



**Request for City Council Committee Action  
From the City Attorney's Office**

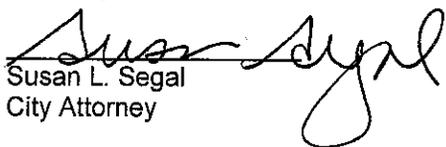
Date: March 31, 2010  
To: Ways & Means/Budget Committee  
Referral to:

**Subject:** *Thomas Davison vs. City of Minneapolis*  
Hennepin County District Court File No.: 27-CV-07-11640

**Recommendation:** That the City Council approve the settlement of this case by agreeing to pay the employer portion of a single medical insurance plan for Thomas Davison until age 65 and the employer portion of a single medical insurance plan for Kathy Davison until age 65 from Fund/Org. 06900 1500100 145280 and authorize the City Attorney's Office to execute any documents necessary to effectuate the settlement.

**Previous Directives:** None.

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Approved by:   
Susan L. Segal  
City Attorney

Presenter in Committee: Susan L. Segal, City Attorney

**Financial Impact** (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).  
 Action requires an appropriation increase to the \_\_\_\_\_ Capital Budget or \_\_\_\_\_ Operating Budget.  
 Action provides increased revenue for appropriation increase.  
 Action requires use of contingency or reserves.  
 Business Plan: \_\_\_\_\_ Action is within the plan. \_\_\_\_\_ Action requires a change to plan.  
 Other financial impact (Explain): Payment from Fund/Org. 06900 1500100-145280  
 Request provided to department's finance contact when provided to the Committee Coordinator.

**Community Impact:** Build Community

**Background/Supporting Information**

Minn. Stat. § 423C.05, Subd. 5 mandates that an employer continue to pay the employer portion of medical insurance to a firefighter who retires because of a service related disability. This lawsuit involves Mr. Davison's claim for those benefits.

Thomas Davison was employed as a firefighter for the City from March 2, 1979, until July 1, 2004, when he retired. At the time of his retirement he was a dependent on a medical insurance policy for which Kathy Davison, his wife and also a City of Minneapolis firefighter, was the policy holder. Mr. Davison filed an *Application for Permanent Disability* with the Minneapolis Firefighters Relief Association ("MFRA") and was awarded permanent disability benefits. Mr. Davison sought a continuation of healthcare coverage and submitted an application to the City pursuant to Minn. Stat. § 299A.465. The City Public Officer Benefit Committee met on September 30, 2004, and denied his application, finding that his disability was not as a result of a work related condition and that Mr. Davison had no right to the continuation of medical benefits because he was not a policy holder at the time of his retirement.

Mr. Davison initiated the current lawsuit. After cross motions for summary judgment, the District Court granted summary judgment to the City, dismissing Mr. Davison's claims. The Minnesota Court of Appeals reversed the decision of the District Court, holding that his status as a dependant on his spouse's insurance policy entitled Mr. Davison to continuation of health insurance benefits and obligated the City to continue to pay the employer portion of the medical insurance policy. The Court of Appeals left it unclear whether the City was obligated to provide an individual policy to Mr. Davison or to pay for the family policy that was in effect when he retired. The Court of Appeals also remanded the case to the District Court for a determination whether the disability suffered by the Plaintiff was duty related. *Davison v. City of Minneapolis*, 2009 WL 234349 (Minn. App.). Subsequently, we have received findings by MFRA indicating that his disability and pension were service related.

The litigation was resolved by the City agreeing to pay the employer portion of individual medical policies for Mr. Davison and Mrs. Davison until each reaches age 65. It is clear that the City was obligated to provide a policy to Mr. Davison according to the ruling by the Minnesota Court of Appeals. The employer portion of two individual policies provides a substantial cost savings over paying the employer contribution for one family policy. Payments to Mr. Davison are potentially reimbursable by the State of Minnesota, depending upon the availability of funds. The proposed settlement would not go into effect until a change in status occurs under the provisions of the medical plan or during an open enrollment period. Mrs. Davison is currently employed by the City.

We believe that the proposed settlement is in the best interests of the City of Minneapolis, minimizes potential liability to the City and recommend approval by this Committee and the City Council. The proposed settlement has been reviewed and approved by the Human Resources Department.