



City of West Allis

Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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2007-0555 Claim Claim Report

Sandor Virovec communication regarding property damage allegedly sustained at 1236 S. 77 St. on August 19, 2007.

Introduced: 9/4/2007

Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

POF

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>JAN 02 2008</u>	_____	_____	Barczak	<input checked="" type="checkbox"/>			
	_____	_____	Czaplewski	<input checked="" type="checkbox"/>			
	_____	_____	Dobrowski				
	_____	_____	Kopplin				
	_____	_____	Lajsic	<input checked="" type="checkbox"/>			
	_____	_____	Narlock				
	_____	_____	Reinke	<input checked="" type="checkbox"/>			
	_____	_____	Sengstock				
	_____	_____	Vitale				
	_____	_____	Weigel	<input checked="" type="checkbox"/>			
		TOTAL		<u>5</u>	<u>-</u>		

SIGNATURE OF COMMITTEE MEMBER

[Signature] _____
Chair Vice-Chair Member

COMMON COUNCIL ACTION **PLACE ON FILE**

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>JAN 02 2008</u>	<input checked="" type="checkbox"/>	_____	Barczak	<input checked="" type="checkbox"/>			
	_____	<input checked="" type="checkbox"/>	Czaplewski	<input checked="" type="checkbox"/>			
	_____	_____	Dobrowski	<input checked="" type="checkbox"/>			
	_____	_____	Kopplin	<input checked="" type="checkbox"/>			
	_____	_____	Lajsic	<input checked="" type="checkbox"/>			
	_____	_____	Narlock	<input checked="" type="checkbox"/>			
	_____	_____	Reinke	<input checked="" type="checkbox"/>			
	_____	_____	Sengstock	<input checked="" type="checkbox"/>			
	_____	_____	Vitale	<input checked="" type="checkbox"/>			
	_____	_____	Weigel	<input checked="" type="checkbox"/>			
		TOTAL		<u>10</u>	<u>-</u>		



December 13, 2007

OFFICE OF THE CITY ATTORNEY

Common Council
City of West Allis

Scott E. Post
City Attorney

Sheryl L. Kuhary
Jeffrey J. Warchol
Cheryl L. Wentland
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 placed on file:

Sandor Virovec – Amount \$ 730.22

This is a claim for reimbursement of plumbing services performed at the claimant's residence on August 19th, 2007, due to a sewer backup in the claimant's basement at 1236 South 77th Street, West Allis, WI. Upon completion of said services, the plumber indicated that the source of the backup problem originated from a separate address located a few houses north from the claimant due to the City's previous work in the area. Believing that the City was at fault, the claimant filed a claim against the City on August 23rd, 2007, for the total cost of the plumbing services.

In the usual water main break situation, the City is not held responsible for damages pursuant to state law. Furthermore, in situations where extensive repairs are warranted, the City is responsible for the main, as well as, the hookup to the main while the homeowner is responsible for the lateral running from the home to the main. In this case, however, a unique factual issue was discovered, which placed liability on the City.

This matter was investigated by Brian D. Block, Traffic & Utility Technician for the City of West Allis. Mr. Block discovered that on July 14th, 2006, one year prior to this incident, the City repaired a water main break at 1214 South 77th Street a few houses from the claimant. Based on physical evidence found at the scene, Mr. Block concluded that in the process of repairing the water main in front of 1214 South 77th Street on July 14th, 2006, a non-active sanitary lateral was damaged by the repair crew's equipment. The damage resulted in an obstruction of stone chips in the sanitary sewer. There are a total of six buildings south of the obstruction, including the claimant's. The yard grade of the claimant's property at 1236 South 77th Street is noticeably lower than the properties to the north. Mr. Block explained that the sanitary lateral at the claimant's residence entered the building at a much flatter slope than the properties to the north. Therefore, since the claimant's lateral is lower than the properties to the north, it would be affected by any obstructions down stream. Thus, it appears that in this unique instance, the City was liable for the backup to the claimant's property as a result of the repair crew's work one year prior to the incident.

Based on the above findings and pursuant to settlement guidelines, the City Attorney's Office paid the claim in the amount stated above and obtained a Property Damage Only Release signed by the claimant. Therefore, this matter should be placed on file.

Respectfully submitted,


Jeffrey J. Warchol
Assistant City Attorney

JJW:da

PROPERTY DAMAGE ONLY RELEASE

KNOW ALL MEN BY THESE PRESENTS that SANDOR VIROVEC, for and in consideration of Seven Hundred Thirty and 22/100 Dollars (\$730.22) the receipt whereof is hereby acknowledged, do hereby forever release, acquit and discharge the City of West Allis, Wisconsin, a municipal corporation, its departments, commissions, officials, agents and employees, his, her, its or their successors and assigns and all others directly or indirectly liable, from any and all claims and demands, actions and causes of action, damages, both known and unknown, including future developments thereof, costs, loss of service and compensation on account of, or in any way growing out of, any and all known and unknown property damage resulting or to result from that certain incident on or about August 18th, 2007, when a sanitary lateral was discovered in a damaged condition as a result of a water main break repaired by the City on July 14th, 2006 in the surrounding area, causing sewerage back up in the basement of the residence owned by Sandor Virovec at 1236-38 South 77th Street, West Allis, WI, resulting in plumbing services at the residence.

I agree that this settlement is in full compromise of a doubtful and disputed claim both as to the question of liability and damages and that the payment is not to be construed as an admission of liability.

I agree that this is a complete release of property damage only and it is understood and agreed that it doesn't constitute a release for any bodily injury resultant from this accident as there were no bodily injuries as a result of this accident.

I further agree that this release and payment pursuant thereto is not to be construed as a waiver by or an estoppel of any party released to prosecute a claim or action against the undersigned for any damages sustained.

This Release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this Release are contractual and not a mere recital.

I HAVE READ THE FOREGOING RELEASE AND FULLY UNDERSTAND IT. I/WE FURTHER UNDERSTAND THAT I/WE HAVE THE OPPORTUNITY TO DISCUSS AND NEGOTIATE THE TERMS OF THIS RELEASE WITH THE WEST ALLIS CITY ATTORNEY AND SPECIFICALLY WAIVE SUCH OPPORTUNITY.

Signed and sealed this _____ day of 12-3-07, 2007.

Sandor Virovec

Sandor Virovec

Subscribed and sworn to before me this 3rd day of December, 2007.

Darilyn M. Asprakes
(DARILYN M. ASPRAKES)
Notary Public, State of Wisconsin
My Commission Expires 10/24/11
STATE OF WISCONSIN

8/22/07

Sandor Virovec
1236 S77th. St
West Allis, WI 53214
(414)-525-0192

City of West Allis
7525 W Greenfield Ave
West Allis, WI 53214

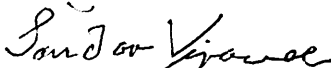
Re: Basement flooding due to sewer back up from the street

To whom this may concern:

I'm filing a damage claim regarding the flood in my basement. On 8/19/2007 at 11:30 am, I called Carl's plumbing services to fix the flood in my basement. They came and fixed my problem, but reported to me that, the flood had not originated from my address: 1236 S 77th St. West Allis, WI. 53214. The problem actually originated from the address 1214 S 77th St. West Allis, WI 53214. The city has been out on the street trying to fix this problem. I would like a refund for the plumber in the amount of \$760.22 and damages in my basement. Attached is a copy of my bill from the plumber.

Thank you,

Sandor Virovec



RECEIVED

AUG 23 2007

CITY OF WEST ALLIS
CLERK/TREASURER

cc-attys

CARL'S PLUMBING SERVICES INC.

1756 S. 56TH ST.
MILWAUKEE, WI 53214
(414) 778-1234 MP 220549

DATE
8/19/07

DATE ORDERED
/ /

DATE SCHEDULED
/ /

PHONE

WK. PHONE

WARRANTY
 CONTRACT
 SERVICE CONTRACT
 NORMAL
 RES. COMM.

NAME Anna Serceki
STREET 1236 S 77th ST
CITY WEST Allis WI ZIP 53214
MAKE MODEL SERIAL NUMBER

JOB LOCATION DESCRIPTION OF WORK SERVICE

Snake Sewer
From Main Clean out
To Street

Paid by Check
1315

LABOR CHARGES \$189/hr HRS. @ /HR. = 694.50

TECHNICIAN SIGNATURE Roy TOTAL OTHER CHARGES 30

TERMS: DUE UPON COMPLETION		SUB-TOTAL
I HAVE THE AUTHORITY TO ORDER THE ABOVE WORK AND DO SO ORDER AS OUTLINED ABOVE. IT IS AGREED THAT THE SELLER WILL RETAIN TITLE TO ANY EQUIPMENT OR MATERIAL FURNISHED UNTIL FINAL & COMPLETE PAYMENT IS MADE, AND IF SETTLEMENT IS NOT MADE AS AGREED, THE SELLER SHALL HAVE THE RIGHT TO REMOVE SAME AND THE SELLER WILL BE HELD HARMLESS FOR ANY DAMAGES RESULTING FROM THE REMOVAL THEREOF.		694.50
TRIP CHARGE		
TAX		32.72
TOTAL AMOUNT DUE		730.22

ABOVE ORDERED WORK HAS BEEN COMPLETED AND I ACKNOWLEDGE RECEIPT OF MY COPY.
X Anna Serceki AUTHORIZED SIGNATURE DATE

CHECK LIST	QUANTITY	ITEM OR PART DESCRIPTION	PRICE
<input type="checkbox"/> WATER HEATER	1	Fuel Charge	7.50
<input type="checkbox"/> ELEMENTS			
<input type="checkbox"/> THERMOSTAT	1	Sewer Snake	22.50
<input type="checkbox"/> RELIEF VALVE			
<input type="checkbox"/> DIP TUBE			
<input type="checkbox"/> ELECTRICAL CONN.			
<input type="checkbox"/> GAS WATER HEATERS			
<input type="checkbox"/> THERMOCOUPLE			
<input type="checkbox"/> BURNER			
<input type="checkbox"/> CONTROL (GAS)			
<input type="checkbox"/> FLUE PIPE			
<input type="checkbox"/> RELIEF VALVE			
<input type="checkbox"/> TOILET			
<input type="checkbox"/> BALL COCK			
<input type="checkbox"/> FLAPPER			
<input type="checkbox"/> SUPPLY LINE			
<input type="checkbox"/> WAX SEAL & CLOSET BOLTS			
<input type="checkbox"/> DRAINS CLEANING			
<input type="checkbox"/> KITCHEN SINK			
<input type="checkbox"/> WASHER LINE			
<input type="checkbox"/> MAIN LINE			
<input type="checkbox"/> LAVATORY LINE			
<input type="checkbox"/> TUB OR SHOWER			
<input type="checkbox"/> KITCHEN SINK			
<input type="checkbox"/> SINK FAUCET			
<input type="checkbox"/> SINK DRAIN			
<input type="checkbox"/> GARBAGE DISPOSAL			
<input type="checkbox"/> AIR GAP			
<input type="checkbox"/> D/W CONNECTIONS			
<input type="checkbox"/> TUB & SHOWER			
<input type="checkbox"/> TUB VALVE			
<input type="checkbox"/> TRIP LEVER			
<input type="checkbox"/> SHOWER DIVERTER			
<input type="checkbox"/> TUB OR SHOWER DRAIN			
<input type="checkbox"/> NEW CONSTRUCTION			
<input type="checkbox"/> CRAWL SPACE ROUGH DRAINAGE P.S.I.			
<input type="checkbox"/> SLAB ROUGH DRAINAGE P.S.I.			
<input type="checkbox"/> TOP OUT DRAINAGE P.S.I.			
<input type="checkbox"/> SEWER OR SEPTIC DRAINAGE			
<input type="checkbox"/> WATER P.S.I.			
<input type="checkbox"/> PRESSURE REGULATOR			
<input type="checkbox"/> BOOSTER PUMP			
<input type="checkbox"/> FINAL			
<input type="checkbox"/> COMMERCIAL REPAIR			
<input type="checkbox"/> FLOOR DRAINS			
<input type="checkbox"/> D/WASHER BOOSTER			
<input type="checkbox"/> GREASE TRAP			
	TOTAL PARTS		
	ADDITIONAL PARTS (OTHER SIDE)		
	OR		
	SUBLET		
	OTHER		
	TOTAL OTHER CHARGES		30.00
	OUR TRAINED PERSONNEL SUGGEST THE FOLLOWING IMPROVEMENTS:		
	PARTS WARRANTY All parts as recorded are warranted as per manufacturer specifications. LABOR GUARANTY The labor charge as recorded here relative to the equipment serviced as noted, is guaranteed for a period of 30 days. We do not, of course, guaranty other parts than those we supply. If repairs later become necessary due to other defective parts, they will be charged separately.		
	TRAVEL TIME		
	TIME ARRIVED 12:00		
	TIME DEPARTED 3:30		
	TRAVEL TIME		

LOCATION OF WORK



7525 West Greenfield Avenue
West Allis, Wisconsin 53214-4648



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 24, 2007

Sandor Virovec
1236 S. 77 St.
West Allis, WI 53214

Dear Ms. Virovec:

This letter acknowledges receipt of your communication regarding property damage allegedly sustained at 1236 S. 77 St. on August 19, 2007.

The original document will be submitted to the Common Council at its meeting of September 4, 2007.

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
CITY ATTORNEY'S OFFICE

5/8/08
~~11/10/07~~

Reminder Date: 9/26/07

DUE DATE: 12/23/07

Responsible Atty: J.J.W.

NO
Demand

Case SANDOR VIRAVEC

Event Claim - Prop Damage - Basement Flooding

Notes: - INVESTIGATION - Do NOT deny - see Black Report

- IF deny, by ~~12/23/07~~ - wait on "Basement" Damages



7525 West Greenfield Avenue
West Allis, Wisconsin 53214-4648



RECEIVED
AUG 23 2007
WEST ALLIS
CITY ATTORNEY

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 24, 2007

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Sincerely,

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

Monica Schultz
Assistant City Clerk

/amn

cc: City Attorney

8/22/07

Sandor Virovec
1236 S77th. St
West Allis, WI 53214
(414)-525-0192

City of West Allis
7525 W Greenfield Ave
West Allis, WI 53214

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Thank you,

Sandor Virovec

Sandor Virovec

RECEIVED

AUG 23 2007

CITY OF WEST ALLIS
CLERK/TREASURER

cc - Atty



City of West Allis
Referral Notice
Common Council

7525 W. Greenfield Ave.
West Allis, WI 53214

RECEIVED
SEP 5 2007
WEST ALLIS
CITY ATTORNEY

To: City Attorney
From: Common Council
Date: Tuesday, September 4, 2007

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.

2007-0555 Sandor Virovec communication regarding property damage allegedly sustained at 1236 S. 77 St. on August 19, 2007.

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
Cheryl L. Wentland
Assistant City Attorneys

December 18, 2007

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.

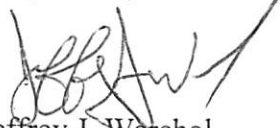
The following claims/lawsuits have been denied:

Christen Cook (\$116.00)
Great West Casualty Company/Mark Flower/TBT, LLC (\$1,947.00)

The following claim/lawsuit has been placed on file:

Sandor Virovec (\$730.22)
State Farm Insurance Co./Jeff Dawson (\$3,842.60)

Respectfully submitted,



Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC