



City Attorney's Office

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Common Council
City of West Allis

RE: City Attorney's Report of Claim – **Marni Trapp**

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. This office's recommendation is to deny the claim based on the summary below:

Facts: On or about December 23, 2017, Marni Trapp was driving on the street east of Safelite Auto Glass, located at 10708 West Orchard Avenue in West Allis. When she turned right onto West Orchard Street, she drove over the curb and into a hole between the sidewalk and road. Trapp suffered damage to the molding and door of her car.

Claim: Trapp is claiming that no curb exists near the hole and that the City is liable for not fixing the hole and curb. She is seeking \$618.28 in damages.

Analysis: The claim should be denied. Investigation revealed that a curb is present at that location, and Trapp drove over the curb and into the sidewalk area to land in the hole. Pursuant to West Allis Revised Municipal Code Section 11.08(4)(b), driving across the curb and into a sidewalk area is unlawful. Even if Trapp's actions were lawful, the City still would not be liable for the damage as it had no notice of the hole at that location and has discretionary immunity as to the decision to make repairs to sidewalk areas.

Therefore, based on the above analysis, the City Attorney Office's recommendation is to deny this unmeritorious claim.

Respectfully submitted,

Jenna Merten
Deputy City Attorney