

CITY OF MILWAUKEE

Form CA-43

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September 12, 2002

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

Re: Communication from Robert B. Moodie & Thomas G. Schmitzer
on behalf of Raymond & Theresa Markowski
C.I. File No. 02-L-62

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.

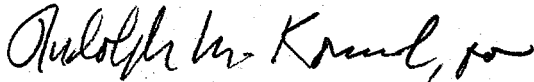
Claimants Robert & Theresa Markowski, 2859 South 37th Street, Milwaukee, WI 53215, allege through their attorneys Hippenmeyer, Reilly, Moodie & Blum, S.C., 720 Clinton Street, P.O. Box 766, Waukesha, WI 53187-0766, that on April 20, 2002 Theresa Markowski sustained injuries when she fell on the highway near the intersection of West Forest Home Avenue and South 37th Street. They claim damages in the amount of \$50,000.00.

The Infrastructure Services Division records indicated they conducted asphalt patching at this location on nine occasions from January 1, 1999 to May 22, 2002. The manhole in the area of travel for the claimants was not in the normal pedestrian travel way. The claimants deviated from the normal traveled way and did not exercise proper look-out.

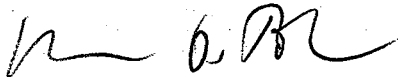
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The City would not be liable because the claimants failed to exercise ordinary care and deviated from the pedestrian crosswalk area. Accordingly, we recommend that this claim be denied.

Very truly yours,



GRANT F. LANGLEY
City Attorney



MICHAEL G. TOBIN
Assistant City Attorney

MGT:beg
Enclosure
1029-2002-1482:57627