



1 **City of Racine, Wisconsin**
2 **Common Council**

3 **AGENDA BRIEFING MEMORANDUM**
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5 **INTRO TO COUNCIL DATE: March 3, 2026**

6 **STANDING COMMITTEE DATE: March 9, 2026**

7 **FINAL ACTION COUNCIL DATE: March 17, 2026**
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9 **DEPARTMENT: City Attorney's Office**

10 **Prepared By: Deputy City Attorney Marisa L. Roubik**
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12 **SUBJECT:** Communication sponsored by Alder Land on behalf of the City Attorney's Office submitting
13 the claim of Daphne Barry and Cassandra Burney for consideration for disallowance.
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15 **EXECUTIVE SUMMARY:**

16 Daphne Barry and Cassandra Burney filed a claim with the City of Racine requesting
17 reimbursement of \$7,638.00 for alleged water damage incurred to the basement of the duplex located at
18 1687 and 1689 Perry Avenue in Racine, purportedly resulting from a clogged manhole on Bird Avenue and
19 Perry Avenue in the vicinity of the residence on December 10 and 11, 2025. Upon receiving a report of
20 this backup on December 11, 2025, the Water and Wastewater Utilities promptly responded to this location
21 and addressed the issue. Because neither the City, nor the Water or Wastewater Utilities had any
22 constructive or actual knowledge of a defect in this sewer main prior to the date in question, the City, the
23 Water, and the Wastewater Utilities are not legally liable for the alleged damages.

24 For these reasons, it is the recommendation of the City Attorney's Office that this claim be
25 disallowed.
26

27 **BACKGROUND & ANALYSIS:**

28 Daphne Barry and Cassandra Burney, of 1687 and 1689 Perry Avenue, Racine, WI 53406, filed a
29 claim with the City of Racine requesting reimbursement of \$7,638.00 for alleged water damage incurred to
30 the basement of the duplex located at 1687 and 1689 Perry Avenue in Racine, purportedly resulting from a

31 clogged manhole on Bird Avenue and Perry Avenue in the vicinity of the residence on December 10 and
32 11, 2025. Daphne Barry is the homeowner of record for this property.

33 Upon receiving a report of this backup on December 11, 2025, the Water and Wastewater Utilities
34 promptly responded to this location and addressed the issue. Specifically, on December 11, 2025, the
35 Wastewater Utility received a call reporting a water main break in the vicinity of this property, to which
36 the Water Utility promptly responded. Upon doing so, it was determined that there was not a water main
37 break; nonetheless, the responding Water Utility employee checked the Wastewater Utility’s manholes in
38 the area and discovered a backup on one of them, which he immediately reported to the Wastewater Utility.
39 The Wastewater Utility promptly dispatched two employees to address the backed up sewer main on that
40 same date. Note that this sewer main is subject to regular maintenance twice a year, and it had been cleaned
41 earlier in December 2025. Nonetheless, upon encountering the blockage, evidence of grease, rags, and a
42 salt bag were found to be blocking the flow. When the Wastewater Utility workers left, the flow was back
43 to normal and the blockage was cleared. Additional checks were conducted later that week to confirm that
44 the sewer main continued to flow freely.

45 In instances, such as this, where neither the City, nor the Water or Wastewater Utilities had any
46 constructive or actual knowledge of a defect in a sewer main, the City and the Utilities cannot be held
47 legally liable for the alleged damages resulting from such a defect. By law, the City is not liable for the
48 claimants’ alleged damages because Wis. Stat. § 893.80 confers broad immunity from suits on
49 municipalities for acts that are considered “discretionary” in nature, such as the preemptive cleaning of
50 sewer mains for which the City has no prior notice of a defect.

51 Neither the City nor the Water or Wastewater Utilities had any constructive or actual knowledge
52 of a defect in this water main prior to December 11, 2025, and once alerted to the issue, they promptly
53 addressed it. Therefore, the City, the Water, and the Wastewater Utilities are not legally liable for the
54 alleged damages.

55 For the above-stated reasons, it is the recommendation of the City Attorney’s Office that this claim
56 be disallowed.

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58 **BUDGETARY IMPACT:**

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

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62 **RECOMMENDED ACTION:**

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