

4.
10.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
2008-0563	Claim	Claim Report
Notice of Claim submitted by WE Energies regarding damages allegedly sustained in the area of S. 70 St. and S. 71 St. on W. National Ave. on or about August 5, 2008. Introduced: 9/2/2008 Controlling Body: Administration & Finance Committee		

COMMITTEE RECOMMENDATION

Denied

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>JAN 06 2009</u>			Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt				
			Sengstock				
			Vitale	✓			
			Weigel				
		TOTAL		<u>5</u>	<u>-</u>		

SIGNATURE OF COMMITTEE MEMBER

Kust Kopplin _____
 Chair Vice-Chair Member

COMMON COUNCIL ACTION

Denied

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>JAN 06 2009</u>			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
Kurt E. Kopplin
Rosalie L. Reinke
Vincent Vitale

LICENSE & HEALTH

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

ADVISORY

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



December 16, 2008

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 (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:

S. 70th and 71st Streets and W. National Ave./We Energies - Amount: \$18,500.63

This is a claim by We Energies for damages and replacement of a primary electric cable and duct package at the location of 71st Street and West National Avenue in the City of West Allis, WI, which was allegedly cut by a City crew while investigating a water leak in the area. As a result of the damage to the electrical cable and duct package, We Energies filed a claim against the City of West Allis on August 14th, 2008.

Our investigation of this claim indicated that on or about August 5th, 2008, employees of the City's Water Department were dispatched to investigate a water leak at a residence near 70th Street and W. National Ave. In an effort to determine the cause of the leak, the employees needed to excavate through the street and to the pipe underground so the City contacted SM&P Utility Resources, Inc., an agent and contractor of We Energies, to mark the location of We Energies electrical service for the safety of the employees and to ensure that no damage would occur to said electrical service during the excavation. The employee of SM&P Utility Resources, Inc. mismarked the location of the underground electrical service resulting in the City workers cutting through the electrical service with its auger while excavating for the water leak. Fortunately, no City worker was injured as a result of the cutting through the live electrical service.

Based upon the facts stated above, the City is not responsible for the damage to We Energies electrical cable and duct package. The City crew did in fact cut the line, but only did so upon relying on incorrect information from SM&P Utility Resources, Inc., the company retained by We Energies to mark the location of underground utilities. Had SM&P Utility Resources, Inc. properly done its job, the damage to We Energies electrical service would not have occurred in the first place. Therefore, SM&P Utility Resources, Inc. is more negligent than the City in this case and is the proper party that We Energies should be holding responsible for the damages in this matter.

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

We Energies

INVOICE

RECEIVED

Claims, Room P418, P.O. Box 1132
Milwaukee, WI 53201-1132 EIN: 39-0476280
CITY : 39-0476280

OCT 10 2008

Invoice number : 5580019369
Invoice date : 10/08/2008
Page number : 1
Due date : 11/22/2008
Company contact : D. Bufkin (414) 221-2432
Company reference : DAMAGE CLAIM# 2008198829

WESTALLIS
CITY ATTORNEY

Customer number : 5010879
CITY OF WEST ALLIS
7525 W GREENFIELD AVE
WEST ALLIS WI 53214
USA

Line	Description		Amount
001	MATERIAL (LESS \$1,330.89 FOR DEPRECIATION)	\$	17,678.63
002	CONTRACTOR FEES	\$	822.00
			<hr/>
		Subtotal	\$ 18,500.63
		Sales tax	\$ 0.00
			<hr/>
		Total amount due	\$ 18,500.63
			<hr/>

COSTS TO REPLACE PRIMARY CABLE AND DUCT PACKAGE DAMAGED ON 8/05/08 WITH DRILL WHILE INVESTIGATING WATER LEAK, LOCATED IN THE AREA OF 70TH & 71ST ON NATIONAL AVE, CITY OF WEST ALLIS, WI.

Please return "COPY INVOICE" with payment in enclosed envelope payable to We Energies

we energies



Legal Services
Claims Department - P418
P.O. Box 1132
Milwaukee, WI 53201-1132
Phone: 414-221-3437
Fax: 414-221-3449
E-mail: damageclaims@we-energies.com

NOTICE OF CLAIM FOR DAMAGES

TO: City of West Allis
City Clerk
7525 West Greenfield Avenue
West Allis WI 53214

PLEASE TAKE NOTICE, that pursuant to Sec. 893.80, Wis. Stats, We Energies, 231 W. Michigan St., Milwaukee Wisconsin by Donna Bufkin, Claims Analyst, hereby gives notice that on or about August 5, 2008 at approximately 9:20 a.m. the claimant suffered damage and associated loss of electrical consumption in the area of 70th and 71st Street on National Avenue, City of West Allis, Wisconsin.

PLEASE TAKE FURTHER NOTICE, that at the aforementioned time and place, the claimant sustained damage to duct package as a result of investigating water leak.

PLEASE TAKE FURTHER NOTICE, that all times material City of West Allis through its officials, employees, agents or representatives, including but not limited to Water Department was careless and negligent by not observing underground electric facilities.

PLEASE TAKE FURTHER NOTICE, that the damages suffered by We Energies were directly and proximately caused by the negligence and carelessness of City of West Allis Water Department in that its employee in the normal course of employment did damage duct package.

RECEIVED

AUG 14 2008

CITY OF WEST ALLIS
CLERK/TREASURER



we energies

Legal Services
Claims Department - P418
P.O. Box 1132
Milwaukee, WI 53201-1132
Phone: 414-221-3437
Fax: 414-221-3449
E-mail: damageclaims@we-energies.com

City of West Allis

Page 2

PLEASE TAKE FURTHER NOTICE, that by reason of the aforesaid negligence and carelessness of City of West Allis sustained damages for which it makes claim upon City of West Allis in the sum yet to be determined and such other relief as provided by law.

PLEASE TAKE FURTHER NOTICE, that Donna Bufkin is the representative of the claimant in this matter and any request for further information should be addressed to said individual at PO Box 1132, Milwaukee, Wisconsin, 53201-1132.

Dated at Milwaukee, Wisconsin, this 13th day of August, 2008.

WE ENERGIES

By Donna Bufkin
Donna Bufkin, Claims Analyst

P.O. ADDRESS:

We Energies

Claims, Room P418

PO Box 1132

Milwaukee WI 53201-1132

Telephone: 414-221-2432

Claim Number 2008198829



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

August 14, 2008

Donna Bufkin
WE Energies
Claims Dept – P418
231 W. Michigan St.
PO Box 1132
Milwaukee, WI 53201-1132

Dear Ms. Bufkin:

This letter acknowledges receipt of your Notice of Claim, claim number 2008198829, regarding damages allegedly sustained in the area of S. 70 St. and S. 71 St. on W. National Ave. on or about August 5, 2008.

The original document will be submitted to the Common Council at its meeting of September 2, 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

December 22, 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 paid and placed on file:

Dudley Griffin (\$976.32)

The following claim/lawsuit has been denied:

We Energies/S. 70th & 71st Sts. & W. Washington Ave (\$18,500.63)

Respectfully submitted,


Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC