



**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

INTRO TO COUNCIL DATE: November 4, 2025

STANDING COMMITTEE DATE: November 10, 2025

FINAL ACTION COUNCIL DATE: November 18, 2025

DEPARTMENT: City Attorney's Office

Prepared By: Deputy City Attorney Marisa Roubik

SUBJECT: Communication sponsored by Alder Land on behalf of the City Attorney's Office submitting the claim of Apolinar Delacruz for consideration for disallowance.

EXECUTIVE SUMMARY:

Apolinar Delacruz filed a claim with the City requesting \$1,800.00 for damages allegedly arising from a vehicle (owned by Jonathan Gonzalez Delacruz) being struck by a fallen tree branch while it was parked on the 1800 block of Center Street in Racine, on or about July 11, 2025. There was no prior notice of a current defect in the tree in question. As such, the City did not have a ministerial duty to service this tree, and the City is immune from liability. For this reason, it is the recommendation of the City Attorney's Office that this claim be disallowed.

BACKGROUND & ANALYSIS:

Apolinar Delacruz, of 1825 Center Street, Racine, Wisconsin, 53403, filed a claim with the City requesting \$1,800.00 for damages allegedly arising from a vehicle being struck by a fallen tree branch while it was parked on the 1800 block of Center Street, on or about July 11, 2025. The vehicle in question is a 2009 Hyundai Elantra, which, as of July 2025, was owned by Jonathan Gonzalez Delacruz of Oak Creek, Wisconsin. However, the claimant did not name Jonathan Gonzalez Delacruz as a party to this claim.

The tree in question is a 32-inch diameter American linden, located at 1824 Center Street, which was inspected annually and pruned by the City's Forestry Division on September 24, 2024, June 12, 2018, and December 10, 2014. In addition to the annual inspections, a detailed inspection is also performed when

32 a tree is pruned. At the time of this alleged incident, the City had no prior notice of a current defect in this
33 tree.

34 The City is immune from liability for the claimant's alleged damages pursuant to Wis. Stat.
35 § 893.80. In short, state law confers broad immunity from suits on municipalities for acts that are
36 considered "discretionary" in nature. In the case of maintaining trees, the task of deciding which trees need
37 pruning, maintenance, or removal and when such actions should be taken are all discretionary acts requiring
38 judgment on the part of the arborist. Given the discretionary nature of these acts, the City cannot be held
39 liable for failing to prune or remove a tree or a tree branch before its fall.

40 In some cases, the City could be held liable if it was given notice of a defect and its failure to
41 remedy such defect was unreasonable. Here, there is no evidence that, at the time of this alleged incident,
42 the City knew of a current defect in the tree. Regular inspection of this particular tree was conducted
43 annually for several years preceding that date, along with periodic pruning as recently as September 2024,
44 and there is no evidence of any defect being entered into the City's database at that time. Since these annual
45 inspections and periodic pruning revealed no defects and the City did not have prior notice of any defect,
46 the City did not have a ministerial duty to service this tree, and the City cannot be held liable for this branch
47 falling.

48 For the reasons set forth above, the City is immune from liability and this claim should be
49 disallowed.

51 **BUDGETARY IMPACT:**

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

55 **RECOMMENDED ACTION:**

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