ste 101
Allentown PA 18106
Tel: (610) 398-9800 / (800) 521-0986
Fax: (610) 395-0969

November 13, 2002

MILWAUKEE WATER WORKS
BLDG 841, N BROADWAY
MILWAUKEE WI 53202

ATTN CLAIMS

INSURED: JAMES E. ASHFORD
CLAIM NUMBER: PD414-002941396-01

DATE OF LOSS: 11/01/2002
AMOUNT OF LOSS: \$ 6482.27

Dear Claims Representative:

The purpose of this letter is to inform you that as a result of this accident, which involved a vehicle either owned or operated by you, Liberty Mutual Fire Insurance Company has paid damages to our Insured in the amount shown above.

CITY OF MILWAUKEE
2002 NOV 19 PM 2:57
RONALD D. LEONHARDT
CITY CLERK

Right of Subrogation

Subrogation involves our right to recover from a negligent party the money we have paid on our Insured's behalf for property damage, medical expenses, rental expenses, etc.

Notice of Liability

Since our investigation shows that you are responsible for the accident, we shall expect you to reimburse us the amount shown above.

This letter is official notice of our claim against you for these damages.

Please Note: Any payments you may have made to our Insured will not relieve your responsibility to reimburse us.

If You Were Insured

If you had insurance at the time of this accident, we ask that you do the following:

- promptly notify your insurance carrier of this lien notice;
- *please advise us* that you are doing so and we will communicate directly with that company.

If You Were Not Insured

We will be happy to work with you in establishing a convenient payment plan. Please contact me right away at the number listed above, extension 372.

CITY OF MILWAUKEE
RECEIVED
OFFICE OF CITY ATTORNEY
2002 NOV 19 PM 3:08

(over)