

CITY OF MILWAUKEE

Form CA-43

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April 10, 2006

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

Re: Communication from Neal T. Zokan
On behalf of his father, Leo M. Zokan
C.I. File No. 06-L-26

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, Leo M. Zokan, 2712 South 47th Street, Milwaukee, WI 53219, alleges through his son, Neal T. Zokan, also of the same address, who has Power of Attorney, that on January 29, 2006 the roots of a City tree damaged a sewer lateral and caused sewage to back-up into their basement. They claim damages in the amount of \$10, 702.44.

Our investigation reveals that the Infrastructure Services Division records indicate that they were neither notified nor did they investigate this backwater. The maintenance of laterals is the responsibility of the property owner per City Charter Ordinance 12.15.

The Forestry Division records indicate that, after receipt of this claim, they investigated and found a 23 inch diameter Norway maple tree growing in the City right-of-way adjacent to this address. The tree is healthy and is not diseased. The tree adds aesthetic and environmental benefits to the surrounding neighborhood. As such, it is their recommendation that the tree not be removed. They note that the tree roots enter sewers only when the sewer has been previously damaged by other factors such as soil compaction or aging which results in failure of the grout or cracking of the tiles.

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The claimants also alleged that the City maple tree produced seedlings that caused lawn damage and growth of another tree. The Forestry Division indicates that there are Elm trees growing at the northwest corner of the house. These seedlings were not produced by the maple tree. There were no service requests on file for the claimants' address or 2708 South 47th Street.

Finally, the claimants had also alleged that a February 1, 2006 special improvement bill, due on March 15, 2006, which they had received, was for repairs to pavement which was damaged by the City tree. The Forestry Division indicates that the roadway, curbs and sidewalks were replaced in 2003 as part of a paving construction project. The City tree had no role in this. The claimants filed this claim on February 23, 2006. Our office informed them on February 27, 2006 that this would not place a hold on the bill; they have to do what is needed to handle it and if they have any questions they can contact the appropriate telephone number noted on the bill.

There is no evidence that the City was negligent in this matter. As such, the City would not be liable. Therefore, we recommend that his claim be denied.

Very truly yours,



GRANT F. LANGLEY
City Attorney



JAN A. SMOKOWICZ
Assistant City Attorney

JAS:beg
Enclosure
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