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**MEMORANDUM**  
**ADMINISTRATIVE SERVICES DEPARTMENT**

**TO: Thomas Thomas, City Manager**

**SUBJECT: 1500-36 Street Properties**

**DATE: February 28, 2013**

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During the morning of December 27, a city water main broke in the alley east of homes located at: 1523-36 Street, 1525-36 Street and 1527-36 Street. The flood water flowed west towards 36 Street and collapsed the basement walls at 1523-36 Street and 1527-36 Street. The home at 1525-36 Street had 3-4 feet of water in the basement. The water main break was a block away from the water tower and most of the 500,000 gallon tower was drained during the event.

The General Liability Committee (GLC) met on 1-23-12 and recommended the claims be denied under the Illinois Tort Immunity Act. The purpose of the Illinois Tort Immunity Act is to protect the City from liability arising from its operations. The decision to deny was twofold under the Act:

- Section 1-210 “willful and wanton conduct”. In the Act it means a course of action which shows an actual or deliberate intention to cause harm or which, if not intentional, shows an utter indifference to or conscious disregard for the safety of others or their property. The City did not exhibit willful or wanton misconduct by not protecting the public in this case; and
- Section 3-102 states a local public entity has the duty to exercise ordinary care to maintain its property in a reasonably safe condition and shall not be liable unless it is proven that it has actual or constructive notice of the existence of such a condition. The City had no prior or previous notice of a problem with the water main and the history for the area did not alarm the City of any hazards. The City has no way to predict when or where a water main break will occur.

The City Manager has recommended a settlement offer: 50 percent of the damage to repair or 50 percent of the home’s value (including personal contents). The offer is estimated to cost the City about \$114,000. The 50% offer is also consistent with property damage occurring in the 2000-37 Street area last fall.

## 1500-36 Street Properties

	McQuaide 1523-36 Street	Anderson 1525-36 Street	Foley 1527-36 Street	City Cost
Home Status	Unfit	Liveable	Unfit	
Home Owners Insurance Coverage	Denied	Denied	Denied	
Current Home Valuation (RICO figure)	\$56,616	\$0	\$79,443	
Damage Repairs to Basement	\$0	\$16,643	\$0	
Personal Property (1)	\$0	\$2,870	\$2,540	
Total Damages	\$56,616	\$19,513	\$81,983	
City pays 50% of total damages	\$28,308	\$9,757	\$40,992	\$79,056
Estimated Demolition Costs (2)	\$15,000		\$20,000	\$35,000
<b>Total City Cost</b>				<b>\$114,056</b>

Notes: (1) McQuaide has provided no cost estimates for damaged personal property.

(2) Inspections recommend the demolition of the McQuaide and Foley homes.

**Recommendation:** Based on the City Manager's decision, Administrative Services is recommending the City Council offer the residents at 1523-36 Street and 1527-36 Street for 50% of the property value and 50% of any damaged personal articles. The City will obtain deeds for the properties and pay for the demolition of the structures. The lots will be turned over to CED for future re-use. The resident at 1525-36 Street will be paid 50% of the repair for their finished basement along with any damaged personal articles. The City pays a depreciated value for all damaged personal articles. The estimated city cost is \$114,056 to settle the claims.

Submitted by: John Thorson, Administrative Services Director

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Accepted by: Thomas Thomas, City Manager