

37.



# City of West Allis Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
-------------	-------	--------

2008-0112      Claim      Claim Report

James Hannon communication regarding vehicle damage allegedly sustained near the alley entrance to 971 S. 60 Street on February 19, 2008.

Introduced: 3/4/2008

Controlling Body: Administration & Finance Committee

### COMMITTEE RECOMMENDATION

*Deny*

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
MAR 31 2008	_____	_____	Barczak	✓			
	_____	_____	Czaplewski	✓			
	_____	_____	Dobrowski				
	_____	_____	Kopplin				
	_____	_____	Lajsic	✓			
	_____	_____	Narlock				
	_____	_____ ✓	Reinke	✓			
	_____	_____	Sengstock				
	_____	_____	Vitale				
	_____ ✓	_____	Weigel	✓			
		TOTAL		5	-		

### SIGNATURE OF COMMITTEE MEMBER

*[Signature]*  
Chair

Vice-Chair

Member

### COMMON COUNCIL ACTION

*Deny*

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
MAR 31 2008	_____ ✓	_____	Barczak	✓			
	_____ ✓	_____	Czaplewski	✓			
	_____	_____	Dobrowski	✓			
	_____	_____	Kopplin	✓			
	_____	_____	Lajsic	✓			
	_____	_____	Narlock	✓			
	_____	_____	Reinke	✓			
	_____	_____	Sengstock	✓			
	_____	_____ ✓	Vitale	✓			
	_____	_____	Weigel	✓			
		TOTAL		10	-		



March 20, 2008



Common Council  
City of West Allis

OFFICE OF THE CITY ATTORNEY

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:**

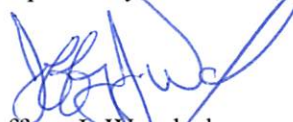
**James Hannon - Amount: \$ 1,021.79**

This is a claim for vehicle damage to the claimant's van on February 19<sup>th</sup>, 2008, when the vehicle allegedly bottomed out while existing an alley at or near 971 South 60<sup>th</sup> Street, West Allis, WI. The claimant alleges in his claim that the damage to his van was caused by a build up of ice and snow at the entrance-way approach to the alley, which he struck with the van while attempting to pull out of the alley onto the street. The claimant obtained an estimate for repair from an auto repair facility and filed a claim against the City on February 22<sup>nd</sup>, 2008.

Our investigation into this claim did show that the approach to the alley referenced in the claimant's claim did have a build up of snow and ice with various spots of melting down to the cement causing a few ruts in the roadway. However, the condition of the alley was no different than any other alley within the City at this time of the year taking into consideration the excessive amount of snowfall that has occurred to date this winter. The alley and entrance way were satisfactorily plowed so that vehicles could enter and exit; however, caution was needed by any individual driver in maneuvering in and out of the alley. In other words, the City did not take any specific action or fail to take action resulting in damage to the claimant's vehicle. Furthermore, even if this rose to the level of a danger or defect in the roadway, the fact that the City did not have knowledge of it prior to the claimant's incident, along with the timeframe specified in the law for the City to remove snow and ice on roadways aid in making the City immune from liability in this situation. This is a matter whereby an operator of a vehicle must proceed with extreme caution and if not, is a proper claim to be handled by the insurance carrier for the 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

I LIVE AT 971 SOUTH 60<sup>TH</sup> STREET ON 2-19-08. I DROVE MY 2001 DODGE GRAND CARAVAN OUT OF ALLEY WHICH WAS IN BAD SHAPE AFTER SNOW FALL MY SON FOR THE PAST 12 YEARS TOOK CARE OF ALLEY AND ENTRANCE WAY WHICH HE CLEANED ALL SNOW AWAY YOUR PLOW PUT HEAVY WET AND ICE BACK INTO ALLEY WAY ENTRANCE WAY AND THE CITY NEVER REMOVED IT WHICH CAUSED BAD RUTS AND BAD WHOLES. I CALLED THE MAYOR ON SIDE WALKS STREET CORNERS AND ALLEY WAYS I AM DISABLED AND HAVE LIMITED MOBILITY. I HAD A DOCTORS APPOINTMENT AND DROVE DODGE OUT OF ALLEY WHICH CAUSED \$1021.79 DOLLARS IN DAMAGE TO THE VEHICLE FROM THE RUTS AND WHOLES AT THE ENTRANCE WAY TO THE ALLEY. I CALLED STREET MAINTENANCE DEPARTMENT AGAIN AND TOLD THEM THAT THE ENTRANCE WAY WAS SO BAD THAT IT CAUSED THE DAMAGE TO VEHICLE. THE CITY FINALLY SENT OUT A FRONT END LOADER OR PLOW TO SCRAPE THE ALLEY AND SIDE STREET DOWN NOT REMOVING ALL OF THE RUTS AND WHOLES BUT REDUCING THE NUMBER AND DEPTH OF WHOLES CONSIDERABLY. WHY DO HOME OWNERS HAVE TO HAVE TROUBLE BEFORE SOMETHING IS DONE. SORRY TO COMPLAIN BUT WHY DOES A HANDY CAP PERSON HAS TO COMPLAIN ABOUT SOMETHING THAT THE MAYOR PASSED LAWS TO HELP AND NOTHING GETS DONE

*James Haman*

**RECEIVED**

**FEB 22 2008**

CITY OF WEST ALLIS  
CLERK/TREASURER

02/21/2008 at 11:57 AM  
6989

Job Number:

**DODGE CITY**  
Wisconsin's Largest Dodge Dealer  
4640 South 27th Street  
Milwaukee, WI 53221  
(414)281-9100 Fax: (414)281-4780

**RECEIVED**  
**FEB 22 2008**

CITY OF WEST ALLIS  
CLERK/TREASURER

**PRELIMINARY ESTIMATE**

Written By: Dan Sullivan  
Adjuster:

**Insured:** JAMES HANNON  
**Owner:** JAMES HANNON  
**Address:** 971 S 60TH ST  
WEST ALLIS, WI 53214  
**Other:** (414)763-7582

**Claim #**  
**Policy #**  
**Deductible:**  
**Date of Loss:**  
**Type of Loss:**  
**Point of Impact:**

**Inspect** DODGE CITY  
**Location:** 4640 South 27th Street  
Milwaukee, WI 53221

**Business:** (414)281-9100

**Insurance**  
**Company:**

Days to Repair

2001 DODG GRAND CARAVAN AWD SPORT 6-3.8L-FI 4D VAN STONE WHIT Int:  
**VIN:** 2B8GT44LX1R122546 **Lic:** **Prod Date:** **Odometer:** 83197  
Air Conditioning Rear Defogger Tilt Wheel  
Cruise Control Intermittent Wipers Keyless Entry  
Dual Air Condition Auto Level Rear Wiper  
Body Side Moldings Dual Mirrors Privacy Glass  
Console/Storage Roof Console Fog Lamps  
Clear Coat Paint Power Steering Power Brakes  
Power Windows Power Locks Power Mirrors  
AM Radio FM Radio Stereo  
Cassette Search/Seek Anti-Lock Brakes (4)  
Driver Air Bag Passenger Air Bag Front Side Impact Air Bag  
4 Wheel Disc Brakes Cloth Seats Bucket Seats  
7 Passenger Option Automatic Transmission 4 Wheel Drive  
Overdrive Aluminum/Alloy Wheels

NO.	OP.	DESCRIPTION	QTY	EXT. PRICE	LABOR	PAINT
1		FRONT BUMPER				
2	Repl	Bumper cover 119" WB primed	1	470.00	2.0	2.8
3		Add for Clear Coat				1.1
4		Add for fog lamps			0.3	
5	Repl	Air deflector	1	37.60	0.2	
6	Repl	LT Bumper cover retainer	1	5.00		
7	Repl	RT Bumper cover retainer	1	5.00		
8#	Subl	Hazardous Waste Disposal	1	5.00	T	
9#	Repl	Flex Additive	1	8.00	T	

02/21/2008 at 11:57 AM  
6989

Job Number:

**PRELIMINARY ESTIMATE**

2001 DODG GRAND CARAVAN AWD SPORT 6-3.8L-FI 4D VAN STONE WHIT Int:

NO.	OP.	DESCRIPTION	QTY	EXT.	PRICE	LABOR	PAINT
Subtotals ==>			530.60			2.5	3.9
		Parts					517.60
		Body Labor	2.5	hrs @ \$	50.00/hr		125.00
		Paint Labor	3.9	hrs @ \$	50.00/hr		195.00
		Paint Supplies	3.9	hrs @ \$	30.00/hr		117.00
		Sublet/Misc.					13.00
SUBTOTAL							\$ 967.60
Sales Tax					\$ 967.60 @	5.6000%	54.19
GRAND TOTAL							\$ 1021.79
ADJUSTMENTS:							
Deductible							0.00
CUSTOMER PAY							\$ 0.00
INSURANCE PAY							\$ 1021.79

THIS IS AN ESTIMATE ONLY. PART PRICES ARE SUBJECT TO INVOICE. ESTIMATES ARE VALID FOR 60 DAYS FROM THE ORIGINAL ESTIMATION DATE.

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.

02/21/2008 at 11:57 AM  
6989

Job Number:

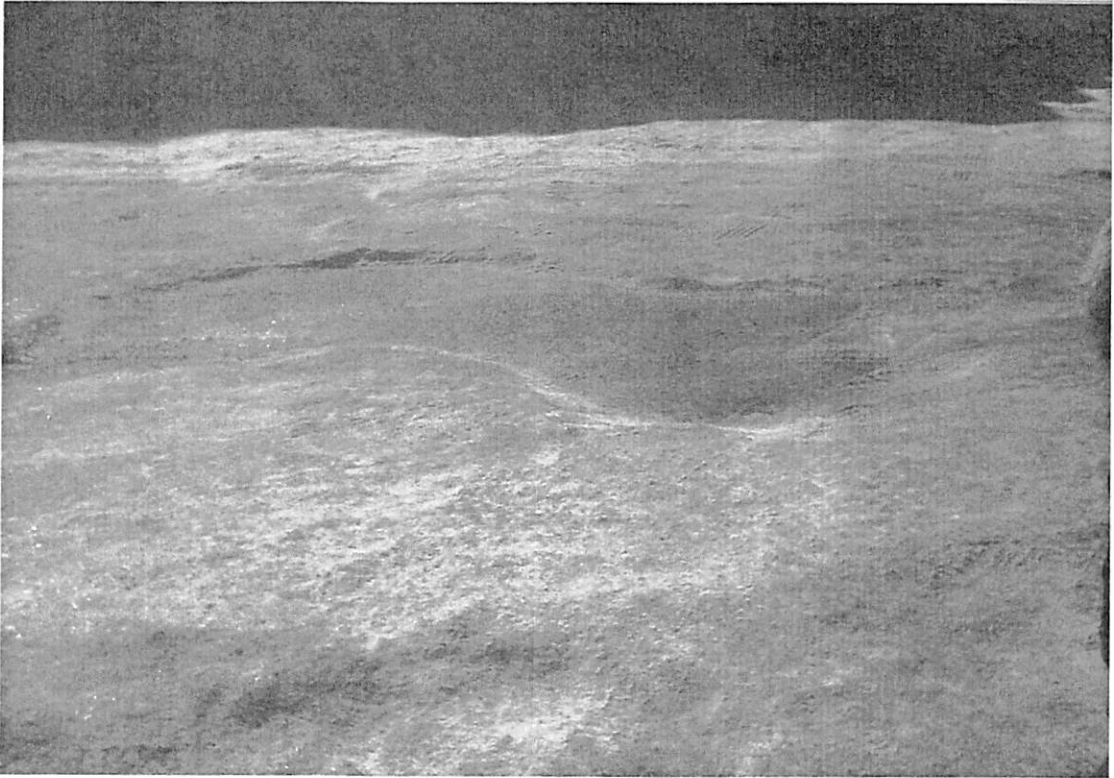
**PRELIMINARY ESTIMATE**

2001 DODG GRAND CARAVAN AWD SPORT 6-3.8L-FI 4D VAN STONE WHIT Int:

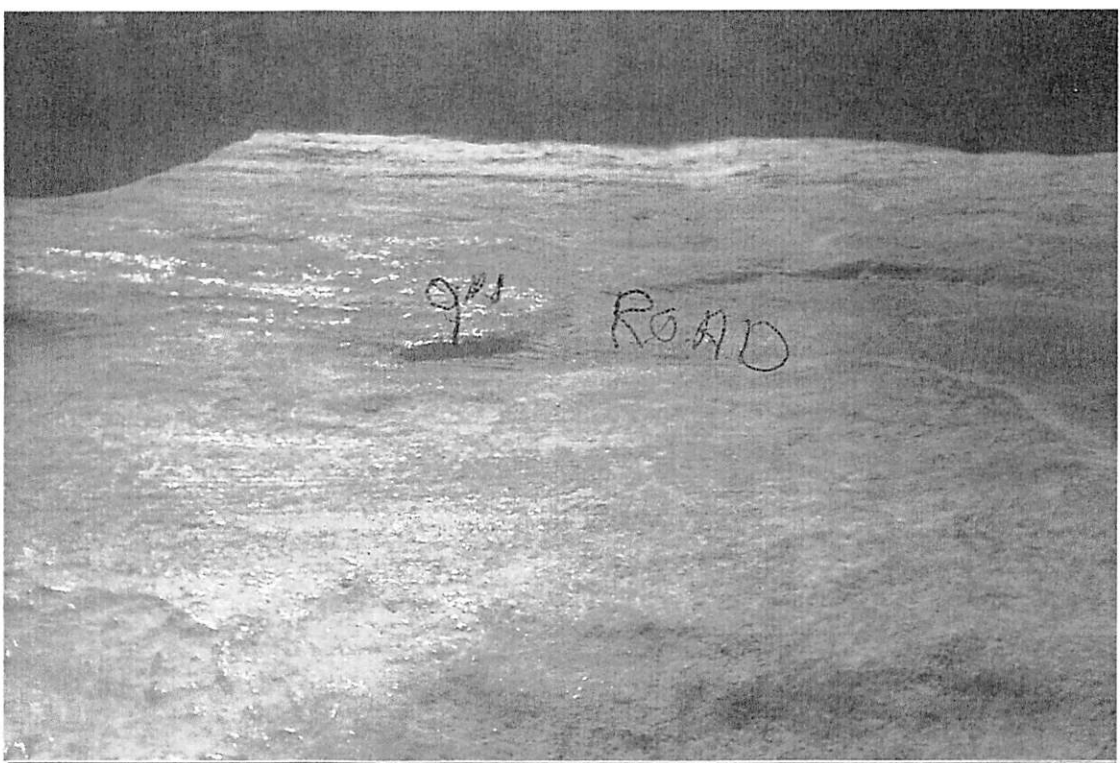
Estimate based on MOTOR CRASH ESTIMATING GUIDE. Unless otherwise noted all items are derived from the Guide DR3TE01, CCC Data Date 01/01/2008, and the parts selected are OEM-parts manufactured by the vehicles Original Equipment Manufacturer. OEM parts are available at OE/Vehicle dealerships. OPT OEM (Optional OEM) or ALT OEM (Alternative OEM) parts are OEM parts that may be provided by or through alternate sources other than the OEM vehicle dealerships. OPT OEM or ALT OEM parts may reflect some specific, special, or unique pricing or discount. OPT OEM or ALT OEM parts may include "Blemished" parts provided by OEM's through OEM vehicle dealerships. Asterisk (\*) or Double Asterisk (\*\*) indicates that the parts and/or labor information provided by MOTOR may have been modified or may have come from an alternate data source. Tilde sign (~) items indicate MOTOR Not-Included Labor operations. Non-Original Equipment Manufacturer aftermarket parts are described as AM, Qual Repl Parts or Comp Repl Parts which stands for Competitive Replacement Parts. Used parts are described as LKQ, Qual Recy Parts, RCY, or USED. Reconditioned parts are described as Recond. Recored parts are described as Recore. NAGS Part Numbers and Benchmark Prices are provided by National Auto Glass Specifications. Labor operation times listed on the line with the NAGS information are MOTOR suggested labor operation times. NAGS labor operation times are not included. Pound sign (#) items indicate manual entries. Some 2006 vehicles contain minor changes from the previous year. For those vehicles, prior to receiving updated data from the vehicle manufacturer, labor and parts data from the previous year may be used. The Pathways estimator has a complete list of applicable vehicles. Parts numbers and prices should be confirmed with the local dealership.

CCC Pathways - A product of CCC Information Services Inc.

















February 26, 2008

James Hannon  
971 S. 60 St.  
West Allis, WI 53214

Dear Mr. Hannon:

This letter acknowledges receipt of your communication regarding vehicle damage allegedly sustained near the alley entrance to 971 S. 60 Street on February 19, 2008.

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

March 24, 2008

Common Council  
City of West Allis

RE: City Attorney's Report of Claims/Lawsuits

Dear Council Members:

The enclosed claim/lawsuit 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 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 claim/lawsuit be denied:**

James Hannon (\$1,021.79)

Respectfully submitted,

  
Jeffrey J. Warchol  
Assistant City Attorney

JJW:da  
Enclosure

cc: Thomas E. Mann, CVMIC



4/3/08  
Ann,  
Please put with  
appropriate jackets.  
Thank DA



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

LOWANCE OF CLAIM

April 3, 2008

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

Mr. James Hannon  
971 South 60<sup>th</sup> Street  
West Allis, WI 53214

Re: Your Claim Against the City of West Allis

Dear Mr. Hannon:

At its meeting on March 31<sup>st</sup>, 2008, the Common Council of the City of West Allis considered your claim received on February 22<sup>nd</sup>, 2008, regarding alleged vehicle damage 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 Hannon

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