

Robert, Carla M. (Treasury)

From: Headen, Frederick (Treasury)
Sent: Wednesday, February 03, 2016 10:53 AM
To: Saxton, Thomas (Treasury)
Cc: Khouri, Nick (TREASURY)
Subject: FW: Water Related Civil Litigation.PDF
Attachments: Water Related Civil Litigation.PDF

FYI:

During this morning's weekly Local Government conference call with Flint officials, the City Administrator mentioned this letter and then forwarded a copy of it. I believe she also indicated she or the Mayor had provided a copy to Rich. I had not previously seen it. Oddly, the letter makes no mention of the State Treasurer's January 4, 2016, letter stating that Treasury would reimburse the City 75 percent of *Shears* related legal expenses up to \$300,000 incurred by the City.

From: Natasha Henderson [mailto:nhenderson@cityofflint.com]
Sent: Wednesday, February 03, 2016 9:15 AM
To: Byrne, Randall (Treasury) <ByrneR1@michigan.gov>; Cline, Richard (Treasury) <cliner1@michigan.gov>; Kerry Nelson <knelson@cityofflint.com>; Headen, Frederick (Treasury) <HeadenF@michigan.gov>
Subject: Water Related Civil Litigation.PDF

Thanks,

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CITY OF FLINT

Dr. Karen W. Weaver
Mayor

January 27, 2016

Treasurer Nick A. Khouri
Michigan Department of Treasury
Lansing, Michigan 48922

Re: *Water Related Civil Litigation*

Dear Treasurer Khouri:

In our letter of December 10, 2015, we requested the State of Michigan's financial assistance with the cost of defending the *Shears, et al v City of Flint, et al* lawsuit. As stated in that letter, if plaintiffs were to be successful in that litigation, the financial impact on the City of Flint (City) would be catastrophic.

As you are aware, the City hired the law firm of Miller Canfield to aid in its defense. Since the firm became involved defending this suit, the City has won favorable rulings before Circuit Court Judge Archie Hayman. These rulings included an amendment scaling back the scope of the August 17, 2015, preliminary injunction. Prior to this ruling the City was forecasting financial insolvency as early as this summer. Now, the City is permitted to charge water and sewer rates consistent with the Revenue Bond Act and the biennial budget adopted by former Emergency Manager Gerald Ambrose. Additionally, Judge Hayman has acknowledged that the City is not obligated to repay 15.7 million dollars from its general fund to its water and sewer fund. Put simply, while the costs to retain Miller Canfield have not been insubstantial, it has been money well spent.

These rulings are clear victories for the City. They are a key step in ensuring Flint's overall financial health and stability – both now and in the future. While these triumphs are important, the City has also moved to have the case dismissed. Although Judge Hayman denied the motion, the City believes it has strong grounds for appellate review. That appeal is currently pending before the Michigan Court of Appeals, and the City expectantly awaits a favorable ruling.

Despite the successes in *Shears*, the City must still overcome significant economic challenges. Our City is confronting the most dire water related emergency faced by a municipality in recent memory. This is not hyperbole. Both Governor Snyder and President Obama have declared states of emergency in the City because of the water. What is more, our City's infrastructure, reputation, and people have been irreparably damaged.

As a result of this situation, the City is facing a significant amount of civil litigation. Several lawsuits have already been filed against the City. These include two class action suits. The first, *Mays v Snyder, et al* was brought in the Eastern District of Michigan; the second, *Collins v Snyder*, was brought against the City in Genesee County Circuit Court. The City expects to incur significant legal