

September 9, 2004

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

Re: Communication from Barbara L. McMahon
and for Ariel L. Gonzalez & Anastasia A Luciano, her
grandchildren and Kathleen McMahon
C.I. File No. 04-L-48, 04-L-48-1, 04-L-48-2 & 04-L-48-3

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, Barbara L. McMahon, 2302 West Becher Street, Milwaukee, WI 53215 alleges on her own and for her grandchildren Ariel L. Gonzalez and Anastasia A. Luciano, that on December 22, 2003 they sustained damages and injuries when a piece of concrete fell off a bridge near 6th and Rosedale and landed on their vehicle as it passed underneath. They claim damages in the amount \$7,500.00. In addition, Kathleen McMahon of the same address, makes the same allegation as an occupant of the vehicle and claims damages in the amount of \$1,000.00.

Our investigation reveals that the Infrastructure Services Division records indicate that on December 22, 2003 the Bridge Maintenance Manager was informed that bricks had fallen from a bridge at or near 2719 South 6th Street. That afternoon he investigated the area but did not find evidence of bricks falling from either of the two concrete overpasses in the area. There was also no fresh evidence of brick sized pieces of concrete falling from the structures. He did find evidence of glass bottles and other debris that appeared to have been thrown into the street from a nearby semi-trailer lot. The railroad bridge specified in this claim is south of the address

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investigated. This bridge has been abandoned by the railroad and ownership was transferred to the City. At the time of transfer the bridge was inspected and additional hand railings were installed to protect the public. No other work was warranted. At this time the overall condition of the bridge appears to be unchanged. It is scheduled for demolition this fall. The department could detect no difference between photographs taken in July 2003 and those taken after this incident. They do not believe that any concrete has fallen from this bridge. Their investigation also revealed a large quantity of bricks, concrete and rocks near the top of the bridge structure. They speculate that vandals have been throwing these items off the top of the bridge. There is also a deteriorating wall southwest of the bridge which is missing large pieces of concrete. This wall is not City property. There is no evidence that the City was negligent in this matter. 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