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May 20, 2011

To the Honorable Common Council
of the City of Milwaukee
Room 205, City Hall

Re: Resolution relating to the claim of
Time Warner Cable
CI File No. 11-L-34

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 Time Warner Cable, by its Tax Director, Beth Peterson, 7800 Crescent Executive Drive, Charlotte, N.C. 28217, alleges that it erroneously paid \$68,453.76 to the City in payment of the 2010 property taxes for 2349 North Martin Luther King, Jr. Drive. According to the claim, Time Warner is not the owner of the parcel, but was a lessee; as such it claims it was not responsible for the taxes. Time Warner requests a full refund.

While the situation is unfortunate, this office recommends denial of the claim because the City has no legal authority to refund taxes allegedly paid in error. Section 19-10 of the City Charter states that, at this stage in the taxation process, it is "unlawful" for the Common Council to remit taxes except in eight specified situations. None of the listed circumstances include an alleged error by someone paying the taxes. This is consistent with the directive in Wis. Stat. § 74.33, and with prior opinions of this office.

This statutory scheme, we presume, is designed to ensure certainty in the tax levy, and protects taxing entities from having to independently verify the relative rights and obligations of individual landlords and tenants. The claimant retains whatever legal remedies are available to seek compensation from the property owner or the private vendor that allegedly paid the taxes in error.

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Therefore, we recommend denial of this claim.

Very truly yours,

GRANT F. LANGLEY
City Attorney

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LUB:bl

c: Atty. Cory Nettles

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