

#22



# City of West Allis Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
2008-0254	Claim	Claim Report
	Richard P. Dagelen communication regarding property damage allegedly sustained about March 2008.	
	Introduced: 5/6/2008	Controlling Body: Administration & Finance Committee

### COMMITTEE RECOMMENDATION

*POF*

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
SEP 02 2008			Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
	X		Narlock	✓			
			Reinke	✓			
			Roadt				
			Sengstock				
		X	Vitale	✓			
			Weigel				
			TOTAL	5	0		

### SIGNATURE OF COMMITTEE MEMBER

*Just Kopplin*  
 Chair \_\_\_\_\_ Vice-Chair \_\_\_\_\_ Member \_\_\_\_\_

### COMMON COUNCIL ACTION

*Placed on File*

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
SEP 02 2008		✓	Barczak	✓			
			Czaplewski	✓			
	✓		Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt	✓			
			Sengstock	✓			
			Vitale	✓			
			Weigel	✓			
			TOTAL	10	-		



OFFICE OF THE CITY ATTORNEY

Scott E. Post  
City Attorney

Sheryl L. Kuhary  
Jeffrey J. Warchol  
Jenna R. Merten  
Assistant City Attorneys

August 18, 2008

Common Council  
City of West Allis

RE: City Attorney's Report of Claim

Dear Council Members:

The enclosed claim has been referred to this office in accordance with Section 3.05 (6)(a) of the Revised Municipal Code. This office has examined the facts of the claim and the applicable law. Our Opinion regarding liability is as follows:

**It is the recommendation of this office that the following claim be placed on file:**

**Richard Dagelen– Amount \$ 500.00**

This is a claim for property damage to the claimant's concrete slab adjacent to his garage located at 6401 West Arthur Avenue, West Allis, Wisconsin. Allegedly, sometime in February or March of 2008, in the process of conducting plowing operations, City-owned snowplows cracked the concrete slab next to the claimant's garage where he keeps his garbage containers causing a shifting of the garage frame and a crack to occur in the floor of the claimant's garage. On April 17<sup>th</sup>, 2008, the claimant filed a Notice of Claim simply stating that there had been structural damage to his garage as a result of snowplowing operations without a specific demand for damages. The claimant is 84 years old and a 54-year resident of the City of West Allis. The claimant had much difficulty understanding the claims process as outlined in the Wisconsin Statutes and continually came into the City Attorney's Office without the proper documentation to process his claim. In July of 2008, the claimant's daughter became involved with the claim due to the alleged extreme amount of stress that the incident was having on the claimant. Despite the allegations of several damages allegedly caused by the City snowplows, the claimant filed a demand for \$500.00 to remove the old concrete and replace it with fill and sod.

Our investigation of this claim indicated that although the snowplow could have done the alleged damage, there was no indication of the same by the plow operators nor was there ever an incident report filed by the claimant for this matter. However, due to the circumstances of this case as stated herein, the City Attorney's Office paid the claim in the amount of \$500.00 and obtained a Property Damage Only Release signed by the claimant.

As a result of the above, this claim should be placed on file.

Respectfully submitted,

  
Jeffrey J. Warchol  
Assistant City Attorney

JJW:da

**PROPERTY DAMAGE ONLY RELEASE**

KNOW ALL MEN BY THESE PRESENTS that RICHARD DAGELEN, for and in consideration of Five Hundred and 00/100 Dollars (\$500.00) the receipt whereof is hereby acknowledged, do hereby forever release, acquit and discharge the City of West Allis, Wisconsin, a municipal corporation, its departments, commissions, officials, agents and employees, his, her, its or their successors and assigns and all others directly or indirectly liable, from any and all claims and demands, actions and causes of action, damages, both known and unknown, including future developments thereof, costs, loss of service and compensation on account of, or in any way growing out of, any and all known and unknown property damage resulting or to result from that certain situation in or about March of 2008, when a snowplow driven by a City of West Allis employee, while snowplowing the alley behind Mr. Dagen's residence at 6401 West Arthur Avenue, West Allis, WI, struck the concrete slab next to Mr. Dagen's garage resulting in extensive damage to the slab and garage.

I agree that this settlement is in full compromise of a doubtful and disputed claim both as to the question of liability and damages and that the payment is not to be construed as an admission of liability.

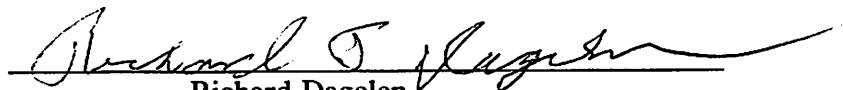
I agree that this is a complete release of property damage only and it is understood and agreed that it doesn't constitute a release for any bodily injury resultant from this accident as there were no bodily injuries as a result of this accident.

I further agree that this release and payment pursuant thereto is not to be construed as a waiver by or an estoppel of any party released to prosecute a claim or action against the undersigned for any damages sustained.


This Release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this Release are contractual and not a mere recital.

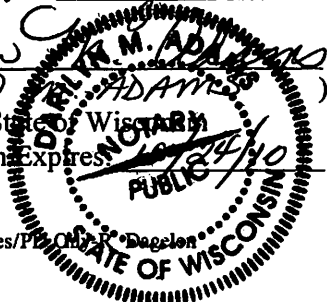
**I HAVE READ THE FOREGOING RELEASE AND FULLY UNDERSTAND IT. I FURTHER UNDERSTAND THAT I HAVE THE OPPORTUNITY TO DISCUSS AND NEGOTIATE THE TERMS OF THIS RELEASE WITH THE WEST ALLIS CITY ATTORNEY AND SPECIFICALLY WAIVE SUCH OPPORTUNITY.**

Signed and sealed this 11 day of AUG, 2008.

  
Richard Dagen

Subscribed and sworn to before me this 11<sup>th</sup> day of August, 2008.

  
( DARILYN ADAMS )  
Notary Public, State of Wisconsin  
My Commission Expires 12/31/10



RECEIVED

7-26-08

JUL 28 2008

WEST ALLIS  
CITY ATTORNEY

Dear City Attorney -

My name is Linda Storma. I am writing on behalf of my father, Richard Bagelen. He is an 84 year old widower and a 54+ year resident of West Allis, Wisconsin.

This past winter the snow plows came through and smashed the concrete slab next to his garage, where the trash cans are housed. This caused many problems - including a definite safety issue, a cracked floor in his garage, a shifting of the frame of the garage - resulting in the need for a garage door re-alignment, etc ...

He is not asking for any retribution for anything other than the <sup>trash</sup> garage slab itself. In fact, even though the bids are high to replace the slab, he is not going to replace the concrete because of the extreme stress this has put on him.

He is asking for the cost of the removal of the old concrete (\$300-\$400) + fill, soil and sod (\$100-\$200) to replace

the concrete area. The total needed would be a fraction of the cost to replace the slab as it was.

Please see attached 2 bids, keeping in mind that he is not asking for the entire amount. I feel he is being more than fair in his request. In my opinion he is due the entire amount of the bid - but he is only interested in recovering his costs to make the area safe and looking good.

He takes great pride in his home, and West Allis. Please let him know as soon as possible the result of his claim. We appreciate your attention to this matter.

Sincerely,

Linda Storma

for Richard Dagele

6401 W. Arthur Ave. 414 543-4304

4-17-08

RECEIVED

APR 17 2008

CITY OF WEST ALLIS  
CLERK/TREASURER

COMMON COUNCIL

I AM FILING A CLAIM FOR  
DAMAGES — CONCRETE — STRUCTURAL  
DAMAGES GARAGE AND PLOW DAMAGES  
DONE WHILE SNOW PLOWING. THE LAST  
SNOW PLOWING — OF WINTER IN MY  
ALLEY — TO RESTORE CLOSE TO NORMAL  
AS POSSIBLE

Richard P. Dagelen

6401 W ARTHUR

WA ALLIS WA'S

53219

Richard P. Dagelen

6401 W. Arthur Ave



CITY CLERK/TREASURER'S OFFICE  
414/302-8200 or 414/302-8207 (Fax)  
[www.ci.west-allis.wi.us](http://www.ci.west-allis.wi.us)  
Paul M. Ziehler  
*City Admin. Officer, Clerk/Treasurer*  
Monica Schultz  
*Assistant City Clerk*  
Rosemary West  
*Treasurer's Office Supervisor*

April 18, 2008

Richard P. Dagelen  
6401 W. Arthur Ave.  
West Allis, WI 53219

Dear Mr. Dagelen:

This letter acknowledges receipt of your communication regarding property damage allegedly sustained about March 2008.

The original document will be submitted to the Common Council at its meeting of May 6, 2008.

It is not anticipated that a decision regarding this matter will be made on this date. Generally, all communications are directed to the City Attorney's office for investigation. Common Council action regarding your communication will not be taken until the City Attorney's investigation is completed. Any questions you may have regarding this matter should be directed to their attention.

Sincerely,

Monica Schultz  
Assistant City Clerk

/amn

cc: City Attorney



OFFICE OF THE CITY ATTORNEY

Scott E. Post  
City Attorney

Sheryl L. Kuhary  
Jeffrey J. Warchol  
Jenna R. Merten  
Assistant City Attorneys

August 20, 2008

Common Council  
City of West Allis

RE: City Attorney's Report of Claims/Lawsuits

Dear Council Members:

The enclosed claims/lawsuits have been referred to this office in accordance with Section 3.05 (6)(a) of the Revised Municipal Code. This office has examined the facts of each claim/lawsuit and the applicable law. Our Opinion regarding liability is attached to each claim/lawsuit.

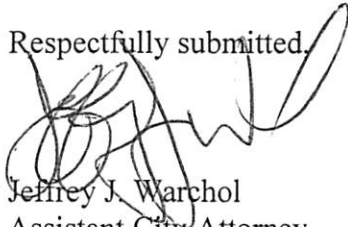
**The following claim/lawsuit has been placed on file:**

Richard Dagelen (\$500.00)

**The following claims/lawsuits have been denied:**

Robert and Sharon Jerominski (\$128.00)  
Diane M. Koss by Attorney Gerald L. LaBarge (No Demand)

Respectfully submitted,

  
Jeffrey J. Warchol  
Assistant City Attorney

JJW:da  
Enclosures

cc: Thomas E. Mann, CVMIC