



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

Date: March 15, 2006
To: Ways & Means/Budget Committee
Subject: Alan Groesbeck Claim 05I-0260
EEOC: 265-2005-01799

Recommendation: That the City Council authorize settlement of the claim of Alan Groesbeck v. Minneapolis Water Works for the amount of \$11,000.00 payable to Alan Groesbeck from Fund/Org. 6900 150 1500 6900, and that the City Attorney be authorized to execute any documents necessary to effectuate this settlement.

Previous Directives:

Prepared by: Sydnee N. Woods Assistant City Attorney Phone: 673-2625

Approved by: _____
Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): \$11,000.00 from Fund/Org. 6900 150 1500 6900
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:

City Goals: Build Community

Background/Supporting Information

Claimed brought this EEOC case against the Water Works department alleging violations of the Americans with Disability Act. From April 15, 2004 through October 21, 2004, Claimant Alan Groesbeck worked as a temporary, seasonal bricklayer in the Water Works department. He was laid off in October 2004. All applicants are required to pass a pre-employment physical examination. Claimant passed the physical in 2004. When he applied for the same bricklayer position in April 2005, he was again subjected to a physical. He was hired conditioned upon his passing the physical. He was allowed to attend training and do light duties around the warehouse pending his physical results. At the physical, he told the City's physician that he had some previous "back issues." This was noted on Claimant's form and the physician informed Human Resources that he needed to have more testing done on his back. Claimant was not sent for more testing, however, nor was a determination made regarding the extent of his "back issues" and whether he could perform

Alan Groesbeck Claim

March 15, 2006

Page 2

the essential job functions. Instead, Human Resources contacted Water Works and told them there was a problem with his exam and to "let him go." Claimant alleges that his personal physician faxed his records stating he was fit to work (this is disputed – we deny ever receiving any information). Claimant then brought this EEOC charge alleging violations of the Americans with Disabilities Act. The EEOC found that by hiring Claimant, learning of a potential back problem, and firing him before determining if the back problem prevented his ability to perform the job, violated the ADA.

The City has agreed to pay Claimant \$11,000 and conduct training of the Water Works supervisors and assigned HR Generalist in proper hiring practices regarding the ADA.

05L-0260