

al.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
2008-0187	Claim	Claim Report
Stephanie Caballero communication regarding vehicle damage allegedly sustained at 2458 S. 60 St. on March 5, 2008.		
Introduced: 3/31/2008		Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

Deny

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
MAY 20 2008	<input checked="" type="checkbox"/>		Barczak				
			Czaplewski				
			Kopplin	<input checked="" type="checkbox"/>			
			Lajsic	<input checked="" type="checkbox"/>			
		<input checked="" type="checkbox"/>	Narlock	<input checked="" type="checkbox"/>			
			Reinke				<input checked="" type="checkbox"/>
			Roadt				
			Sengstock				
			Vitale	<input checked="" type="checkbox"/>			
			Weigel				
TOTAL				4			1

SIGNATURE OF COMMITTEE MEMBER

Kurt Kopplin
 Chair _____ Vice-Chair _____ Member _____

COMMON COUNCIL ACTION

Denied

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
MAY 20 2008	<input checked="" type="checkbox"/>		Barczak	<input checked="" type="checkbox"/>			
			Czaplewski	<input checked="" type="checkbox"/>			
			Kopplin	<input checked="" type="checkbox"/>			
			Lajsic	<input checked="" type="checkbox"/>			
			Narlock	<input checked="" type="checkbox"/>			
			Reinke				<input checked="" type="checkbox"/>
			Roadt	<input checked="" type="checkbox"/>			
			Sengstock	<input checked="" type="checkbox"/>			
		<input checked="" type="checkbox"/>	Vitale	<input checked="" type="checkbox"/>			
			Weigel	<input checked="" type="checkbox"/>			
TOTAL				9			1



May 1, 2008

OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

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

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 denied:


Stephanie Caballero - Amount: \$ 322.77

This is a claim for a broken windshield on the claimant's vehicle, which allegedly occurred on March 5th, 2008, while parked in the alley behind 2458 South 60th Street in the City of West Allis. There were no witnesses to the accident; however, the claimant felt that City of West Allis employees broke the windshield because Public Works had been using equipment to scrape alleys in the area from accumulated ice and snow. The police report confirms that there were no witnesses to the accident. The claimant filed a claim against the City on March 19th, 2008, in the amount of \$322.77 for the cost of a new windshield.

Our investigation into this claim indicated that the City workers did drive through the alley referenced herein but did not perform any scraping activities in said specific alley. Furthermore, when questioned by a supervisor, the City employee operating the front-end loader/scrapper stated that upon driving through the alley, he saw the windshield in question in an already broken condition. Thus, this case is one of credibility; that of the claimant's verse the City employee and the difference between the two in what is being said. The claimant has no witnesses whatsoever to substantiate her account of what occurred in this case. The City employee, on the other hand, admits seeing the windshield in an already broken condition upon his arrival at the scene. Given the statement of the City employee, the claimant has no way whatsoever of proving fault on the part of the City in this case. Although the claimant would like to believe that it was the City's fault, the facts just don't substantiate such a finding. This claim would best be handled by the insurance carrier for the claimant's 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 19 2008

CITY OF WEST ALLIS
CLERK/TREASURER

3/18/08

To whom it may concern,

My name is Stephanie Caballero and I live at 2458 South 60th Street. My car was legally parked in my parking space behind my house on 3/5/08. The alley was being cleaned by West Allis workers. They were using heavy equipment and hit the windshield of my car, shattering it. I called the West Allis Police, who responded, and filed an accident report (attachment). I am seeking \$322.77, the total cost of replacing my windshield (attachment).

Sincerely,



Stephanie Caballero

cc: Atty

206

POLICE # 08009860

ACCIDENT # A08030504

<input type="checkbox"/> Reportable Accident		<input type="checkbox"/> On Emergency		<input type="checkbox"/> Amended		DOT Document Number BRQRQN9		Document Override Number	
Agency Accident Number A08030504				Police Number 08009860					
4 - Accident Date 03/05/2008		5 - Time of Accident (Military Time) 1415		6 - Total Units 02		7 - Total Injured 00		8 - Total Killed 00	
2 - County MILWAUKEE - 40		3 - Municipality WEST ALLIS - 60, CITY				11 - Accident Location NON-INTERSECTION			
14 - On Hwy No.	14 - On Street Name 60TH ST S			14 - Bus/Frnt/Rmp		15 - Est. Dist 100	Ft/Mi F	15 - Hwy. Dir SOUTH	
16 - Fr/At Hwy No.	16 - From/At Street Name ARTHUR AVE W			16 - Business/Frontage/Ramp					
17 - Structure Type HOUSE #	17 - Structure Number 2458		12 - Latitude			13 - Longitude			
80 - First Harmful Event PARKED MOTOR VEHICLE				93 - Manner of Collision NO COLLISION WITH MOTOR VEHICLE IN TRANSPORT					
112 - Access Control NO CONTROL		113 - Road Curvature STRAIGHT		113 - Road Terrain LEVEL/FLAT		Surface Type CONCRETE			
115 - Traffic Way NOT-PHYSICALLY-DIVIDED-(2-WAY TRAFFIC)									
117 - Relation To Roadway OFF-ROADWAY-LOCATION-UNKNOWN									
114 - Light Condition DAYLIGHT			116 - Road Surface Condition ICE			118 - Weather CLOUDY			
<input checked="" type="checkbox"/> Hit and Run	<input type="checkbox"/> Government Property		<input type="checkbox"/> Fire	<input type="checkbox"/> Photos Taken		<input type="checkbox"/> Trailer or Towed			
<input type="checkbox"/> Truck Or Bus			<input type="checkbox"/> Load Spillage		<input type="checkbox"/> Construction Zone		<input type="checkbox"/> Names Exchanged		
<input type="checkbox"/> Supplemental Reports		<input type="checkbox"/> Witness Statements		<input type="checkbox"/> Measurements Taken		79 - E M S Number			

GENERAL INFORMATION

Operator/Pedestrian

Unit Status H - HIT AND RUN		81 - Most Harmful Event: Collision With PARKED MOTOR VEHICLE		23 - Dir Of Travel NORTH		24 - Speed Limit 15	
36 - Operating as Classified D CLASS		37 - Endorsements		35 <input type="checkbox"/> Operating Commercial Motor Vehicle			
29 - Driver's License Number		30 - State	31 - Expiration Year	34 - On Duty Accident			
25 - Operator/Pedestrian Last Name			25 - First Name		25 - Middle Initial	25 - Suffix	
32 - Date Of Birth		33 - Sex					
26 - Address Street & Number						26 - PO Box	
27 - City			27 - State	27 - Zip Code		28 - Telephone Number	
39 - Seat Position FRONT-SEAT-LEFT-SIDE-(MC/BIKE DRIVER, TRAIN CONDUCTOR)				40 - Safety Equipment RESTRAINT-USE-UNKNOWN			
38 - Injury Severity N - NO APPARENT INJURY		41 - Airbag UNKNOWN		42 - Ejected NOT-EJECTED		44 <input type="checkbox"/> Medical Transport	
43 - Trapped/Extricated NOT-TRAPPED		92 - Pedestrian Location		92 - Pedestrian Action			
119 - What Driver Was Doing GOING-STRAIGHT			120 - Traffic Control NO-CONTROL			62 - No. of Citations Issued 00	
64 - 1st Statute No.	64 - 2nd Statute No.	64 - 3rd Statute No.	64 - 4th Statute No.		64 - 5th Statute No.		
122 - Driver Factors INATTENTIVE-DRIVING							
88 - Driver or Pedestrian Factors NOT OBSERVED		89 - Substance Presence UNKNOWN					
90 - Alcohol Test TEST NOT GIVEN		90 - Alcohol Content		91 - Drug Test TEST-NOT-GIVEN			

OPERATOR/PEDESTRIAN 01

CS

05/206

91 - Drugs Reported
124 - Highway Factors NOT-APPLICABLE

Vehicle

VEHICLE 01	21 - Unit Type AUTOMOBILE	Vehicle Type PASSENGER-CAR				22 - Total Occupants 01
	56 - License Plate Number	57 - Plate Type	58 - State	59 - Exp Year	55 - Vehicle Identification Number	
	50 - Year	51 - Make	52 - Model	53 - Body Style	54 - Color	100 - Skidmarks to Impact (Ft) 00
	94 - Vehicle Damage UNKNOWN					
	95 - Extent Of Damage UNKNOWN	96 <input type="checkbox"/> Vehicle Towed Due To Damage		97 - Vehicle Removed By OPERATOR		
	123 - Vehicle Factors NOT-APPLICABLE					

Vehicle Owner

VEH OWNER 01	45 <input type="checkbox"/> Vehicle Owner Same As Operator					
	46 - Vehicle Owner Last Name		46 - First Name	46 - Middle Initial	46 - Suffix	
	46 - Company Name					
	47 - Address Street & Number			47 - PO Box		
	48 - City		48 - State	48 - Zip Code	49 - Telephone Number	

Insurance

INS 01	63 - Liability Insurance Company UNKNOWN		60 <input type="checkbox"/> Policy Holder Same As Owner
	61 - Policy Holder Last Name		61 - Policy Holder First Name
	61 - Policy Holder Company		

School Bus

BUS 01	Bus Travelling to/from <input type="radio"/> To <input type="radio"/> From	School Name	Body Make	Seating Capacity
	School District Contracted With			

Operator/Pedestrian

Unit Status		81 - Most Harmful Event: Collision With PARKED MOTOR VEHICLE	23 - Dir Of Travel	24 - Speed Limit 15	
36 - Operating as Classified D CLASS	37 - Endorsements		35 <input type="checkbox"/> Operating Commercial Motor Vehicle		
29 - Driver's License Number		30 - State	31 - Expiration Year	34 - On Duty Accident	
25 - Operator/Pedestrian Last Name		25 - First Name		25 - Middle Initial	25 - Suffix
32 - Date Of Birth	33 - Sex				

050206

OPERATOR/PEDESTRIAN 02	26 - Address Street & Number				26 - PO Box	
	27 - City		27 - State	27 - Zip Code		28 - Telephone Number
	39 - Seat Position BLANK			40 - Safety Equipment		
	38 - Injury Severity		41 - Airbag NOT APPLICABLE		42 - Ejected NOT-APPLICABLE	
	44 <input type="checkbox"/> Medical Transport					
	43 - Trapped/Extricated NOT-APPLICABLE		92 - Pedestrian Location		92 - Pedestrian Action	
	119 - What Driver Was Doing LEGALLY-PARKED		120 - Traffic Control NO-CONTROL		62 - No. of Citations Issued 00	
	64 - 1st Statute No.	64 - 2nd Statute No.	64 - 3rd Statute No.	64 - 4th Statute No.	64 - 5th Statute No.	
	122 - Driver Factors NOT-APPLICABLE					
	88 - Driver or Pedestrian Factors		89 - Substance Presence			
	90 - Alcohol Test		90 - Alcohol Content		91 - Drug Test	
	91 - Drugs Reported					
	124 - Highway Factors NOT-APPLICABLE					

Vehicle

VEHICLE 02	21 - Unit Type AUTOMOBILE			Vehicle Type PASSENGER-CAR			22 - Total Occupants 00
	56 - License Plate Number WJE823		57 - Plate Type AUT	58 - State WI	59 - Exp Year 2008	55 - Vehicle Identification Number 3G1JC5249WS862538	
	50 - Year 1998	51 - Make CHEV	52 - Model CAVALIER	53 - Body Style 4-DR	54 - Color RED	100 - Skidmarks to Impact (Ft) 0	
	94 - Vehicle Damage TOP OF VEHICLE						
	95 - Extent Of Damage MINOR		96 <input type="checkbox"/> Vehicle Towed Due To Damage			97 - Vehicle Removed By OPERATOR	
	123 - Vehicle Factors NOT-APPLICABLE						

Vehicle Owner

VEH OWNER 02	45 <input type="checkbox"/> Vehicle Owner Same As Operator					
	46 - Vehicle Owner Last Name CABALLERO			46 - First Name STEPHANIE		46 - Middle Initial L
	46 - Company Name					
	47 - Address Street & Number 2458 S 60 ST				47 - PO Box	
	48 - City WEST ALLIS		48 - State WI	48 - Zip Code 53219		49 - Telephone Number (414) 543-2666 EXT.

Insurance

050206

INS 02	63 - Liability Insurance Company NOT-REQUIRED		60 <input type="checkbox"/> Policy Holder Same As Owner
	61 - Policy Holder Last Name	61 - Policy Holder First Name	
	61 - Policy Holder Company		

School Bus

BUS 02	Bus Travelling to/from <input type="radio"/> To <input type="radio"/> From	School Name	Body Make	Seating Capacity
	School District Contracted With			

Diagram and Narrative

DIAGRAM AND NARRATIVE	105 - PHOTOS BY
	<p style="text-align: center;">Drawings Not to Scale Measurements Are Approximate</p>
<p>HARTMANN...ON 03/05/08 OFFICERS RESPONDED TO 2458 S 60 ST. IN THE ALLEY THERE WAS DAMAGE TO VEHICLE 2 PARKED N/B IN ALLEY. AN UNKNOWN VEHICLE (VEHICLE 1) STRUCK VEHICLE 2 CAUSING DAMAGE TO WINDSHIELD OF VEHICLE. THE ALLEY WAS CLEARED OF ICE BY A YELLOW FRONT END LOADER, HOWEVER THERE ARE NO WITNESSES TO THE ACCIDENT.</p>	

Officer Information

OFFICER INFORMATION	125 - Officer Last Name HARTMANN	125 - First Name PAUL	125 - Middle Initial	131 - Officer ID 9593
	129 - Law Enforcement Agency No. 4116	130 - Law Enforcement Agency Name WEST ALLIS POLICE DEPARTMENT		
	126 - Law Enforcement Agency Address Street & Number 11301 WEST LINCOLN AVENUE			
	127 - City WEST ALLIS	127 - State WI	127 - Zip Code 53227	128 - Telephone Number (414) 302-8000 EXT.
	132 - Date Notified 03/05/2008	133 - Time Notified (Military Time) 1558	134 - Time Arrived (Military Time) 1605	135 - Date Of Report 03/05/2008
	Agency Accident Number A08030504	Police Number 08009860	19 - Special Study	
	18 - Agency Space			

WORK ORDER Jim
 Brian Block Street Dept.
 302-8367

WORK ORDER NUMBER
 WI-115581 RNEW
 TAX ID: 390773498

Klein-Dickert Co., Inc.
 P.O. BOX 31
 BROOKFIELD, WI 53008
 262 781 2565

CASH ACCOUNT (BROOK)
 BROOKFIELD,

STEPHANIE CABALLENO
 2458 S 60TH ST
 WEST ALLIS, WI 53219
 Hm: (414) 543 2666

03/06/08

CASH	CHARGE	CREDIT	MILEAGE	UNIT #	COUNTY	SHOP	MOBILE	M	T	W	TH	F	S	AM	PM	TIME	
					MILWAUKEE												
DATE	ACCOUNT NUMBER	P.O./POLICY NUMBER	CLAIM NUMBER	SLM	CLR	WORK ORDER	PHONE NUMBER										
03/05/08	L7189			410	48	115581											
DATE OF LOSS	INSURANCE COMPANY/AGENCY	CAUSE	AUTHORIZED BY	DEDUCTIBLE	INS FORM	AGENT											
				0.00													
YEAR	MAKE	MODEL	BODY STYLE	V.I.N.	COLOR	G	LICENSE #	INSTALLED BY									
1998	CHEVROLET	CAVALIER	4 DOOR SE	361JC5249WS862538													
QTY	PART NO	DESCRIPTION	LOC	LIST	PRICE	TOTAL											
1	DW011926TYN	WINDSHIELD, ENCAP	642	247.30	168.75	168.75											
1	HLU000001	LUBRICANT, ENCAPSULATION		29.95	29.95	29.95											
1	NAGSLABOR	NAGS LABOR (DW011926TYN)		85.00	85.00	85.00											
	HAH000448	(2) ADHESIVE, FAST-CURE		29.95	29.95	29.95											
		URETHANE/DAM/PRIMER															

*** FOR YOUR SAFETY: *** We recommend replacing old/worn windshield wipers when installing a new windshield.
 Please initial: accept _____ decline _____

***** CDD *****

THANK YOU
 WE APPRECIATE YOUR BUSINESS

DO NOT PAY FROM THIS COPY

WEST ALLIS 818H 1ST JOB
 Cty: WEST ALLIS * St: WI

(Chris Munger -)

SUB TOTAL	305.65
SALES TAX	17.12
TAX - OTHER	
TOTAL	322.77

GLASS DOT 46 GLASS PRIMER 5500 GLASS PRIMER LOT VCR071
 ADHESIVE ONE EP ADHESIVE LOT 5404 METAL PRIMER VG120173DV

ACCEPTED BY: [Signature]
 SHOP REPRESENTATIVE: [Signature]



PLEASE REFER TO BACK OF THIS FORM FOR WARRANTY, TERMS AND OTHER INFORMATION. The repair or replacement of said breakage is to my complete satisfaction and I authorize insurer to pay sum to Klein-Dickert. I also agree that if for any reason insurer fails to pay Klein-Dickert I am financially responsible for any unpaid bills. Motor vehicle repair practices are regulated by chapter ATCP 132, Wis. Adm. Code, administered by the Bureau of Consumer Protection, Wisconsin Dept. of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, Wisconsin 53708-8911



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 24, 2008

Ms. Stephanie Caballero
2458 S. 60 St.
West Allis, WI 53219

Dear Ms. Caballero:

This letter acknowledges receipt of your communication regarding vehicle damage allegedly sustained at 2458 S. 60 St. on March 5, 2008.

The original document will be submitted to the Common Council at its meeting of March 31, 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,

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

Monica Schultz
Assistant City Clerk

/amn

cc: City Attorney



City of West Allis

Referral Notice

Common Council

7525 W. Greenfield Ave.
West Allis, WI 53214

To: City Attorney
From: Common Council
Date: Monday, March 31, 2008

The following items are being referred to you for your review and response. Special instructions may follow each item. Please contact the City Clerk if you cannot respond by the due date listed.

2008-0187 Stephanie Caballero communication regarding vehicle damage allegedly sustained at 2458 S. 60 St. on March 5, 2008.

Due Date:
Instructions:

If there are any questions concerning this notice, please direct them to the CITY CLERK.



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

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

May 13, 2008

Common Council
City of West Allis

RE: City Attorney's Report of Claims/Lawsuits

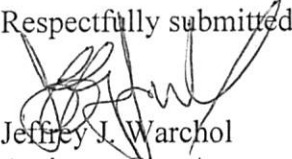
Dear Council Members:

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.

It is the recommendation of this office that the following claims/lawsuits be denied:

Kate Vandervort (\$124.07)
Stephanie Caballero (\$322.77)

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 21, 2008

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Ms. Stephanie Caballero
2458 South 60th Street
West Allis, WI 53219

Re: Your Claim Against the City of West Allis

Dear Ms. Caballero:

At its meeting on May 20th, 2008, the Common Council of the City of West Allis considered your claim received on March 25th, 2008, regarding vehicle damage allegedly sustained in the alley at 2458 South 60th 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-S Caballero

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