



**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

INTRO TO COUNCIL DATE: December 2, 2025

STANDING COMMITTEE DATE: December 8, 2025

FINAL ACTION COUNCIL DATE: December 16, 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 Azucena Padilla-Benhumea for consideration for disallowance.

EXECUTIVE SUMMARY:

Azucena Padilla-Benhumea claims reimbursement in the amount of \$800.00 for damage to the front door of the claimant's residence at 1425 Willmor Street in Racine allegedly arising from the Racine Police Department breaking down the front door in conjunction with a welfare check at this address on or about August 4, 2025. 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:

Azucena Padilla-Benhumea, of 1425 Willmor Street, Racine, Wisconsin 53402, claims reimbursement in the amount of \$800.00 for damage to the front door of the claimant's residence allegedly arising from the Racine Police Department breaking down the front door in conjunction with a welfare check at this address on or about August 4, 2025.

On August 4, 2025, an individual associated with the address at 1425 Willmor Street called and sent messages to her employer that indicated she was in distress and bleeding. When Dispatch was contacted, they were unable to reach the individual in question by phone. When officers arrived at the subject residence, the individual's car was parked outside, and officers observed through a window what

31 appeared to be someone lying on the floor of the residence. Due to the concerning nature of the call and
32 the officer's observations at the residence, the officers breached the door to the residence.

33 The City is immune from liability for these alleged damages under the legal principle of
34 discretionary immunity, pursuant to Wis. Stat. § 893.80(4). In short, state law confers broad immunity
35 from suits on municipalities for acts that are considered discretionary in nature. Determining how to gain
36 access to a residence in order to execute a welfare check is a discretionary act requiring judgment on the
37 part of the police. Given the discretionary nature of this act, the City cannot be held liable for the alleged
38 damages that resulted from the Police Department's need to gain access to a residence where there was
39 reason to believe a person was in distress.

40 As such, it is the recommendation of the City Attorney's Office that this claim be disallowed
41 because the City is not liable for these alleged damages under the legal principle of discretionary immunity.

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43 **BUDGETARY IMPACT:**

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

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47 **RECOMMENDED ACTION:**

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

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