



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

3 **AGENDA BRIEFING MEMORANDUM**

4 **COMMITTEE:** Finance and Personnel

LEGISLATION ITEM #: 0849-23

5 **AGENDA DATE:** August 28, 2023

7 **DEPARTMENT:** City Attorney's Office

8 **Prepared By:** Deputy City Attorney Marisa L. Roubik

10 **SUBJECT:** Communication sponsored by Alder West on behalf of the City Attorney's Office submitting
11 the claim of the NH Lakeville LLC c/o Metro Equity Management for consideration for disallowance.

13 **EXECUTIVE SUMMARY:**

14 NH Lakeville LLC c/o Metro Equity Management filed a claim with the City requesting \$21,701.11
15 in damages allegedly arising from a water main break that caused flooding in the Big Lots #5305 store
16 located at 5415 Washington Avenue, Mount Pleasant, Wisconsin, on or about May 21, 2023. The City
17 Attorney's Office recommends the disallowance of this claim because neither the City nor the Water Utility
18 had any constructive or actual knowledge of a defect in the water main in question, and, therefore, the City
19 and the Water Utility are not legally liable for the alleged damages.

21 **BACKGROUND & ANALYSIS:**

22 The claimant, NH Lakeville LLC c/o Metro Equity Management, filed this claim with the City
23 requesting \$21,701.11 in damages allegedly arising from a water main break that caused flooding in the
24 Big Lots #5305 store located at 5415 Washington Avenue, Mount Pleasant, Wisconsin, on or about May
25 21, 2023.

26 In instances where neither the City nor the Water Utility had any constructive or actual knowledge
27 of a defect in a water main, the City and the Water Utility cannot be held legally liable for the damages
28 resulting from such a defect.

29 This was the first break in the water main in this area to have been reported, and, the City's Water
30 Utility had no prior actual or constructive notice that this portion of the water main was compromised. Due

31 to the break in the water main, the Big Lots #5305 store located at 5415 Washington Avenue, Mount
32 Pleasant, Wisconsin allegedly suffered some flooding.

33 The City Attorney's Office recommends disallowance of the claim of NH Lakeville LLC c/o Metro
34 Equity Management because neither the City nor the Water Utility had any constructive or actual
35 knowledge of a defect in the water main in question, and, therefore, the City and the Water Utility are not
36 legally liable for the alleged damages.

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38 **BUDGETARY IMPACT:**

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

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42 **RECOMMENDED ACTION:**

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