

March 30, 2011

Mr. Grant Langley  
City Attorney  
Room 800  
City Hall  
Milwaukee, WI 53202

Mr. Langley:

The Flooding Study Task Force has been charged with recommending remedies for sewage backups and street flooding in the City of Milwaukee. Its discussions of potential solutions have included the implementation of a city-wide program to address inflow and infiltration issues in the sanitary sewer.

The proposed program would require property owners to disconnect clear water sources from the sanitary sewer. These sources could include downspouts, foundation drains and leaking sewer laterals. The purpose of the program is to reduce overall flows in the sanitary sewer. This will help prevent sewage from backing up into basements during rain events and help the City to comply with discharge permits regulating sanitary and combined sewer overflows.

The program would be implemented over a period of years, initially targeting neighborhoods that are believed to allow the greatest amount of clear water into the sewer system. These neighborhoods may or may not be the same neighborhoods that have experienced flooding in the past. Repairs would be ordered if the City's examination of the property revealed excessive flows into the sanitary sewer system. Property owners would be required to make repairs even if they have not experienced flooding or sewage backups.

Funding for the initial inspection to determine the extent of the work required would likely be provided by the Sewer Maintenance Fund. Funding sources for the repairs have not been determined, but it is anticipated that property owners will be required to pay at least a portion of the cost of repairs. Current estimates indicate that costs may approach \$15,000 per property depending on the type and extent of work required.

The Flooding Study Task Force has several questions regarding the permissibility of various components of the program.

1. Is it allowable for the City to mandate repairs on private property at the property owner's expense if the program's implementation schedule is so extended that as a practical matter some property owners may not have to comply with the mandate for 100 years or more?

2. Does the use of public funds to pay for all or a portion of mandated repairs on private property or the use of City forces to do the work alter the enforceability of the program?
3. If inflow and infiltration exist city wide, does targeting neighborhoods with the highest level of inflow and infiltration, as opposed to the highest incidence of flooding, represent a violation of equal protection?
4. What are the implications if the City implements this program for a short period of time and then discontinues it before repairs have been made on all properties?

The Flooding Task Force is seeking guidance on these issues prior to its meeting on April 14, 2011. I would be happy to meet with the appropriate staff attorney to provide any necessary clarification and discuss to this further. I can be reached at 286-3926.

Sincerely,

Kathleen Brengosz  
Fiscal Planning Specialist

cc: Linda Burke