

April 8, 2004

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

Re: Communication from Jay Peterson, Representative
on behalf of Canadian Pacific Railway Company
C.I. File No. 03-L-126

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, Canadian Pacific Railway Company, by its representative Jay Peterson, 501 Marquette Avenue, Suite 410, Minneapolis, MN 55402, alleges that in February 2003 their tracks at 9th and Grange were damaged by a water main break. They claim damages in the amount of \$17,235.92.

Our investigation reveals that this claim was filed on September 18, 2003. Wisconsin Statute §893.80 (1)(a) requires that a claim must be filed within 120 days after the happening of the event giving rise to the claim. This claim was not filed timely. In addition, the Milwaukee Water Works records indicate that they were engaged in locating an apparent leak on a 54-inch feeder main during February 2003. Because of the nature of the leak and size and location of the main it was very difficult to determine the location of the leak. On February 21, 2003 the Water Works took the feeder main out of service and hired a private contractor to locate the leak and determine how to repair it. The leak was located on an air vent. The repairs were completed. The main was returned to service on March 20, 2003. The Milwaukee Water Works followed standard

To the Hon. Common Council
April 8, 2004
Page 2

procedures in this matter regarding the response and repair. In addition, they hired a contractor to locate, control and repair the leak in order to minimize damages. 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
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