

38.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
2008-0499	Claim	Claim Report
Edward Krause communication regarding vehicle damage allegedly sustained at S 60 St. and W. Lincoln Ave. on June 7, 2008.		
Introduced: 8/5/2008		Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

Deny

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
OCT 07 2008	<input checked="" type="checkbox"/>		Barczak				
			Czaplewski				
			Kopplin	<input checked="" type="checkbox"/>			
			Lajsic	<input checked="" type="checkbox"/>			
			Narlock	<input checked="" type="checkbox"/>			
			Reinke	<input checked="" type="checkbox"/>			
			Roadt				
			Sengstock				
		<input checked="" type="checkbox"/>	Vitale	<input checked="" type="checkbox"/>			
			Weigel				
			TOTAL	<u>5</u>	<u>0</u>		

SIGNATURE OF COMMITTEE MEMBER

Kurt Kopplin
 Chair _____ Vice-Chair _____ Member _____

COMMON COUNCIL ACTION

Denied

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
OCT 07 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"/>			
		<input checked="" type="checkbox"/>	Narlock	<input checked="" type="checkbox"/>			
			Reinke	<input checked="" type="checkbox"/>			
			Roadt	<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>		



September 12, 2008

OFFICE OF THE CITY ATTORNEY

Common Council
City of West Allis

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:

Edward J. Krause/\$500.00 and American Family Insurance Group/\$1,232.40

This is a claim for property damage to the claimant's vehicle on June 7th, 2008, while during extreme flooding from the rains, a sewer cover allegedly "exploded" off of the street and struck the claimant's car at the intersection of South 60th Street and West Lincoln Avenue in the City of West Allis, WI. As a result of this incident, the claimant's vehicle was scratched and dented requiring repairs in the amount of \$1,232.40. The claimant blames a faulty sewer system not properly maintained by the City as the cause of the damage. The claimant submitted his claim to his insurance company and on July 7th, 2008, filed a claim against the City for the amount of his insurance deductible of \$500.00. The claimant's insurance company, American Family Insurance Group, also filed a claim on August 11th, 2008, for damages in the total amount of \$1,232.40, which included the claimant's insurance deductible. The claimant and his insurance company may have got their signals crossed regarding who would be responsible for filing a claim.

Our investigation of this matter revealed that although a surcharge through the sewer system could cause a sewer cover to pop off in the street, the idea of said cover "exploding" up into the air and coming down on the claimant's car is extremely unlikely. Whatever occurred on June 7th, 2008, to the claimant's vehicle happened as a result of the extreme amount of rain and flooding as is documented in the claimant's own rendition of the facts in his claim. The rain and subsequent flooding that occurred to the area in general on June 7th, 2008, was truly an act of God that no one could control. In other words, there is no evidence of a faulty or improperly maintained sewer system in this case. As a result of the rain, other manhole covers in the City may have popped off from the extreme force of the flooding through the system. No sewer system is designed to handle the amount of water that came about as a result of the rains of June 7th, 2008. Thus, the City bears no negligence in this case and this is a matter best handled by the auto insurance carrier for the vehicle in question.

Based upon the above, it is the recommendation of the City Attorney's Office to deny both the claim of the claimant, as well as, the claim of American Family Insurance Group 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

July 15, 2008

Edward Krause
N43 W32865 Rasmus Rd., #13D
Nashotah, WI 53058

Dear Mr. Krause:

This letter acknowledges receipt of your communication regarding vehicle damage allegedly sustained at S. 60 St. and W. Lincoln Ave. on June 7, 2008.

The original document will be submitted to the Common Council at its meeting of August 5, 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

Wednesday, July 02, 2008

The West Allis Common Council
C/O West Allis City Hall
7525 W. Greenfield Ave
West Allis, WI 53214

RECEIVED

JUL 07 2008

CITY OF WEST ALLIS
CLERK/TREASURER

Dear Representatives,

I am writing to you at the behest of the West Allis Police Department and my automobile insurance company, American Family Insurance.

On the evening of Saturday, June 7, 2008, I was caught in extreme flooding while driving at approximately 8:30 PM at the intersection of Lincoln Avenue and 60th Street. Specifically, while I was facing north on 60th Street waiting for the traffic light to turn green, the sewer cover exploded off of the street (from the force of the flooding) and struck my car, causing over \$1200.00 worth of damages.

At the time of the incident I called the West Allis Police Department and Patrol Officer Christina Haiser came to inspect the damage and to file a police report #08.02450. At this time Officer Haiser instructed me to send a letter to the West Allis Common Council to request reimbursement for damages to my vehicle.

When I contacted American Family Insurance, they informed me that they do not seek reimbursement for these types of things, and that they would repair my vehicle and I would have to pursue my own reimbursement for my deductible.

The total damages to my 2005 Honda Accord came to \$1,232.40. American Family Insurance paid for \$732.40, and I am requesting a check from the West Allis Common Council to cover my losses of **\$500.00 (five hundred dollars)**.

Paying for these damages, that were no fault of my own and a result of the malfunction of the City of West Allis's sewer system, have been a tremendous hardship for myself and my family in these times of rising gas, food and utility prices. I am also laid off from work temporarily, collecting unemployment.

I deeply appreciate any action that you can take on my behalf to reimburse me for this situation.

Sincerely,

Edward Krause
N43 W32865 Rasmus Rd. #13D
Nashotah, WI 53058

Home: 262-367-2918
Cell: 262-510-1782

cc: ATHy

CERTIFIED MAIL™

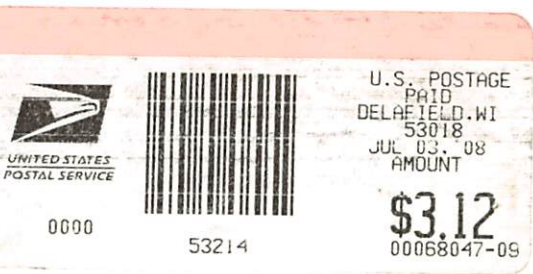
Edward Krause

Unit 13D

N43W32865 Rasmus Rd.
Nashotah, WI 53058-9467



7007 3020 0000 4153 4059



West Allis City Hall
Attn: Common Council - Storm Damage
7525 W Greenfield Ave.
West Allis, Wis 53214

7/5

53214+464B



"Auto Collision Repair Center"

Computer Four Wheel
Alignment

(262) 538-1319

MERTON AUTO BODY, INC.

W275 N6683 Moraine Drive

P.O. Box 757

Merton, Wisconsin 53056

14444
Uni-Body Repair Specialists
Windshields Replaced
Complete & Spot Painting

Date 6-18-08

Name Edward Krause Address Nashotah WI Phone 367-2918
Car Make 2005 Honda Model Accord License _____ WK Phone _____
Cell Phone 510-1782

Replace	Repair	DESCRIPTION	Labor Hrs.	Parts Prices	Misc. or Sublet

PLEASE DO NOT WAX FOR 60 DAYS

\$1232.40
Thank you

We guarantee all work if you are dissatisfied with the work performed return the automobile to the shop, and steps will be taken to satisfy your complaint. WE VALUE YOU AS A CUSTOMER.

I hereby authorize the above repair work to be done along with the necessary material, and hereby grant you and or your employees, permission to operate the car, truck or vehicle herein described on streets, highways, or elsewhere for the purpose of testing and or inspection. An express mechanic's lien is hereby acknowledged on above car, truck or vehicle to secure the amount of repairs thereto:
AUTHORIZED BY:
NOT RESPONSIBLE FOR LOSS OR DAMAGE TO CARS OR ARTICLES LEFT IN CARS IN CASE OF FIRE, THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL.

This vehicle received without face to face customer contact.

INSURANCE COMPANY _____ Shop Representative Signature _____

ADDRESS _____ CUSTOMER PAYS -- 500 00

ADJUSTOR _____ INS. CO. PAYS -- 732 40

TOTAL LABOR
TOTAL PARTS
MISC. or SUBLET
SUB TOTAL
SALES TAX
TOTAL

MERTON AUTO BODY INC
W275 N6683 MORAIN DRIVE
MERTON, WI. 53056
PHONE 538-1319 FAX 538-1151
FED # 391805874

*** PRELIMINARY SUPPLEMENT 1 ***

RO# 14444

S1

06/09/2008 03:11 PM
06/10/2008 09:04 AM

Owner

Owner: EDWARD J KRAUSE
Address: N43W32865 RASMUS RD U (262)510-1782
(262)367-2918
City State Zip: NASHOTAH, WI 53058-0000

Control Information

Claim # : 00651447251-0C
Loss Date/Time: 05/31/2008 05:00 AM
Deductible: \$500.00

Insured Policy # : 4860055121
Loss Type: Comprehensive

Ins. Company: American Family Insurance
City State Zip: WI

FAX:

Insured: EDWARD J KRAUSE
Address:

(262)510-1782
(262)367-2918

Inspection

Inspection Date: 06/09/2008 03:11 PM
Inspection Location: MERTON AUTO BODY INC.
Address: W275 N6683 MORAIN DR.

Inspection Type: Direct Repair Program
Contact: STEVE ANDERSON
Work/Day: (262)538-1319x
Work/Day: (262)538-0254x
Work/Day: (262)538-0570x

City State Zip: Merton, WI 53056
Email: mab@eyecomwireless.com

Primary Impact: Right Rear Side
Driveable: Yes

Secondary Impact:
Rental Assisted: No

Assigned Date/Time:
First Contact Date/Time:

Received Date/Time: 06/09/2008 12:30 PM
Appointment Date/Time: 06/10/2008 05:00 AM

Appraiser Name: STEVE ANDERSON
Address: W275 N6683 MORAIN DR
City State Zip: Merton, WI 53056
Email: mab@eyecomwireless.com

Appraiser License # : 391805874
Work/Day: (262)538-1319
FAX:

Orig Appraiser Name: STEVE ANDERSON
Address: W275 N6683 MORAIN DR
City State Zip: Merton, WI 53056
Email: mab@eyecomwireless.com

Appraiser License # : 391805874
Work/Day: (262)538-1319
FAX:

Repairer

Repairer: MERTON AUTO BODY INC.
Address: W275 N6683 MORAIN DR.

Contact: STEVE ANDERSON
Work/Day: (262)538-1319
Work/Day: (262)538-0254
Work/Day: (262)538-0570

City State Zip: Merton, WI 53056
Email: mab@eyecomwireless.com

Repair Start Date/Time:
Target Complete Date/Time: 06/18/2008 05:00 PM

Vehicle Drop Off Date/Time: 06/16/2008 08:00 AM
Days To Repair: 3

Vehicle

2005 Honda Accord EX V6 2 DR Coupe

DIRECTION OF PAYMENT AND REPAIR AUTHORIZATION

American Family Mutual Insurance Company

CLAIM NUMBER	0	0	-	6	5	1	-	4	9	7	2	5	1
SHOP NAME													
SHOP ADDRESS													
CITY				STATE				ZIP		TELEPHONE NUMBER			
SHOP FED ID NUMBER													

THIS REPAIR FACILITY UNDERSTANDS AND AGREES THAT PAYMENT WILL ONLY BE ISSUED UPON FULL AND FINAL COMPLETION OF REPAIRS.

VEHICLE OWNER(S) NAME(S)													
Ed Krause													
VEHICLE YEAR/MAKE/MODEL													
2005 Honda Accord													
VIN NUMBER													
1HGCM81G25A004198													

I HEREBY AUTHORIZE American Family Mutual Insurance Company to make payment to:

(Shop Name)

Merton Auto Body Inc.

I understand that I am responsible for any applicable deductible, adjustment for depreciation, and/or betterment amounts shown below.

Upon receipt of my vehicle and satisfaction of the repairs, I do hereby appoint this repair facility as my attorney in fact to accept on my behalf any and all checks, drafts, or bills of exchange and to endorse all such checks, drafts, or bill for deposit as credit on my account for Repair Order #: 14444

ORIGINAL REPAIR ORDER AMOUNT	\$	1003.70
SUPPLEMENTAL AMOUNT	\$	228.70
TOTAL REPAIR AMOUNT	\$	1232.40
LESS: DEDUCTIBLE	\$	500.00
LESS: BETTERMENT AMOUNT	\$	<u> </u>
NET AMOUNT	\$	732.40
RECEIVED FROM INSURANCE	\$	0
RECEIVED FROM CUSTOMER	\$	500.00
BALANCE DUE	\$	732.40

PLEASE PRINT VEHICLE OWNER(S) NAME(S)

Ed Krause

VEHICLE OWNER(S) SIGNATURE(S)

Edward Krause

DATE

6-19-08



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

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

September 16, 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:

Underground Electric Facility at 78th & Becher/We Energies (No Demand)
Jamie Aldama (\$505.82)
American Family Insurance Group on Behalf of Edward Krause (\$1,232.40)
Edward Krause (\$500.00)

Respectfully submitted,

Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosure

cc: Thomas E. Mann, CVMIC



NOTICE OF DISALLOWANCE OF CLAIM

October 10, 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Edward Krause
N43 W32865 Rasmus Road
#13D
Nashotah, WI 53058

Re: Your Claim Against the City of West Allis
Date of Loss: 6/7/08

Dear Mr. Krause:

At its meeting on October 7th, 2008, the Common Council of the City of West Allis considered your claim received on July 15th, 2008, regarding vehicle damage allegedly sustained at South 60th Street and West Lincoln Avenue, 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. Ziebler
City Administrative Officer
Clerk/Treasurer

PMZ:da
L:\jeff\claims\denialLtrs\ltr-denial-E Krause

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