

DEC



City of West Allis **Matter Summary**

7525 W. Greenfield Ave. West Allis, WI 53214

File	Number	Title		S	tatus				
2009-0663									
20	2009-0003		Claim Report						
		Theresa Wolf communication regarding vehicle damage allegedly sustained at 6501 W. Becher Place on September 30, 2009. Introduced: 10/20/2009 Controlling Body: Administration & Finance							
				Co	ommittee				
				<u> </u>					
COMMITTER	E RECOMM	TENDATION _		Denia	λ				
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DATE:			Czaplewski						
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			Roadt						
			Sengstock						
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ACTION DATE:		-	Barczak	/					
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TOTAL





November 4, 2009

OFFICE OF THE CITY ATTORNEY

Scott E. Post City Attorney

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

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(8) 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:

Theresa Wolf - Amount: \$750.00

This is a claim for property damage to the claimant's vehicle that allegedly occurred on September 30th, 2009, in the 6500 block of West Becher Place in the City of West Allis. At said time and place, the claimant was heading eastbound on West Becher Place and claims a stone, that was propelled from a lawnmower operated by a City employee, struck the passenger rear door of her vehicle causing damage to the same. The claimant obtained estimates for repair of her vehicle and submitted a claim against the City on October 7th, 2009.

Our investigation of this claim found the allegations as described by the claimant to be sketchy at best. First, supposedly the rear passenger door of the vehicle was struck. It seems odd that the claimant could be in a position to actually see a stone propel out of a lawnmower and then strike the opposite side of the vehicle. Second, the claimant did not stop to investigate what occurred or speak to the City workers after the incident, which is usually the case with theses types of claims. Instead, the claimant traveled home and then called the City yards making it difficult for the City to pinpoint the exact time and location of the incident. Third, both City employees that were cutting grass on the day in question indicated that they did not have the lawnmower chute pointing towards the street and neither recalls striking anything that caused a rock to propel out of a mower. Finally, although the claimant claims that her passenger rear door was struck, one of her estimates is for repairing the front passenger door, as well as the rear door.

The facts simply do not support negligence on the part of the City in this case. If something did strike the claimant's rear door causing a nick or scratching, it simply could have been done by any kind of debris on the road that was hit by the claimant or another vehicle, etc. causing it to bounce up and strike the claimant's vehicle. We simply are unable to substantiate what occurred in this case and neither is the claimant with satisfactory evidence.

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

Dear Mr. Scott Post:

I spoke with Mike from the Forestry Department (414-302-8811) who asked that I contact you regarding a situation that occurred about 7:45 a.m. on Wednesday, September 30, 2009.

I was traveling east on W. Becher Place, where a city employee was mowing around a light pole located just to the west of the rail road tracks (marked at the 6501 block). He basically had the mower on two (of the four) wheels just zipping around. As I passed, a stone flew from the mower and hit the rear passenger door on my vehicle. I pulled over when safe to access the damage and immediately contacted the city. As mentioned earlier, I was connected to Mike. He stated three estimates are required, and they are attached, and to note it was the "city of West Allis mowing crew". Please note that all three places stated that my car would be in repair for two to three days; car rental quotes are also attached.

Thanking you in advance for your help in this matter. Please let me know the next step to take.

Theresa Wolf

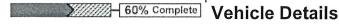
West Allis City Resident 2176A South 70th Street

West Allis, WI 53219

RECEIVED

OCT -7 2009





Login or Learn More

Select and Continue

Your selections:

Enterprise Location

change

5839 S 27TH ST

MILWAUKEE, WI 53221-

4130

Tel.: (414) 281-8811 We'll Pick You Up. ™

Dates/Times:

<u>change</u>

Start: Oct 27, 2009 @ 7:30 am

End: Oct 30, 2009 @ 6:00 pm

Vehicle Class:

change

Compact

Renter's Age:

change

25 and Up

Renter's Information:

(not yet entered)

Start over

Need a One Way rental?

Learn more

Selected Vehicle



Compact

Nissan Versa, Toyota Yaris or similar 2 or 4 doors **Automatic Transmission** Air Conditioning AM/FM CD Player

> View other Vehicle Classes: << | All Classes | >>

Mileage Restrictions

MILEAGE IS UNLIMITED WHEN VEHICLE REMAINS IN THE RENTING STATE OR BORDERING STATES. IF TRAVELING OUTSIDE OF THOSE STATES, MILEAGE IS CHARGED AT 150 FREE MILES PER DAY AND .20 FOR EACH ADDITIONAL MILE, FOR THE ENTIRE RENTAL.

Your Dates and Times

Start: Oct 27, 2009,7:30 am End: Oct 30, 2009,6:00 pm

1 Dave @

Price Quote

•	* Total Estimated Charges	\$ 182.48 USD
	SALES TAX	\$ 8.99 USD
	EXPO TAX	\$ 4.82 USD
	VEHICLE RENTAL	\$ 8.03 USD
	Subtotal	\$ 160.64 USD
	TITLE/REG RECOVERY FEE	\$ 2.68 USD
	TRANSIT AUTHORITY FEE	\$ 2.00 USD
	4 Days @ \$ 38.99 USD	\$ 155.96 USD

Additional surcharges, local taxes, etc. may apply.

Select and Continue

Our Pick-Up Policy:

Need a ride from your place to our place? We'll Pick You Up. ™ Book online now, then call your rental office at Tel.: (414) 281-8811 for details about our pick-up service. (Geographic restrictions apply) Back To Top

YOUR RESERVATION

Your Itinerary Change

Pick-Up Date and Location Tue, Oct 27, 2009 at 07:30 AM Amtrak Milwaukee 433 West St Paul Avenue Milwaukee, WI, US Location Type Corporate Mo-Fr 0700-1800, Sa 0800-1300, Su Closed

Fax Number 414-272-6553

Arrival Information Change Airline No Arrival Information **Return Date and Location**

Fri, Oct 30, 2009 at 06:00 PM Amtrak Milwaukee 433 West St Paul Avenue Milwaukee, WI, US Location Type Corporate Mo-Fr 0700-1800, Sa 0800-1300, Su

Fax Number 414-272-6553

Discounts

No Affiliations

Your Vehicle Change

Selected Vehicle

277.31 USD

Mazda 6 or similar Midsize 2-4 Door Automatic Air



View Details

Upgrade Options

Upgrade for less than 19.0 USD Chevrolet Impala or similar Full-Size 2-4 Door Automatic Air



View Details

UPGRADE

(1) (2)

Your Extras None Selected Change

YOUR PERSONAL INFORMATION

First Name:	Last Name:					
E-mail Address:	Verify E-mail Address:					
(if you'd like to receive ar	n email confirmation) kt based E-mail only					
☐ I want to receive Hertz promotional offers						
Arrival/Flight Information						

To better serve you if there are any changes to the flight schedule

- I am not arriving by Airplane or Train
- () I don't have my arrival information at this time
- Select an Airline or Train

Number:

If you have a Company Order/Billing Reference Number enter it here:

Frequent Traveler (optional)

None

Frequent Traveler Number:

Selected Vehicle

Unlimited Free Miles Included

Rate Details

4 days at 60.49 USD Daily

Rate Code

.....MCLD

Additional Items Included In **Total Approximate Charge:**

33.20 USD

vehicle licensing cost

recovery 1.12 USD

energy surcharge: 1.03 USD

Discounts:

No affiliations

Total Approximate

277.31 USD Charge

RATE IS GUARANTEED. TAXES, FEES AND EXTRAS, IF NOT INCLUDED IN THE RATE, ARE SUBJECT TO CHANGE.

View Optional Items ▶

Terms and Conditions

Rates are for the time and location displayed above. Approximate rental charges are based on available information at the time of reservation for renters age 25 and older. For minimum age requirements please see "Rental Qualifications and Requirements" link below for details. Please note that for renters under age 25 an additional daily age differential

Approximate Total

277.31 USD

By clicking on the "Submit" button, you confirm that you understand and accept our Rental Qualification and Requirements



DON JACOBS TOYOTA 5727 SOUTH 27TH STREET MILWAUKEE, WI 53221

OFFICE: 414-281-3100 FAX: 414-423-2077

FEDERAL ID# 39-1288187

CD LOG NO 24866-1 DATE 09/30/09

DON JACOBS TOYOTA SHOP: INSP DATE: 09/30/09 ADDRESS: 5727 S 27TH ST CONTACT: ALVARO ARCE

CITY STATE: MILWAUKEE, WI PHONE 1: (414)281-3100 EXT 162 ZIP: 53221-PHONE 2: (800)572-6490 EXT 162

FAX: (414)423-2077

OWNER: WOLF, THERESA HOME PHONE: (414)510-5440

POINT OF IMPACT: 0

LIC#: STATE: VIN: JTDKT903495257564

BODY COLOR: MILEAGE:

CONDITION: ACCTNG CTL#:

*=USER-ENTERED VALUE E=REPLACE OEM NG=REPLACE NAGS

UC=RECONDITIONED PRT EP=REPLACE PXN

EC=REPLACE ECONOMY

UE=REPLACE OE SURPLUS

UM=REMAN/REBUILT PRT

OE=REPLACE PXN OE SRPLS

PC=PXN RECONDITIONED

TE=PARTL REPL PRICE

ET=PARTL REPL LABOR

PM=PXN REMAN/REBUILT IT=PARTIAL REPAIR BR=BLEND REFINISH I=REPAIR L=REFINISH

CG=CHIPGUARD TT=TWO-TONE SB=SUBLET N=ADDITIONAL LABOR RI=R&I ASSEMBLY P=CHECK

AA=APPEAR ALLOWANCE RP=RELATED PRIOR UP=UNRELATED PRIOR

2009 TOYOTA YARIS STD 4DOOR HATCHBACK 4CYL GASOLINE 1.5

CODE: T999Z1/A OPTNS A/24ABIJM

OPTIONS:

TWO-STAGE - EXTERIOR SURFACES TWO-STAGE - INTERIOR SURFACES

AIR CONDITIONING POWER STEERING AUTOMATIC TRANS POWER BRAKES

TILT STEERING WHEEL

OP GDE	MC DESCRIPTION		MFG.PART NO.	PRICE	AJ% B%	HOURS R
L 0231	DOOR SHELL, FRONT	RT	REFINISH			2.1*4
	BLEND DOOR					
RI0249	MLDG, FRONT DOOR BEL	RT	R&I ASSEMBLY			0.9*1
RI0237	HANDLE, FRONT DOOR O	RT	R&I ASSEMBLY			0.2*1
I 0281	DOOR SHELL, REAR	RT	REPAIR			2.0*1
L 0281	DOOR SHELL, REAR	RT	REFINISH			2.0*4
RI0295	MLDG, REAR DOOR BELT	RT	R&I ASSEMBLY			0.6*1
RI0287	HANDLE, RR DOOR OUTE	RT	R&I ASSEMBLY			0.1*1
L 0357	PANEL, QUARTER	RT	REFINISH			1.2*4
	BLEND QUARTER					

09/30/2009 at 11:25 AM 12280

CARSTAR LOU'S AUTOBODY

Federal ID #:391519593 **OUALITY COLLISION SERVICE!** 3940 SOUTH 13TH STREET MILWAUKEE, WI 53221 (414)481-9449 Fax: (414)481-7415

PRELIMINARY ESTIMATE

Written By: DAVE COOK Adjuster:

Insured: THERESA WOLF

Owner: THERESA WOLF

Address: 2176-A S. 70TH STREET

WEST ALLIS, WI 53219

Day:

Evening:

Claim # Policy #

Deductible: Date of Loss:

Type of Loss:

Point of Impact: 4. Right Qtr Post

Inspect Location:

Insurance Company:

Days to Repair

Overdrive

10.00

3.7

3.4

2009 TOYO YARIS 4-1.5L-FI 4D H/B BLUE Int:GRAY

VIN: JTDKT903495257564 Lic: 866-HNH WI Prod Date: 12/2008 Odometer:

Condition: Excellent

Air Conditioning

Dual Mirrors Power Brakes

Power Mirrors Passenger Air Bag Bucket Seats

Full Wheel Covers

Tilt Wheel Intermittent Wipers Power Steering Clear Coat Paint

Power Locks Power Windows Anti-Lock Brakes (4) Driver Air Bag Front Side Impact Air Bag Cloth Seats

______ QTY EXT. PRICE LABOR PAINT DESCRIPTION NO. OP. ______ REAR DOOR 1 2.2 Rpr RT Outer panel (HSS) 2*

Automatic Transmission

0.9 Add for Clear Coat 3 0.2 4 R&I RT Belt molding 0.2 R&I RT Run w'strip 5* R&I RT Fixed glass NAGS 0.5 6* 0.4 R&I RT Handle, outside blue 7 0.7 R&I RT Door trim panel w/power 8* windows 0.3 Refn Corrosion Protection 9# 1 5.00 T Subl Hazardous Waste Removal 10# 5.00 0.2 Cover Vehicle, Exterior 1 11# ______

Subtotals ==>

PRELIMINARY ESTIMATE

2009 TOYO YARIS 4-1.5L-FI 4D H/B BLUE Int:GRAY

Parts Body Labor Paint Labor Paint Supplies Sublet/Misc.	3.4	hrs @ \$ 50.00/hr hrs @ \$ 50.00/hr hrs @ \$ 30.00/hr	5.00 185.00 170.00 102.00 5.00
SUBTOTAL Sales Tax	\$	\$ 467.00 @ 5.6000%	467.00 26.15
GRAND TOTAL		\$	493.15
ADJUSTMENTS: Deductible			0.00
CUSTOMER PAY INSURANCE PAY		 \$ \$	0.00 493.15

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.

Estimate based on MOTOR CRASH ESTIMATING GUIDE. Unless otherwise noted all items are derived from the Guide ARM8327, CCC Data Date 08/01/2009, 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 2010 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.

MAACO COLLISION REPAIR & AUTO PAINTING 4128 SOUTH 13TH STREET

MILWAUKEE, WI 53221 PHONE: 414-282-4567 FAX: 414-282-7177

*** PRELIMINARY ESTIMATE ***

09/30/2009 11:09 AM

Owner

Owner: Theresa Wolf

Address: 2176a S 70th street

City State Zip: West Allis, WI 53219

Work/Day: (414)510-5440

FAX:

Inspection

Inspection Date: 09/30/2009 11:10 AM

Inspection Type:

Appraiser Name: JimG

Appraiser License #:

Repairer

Repairer: Maaco Collision Repair

Address: 4128 s 13th street City State Zip: milwaukee, WI 53221

Email: djw7210@aol.com

Contact:

Work/Day: (414)282-4567

FAX: (414)282-7177

Vehicle

2009 Toyota Yaris STD 4 DR Hatchback

Lic Expire:

Veh Insp#:

Condition:

Ext. Refinish: Two-Stage

VIN: Inaccessible VIN

Mileage Type: Actual

Code: T999Z1

Int. Refinish: Two-Stage

Options

AM/FM CD Player

Bucket Seats

Halogen Headlights

Lighted Entry System

Power Steering

Steel Wheels Tonneau/Cargo Cover Air Conditioning Center Console

Head Airbags

MP3 Player Rear Bench Seat

Tilt Steering Wheel

Velour/Cloth Seats

Anti-lock Brakes

Dual Airbags

Intermittent Wipers

Power Brakes

Side Airbags

Tinted Glass

Damages

Line	Ор	Guide	МС	Description	MFR.Part No.	Price	ADJ%	В%	Hours	R
1 2	I L	281 281		Door Shell,Rear RT Door Shell,Rear RT	Repair Refinish				1.0* 3.0*	SM RF
2		Items								

Estimate Total & Entries

Paint Materials

Parts & Material Total Tax on Parts & Material \$78.00

@ 5.600%

\$78.00

\$4.37

Rate Replace Hrs Repair Hrs **Total Hrs** Labor Sheet Metal (SM) \$52.00 1.0 1.0 \$52.00 \$96.00 Mech/Elec (ME)

09/30/2009 11:11 AM

Page 1 of 2

Frame (FR) Refinish (RF) Paint Materials	\$65.00 \$52.00 \$26.00	3.0		3.0	\$156.00	
Labor Total Tax on Labor Gross Total Net Total			@ 5.600%	4.0 Hou	ırs	\$208.00 \$11.65 \$302.02 \$302.02

Alternate Parts C/00/00/00/00/00 CUM 00/00/00/00 Zip Code: 53221 Audatex Host SPPL Yes Zip Code: 00000 Default

Audatex Estimating 6.0.217 ES 09/30/2009 11:11 AM REL 6.0.217 DT 09/01/2009 Copyright (C) 2009 Audatex North America, Inc.

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	<pre>IT = Partial Repair</pre>
CG= Chipguard	RI = R & I Assembly	P = Check
AA = Appearance Allowance	RP = Related Prior Damage	



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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

October 13, 2009

Ms. Theresa Wolf 2176A S. 70 St. West Allis, WI 53219

Dear Ms. Wolf:

This letter acknowledges receipt of your communication regarding vehicle damage allegedly sustained at 6501 W. Becher Place on September 30, 2009.

The original document will be submitted to the Common Council at its meeting of October 20, 2009.

Shult

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

/j1

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

November 17, 2009

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(8) 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 paid and placed on file:

J&B Construction Co., Inc. (\$2,030.54)

The following claims/lawsuits have been denied:

Word of Grace Bible Church (\$500.00) Theresa Wolf (\$750.00)

Respectfully submitted,

Jeffrey J. Warchol Assistant City Attorney

JJW:da Enclosures

cc: Thomas E. Mann, CVMIC





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

NOTICE OF DISALLOWANCE OF CLAIM

December 4, 2009

<u>CERTIFIED MAIL</u> <u>RETURN RECEIPT REQUESTED</u>

Ms. Theresa Wolf 2176A South 70th Street West Allis, WI 53219

Re:

Your Claim Against the City of West Allis

Date of Loss: 9/30/09

Dear Ms. Wolf:

At its meeting on December 1st, 2009, the Common Council of the City of West Allis considered your claim received on October 7th, 2009, regarding alleged vehicle damage sustained at 6501 West Becher Place, 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-T Wolf

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