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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 1182-23

AGENDA DATE: January 8, 2024

DEPARTMENT: City Attorney's Office

Prepared By: Deputy City Attorney Marisa L. Roubik

SUBJECT: Communication sponsored by Alder West on behalf of the City Attorney's Office submitting the claim of Christa Bernotat for consideration for disallowance.

EXECUTIVE SUMMARY:

Christa Bernotat filed a claim with the City requesting \$500.00 for alleged damages sustained to her front door and door jamb resulting from City of Racine first responders having to break in the front door of her residence in order to gain access to claimant after her son had called 911 to report that the claimant had fallen in her home on June 16, 2023. The City is not liable for these alleged damages under the legal principle of discretionary immunity. Therefore, it is the recommendation of the City Attorney's Office that this claim be disallowed.

BACKGROUND & ANALYSIS:

Christa Bernotat, of 1426 Russet Street, Racine, Wisconsin 53405, filed a claim with the City requesting \$500.00 for alleged damages sustained to her front door and door jamb resulting from City of Racine first responders having to break in the front door of her residence in order to gain access to claimant after her son had called 911 to report that the claimant had fallen while she was alone in her home on June 16, 2023.

According to police reports, the claimant's son, who called 911, did not have keys to his mother's house. When emergency responders arrived at claimant's residence, all the windows and doors to the residence were locked. Therefore, first responders used their discretion to determine that the best means of entry into the residence was to force the front door open with a pry bar and a battering ram. Upon gaining

31 entry to the residence, claimant was found on the floor of her kitchen and rescue services were provided to
32 her.

33 The City is immune from liability for these alleged damages pursuant to Wis. Stat. § 893.80. In
34 short, state law confers broad immunity from suits on municipalities for acts that are considered
35 “discretionary” in nature. In the case of gaining access to a residence in order to provide emergency care
36 to an individual, the task of deciding how best to gain access to a locked residence is a discretionary act
37 requiring judgment on the part of the first responders. Given the discretionary nature of these acts, the City
38 cannot be held liable for breaking into a locked front door in order to gain access to a home.

39 Therefore, the City is not liable for these alleged damages under the legal principle of discretionary
40 immunity, and it is the recommendation of the City Attorney’s Office that this claim be disallowed.

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42 **BUDGETARY IMPACT:**

43 Assuming the recommendation to deny this claim is adopted, this item would have a \$0.00 impact
44 on the City’s budget.

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46 **RECOMMENDED ACTION:**

47 That the disallowance of this claim be recommended for approval.

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