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**City of Racine, Wisconsin  
Common Council**

**AGENDA BRIEFING MEMORANDUM**

**COMMITTEE:** Finance and Personnel

**LEGISLATION ITEM #:** 1179-23

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**AGENDA DATE:** January 8, 2024

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**DEPARTMENT:** City Attorney's Office

**Prepared By:** Deputy City Attorney Marisa Roubik

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

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**EXECUTIVE SUMMARY:**

Frank Rhodes filed a claim with the City requesting \$1,770.22 for damages allegedly arising from the roof of his vehicle being struck by a tree branch while it was parked in front of 1622 Holmes Avenue, Racine, Wisconsin 53405, on or about March 8, 2023. The City believes that this claim was untimely filed and denies any liability for the alleged damages. As such, it is the recommendation of the City Attorney's Office that this claim be disallowed.

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**BACKGROUND & ANALYSIS:**

Frank Rhodes, of 1622 Holmes Avenue, Racine, Wisconsin 53405, filed a claim with the City requesting \$1,770.22 for damages allegedly arising from the roof of his vehicle being struck by a tree branch while it was parked in front of 1622 Holmes Avenue, Racine, Wisconsin 53405, on or about March 8, 2023.

The claim that the claimant filed with the City on or about September 22, 2023 was filed untimely. Per Wis. Stat. § 893.80(1d)(a), a claimant must file a notice of the circumstances of a claim within 120 days of the happening of the event giving rise to the claim. The event giving rise to this claim occurred on or about March 8, 2023; therefore, the notice of circumstances of this claim would need to have been filed on or before July 6, 2023 in order to be timely filed, which it was not.

Furthermore, the information set forth in the claim appears to be inconsistent with City records. For example, the claim states that the date of this incident was on March 8, 2023, and goes on to state, "[o]n

31 the 7th [of March] the tree trimmers came put out the warning horses, came back on the 8th (March)  
32 trimmed the tree I came out of my house after 4:30 pm to get the mail and seen the dent in the roof of car I  
33 looked around and seen a cut branch under my car . . . .” However, City records indicate that the tree in  
34 question was trimmed on March 7, 2023. Therefore, according to claimant’s account, he would have had  
35 to disregard the “warning horses” that were in place on March 7, 2023 in order to park under the tree that  
36 was subsequently trimmed that day. It is also unclear how a branch could have struck the roof of the  
37 claimant’s vehicle, and then ended up “under” his car, as stated in his claim. Ultimately, there is no proof  
38 that the dent on the roof of claimant’s car was caused by a fallen tree branch and/or that the City was  
39 responsible for this alleged damage. As such, the City denies any liability for the alleged damages.

40 In sum, the City believes that this claim was untimely filed and denies any liability for the alleged  
41 damages. As such, it is the recommendation of the City Attorney’s Office that this claim be disallowed.

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43 **BUDGETARY IMPACT:**

44 Assuming the recommendation to disallow this claim is adopted, this item would have a \$0.00  
45 impact 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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