

12.  
22.



# City of West Allis

## Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
2008-0267	Claim	Claim Report
Secura Insurance Company Notice of Claim on behalf of John & Linda Rodriguez regarding damages allegedly sustained at 7905 W. Dakota St. on March 8, 2008.		
Introduced: 5/6/2008		Controlling Body: Administration & Finance Committee

### COMMITTEE RECOMMENDATION

*Deny*

ACTION  
DATE:  
JUN 17 2008

MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
		Barczak				
		Czaplewski				
		Kopplin	✓			
		Lajsic	✓			
		Narlock	✓			
		Reinke	✓			
		Roadt				
		Sengstock				
	✓	Vitale	✓			
		Weigel				
TOTAL			5			

### SIGNATURE OF COMMITTEE MEMBER

*Kurt Kopplin*

Chair

Vice-Chair

Member

### COMMON COUNCIL ACTION

*Denied*

ACTION  
DATE:  
JUN 17 2008

MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
		Barczak	✓			
		Czaplewski	✓			
✓		Kopplin	✓			
		Lajsic	✓			
	✓	Narlock	✓			
		Reinke	✓			
		Roadt	✓			
		Sengstock	✓			
		Vitale	✓			
		Weigel				✓
TOTAL			9			1



OFFICE OF THE CITY ATTORNEY

Scott E. Post  
City Attorney

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

June 10, 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:**

**Secura Insurance Company/John & Linda Rodriguez - Amount: \$5,500.00**

This is a claim for water damage clean-up and structural drying to the home located at 7905 West Dakota Street in the City of West Allis, WI as a result of a water main break that occurred on March 8<sup>th</sup>, 2008. The claim was filed by the homeowner's insurance company, Secura Insurance, who paid its policy limits for clean up of the basement area. Believing that the City was responsible for the damages, Secura Insurance Company filed a subrogation claim on behalf of the homeowners against the City on April 23<sup>rd</sup>, 2008.

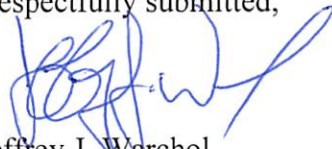
Brian D. Block, Traffic & Utility Technician for the City of West Allis, investigated this claim. Mr. Block personally visited the insured's home to observe the water damage, inspected the area where the water main break occurred, researched for other water main breaks in the same location as the insured's home and interviewed the City employees that repaired the water main break. Mr. Block concluded the following:

- The City of West Allis had no prior knowledge of the imminent break at or near the vicinity of the insured's home prior to receiving notification on March 8<sup>th</sup>, 2008. Additionally, the City had no information or reason to believe that a problem or pattern of breaks existed at or in the vicinity of the location prior to the break.
- The City's Public Works Street and Sanitation Division personnel and Water Division personnel responded in a prompt fashion and took quick measures to assess the situation and then begin to shut down the water main and repair the same.
- The native, sandy soils that were found in the area during excavation possibly contributed to the situation by allowing the water from the break to quickly reach the walls of the homeowner's basement.

The City Attorney's Office agreed with the findings by Mr. Block and the Engineering Department that the City was not negligent in this matter. The City had no prior knowledge that a break would occur in this area and once a break did occur, the City employees acted with reasonable diligence to rectify the situation as quickly as possible.

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



April 21, 2008

COMMON COUNSEL  
CITY OF WEST ALLIS  
7525 W GREENFIELD AVE  
WEST ALLIS WI 53214

RECEIVED  
APR 23 2008  
CITY OF WEST ALLIS  
CLERK/TREASURER

RE: Claim: P0061929  
Insured: John & Linda Rodrigue  
Date of Loss: 03-08-08

Dear Common Counsel:

Enclosed please find our notice of claim and itemized statement of claim. We are making a claim against the City of West Allis for \$5,500 and our insured has an out-of-pocket claim due to a pipe bursting in front of their home.

Pursuant to Wisconsin statutes, please notify us in the event the claim is disallowed.

Sincerely,



Mary Vareka, CSRP CISR  
Senior Subrogation Representative  
Phone: 920-830-4605  
Fax: 920-830-4677

## NOTICE OF CLAIM

Please be advised the SECURA Insurance Company hereby makes claim against you in the amount of \$5,500.00 (the limit on our policy) plus our insured has a claim for their out-of-pocket, for damage to our insured's property. This company's insured personal property, owned by John & Linda Rodrigue, was damaged by the negligence of the City of West Allis by improper maintenance of their pipes. The pipe burst in front of our insured's home caused water to back up into their finished basement.

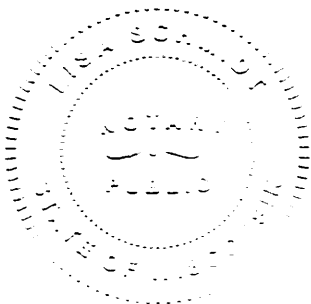
Attached is a copy of our supports.

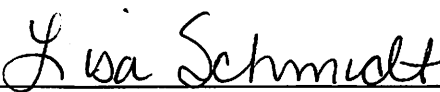
SECURA Insurance has coverage on the property in questions which affords subrogated rights

  
\_\_\_\_\_  
Mary Vareka

State of Wisconsin )  
                                  )  
Outagamie County )

Mary Vareka, being first duly sworn, certifies that she is a Senior Subrogation Representative employed by SECURA Insurance Company, that she has read the foregoing Notice of Claim, and that the information contained in the foregoing notice of claim is true and correct.



  
\_\_\_\_\_  
Subscribed and sworn to me this 22<sup>nd</sup> day  
of April 2008.  
My commission expires: 5-8-2011

## CHECK DETAIL SCREEN

LH0099A

P0061929 ASC PX WI 035 JOHN J RODRIGUEZ SR &amp; LINDA A RODRIGUE DOL 03/08/2008

Entered By JAMES JACOBSON

Adjuster J JACOBSON

Check Amount \$5,000.00

Date 03/19/2008

Coverage WATER BACK-UP

Check # 0001281921

Status HONORED

03/26/2008

-----  
Pay to JOHN RODRIGUEZ SR AND LINDA RODRIGUEZMail to JOHN RODRIGUEZ SR  
7905 W DAKOTA ST

WEST ALLIS WI 53219

## Comments

WATER BACK UP LIMITS

Approved X

F1=Help F3=Exit F12=Cancel

SF10=Financial Screen 3

5000  
500 deductible  
-----  
5,500

# ALL Flood

WATER & SEWER DAMAGE RESTORATION  
PO BOX 100607 ~ MILWAUKEE, WI 53210

In State: 1-800-454-4049

Out of State: 414-302-1990

03/20/08

030816-08 NET 21 DAYS

John and Linda Rodriguez  
7905 W. Dakota St.  
West Allis, WI 53219

**Claim # P0061929 Loss Date 03/08/08**

This claim was sent to Jim Jacobson @ Secura Ins on your behalf, and will be forwarded on to the Ins. Company of the City of West Allis by Secura.

**Services Provided: Water/sand/mud cleanup, structural drying, and sanitizing due to City of West Allis Water Main break – category 3**

Service Call: (emergency weekend)	195.00
Extraction and Removal of mud, water, & sand/multiple pass 1069 sq ft @ .98 per sq ft	1,047.62
Extraction of (4) area rugs 230 sq ft @ .98 per sq ft/multiple pass (8' x 10', 8' x 10', 5' x 7', 5' x 7' = 230 sq ft) (1) 8' x 10' pad removed – non-salvageable	225.40
Biowash Scrub 1069 sq ft @ .75 per sq ft	801.75
2 <sup>nd</sup> Biowash Scrub 1069 sq ft @ .45 per sq ft (per customer)	481.05
Biowash Scrub 39 sq ft (stairway w/kickplate) @ .75 per sq ft	29.25
Microban/microbial 1108 sq ft @ .30 per sq ft (1069 sq ft flooring, & 39 sq ft stairway = 1108 sq ft)	332.40
Remove & deliver (4) area rugs to Magikist (salvageable) (2 laborers x 32.00/hr = 64.00)	64.00
Move/clean/sanitize (4) appliances @ 35.00/each	140.00
(1) Setup/takedown of equipment/min chg	79.00
(1) Decontaminate equipment/min chg	88.00
(3) Monitor Trips @ 55.00/each	165.00
(12) Air Movers x 10 days x 35.00/day ** See Discount	4,200.00
(2) 1200 Dehu's x 10 days x 79.00/day **See Discount	1,580.00
(1) X-tra Lg Cap. Dehu x 10 days x 159.00/day ** See Discount	3,180.00
<b>Sub-Total</b>	<b>12,608.47</b>
<b>Equipment Discounted to (1) Week Rental (7 Days)</b>	<b>- 2,211.00</b>
<b>Balance Due:</b>	<b>10,397.47</b>

**Thank you for your business. Your business is a privilege to us!**

For your convenience we accept MC, Visa, AX, and Discover card for all claims and deductibles. Invoices are due 21 days from date of billing. Flat-rated discounts are given as a courtesy to our customers if insurance does not cover the loss. Flat-rated discounts do not apply on any late accounts, and the original job invoice becomes payable in full thereafter. Invoices that exceed \$10,000.- are net 10 days and submitted directly to your insurance company. Interest accrues in the amount of 1.8% on any past due invoice. Rentals of equipment are deemed to be at time of arrival to that midnight, regardless of the particular hour in which the rental occurs. It is understood that any portion of any day constitutes 1 day of rental. All rentals are for a 3 day minimum. If full payment is not paid by your insurance company, the balance due, or total payment becomes the responsibility of you, the customer, and due within 21 days of the work completed ~ Net 10 days on jobs that exceed \$10,000.- when no deposit has been paid. Any insurance monies received by customer must be endorsed and delivered within 5 days of receipt. Equipment is charged for time on location, not used time. This is notification to you, the customer, under state law those who furnish labor, services, materials, equipment, repair, or alteration of your property and are not paid in full, or any balance not paid, have the right to enforce their claim for payment against your property. This is known as a construction lien. An intent to file lien is filed automatically on any claim exceeding \$5,000.- within 30 days of job completion and full payment has not been made. All costs, expenses, and attorney fees incurred by us to collect money owed will be added to the amount becoming due and payable immediately. Flat-rated discounts are given as a courtesy to our customers for various reasons when the invoice is paid by the due date specified.

Please contact our office for any additional assistance with insurance filings.

4-10-08

our insured's  
out of pocket

Secura Insurance Co.  
Attn: Jim Jacobson  
P.O. Box 777  
West Bend, WI 53095

Re: Property / Personal Damages due to Main Street Pipe Rupture.

Date of Occurance: March 8, 2008

- 1.) Attached copy of base cabinets / floor --- base swelling due to moisture (only those highlighted in yellow) see totals highlighted
- 2.) 8x10 rug - all solid white - purchased from estate sale \$600. "2002" valued then at \$2,000.00 replacement value?
- 3.) TV Entertainment unit - purchased J.C. Penneys 11-07 \$400.00
- 4.) Computer Table & corner unit - purchased IKEA \$179. replacement value & assume is approx. the same.
- 5.) Wine / Beverage Cabinet - purchased at Marshall's "2007" \$300.00
- 6.) Bathroom Shelving / Drawer unit - purchased Target "2007" \$249.
- 7.) DVD / CD Shelf / Cabinet / Holder - purchased - Target "2008" \$69.99 \$70.00
- 8.) "Woofers" to speaker set only - value? \$100.00?
- 9.) Drywall repair & paint = \$225.00 (This was minimal damage due to quick clean up by "All Flood")
- 10.) 3 other carpets were sent to cleaners and although not yet delivered - I am told they are fine. Cleaning \$260.00
- 11.) ⊕ Bill from All Flood for clean up.





# SPECIAL SERVICES CUSTOMER INVOICE # 020387226

Store 4907 FRANKLIN  
6489 S 27TH STREET  
FRANKLIN, WI 53132

Phone: (414) 304-1024  
Salesperson: PW372A  
Reviewer:

Page 1 of 5 No. 4907-158533

## VALIDATION AREA

SALE 32 SXL610 01:55 PM

This is only a <sup>†</sup>QUOTE for the merchandise and services printed below. This becomes an Agreement upon payment and an endorsement by a Home Depot register validation.

CUSTOMER AGREEMENT # 158533  
RECALL AMOUNT 2092.28  
1900.10 10.00% DISC -190.03  
RSN: 9 GRP DISC  
ADDL MDSE SUBTOTAL 89.97  
SUBTOTAL 1992.22  
SALES TAX 111.57  
TOTAL \$2103.79

A 15% restocking fee will be charged on returned or canceled Special Order Merchandise. Custom Orders are not refundable.

<sup>†</sup>QUOTE is valid for this date: 08/03/2005

SOLD TO	Name	RODRIGUEZ LINDA		Home Phone	(414) 647-2803
	Address	7905 WEST DAKOTA		Work Phone	() -
				Company Name	
	City	WEST ALLIS		Job Description	KRAFTMAID CABINETS
	State	WI	Zip	53219	County

## CUSTOMER PICKUP #1

## MERCHANDISE AND SERVICE SUMMARY

We reserve the right to limit the quantities of merchandise sold to customers.

REF #W02 SKU #515-664 Customer Pickup / Will Call

### S.O. MERCHANDISE TO BE PICKED UP:

S/O KRAFTMAID FACTORY REF #S01

ESTIMATED ARRIVAL DATE: 09/07/2005

REF #	SKU	QTY	UM	DESCRIPTION	TAX	PRICE EACH	EXTENSION
S0101	198-407	1.00	EA	PE /PE PE-PLYWOOD ENDS % /PE	Y	\$146.74	\$146.74
S0102	198-407	2.00	EA	MTK8 /MTK8 MATCHING TOE KICK /MTK8	Y	\$8.05	\$16.10
S0103	198-407	1.00	EA	SB30 /SB30 SINK BASE 30 /SB30 FSIDES:B	Y	\$184.30	\$184.30
				HINGES:B			
S0104	198-407	1.00	EA	BD21.3 /BD21.3 BASE THREE DRAWER 21 /BD21.3	Y	\$226.59	\$226.59
				FSIDES:B			
S0105	198-407	1.00	EA	EZR36R /EZR36R EASY REACH 36R /EZR36R	Y	\$341.07	\$341.07
				FSIDES:B HINGES:B			
S0106	198-407	1.00	EA	B24R /B24R BASE 24R /B24R FSIDES:B	Y	\$194.71	\$194.71
				HINGES:B			
S0107	198-407	1.00	EA	W2724 /W2724 WALL 2724 {BUTT} /W2724	Y	\$171.54	\$171.54
				FSIDES:B HINGES:B			

\*\*\* CONTINUED ON NEXT PAGE \*\*\*

### WILL-CALL MERCHANDISE PICK-UP

Will-Call items will be held in the store for 7 days only.

FOR WILL CALL  
MERCHANDISE PICK-UP  
PROCEED TO WILL CALL OR  
SERVICE DESK AREA  
(Pro Customers, Proceed To The Pro Desk)



(9801) 0100232712

Print

Claim: P0061929

Close





**CITY CLERK/TREASURER'S OFFICE**

414/302-8200 or 414/302-8207 (Fax)

[www.ci.west-allis.wi.us](http://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*

April 28, 2008

Mary Vareka  
Secura Insurance Company  
2401 S. Memorial Dr.  
PO Box 819  
Appleton, WI 54912-0819

Dear Ms. Vareka:

This letter acknowledges receipt of your Notice of Claim on behalf of John & Linda Rodriguez regarding damages allegedly sustained at 7905 W. Dakota St. on March 8, 2008.

The original document will be submitted to the Common Council at its meeting of May 6, 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

June 10, 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:**

Brian Sweet (\$2,917.05)  
Churchill 111 Luxurious Limousine Service, Inc. (\$602.95)  
Secura Insurance Company/John & Linda Rodriguez (\$5,500.00)

Respectfully submitted,

  
Jeffrey J. Warchol  
Assistant City Attorney

JJW:da  
Enclosures

cc: Thomas E. Mann, CVMIC





## NOTICE OF DISALLOWANCE OF CLAIM

June 18, 2008

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

Secura Insurance Company  
Attn: Mary Vareka  
2401 South Memorial Drive  
P.O. Box 819  
Appleton, WI 54912-0819

Re: Your Claim Against the City of West Allis  
Date of Loss: 3/8/08

Dear Ms. Vareka:

At its meeting on June 17<sup>th</sup>, 2008, the Common Council of the City of West Allis considered your claim received on April 28<sup>th</sup>, 2008, regarding property damage allegedly sustained by your insured, John and Linda Rodriguez, at 7905 West Dakota Street, 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-Secura Ins-Rodriguez

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