

25



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
2008-0399	Claim	Claim Report
John Gardner communication regarding vehicle damage allegedly sustained at 1000 S. 108 St., Lot D10, on May 24, 2008.		
Introduced: 6/3/2008		Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

Deny

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
AUG 05 2008	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Barczak				
	<input type="checkbox"/>	<input type="checkbox"/>	Czaplewski				
	<input type="checkbox"/>	<input type="checkbox"/>	Kopplin				<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Lajsic	<input checked="" type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	Narlock	<input checked="" type="checkbox"/>			
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Reinke	<input checked="" type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	Roadt				
	<input type="checkbox"/>	<input type="checkbox"/>	Sengstock				
	<input type="checkbox"/>	<input type="checkbox"/>	Vitale	<input checked="" type="checkbox"/>			
		Weigel					
TOTAL				4	-		1

SIGNATURE OF COMMITTEE MEMBER

 Chair

 Vice-Chair

 Member

COMMON COUNCIL ACTION

Deny

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
AUG 05 2008	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Barczak				<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Czaplewski	<input checked="" type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	Kopplin				<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Lajsic	<input checked="" type="checkbox"/>			
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Narlock	<input checked="" type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	Reinke	<input checked="" type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	Roadt	<input checked="" type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	Sengstock	<input checked="" type="checkbox"/>			
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Vitale	<input checked="" type="checkbox"/>			
		Weigel	<input checked="" type="checkbox"/>				
TOTAL				8	-		2



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

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

July 28, 2008

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:

John Gardner - Amount: \$5,571.60

This is a claim for property damages to the claimant's vehicle on May 24th, 2008, when it was struck by a West Allis fire truck while parked at 1000 South 108th Street, Lot D-10 in the City of West Allis, WI. On said date at approximately 9:00 p.m., West Allis Fire Department Truck No. 3 was responding to an emergency call for a person experiencing chest pains at the Mayfair Trailer Court located at 1000 south 108th Street, West Allis, WI. While attempting to maneuver on the narrow streets within the mobile home park, the fire truck struck the right passenger door and side of the claimant's vehicle thus causing damage to the same when making a left hand turn within the park to respond to the party in need of help. The claimant obtained two written estimates from auto repair facilities and filed a claim for damages against the City on May 28th, 2008.

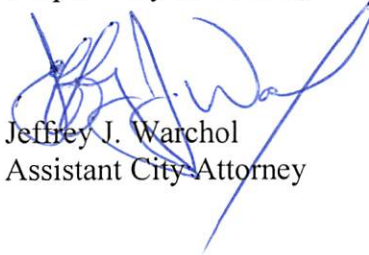
Our investigation into this claim indicated that the claimant's vehicle was illegally parked in the fire lane when hit by the fire truck and but for the same, the accident would not have occurred. This is not the first time that the City has had problems with vehicles illegally parked at the Mayfair Trailer Mobile Home Park thus hindering emergency vehicles from responding to parties in need of assistance in an appropriate amount of time. As a result of this incident, the West Allis Fire Department completed an inspection of the mobile home park, noted several parking related violations and put the owner on written notice of said violations. The owner has forwarded the Fire Department's Inspection Report to the specific parking violators asking them to stop parking vehicles illegally in the mobile home park.

Although the operator of the fire truck must still use appropriate caution when dealing with vehicles while in response to an emergency, in this case, the driver was not negligent in the manner in which he operated the fire truck through the narrow streets of the mobile home park and did not even realize that he struck the claimant's vehicle at the time it happened. There was simply nothing else the operator of the fire truck could have done to respond to the emergency call at hand.

Therefore, the negligence of the claimant who parked his vehicle in an emergency fire lane outweighs the negligence, if any, of the operator of the fire truck. Therefore, this kind of incident is best handled by the insurance companies for the respective parties involved, as opposed to one party contributing towards the damages of the other.

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



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

May 29, 2008

Mr. John Gardner
1000 S. 108 St., Lot D10
West Allis, WI 53214

Dear Mr. Gardner:

This letter acknowledges receipt of your communication regarding vehicle damage allegedly sustained at 1000 S. 108 St., Lot D10, on May 24, 2008.

The original document will be submitted to the Common Council at its meeting of June 3, 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

RECEIVED

MAY 28 2008

CITY OF WEST ALLIS
CLERK/TREASURER

5-28-08

To: Paul Zehler

On Sat 5-24-08 at approx 21.08 hrs
A City of West Allis Fire Truck hit
my car while it was parked in
front of my home at 1000 S 108th
lot D10 West Allis, 53214

The fire Captain & officers
Christopher Dohre both took pictures
of my car that evening, as I did
also

I have gotten two estimates
for the repair of my car, that
I'm enclosing, if you need any
more info from me please call
me

(414) 475-0690 L.L.

(414) 534-7917 cell

Thank you
John Gardner

HEISER CHEVROLET
 COLLISION REPAIR AND REFINISHING
 10200 W. ARTHUR AVENUE
 WEST ALLIS, WI 53227
 OFFICE: 414-327-2300 FAX: 414-546-7877

CD LOG NO 7299-1 DATE 05/27/08

SHOP: HEISER CHEVROLET BODY SHOP INSP DATE: 05/27/08
 ADDRESS: 10200 WEST ARTHUR AVENUE CONTACT: QUINN MIHALSKI
 TAX ID# 39-1655466 PHONE 1: (414) 328-2453
 CITY STATE: WEST ALLIS, WI PHONE 2: (414) 327-2300 EXT 123
 ZIP: 53227- FAX: (414) 546-7877

OWNER: GARDNER, JOHN CELL PHONE: (414) 534-7917
 ADDRESS: 1000 S 108TH ST #D10
 CITY STATE: WEST ALLIS, WI
 ZIP: 53214

POINT OF IMPACT: 11

LIC#: 949LZR STATE: WI VIN: 1G4HP54K314238518
 BODY COLOR: BURGANDY MILEAGE:
 CONDITION: GOOD ACCTNG CTL#:

PROD.DATE: 02/01 PAINT CODE:

*=USER-ENTERED VALUE	E=REPLACE OEM	NG=REPLACE NAGS
EC=REPLACE ECONOMY	UE=REPLACE OE SURPLUS	UC=RECONDITIONED PRT
UM=REMAN/REBUILT PRT	EU=REPLACE SALVAGE	EP=REPLACE PXN
OE=REPLACE PXN OE SRPLS	PC=PXN RECONDITIONED	PM=PXN REMAN/REBUILT
TE=PARTL REPL PRICE	ET=PARTL REPL LABOR	IT=PARTIAL REPAIR
I=REPAIR	L=REFINISH	BR=BLEND REFINISH
TT=TWO-TONE	CG=CHIPGUARD	SB=SUBLET
N=ADDITIONAL LABOR	RI=R&I ASSEMBLY	P=CHECK
AA=APPEAR ALLOWANCE	RP=RELATED PRIOR	UP=UNRELATED PRIOR

2001 BUICK LE SABRE CUSTOM 4DOOR SEDAN 6CYL GASOLINE 3.8
 CODE: S4343A/B OPTNS A/24ULSK

OPTIONS:

TWO-STAGE - EXTERIOR SURFACES	TWO-STAGE - INTERIOR SURFACES
DRIVER POWER SEAT	REMOTE KEYLESS ENTRY SYSTEM
FRONT SIDE IMPACT AIRBAGS	STRG WHEEL MTD RADIO CONTROLS

OP	GDE	MC	DESCRIPTION	MFG.PART NO.	PRICE	AJ%	B%	HOURS	R
E	0262	07	PANEL ASSY,BODY SID	RT 12482637 GM PART	871.01			INC	1
I	0288		DOOR SHELL,REAR	RT REPAIR				4.0	*1
L	0288	13	DOOR SHELL,REAR	RT REFINISH				3.2	4
				2.2 SURFACE					
				0.6 TWO STAGE SETUP					
				0.4 TWO STAGE					
RI	0322		W/STRIP,BELT OUTER	RT R&I ASSEMBLY				0.2	1

2001 BUICK LE SABRE CUSTOM 4DOOR SEDAN
 CD LOG NO 7299-1

E	0334	MLDG, REAR DOOR LOWE RT	25704794	GM PART	73.00	0.4	1
L	0334	MLDG, REAR DOOR LOWE RT	REFINISH			0.5	4
			0.4	SURFACE			
			0.1	TWO STAGE			
RI	0308	PNL, INNER DOOR TRIM RT	R&I ASSEMBLY			0.2	1
RI	0306	HANDLE, RR DOOR OUTE RT	R&I ASSEMBLY			0.9	1
SB	0370 02	SEALANT KIT, BACK GLASS	SUBLET REPAIR	25.00*		2.5*	1
ET	0366	PANEL, QUARTER	RT LABOR/PARTL REPLA			14.8	1
L	0366	PANEL, QUARTER	RT REFINISH			3.7	4
			2.1	SURFACE			
			1.0	EDGE			
			0.6	TWO STAGE			
E	0409	NAMEPLATE, QTR PANEL RT	25648731	GM PART	13.30	0.2	1
RI	0440	PNL, INNER QTR TRIM RT	R&I ASSEMBLY			INC	1
BR	0479	LID, REAR DECK	BLEND REFINISH			1.3	4
			0.9	BLEND			
			0.4	TWO STAGE			
N	0479	DECK LID R & I	ADDNL LABOR OPERA			0.5	1
E	0534 49	TAILLAMP ASSEMBLY RT	15228560	GM PART	195.68	INC	1
N	0031	RR BUMPER CVR OVERHAUL	ADDNL LABOR OPERA			0.6	1
E	0566 49	COVER, REAR BUMPER	12335611	GM PART	417.66	INC	1
L	0566	COVER, REAR BUMPER	REFINISH			3.2	4
			2.7	SURFACE			
			0.5	TWO STAGE			
E	0557	REINF, RR BUMPER COV RT	25733172	GM PART	20.27	INC	1
N	M03	FLEX ADDITIVE	ADDNL LABOR OPERA	3.00*			*4*
SB	M06	PINSTRIPES-PAINTED	SUBLET REPAIR	110.00* +25			*4*
N	M14	CORROSION PROTECTION	ADDNL LABOR OPERA	10.00*		0.3*	1*
N	M17	COVER CAR EXTERIOR	ADDNL LABOR OPERA	5.00*			*4*
N	M60	HAZARD. WSTE. REM.	ADDNL LABOR OPERA	3.00*			*1
N		THRUST ANGLE ALIGNMENT	ADDNL LABOR OPERA	89.95*			2*

26 ITEMS

MC MESSAGE(S)

02 PART NO. DISCONTINUED, CALL DEALER FOR EXACT PART NO

07 STRUCTURAL PART AS IDENTIFIED BY I-CAR

13 INCLUDES 0.6 HOURS FIRST PANEL TWO-STAGE ALLOWANCE

49 UNPRINTED PXN COMPARE

FINAL CALCULATIONS & ENTRIES

GROSS PARTS					1,590.92
OTHER PARTS					110.95
PAINT MATERIAL					380.80
PARTS & MATERIAL TOTAL					2,082.67
TAX ON PARTS & MATERIAL @				5.600%	116.63
LABOR	RATE	REPLACE HRS	REPAIR HRS		
1-SHEET METAL	52.00	16.7	7.9		1,279.20
2-MECH/ELEC	95.00				
3-FRAME	52.00				
4-REFINISH	52.00	11.9			618.80
5-PAINT MATERIAL	32.00				

2001 BUICK LE SABRE CUSTOM 4DOOR SEDAN
CD LOG NO 7299-1

LABOR TOTAL			1,898.00
TAX ON LABOR	@	5.600%	106.29
SUBLET REPAIRS			162.50
TAX ON SUBLET	@	5.600%	9.10
TOWING			
STORAGE			

GROSS TOTAL 4,375.19

NET TOTAL 4,375.19

SHOPLINK U4369 ES CD LOG 7299-1 DATE 05/27/08 09:02:59AM R6.37 CD 04/08

PXN: Y/02/00/00/02/00 CUM 02/00/00/02/00 GEOCODE 53227

HOST LOG

(C) 1998 - 2007 AUDATEX NORTH AMERICA, INC.

2.6 HRS WERE ADDED TO THIS EST. BASED ON AUDATEX TWO-STAGE REFINISH FORMULA.

GREENFIELD PONTIAC BUICK
 3615 S 108TH ST
 MILWAUKEE, WI 53228
 414-545-7000

*** PRELIMINARY ESTIMATE ***

05/27/2008 08:23 AM

Owner

Owner: JOHN W GARDNER
 Address: 1000 S 108TH STREET
 City State Zip: Milwaukee, WI 53214

Cell: (414)534-7917
 FAX:

Inspection

Inspection Date: 05/27/2008 08:23 AM
 Primary Impact: Right Rear Side

Inspection Type:
 Secondary Impact:

Appraiser Name: Jay Gesell
 Address: 3615 S. 108th St
 City State Zip: Greenfield, WI 53226
 Email: bodyshop@greenfieldgmpartscenter.com

Appraiser License # :
 Work/Day: (414)290-7181
 FAX: (414)290-7180
 FAX:

Repairer

Repairer: John Paul's Greenfield
 Address: 3615 S. 108th St
 City State Zip: Greenfield, WI 53226
 Email: bodyshop@greenfieldgmpartscenter.com

Contact: Jay Gesell
 Work/Day: (414)290-7181
 Work/Day: (414)545-7000
 FAX: (414)290-7180

Vehicle

2001 Buick Le Sabre Custom 4 DR Sedan
 6cyl Gasoline 3.8
 4 Speed Automatic

Lic.Plate: 949-L2R
 Lic Expire:
 Prod Date:
 Veh Insp# :
 Condition:
 Ext. Color: MAROON
 Ext. Refinish: Two-Stage

Lic State: WI
 VIN: 1G4HP54K314238518
 Mileage: 110,000
 Mileage Type: Actual
 Code: S4343A
 Int. Color:
 Int. Refinish:

Options

AM/FM Stereo Tape	Air Conditioning	Anti-lock Brakes
Auto Load Leveling	Cruise Control	Dual Airbags
Intermittent Wipers	Keyless Entry System	Lighted Entry System
Overhead Console	Power Brakes	Power Door Locks
Power Drivers Seat	Power Mirrors	Power Steering
Power Windows	Rear Window Defroster	Rem Trunk-L/Gate Release
Side Airbags	Split Front Bench Seat	Strg Wheel Radio Control
Tilt Steering Wheel	Tinted Glass	Twilight Sentinel
Velour/Cloth Seats		

Damages

Line	Op	Guide	MC Description	MFR.Part No.	Price	ADJ% B%	Hours	R
1	E	262 07	Panel Assy,Body Side RT	12482637 GM Part	\$871.01		33.6	SM
2	L	262 13	Panel Assy,Body Side RT	Refinish			7.8	RF

			5.0 Surface			
			1.2 Edge			
			0.6 Two-stage setup			
			1.0 Two-stage			
3	I	288	Door Shell,Rear RT	Repair		6.5* SM
			>> 5.5 SKIN 1.0 SHELL			
4	L	288	Door Shell,Rear RT	Refinish		2.2 RF
				1.8 Surface		
				0.4 Two-stage		
5	I	334	Mldg,Rear Door Lower RT	Repair		1.0* SM
6	L	334	Mldg,Rear Door Lower RT	Refinish		0.5 RF
				0.4 Surface		
				0.1 Two-stage		
7	E	409	Nameplate,Qtr Panel RT	25648731 GM Part	\$13.30	0.2 SM
8	E	549	Filler,Taillamp Hsg RT	25695326 GM Part	\$56.62	INC SM
9	L	549	Filler,Taillamp Hsg RT	Refinish		0.2 RF
				0.2 Surface		
10	E	534	Taillamp Assembly RT	15228560 GM Part	\$195.68	INC SM
11	E	566	Cover,Rear Bumper	12335611 GM Part	\$417.66	INC SM
12	L	566	Cover,Rear Bumper	Refinish		3.2 RF
				2.7 Surface		
				0.5 Two-stage		
13	E	557	Reinf,RR Bumper Cover RT	25733172 GM Part	\$20.27	0.4 SM
14	I	969	Suspension Align Rear	Repair		ME
15	EC	M03	Flex Additive	Replace Economy	\$7.50*	RF
16	SB	M06	Pinstripes-Painted	Sublet Repair	\$100.00*	RF
17	EC	M14	Corrosion Protection	Replace Economy	\$10.00*	0.3* SM
18	N	M18	Set-Up And Measure	Additional Labor		2.0* FR
19	N	M35	Unibody-Realignment-Rt Rr	Additional Labor		1.5* FR
20	N	M60	Hazardous Waste Removal	Additional Labor	\$5.00*	SM
20 Items						

MC Message

07 STRUCTURAL PART AS IDENTIFIED BY I-CAR
 13 INCLUDES 0.6 HOURS FIRST PANEL TWO-STAGE ALLOWANCE

Estimate Total & Entries

Gross Parts	\$1,574.54	
Other Parts	\$22.50	
Paint Materials	\$444.80	
Parts & Material Total		\$2,041.84
Tax on Parts & Material	@ 5.600%	\$114.34

Labor	Rate	Replace Hrs	Repair Hrs	Total Hrs	
Sheet Metal (SM)	\$52.00	34.5	7.5	42.0	\$2,184.00
Mech/Elec (ME)	\$85.00				
Frame (FR)	\$65.00		3.5	3.5	\$227.50
Refinish (RF)	\$52.00	13.9		13.9	\$722.80
Paint Materials	\$32.00				
Labor Total				59.4 Hours	\$3,134.30
Tax on Labor			@ 5.600%		\$175.52
Sublet Repairs					\$100.00
Tax on Sublet			@ 5.600%		\$5.60
Gross Total					\$5,571.60
Net Total					\$5,571.60

Alternate Parts Y/00/00/00/00 CUM 00/00/00/00/00 Zip Code: 53228 Default

Audatex Estimating 5.0.421 ES 05/27/2008 08:30 AM REL 5.0.421 DT 05/01/2008 DB 05/15/2008
 Copyright (C) 2008 Audatex North America, Inc.

2.6 HRS WERE ADDED TO THIS ESTIMATE BASED ON AUDATEX'S TWO-STAGE REFINISH FORMULA.

THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF ONE OR MORE REPLACEMENT PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. WARRANTIES APPLICABLE TO THESE REPLACEMENT PARTS ARE PROVIDED BY THE MANUFACTURER OR DISTRIBUTOR OF THE REPLACEMENT PARTS RATHER THAN BY THE MANUFACTURER OF YOUR MOTOR VEHICLE.

Op Codes

* = User-Entered Value	E = Replace OEM	NG = Replace NAGS
EC = Replace Economy	OE = Replace PXN OE Srpls	UE = Replace OE Surplus
ET = Partial Replace Labor	EP = Replace PXN	EU = Replace Recycled
TE = Partial Replace Price	PM = Replace PXN Reman/Reblt	UM = Replace Reman/Rebuilt
L = Refinish	PC = Replace PXN Reconditioned	UC = Replace Reconditioned
TT = Two-Tone	SB = Sublet Repair	N = Additional Labor
BR = Blend Refinish	I = Repair	IT = Partial Repair
CG = Chipguard	RI = R & I Assembly	P = Check
AA = Appearance Allowance	RP = Related Prior Damage	



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ATT: PAUL ZIEHLER

City Adm. Office

Clerk - Treasurer

West Allis City Hall

RECEIVED

MAY 28 2008

CITY OF WEST ALLIS
CLERK/TREASURER



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

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

July 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.

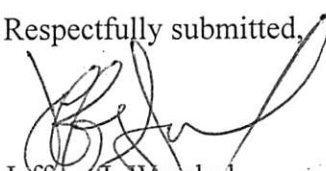
The following claim/lawsuit has been placed on file:

Carla and Kristine Granneman (\$1,525.00)

The following claims/lawsuits have been denied:

Colleen Devereey (\$10,748.21)
John Gardner (\$5,571.60)
Terrence and Jane Donaldson (\$1,000.00)

Respectfully submitted,



Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC



NOTICE OF DISALLOWANCE OF CLAIM

August 6, 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John Gardner
1000 South 108th Street
Lot D10
West Allis, WI 53214

Re: Your Claim Against the City of West Allis
Date of Loss: 5/24/08

Dear Mr. Gardner:

At its meeting on August 5th, 2008, the Common Council of the City of West Allis considered your claim received on May 28th, 2008, regarding property damage allegedly sustained at 1000 South 108th Street, Lot D10, 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-J Gardner

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