

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



THOMAS O. GARTNER
BRUCE D. SCHRIMPF
SUSAN D. BICKERT
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
DAVID J. STANOSZ
SUSAN E. LAPPEN
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. EHRlich
LEONARD A. TOKUS
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
KATHRYN Z. BLOCK
MEGAN T. CRUMP
ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
JARELY M. RUIZ
ROBIN A. PEDERSON
DANIELLE M. BERGNER
Assistant City Attorneys

September 16, 2010

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

Re: Resolution Relating to the Claim of Peter and Gladys Katzfey
C.I. File No. 10-L-38

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, Peter and Gladys Katzfey, 4470 South Austin Street, Milwaukee, WI 53207, allege that on May 13, 2010 the roots of a City tree damaged the City's stub connection to its main sewer and caused sewage to back-up into their basement. They claim damages in the amount of \$7,890.18.

Our investigation reveals that the Infrastructure Services Division records indicate that on May 13, 2010, Sewer Maintenance responded to a call about a backwater at 4470 South Austin Street. They found the City main sewer to be in proper working order. The sewer had previously been cleaned on November 8, 2006. The claimants' lateral was found to have roots coming in at the pipe joints and a root ball. The maintenance of laterals is the responsibility of the property owner under City Charter Ordinance 12.15. The sewer investigator advised the owner to contact a plumber.

On May 14, 2010, Sewer Maintenance was contacted by the owner after he had Gene Wagner Plumbing televise the lateral and find a hole in the City's main sewer. Sewer Maintenance immediately televised and cleaned the 8-inch sanitary sewer. They observed a hole in the City's 6-inch stub protruding from the sewer, but no restriction in water flow. The roots in the lateral had blocked their view of this hole in their previous inspection and had also caused this hole. The hole was scheduled to be repaired on May 18, 2010.

To the Honorable Common Council
Of the City of Milwaukee
September 16, 2010
Page 2

Sewer Maintenance arrived that day and found that the plumber had excavated and worked on the connection. The plumber indicated that when they pushed their camera into the lateral that day, before Sewer Maintenance arrived to see what was still clogging the line, they pushed a huge clump of roots, inside the lateral, into the main sewer. Their camera was stuck and they had to excavate to retrieve it. The Sewer Maintenance crew leader stated that the lateral and connection were further damaged by the plumber when the camera was pulled back into the lateral to retrieve it from the sewer. The Sewer Maintenance crew then repaired the hole in the City's 6-inch stub and reconnected it after removing the roots. The excavation was then backfilled and temporarily asphalted by the crew. There was no other damage to the City's main sewer. It was flowing and in good condition.

The Forestry Division indicates that, after receipt of this claim, they reviewed their records for the last 5 years and found no notice of any problems regarding the tree and sewer lateral at 4470 South Austin Street. They also note that 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.

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

Very truly yours,

GRANT F. LANGLEY
City Attorney

JAN A. SMOKOWICZ
Assistant City Attorney

JAS:ms
Enclosure
1029-2010-1437:161506