

**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**  
**DANIELLE M. BERGNER**  
**CHRISTINE M. QUINN**  
**MARGARET C. DAUN**  
Assistant City Attorneys

August 18, 2011

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

Re: Resolution Relating to the Claim of LAUREN JOYCE  
C.I. File No. 11-L-35

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, Lauren Joyce, 4455 South Rachel Lane, New Berlin, WI 53151, alleges through American Family Insurance, by its representative Robert Harvey, 6000 American Parkway, Madison, WI 53783, as subrogee, and AFNI Insurance Services, by its representative Rick Herrera, P.O. Box 3068, Bloomington, IL 61702, as additional subrogee, that on March 12, 2011 a water main break near 2060 North Humboldt Avenue caused a sink hole. The hole filled with water and sucked their insured's vehicle into it. They claim damages in the amount of \$6,033.95. We recognize that while the subrogee's claims are separate, they are from the same loss and have the same rights.

Our investigation reveals that the Milwaukee Water Works (MWW) records indicate that on March 12, 2011 at 8:25 p.m. their control center received a citizen report of a leak in the street at 2105 North Riverboat Road. The MWW dispatched a field investigator who responded and confirmed a break in a 42-inch water main at 2060 North Riverboat Road at North Humboldt Avenue. They immediately turned off the water and shut down the main. The MWW also dispatched additional supervisors and distribution crews to respond for clean up and site restoration. The crews secured the area with barricades until the necessary repairs could be made to the water main.

The water main which cracked and created a very large sinkhole at this location, is a cast iron pipe which, though installed in 1927, was within its expected service lifetime of 75 to 100 years. During the course of their lifetime, water mains will experience

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unpredictable breaks. In this instance, there were no prior problems with the main. The MWW hired Rawson Contractors to conduct the extensive repairs to it.

The MWW had no prior notice of any defect, responded to the main break in a timely manner, followed standard procedures and took appropriate action. 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  
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