

34.



# City of West Allis Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
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2008-0177      Claim      Claim Report

Karen Schumacher communication regarding vehicle damage allegedly sustained at West Oklahoma Avenue and South 76 Street on March 1, 2008.

Introduced: 3/18/2008

Controlling Body: Administration & Finance Committee

### COMMITTEE RECOMMENDATION

*Deny*

ACTION DATE:  
MAY 06 2008

MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
_____	_____	Barczak				
_____	_____	Czaplewski				
_____	_____	Kopplin	✓			
_____	_____	Lajsic	✓			
_____	_____	Narlock	✓			
_____	_____	Reinke	✓			
_____	_____	Roadt				
_____	_____	Sengstock				
_____	_____	Vitale	✓			
_____	_____	Weigel				
TOTAL			<u>5</u>	<u>-</u>		

### SIGNATURE OF COMMITTEE MEMBER

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

### COMMON COUNCIL ACTION

*Denied*

ACTION DATE:  
MAY 06 2008

MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
_____	_____	Barczak	✓			
_____	_____	Czaplewski	✓			
_____	_____	Kopplin	✓			
_____	_____	Lajsic	✓			
_____	_____	Narlock	✓			
_____	_____	Reinke	✓			
_____	_____	Roadt	✓			
_____	_____	Sengstock	✓			
_____	_____	Vitale	✓			
_____	_____	Weigel	✓			
TOTAL			<u>10</u>	<u>-</u>		

**STANDING COMMITTEES OF THE  
CITY OF WEST ALLIS COMMON COUNCIL**

**ADMINISTRATION & FINANCE**

Chair: Kurt E. Kopplin  
Vice-Chair: Vincent Vitale  
Thomas G. Lajsic  
Richard F. Narlock  
Rosalie L. Reinke

**PUBLIC WORKS**

Chair: Gary T. Barczak  
Vice-Chair: Martin J. Weigel  
Michael J. Czaplewski  
Daniel J. Roadt  
James W. Sengstock

**SAFETY & DEVELOPMENT**

Chair: Thomas G. Lajsic  
Vice-Chair: Richard F. Narlock  
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Rosalie L. Reinke  
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Chair: Michael J. Czaplewski  
Vice-Chair: James W. Sengstock  
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Daniel J. Roadt  
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**ADVISORY**

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Vice-Chair: Daniel J. Roadt  
Kurt E. Kopplin  
Richard F. Narlock  
Vincent Vitale



April 22, 2008

Common Council  
City of West Allis

OFFICE OF THE CITY ATTORNEY

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 (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 denied:**

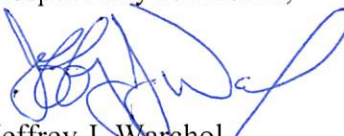
**Karen Schumacher - Amount: \$ 520.00**

This is a claim for repairs to the claimant's vehicle, which occurred on March 1<sup>st</sup>, 2008, as a result of the claimant striking a pothole in the road while heading south on 76<sup>th</sup> Street near Oklahoma Avenue in the City of West Allis. The claimant's vehicle needed a rim, tire and alignment as a result of striking the pothole. The claimant obtained an estimate and filed a claim against the City on March 13<sup>th</sup>, 2008, in the amount of \$520.00.

Our investigation into this claim found that the area where the accident occurred is not clear. South 76<sup>th</sup> Street near Oklahoma Avenue had been resurfaced by Milwaukee County last fall and does not contain any potholes. Due to the extreme weather conditions experienced this past year, there are an unusual large number of potholes on City streets and it is possible that there was a pothole farther north on 76<sup>th</sup> Street of the resurfaced area mentioned above. However, the City has no records of receiving any complaints about potholes in this area prior to that of the complainant herein. The law in Wisconsin is clear that a municipality is only liable for a defect in the street if the municipality knew about the defect prior to the accident and failed to repair the defect within a reasonable amount of time. Applying the law to the facts of this case, the City is not responsible for damages that may have occurred to the claimant's vehicle. This is a matter that is best handled by the claimant's insurance carrier for the vehicle.

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

RECEIVED  
MAR 13 2008  
CITY OF WEST ALLIS  
CLERK/TREASURER

Common Council:

On Saturday, March 1st at 3:30pm, my daughter and I were going south on 76<sup>th</sup> Street. We were in the left lane coming up to the stoplight on Oklahoma. We hit a big pot hole that took up the whole left lane and we couldn't avoid it because there was a car right next to us. We ended up with a flat tire on the right front and the rim was also bent.

I called City Hall on Monday, March 3<sup>rd</sup> and they connected me with the City Attorney which I ended up with their voice mail, I left a message. The next day they called me back. They told me the pothole was probably already covered, but for me to still take a picture of it. I was told the common council meets once a month and to send this to them.

I also mailed a copy of the repairs that had to be done. The car is a 2002 Ford Focus with about 33,000 miles on it. We were not expecting anything for the new left tire; we ended up getting it so the tires would match since they didn't make the same tires that we had on the car.

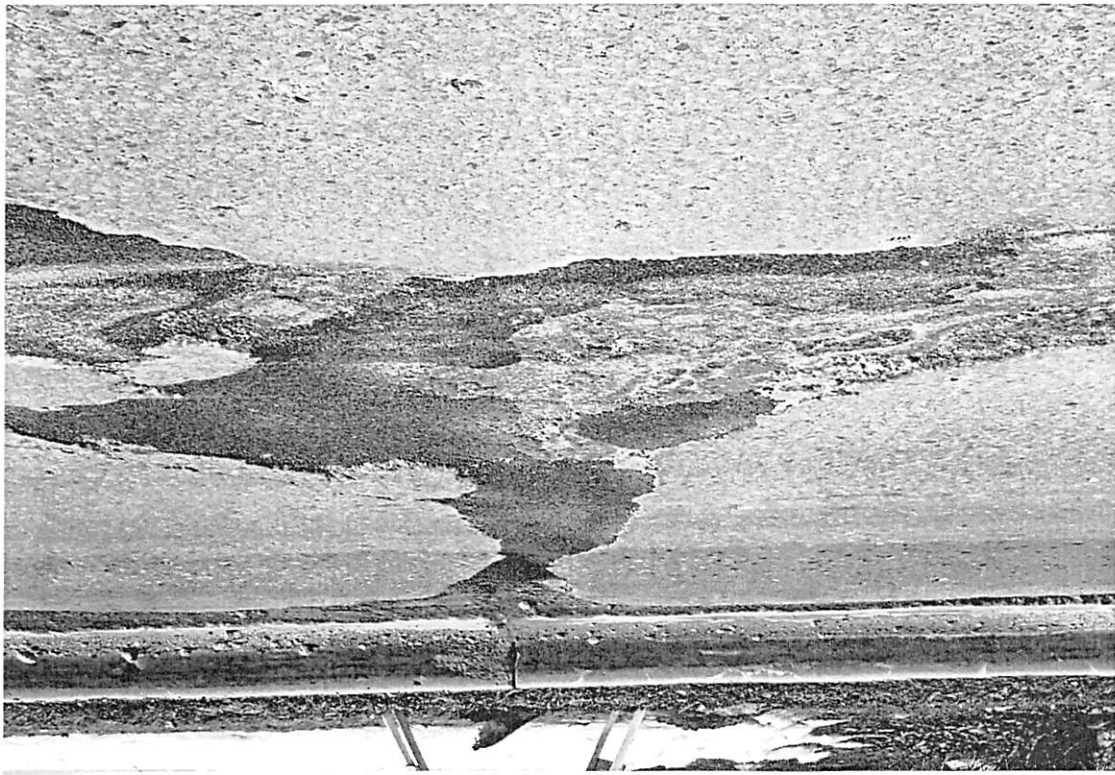
Here are the pictures of the doughnut we put on the right front, the pothole, the bent rim with the flat tire. The car also needed a front end alignment. It had been quite costly, I hope and appreciate if you could help us with the repairs.

Thank You,



Karen Schumacher

Please contact Howard or Karen at 414-545-9365  
1817 South 58<sup>th</sup> Street  
West Allis, WI 53214







Motorcraft



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NO REFUNDS OR EXCHANGES ON ELECTRICAL  
OR SPECIAL ORDERED PARTS. 20% HANDLING  
CHARGE ON RETURNABLE ITEMS.  
NO RETURNS AFTER 30 DAYS.

DATE ENTERED	YOUR ORDER NO.	DATE SHIPPED	INVOICE DATE	INVOICE NUMBER
03 MAR 08		03 MAR 08	03 MAR 08	371041
S	ACCOUNT NO. 1000	S	13:59	PAGE 1 OF 1
O	KAREN SCHUMACHER	H		
L	4145459365	I		
D		P	FORD COMP	
T		T		
O		O		

SHIP VIA		SLSM.	TAX #	TERMS	SALESPERSON		
		HAB2		CASH RETAIL	STEVE H		
ORD.	QUANTITY	PART NUMBER	DESCRIPTION	LIST	NET	AMOUNT	
	SHIP						
	B.O.						
1	1	0	YS4Z*1007*FACP	901 WHEEL A	210.56	210.56	210.56

*Rim*

CUSTOMER COPY

*Pld credit phone 3-3-08*

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PARTS	210.56
SUBLET	
FREIGHT	0.00
SALES TAX	11.79

Customer Invoice  
160894  
03/05/2008

**FIRESTONE COMPLETE AUTO CARE  
BROOKFIELD  
95 N MOORLAND RD  
BROOKFIELD, WI. 53005**

Service Advisor:  
10 TYLER  
262.784.1740

SCHUMACHER, LYNN  
1817 S 58TH ST  
MILWAUKEE, WI 53214  
262.784.3833 Or 262.784.3833

2002 FORD FOCUS ZX3  
4-121 2.0L DOHC  
Lic #: 739DYY WI Vin #: 3FAFP31342R225367  
In: 03/05/08 10:57AM Mileage: 32,852  
Out: 03/05/08 1:40PM

Store #021040

**RETAIL SALE**

Description	Article Number	ID	Qty	Unit Price	Extended Price	Job Total
<b>FIRESTONE TIRES WITH UNI-T, PACKAGE</b>		10				<b>226.48</b>
NEW WHEEL IN TRUNK . PUT ON DRIVER FRONT						
076951 FIREHAWK GT BL 205/50R16 87V 50,000 Mile Limited Warranty	076951	26TN	2	114.99	229.98	
2 qty DOT # W2WDFHP0608						
PARTS DISCOUNT FIREHAWK GT BL 205/50R16	7099235	26TN	-2	17.25	-34.50	
NEW TIRE WHEEL BALANCE PARTS	7018708	26TN	2	3.00	6.00	
NEW TIRE WHEEL BALANCE LABOR	7018716	26TS	2	8.00	16.00	
NEW RUBBER VALVE STEM	7007902	26TN	2	2.00	4.00	
TIRE DISPOSAL FEE (1)	7075078	26TN	2	2.50	5.00	
LOW PROFILE LARGE DIAMETER TIRE MOUNTING	7006472	26TS	2	N/C	N/C	
<b>COURTESY CHECK</b>		10				
COURTESY CHECK	7046930	26TS	1	N/C	N/C	
<b>TPMS/TIRE FITMENT</b>		10				
STANDARD TIRE: P205/50R16-86V						
INFLATION: 32/32						
RIM WIDTH: 6.5J						
LUG NUT TORQUE FT/LB: 94						
<b>ALIGNMENT SERVICE</b>		04				<b>59.99</b>
ALIGNMENT SERVICE	7004578	26TS	1	69.99	69.99	
LABOR FUDDS	7004584	26TS	-1	10.00	-10.00	

**ORDER NOTES**

K&M ORDER #410264940

**Technician(s):**

26 MIKE OCKERLANDER

**Payment History:**

Visa 7449 305.88 31508A  
Total Tendered 305.88

**Summary:**

Parts 205.48  
Labor 80.99  
Shop Supplies 4.56  
Sub-Total 291.03  
Tax (5.10%) 14.85  
**Total \$305.88**

I have received the above goods and/or services. If this is a credit card purchase, I agree to pay and comply with my cardholder agreement with the issuer.

**Revision History:**

03/05/2008 12:59AM 262.784.3833 SCHUMACHER, LYNN

Rev  
Amt Init

66.84

Customer Signature

Initial here to indicate you have received the Tire Maintenance Warranty Book.

**All parts are new unless otherwise specified.**





OFFICE OF THE CITY ATTORNEY

Scott E. Post  
City Attorney

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

April 28, 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.

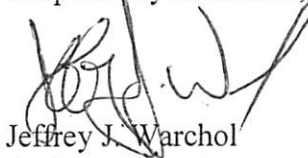
**The following claims/lawsuits have been placed on file:**

Richard Schell (\$116.16)  
Park Bank/Wisconsin Athletic Club (\$10,000.00)  
Marcellinia Caponigro (\$3,439.09)

**The following claim/lawsuit has been denied:**

Karen Schumacher (\$520.00)

Respectfully submitted,



Jeffrey J. Warchol  
Assistant City Attorney

JJW:da  
Enclosures

cc: Thomas E. Mann, CVMIC



**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

**NOTICE OF DISALLOWANCE OF CLAIM**

May 7, 2008

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ms. Karen Schumacher  
1817 South 58<sup>th</sup> Street  
West Allis, WI 53214

Re: Your Claim Against the City of West Allis

Dear Ms. Schumacher:

At its meeting on May 6<sup>th</sup>, 2008, the Common Council of the City of West Allis considered your claim received on March 19<sup>th</sup>, 2008, regarding vehicle damage allegedly sustained at West Oklahoma Avenue and south 76<sup>th</sup> Street 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-K Schumacher

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