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September 23, 2009

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

Re: Resolution Relating to the Claim of Mt. Zion Missionary Baptist Church
C.I. File No. 09-L-91

Dear Council Members:

We return the enclosed document which as 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, Church Mutual Insurance Company, P.O. Box 357, Merrill, WI 54452-0357, relating to its interests and the interest of its insured, Mt. Zion Missionary Baptist Church, P.O. Box 12545, Milwaukee, WI 53212, alleges that on June 19, 2009 the insured sustained damages when there was a sewer back-up in the church's properties located at 2207 North 2nd Street, 2222 North 2nd Street and 2210-2212 North 2nd Street. The insurer claims damages in the amount of \$113,365.31.

Our investigation reveals that the Infrastructure Services Division (ISD) records indicate that because of the large amount and strong intensity of rain during this time, the City experienced flows that exceeded the capacity of the sewer system. The City checked the sewer main as a result of this claim and it was found to be in proper working order. City records also indicate that the combined sewer main which is on a cleaning cycle of eight to ten years had last been cleaned in July, 2003 and that only light dirt was found in the cleaning process.

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There is thus no evidence that the City was negligent. It would not, therefore, be liable and we recommend denial of this claim.

Very truly yours,

GRANT F. LANGLEY
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JAN A. SMOKOWICZ
Assistant City Attorney

JAS:ms
Enclosure

1029-2009-2258:150197