



**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

INTRO TO COUNCIL DATE: August 6, 2025

STANDING COMMITTEE DATE: August 11, 2025

FINAL ACTION COUNCIL DATE: August 19, 2025

DEPARTMENT: City Attorney's Office

Prepared By: Deputy City Attorney Marisa L. Roubik

SUBJECT: Communication sponsored by Alder Land on behalf of the City Attorney's Office submitting the claim of the State of Wisconsin Department of Administration for consideration for disallowance.

EXECUTIVE SUMMARY:

The State of Wisconsin Department of Administration filed a claim on behalf of a State of Wisconsin employee, Darlene Bard, requesting reimbursement for \$50,086.24 in medical expenses and lost time arising from an alleged trip and fall that occurred in the City-owned public parking lot located across the street from the City Hall Annex, 800 Center Street, in Racine on or about July 18, 2024. This claim is not actionable against the City due to defects in the claim as filed, namely improper service of the claim and failing to sign the claim as required. Furthermore, pursuant to Wis. Stats. §§ 893.80 and 893.83, the City is immune from liability for the alleged damages. Additionally, the claimant's employee was negligent in her failure to keep a proper lookout for potential hazards in plain sight while walking.

For the above-stated reasons, the City denies liability for this claim, and it is the recommendation of the City Attorney's Office that this claim be disallowed.

BACKGROUND & ANALYSIS:

The State of Wisconsin Department of Administration, Division of Enterprise Operations, Bureau of State Risk Management, 101 East Wilson St., P.O. Box 77008, Madison, Wisconsin 53707-1008, filed a claim on behalf of a State of Wisconsin employee, Darlene Bard, requesting reimbursement for \$50,086.24 in medical expenses and lost time arising from an alleged trip and fall that occurred in the City-

owned public parking lot located across the street from the City Hall Annex, 800 Center Street, in Racine on or about July 18, 2024.

This claim is not actionable against the City due to defects in the claim as filed. Contrary to Wis. Stat. § 893.80(1d), the claimant failed to properly serve this claim on the City Clerk as required by state law. Furthermore, this claim was not signed by the claimant as required by state law. Thus, the claimant did not satisfy the statutory requirements for filing this claim under Wis. Stat. § 893.80(1d). Therefore, the claimant does not have a right to maintain an action against the City.

Furthermore, pursuant to Wis. Stats. §§ 893.80 and 893.83, the City is immune from liability for the alleged damages. When the Wisconsin Legislature amended Wis. Stat. § 893.83 in 2012, it eliminated municipal liability for highway defects. Per established caselaw, a city's public parking lot is considered a "highway" for purposes of this analysis. By law, the City is not liable for the claimant's alleged damages because Wis. Stat. § 893.80 confers broad immunity from suits on municipalities for acts that are considered "discretionary" in nature, such as the repair of potholes and other highway defects for which the City has no prior notice. In this instance, the City did not have notice of an alleged defect at the subject location prior to the date of this incident in 2024.

Additionally, the claimant's employee was negligent in her failure to keep a proper lookout for potential hazards in plain sight while walking. All pedestrians have a duty to use ordinary care when walking and to look out for potential hazards in plain sight, such as potholes. If a pedestrian fails to keep a proper lookout for such potential hazards in their plain sight, the pedestrian is negligent.

For the above-stated reasons, the City denies liability for this claim, and it is the recommendation of the City Attorney's Office that this claim be disallowed.

BUDGETARY IMPACT:

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

RECOMMENDED ACTION:

That the disallowance of this claim be recommended for approval.
