

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
DAVID J. STANOSZ
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
MEGAN T. CRUMP
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
Assistant City Attorneys

November 18, 2010

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

Re: Resolution Relating to the Claim of CLEMON R. THAMES
C.I. File No. 10-L-130

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, Clemon R. Thames, 2725 North 38th Street, Milwaukee, WI 53210, alleges that on August 20, 2010 he sustained damages when a City tree branch broke off and fell onto his vehicle which was parked at 2729 North 38th Street. He claims damages in the amount of \$6,400.00.

Our investigation reveals that the Forestry Section records indicate that on August 20, 2010, they received and responded to a call of a tree which was down on a car and blocking the street at 2729 North 38th Street. Upon arrival, their crew found that a 16-inch diameter by 35-foot-long branch from a Green Ash tree located in the City right-of-way had fallen. The tree and branch were alive. The branch showed some evidence of internal decay, which was not visible from the outside. As a result of this incident, the tree lost a significant amount of its crown and is now in the process of being removed by the Section. They also note that at the time of the loss, the City was experiencing windy conditions with a peak wind speed of 43 mph. In addition, in keeping with the cyclical pruning of all trees in this area, the tree was last pruned in 2007 and no outward signs of decay were evident. Finally, the Section also reviewed their records for the previous 5 years and found no other complaints or service requests for this tree. There is no

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evidence that the City was negligent in this matter. As such, the City would not be liable. Therefore, we recommend denial of this claim.

Very truly yours,

GRANT F. LANGLEY
City Attorney

JAN A. SMOKOWICZ
Assistant City Attorney

JAS:ms
Enclosure
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