

June 11, 2004

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

Re: Resolution to authorize settlement of lawsuit entitled Donald Harmon v. City of Milwaukee, United States District Court for the Eastern District of Wisconsin, Case No. 03-C-0974

Dear Council Member:

Enclosed please find a resolution authorizing settlement of the above captioned litigation.

On October 7, 1994 Donald Harmon filed a charge of race discrimination (EEOC Charge No. 260-95-0020) against the City of Milwaukee and Milwaukee Police Department, concerning his disqualification as an applicant for police officer, by a failed background investigation. On September 24, 1996, the Equal Employment Opportunity Commission issued an initial determination finding reasonable cause to believe that Mr. Harmon had been discriminated against on the basis of race. This determination was made in connection with the EEOC's pattern and practice investigation of approximately 35 charges of discrimination brought against the MPD or FPC between 1991 and 1996. With regard to hiring, the initial determination was critical of background investigations for the position of police officer. On February 6, 1997, the EEOC notified the City that it considered conciliation failed and that they would forward Mr. Harmon's charge to the United States Department of Justice for possible litigation.

On November 12, 1996, Donald Harmon filed a second charge of race discrimination (EEOC Charge No. 260-97-0132) in regard to a further attempt to be hired as a police officer. He had again been denied hire on the basis of a failed background investigation. He further alleged that his failure to be hire was an act of retaliation for having filed his earlier EEOC charge. This charge also resulted in a finding of reasonable cause on the basis of race discrimination on March 31, 1999, and was forwarded to the U.S. Department of Justice on April 27, 1999.

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On July 8, 2003 the U.S. Department of Justice issued a notice of right to sue within 90 days, and indicated that it did not intend to file suit on Mr. Harmon's behalf, in regard to EEOC Charge No. 260-95-0020. On November 6, 2003, the U. S. Department of Justice did likewise in regard to EEOC Charge No. 260-97-0132. On October 21, 2003, Mr. Harmon filed suit in the federal district court, Case No. 03-C-0974, and subsequently amended the same to include the later issued matter.

The substance of the allegations concerns Mr. Harmon's contention that white applicants for the position of police officer, at the relevant times, were hired even though their background information demonstrated they were less suitable for that position, than he would be. In the interim, Mr. Harmon has been employed as a Corrections Officer at the Milwaukee County House of Corrections.

The parties now desire to enter into a private settlement in order to avoid further litigation. Under the terms of the settlement, Donald Harmon will receive a total of \$112,500 to cover any and all claims that could have been brought, including back pay, compensatory damages, lost benefits, reinstatement or offers of employment, attorney fees, and costs. There is no admission of liability.

The City Attorney believes settlement is in the best interests of the City and therefore recommends settlement of this lawsuit.

The City Attorney requests that the Committee to which this matter is referred convene in closed session for purposes of discussing the terms of the settlement, and the underlying litigation.

Very truly yours,

GRANT F. LANGLEY
City Attorney

Miriam R. Horwitz
Assistant City Attorney

MRH/mrh
1032-2003-3504:818902

c: David Heard, FPC
Nannette H. Hegerty, Chief of Police