

**GRANT F. LANGLEY**  
City Attorney

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



**THOMAS O. GARTNER**  
**SUSAN D. BICKERT**  
**STUART S. MUKAMAL**  
**THOMAS J. BEAMISH**  
**MAURITA F. HOUREN**  
**JOHN J. HEINEN**  
**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**  
**ELOISA DE LEÓN**  
**ADAM B. STEPHENS**  
**KEVIN P. SULLIVAN**  
**BETH CONRADSON CLEARY**  
**THOMAS D. MILLER**  
**JARELY M. RUIZ**  
**ROBIN A. PEDERSON**  
**CHRISTINE M. QUINN**  
**MARGARET C. DAUN**  
**JEREMY R. MCKENZIE**  
**MARY L. SCHANNING**  
Assistant City Attorneys

December 14, 2011

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

Re: Resolution Relating to the Claim of Abraham Jones  
C.I. File No.: 11-L-95

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, Abraham Jones, 11225 West Heritage Drive, Milwaukee, WI 53224, alleges that he suffered a sewer backup on/about February 11, 2011 at his property located at 5036 North 63<sup>rd</sup> Street due to a clogged sewer. He claims damages in the amount of \$9,830.00.

Our investigation reveals the Sewer Maintenance Section (SMS) reviewed their records relative to this incident. The SMS reviewed a video from claimant on July 8, 2011 regarding the building's sewer lateral, because he was experiencing backups that were allegedly caused by the City's sewer. The SMS had to investigate this matter further by researching the City sewer main along North 63<sup>rd</sup> Street.

A hydraulic analysis of the sewer's service area indicates the main itself is designed properly and meeting current design standards. The property is served by a sewer main that was rehabilitated in 1992 under a contract with a private firm hired to install a cured-in-place liner in the main. The contractor chose the sewer liner that it felt was appropriate for this application.

Prior to the expiration of the two year warranty period on the product, the SMS checked the sewer liner. The review noted there was some shifting at the connection points. The contractor "anchored" the product to resolve this problem.

To the Honorable Common Council  
December 14, 2011  
Page 2

The City records show no previous reports of backwater or sewer problems at claimant's location between 1992 and the 2011 date of the claimed sewer backup.

The SMS had to investigate this matter further by researching the City sewer main along North 63<sup>rd</sup> Street. Following the filing of the claim here, the SMS conducted an exam of the sewer. They found it was operating properly and there was nothing blocking the sanitary sewer mainline. The exam did reveal, however, that the installed liner had apparently again shifted in the pipe. The liner was partially blocking other building laterals at this location, but the most severe blockage was at the claimant's location. The SMS immediately contacted a sewer contractor to correct this condition.

The SMS also indicated there were no problems encountered during their regular sewer cleaning operations between 1992 and 2011. The City had no prior notice of this liner shifting prior to the claimant's problems.

Since the City had no notice of this condition and it was the contractor that chose and installed this particular type of sewer liner, we recommend denial of this claim. The claimant may wish to contact **Underground Pipeline, Inc., 2180 South Springdale Road, New Berlin, WI 53146, (262) 548-9451**, which was the contractor that installed this liner pursuant to City Contract No. C920042.

Very truly yours,

GRANT F. LANGLEY  
City Attorney

JAN A. SMOKOWICZ  
Assistant City Attorney

JAS:ms  
Enclosure  
1029-2011-2811-176275