

16



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
2009-0160	Claim	Claim Report
Rozga Plumbing & Heating Corporation communication regarding sewer lateral repair in the amount of \$8,556.70 on December 27, 2008 at 6215 W. Beloit Road		
Introduced: 3/17/2009		Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

Deny

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
APR 21 2009			Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
		X	Narloek	✓			
			Reinke	✓			
			Roadt				
			Sengstock				
			Vitale	X	✓		
			Weigel				
		TOTAL		5			

SIGNATURE OF COMMITTEE MEMBER

Just Kopplin
 Chair _____ Vice-Chair _____ Member _____

COMMON COUNCIL ACTION

Denied

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
APR 21 2009		✓	Barczak	✓			
			Czaplewski	✓			
			Kopplin				
			Lajsic	✓			
			Narloek	✓			
			Reinke	✓			
			Roadt	✓			
			Sengstock				
		✓		Vitale	✓		
				Weigel	✓		
		TOTAL	12	9			1



April 9, 2009

OFFICE OF THE CITY ATTORNEY

Common Council
City of West Allis

Scott E. Post
City Attorney
Sheryl L. Kuhary
Jeffrey J. Warchol
Jenna R. Merten
Assistant City Attorneys

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(8) 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 denied:

Rozga Plumbing and Heating Corp. – Amount: \$8,556.70

This is a claim by a plumbing contractor that was called to a residence on December 27th, 2008, at 6215 West Beloit Road for a sewer lateral repair. The contractor's investigation revealed that the problem experienced by the homeowner came about as a result of damage done to its lateral by the City or some third party when repairing a sewer main pipe in the road in spring of 2008. Believing that the damage to the broken lateral was the fault of the City as opposed to the resident, the contractor filed a claim against the City on or about March 10th, 2009, for the cost of repairing the homeowner's broken sewer later.

Our investigation into this claim confirmed that the break in the homeowner's lateral was the fault of a sub-contractor working on behalf of an independent contractor retained by the City to repair a sewer main under City of West Allis 2008 Project No. 7. Based upon this finding, the City tendered this claim to the independent contractor for indemnification and ultimate responsibility per the terms of the contract between the City and said independent contractor. To date, the independent contractor's sub-contractor paid the claimant (Rozga Plumbing and Heating Corp.) the amount of \$8,556.70 to settle this matter in full. Thus, the City bares no responsibility for this claim.

Based upon the above, it is the recommendation of the City Attorney's Office to deny this claim pursuant to the provisions of Wisconsin Municipal Claims Statute 893.80.

Respectfully submitted,


Jeffrey J. Warchol
Assistant City Attorney

JJW:da



ROZGA

Plumbing & Heating Corporation



March 10, 2009

City Administrative Officer &
Clerk /Treasurer, City of West Allis
West Allis City Hall
7525 W Greenfield Avenue
West Allis, WI 53214

Mr. Paul Ziehler,

I represent Rozga Plumbing & Heating Corporation and request that a claim be made against the City of West Allis, Engineering Department. On the evening of Dec 27th, 2008 I was called to a residence at 6215 W Beloit Road. Another contractor was unsuccessful at snaking through the customer's sewer. The blockage appears to be near the site of a recent storm main repair in the road. Further investigation had proved that to be true and we proceeded with the repair to my customers sewer lateral. Specifically we located the downstream end of the lateral and excavated upstream of the storm main (36") to find the broken sewer end.

The repair work completed for this resident was clearly not the fault of the customer but rather the responsibility of the city or its contractor. This work was billed out on December 31st, 2008 and we have yet to receive payment. We have been in contact with Brian Block (City of West Allis) and he suggested that we follow this route.

This invoice is seriously past due and needs an immediate response.

Thank you for your time,

W.J. Rozga, President
Rozga Plumbing & Heating Corporation

cc Attorney



ROZGA

Plumbing & Heating Corporation
 1529 S. 113th Street • 414-258-9911
 West Allis, Wisconsin 53214



Invoice

COPY

Date	Invoice #
12/28/2008	21895
Special Instructions	

Bill To	Job Site Name / Address
City of West Allis - Engineering 7525 W. Greenfield Ave. West Allis, WI 53214	City Property owner: Bruce Fugate 6215 W. Beloit Road West Allis, WI 53219

Phone #	Alt Phone #	Service Date	Project
414-302-8367	C# 414-651-8840	12/31/2008	21895-52 Repair Sanitary Lateral

Quantity	Description	Each	Price
1.00	Took the call from Bruce on Saturday evening (12-27-08) that he could not get through the sanitary lateral. The customer is an employee of Kenway Sewer & Drain Services and had tried to snake through with out any success. Blockage seems to be near recent storm main work in the road. The customer's sewer line located out to this same area.	145.50	145.50
3.50	Excavation Supervisor, Sunday, T & 1/2, 12-28-08, I made a site visit, called in Diggers Hotline for a first thing Monday AM excavation	97.00	339.50
10.25	Excavation Supervisor, Monday 12-29-08, set the crew up on site, called for barricades (4- class B's and 6- barrels), ran to the City of West Allis for plumbing and DPW permits.	261.00	2,675.25
7.50	3-man Excavation Crew, Monday, 12-29-08, saw cut an area to butt up with previous excavation, excavated down and found the recent storm main sewer chips had washed into our customers lateral. We found the downstream end of the lateral and excavated upstream of the storm main (36") to find the broken sewer end. After clearing out both ends of the sewer, we re-established good connections and replaced 8' of 6" lateral with new PVC. Tucked and bedded in stone. Barricaded for the evening.	184.00	1,380.00
1.00	2-man Excavation Crew, Tuesday, 12/30/08, hauled remaining spoil (2 loads total) to the dump and cleaned the surrounding road surface. We slurried the excavation to 6" of the road surface allowing for the concrete, and concreted the road closed with the requested 7-bag mix specified by Brian Block (City of West Allis). We placed thermal blankets over the top of the new concrete and barricaded off the area.	77.00	77.00
1.00	Laborer - Excavation Crew, 12-31-08, removed the thermal blankets from the site and called for barricade pick up.	75.00	75.00
1.00	Use of Road Saw	105.00	210.00
2.00	Use of Skid Loader W/ Road Breaker		

Terms	Due On Receipt.
-------	-----------------

FULL PAYMENT IS DUE UPON COMPLETION WITH INTEREST ADDED AT 1.5% PER MONTH ON ANY UNPAID BALANCE AFTER COMPLETION OF WORK. FAILURE TO PAY WILL RESULT IN FURTHER LEGAL ACTION. ALL LEGAL AND COLLECTION FEES WILL BE THE RESPONSIBILITY OF DEBTOR.

PER WISCONSIN STATUTE 779.02(2)(A), "AS REQUIRED BY THE WISCONSIN CONSTRUCTION LIEN LAW, BUILDER HEREBY NOTIFIES OWNER THAT PERSONS OR COMPANIES FURNISHING LABOR OR MATERIALS FOR THE CONSTRUCTION ON OWNER'S LAND MAY HAVE LIEN RIGHTS ON OWNER'S LAND AND BUILDINGS IF NOT PAID. THOSE ENTITLED TO LIEN RIGHTS, IN ADDITION TO THE UNDERSIGNED BUILDER, ARE THOSE WHO CONTRACT DIRECTLY WITH THE OWNER OR THOSE WHO GIVE THE OWNER NOTICE WITHIN 60 DAYS AFTER THEY FIRST FURNISH LABOR OR MATERIALS FOR THE CONSTRUCTION. ACCORDINGLY, OWNER PROBABLY WILL RECEIVE NOTICES FROM THOSE WHO FURNISH LABOR OR MATERIALS FOR THE CONSTRUCTION, AND SHOULD GIVE A COPY OF EACH NOTICE RECEIVED TO THE MORTGAGE LENDER, IF ANY. BUILDER AGREES TO COOPERATE WITH THE OWNER AND THE OWNER'S LENDER, IF ANY, TO SEE THAT ALL POTENTIAL LIEN CLAIMANTS ARE DULY PAID."

Subtotal
Sales Tax (0.00)
Total
Payments/Credits
Balance Due

Fax #	414-258-9921	E-mail	info@rozgacorp.com	Web Site	www.rozgacorp.com
-------	--------------	--------	--------------------	----------	-------------------



ROZGA

Plumbing & Heating Corporation
 1529 S. 113th Street • 414-258-9911
 West Allis, Wisconsin 53214



Invoice

Date	Invoice #
12/28/2008	21895
Special Instructions	

Bill To	Job Site Name / Address
City of West Allis - Engineering 7525 W. Greenfield Ave. West Allis, WI 53214	City Property owner: Bruce Fugate 6215 W. Beloit Road West Allis, WI 53219

Phone #	Alt Phone #	Service Date	Project
414-302-8367	C# 414-651-8840	12/31/2008	21895-52 Repair Sanitary Lateral

Quantity	Description	Each	Price
8.00	Use of Excavator Equipment	45.00	360.00
8.00	Use of Tri-Axle Dump Truck W/out Driver	60.00	480.00
6.00	Use of Tandem Axle Dump Truck	55.00	330.00
1.00	Stone Bedding, Slurry, and Concrete	1,975.00	1,975.00
1.00	Misc. Piping, Fittings, and Ferncos	105.00	105.00
1.00	Misc. Barricade Rental Charges - Class A, Class B, Signage, Delivery	64.45	64.45
3.00	Charge for taking spoil to dump.	60.00	180.00
1.00	PERMITS: City of West Allis; plumbing & DPW	160.00	160.00
Thank you for the opportunity to provide you with this service.			

Terms	Due On Receipt.
-------	-----------------

<p>FULL PAYMENT IS DUE UPON COMPLETION WITH INTEREST ADDED AT 1.5% PER MONTH ON ANY UNPAID BALANCE AFTER COMPLETION OF WORK. FAILURE TO PAY WILL RESULT IN FURTHER LEGAL ACTION. ALL LEGAL AND COLLECTION FEES WILL BE THE RESPONSIBILITY OF DEBTOR.</p> <p>PER WISCONSIN STATUTE 779.02(2)(A), "AS REQUIRED BY THE WISCONSIN CONSTRUCTION LIEN LAW, BUILDER HEREBY NOTIFIES OWNER THAT PERSONS OR COMPANIES FURNISHING LABOR OR MATERIALS FOR THE CONSTRUCTION ON OWNER'S LAND MAY HAVE LIEN RIGHTS ON OWNER'S LAND AND BUILDINGS IF NOT PAID. THOSE ENTITLED TO LIEN RIGHTS, IN ADDITION TO THE UNDERSIGNED BUILDER, ARE THOSE WHO CONTRACT DIRECTLY WITH THE OWNER OR THOSE WHO GIVE THE OWNER NOTICE WITHIN 60 DAYS AFTER THEY FIRST FURNISH LABOR OR MATERIALS FOR THE CONSTRUCTION. ACCORDINGLY, OWNER PROBABLY WILL RECEIVE NOTICES FROM THOSE WHO FURNISH LABOR OR MATERIALS FOR THE CONSTRUCTION, AND SHOULD GIVE A COPY OF EACH NOTICE RECEIVED TO THE MORTGAGE LENDER, IF ANY. BUILDER AGREES TO COOPERATE WITH THE OWNER AND THE OWNER'S LENDER, IF ANY, TO SEE THAT ALL POTENTIAL LIEN CLAIMANTS ARE DULY PAID."</p>	Subtotal	\$8,556.70
	Sales Tax (0.00)	\$0.00
	Total	\$8,556.70
	Payments/Credits	\$0.00
	Balance Due	\$8,556.70

Fax #	414-258-9921	E-mail	info@rozgacorp.com	Web Site	www.rozgacorp.com
-------	--------------	--------	--------------------	----------	-------------------



CITY CLERK/TREASURER'S OFFICE
414/302-8200 or 414/302-8207 (Fax)
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

March 12, 2009

Mr. W. J. Rozga
Rozga Plumbing & Heating Corporation
1529 S. 113 Street
West Allis, WI 53214

Dear Mr. Rozga:

This letter acknowledges receipt of your communication regarding sewer lateral repair in the amount of \$8,556.70 on December 27, 2008 at 6215 W. Beloit Road.

The original document will be submitted to the Common Council at its meeting of March 17, 2009.

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,

A handwritten signature in cursive script that reads "Monica Schultz".

Monica Schultz
Assistant City Clerk

/jl

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

April 14, 2009

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(8) 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.

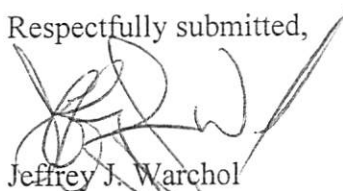
The following claim/lawsuit has been paid and placed on file:

Robert Thumme (\$1,130.13)

The following claim/lawsuit has been denied:

Rozga Plumbing & Heating Corp. (\$8,556.70)

Respectfully submitted,



Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC



NOTICE OF DISALLOWANCE OF CLAIM

April 24, 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rozga Plumbing & Heating Corporation
Attn: W. J. Rozga
1529 South 113th Street
West Allis, WI 53214

Re: Your Claim Against the City of West Allis
Date of Loss: 12/27/08

Dear Mr. Rozga:

At its meeting on April 21st, 2009, the Common Council of the City of West Allis considered your claim received on March 12th, 2009, regarding sewer lateral repair for property located at 6215 West Beloit Road, West Allis, Wisconsin and denied it in full.

Please be advised that no lawsuit may be brought on this claim against the City of West Allis or any of its officials, officers, agents or employees after six (6) months from the date of receipt of this letter.

Sincerely,

Paul M. Ziehler
City Administrative Officer
Clerk/Treasurer

PMZ:da
L:\jeff\claims\denialLtrs\ltr-denial-Rozga Plumbing

cc: City Attorney's Office
City Clerk's Office

CITY ADMINISTRATIVE OFFICE

PAUL M. ZIEHLER
City Administrative Officer
Clerk/Treasurer

414/302-8294
414/302-8207 (Fax)

City Hall
7525 West Greenfield Avenue
West Allis, Wisconsin 53214

pziehler@ci.west-allis.wi.us
www.ci.west-allis.wi.us