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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 0298-23

AGENDA DATE: April 10, 2023

DEPARTMENT: City Attorney's Office

Prepared By: Deputy City Attorney Marisa L. Roubik

SUBJECT: Communication sponsored by Alder Taft on behalf of the City Attorney's Office submitting the claim of the Riverwoods Condominium Association for consideration for disallowance.

EXECUTIVE SUMMARY:

The Riverwoods Condominium Association filed a claim with the City requesting \$152.25 in damages for expenses charged by its management company to respond to a condominium unit located at 3001 Old Mill Drive in Racine during an alleged water main break. The City Attorney's Office recommends the disallowance of this claim because neither the City nor the Water Utility had any constructive or actual knowledge of a defect in the water main in question, and, therefore, the City and the Water Utility are not legally liable for the alleged damages.

BACKGROUND & ANALYSIS:

The Claimant, the Riverwoods Condominium Association, filed this claim for reimbursement in the amount of \$152.25 for damages for expenses charged by its management company to respond to a condominium unit during an alleged water main break in the 3000 block of Old Mill Drive, in Racine, Wisconsin, on or about November 22, 2022.

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

This was the first break in the water main in this area to have been reported, and, the City's Water 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 property at 3011 Old Main Road reportedly suffered some basement
32 flooding. The Water Utility did not receive any reports of flooding at the 3001 Old Main Road address,
33 which is listed in the claim as the location of the flooding. Furthermore, neither the City nor the Water
34 Utility contacted the management company for the Riverwoods Condominium Association, which resulted
35 in the claimed damages of \$152.25—that call was likely made by the resident of the unit located at 3001
36 Old Main Road.

37 The City Attorney’s Office recommends disallowance of the claim of the Riverwoods
38 Condominium Association because neither the City nor the Water Utility had any constructive or actual
39 knowledge of a defect in the water main in question, and, therefore, the City and the Water Utility are not
40 legally liable for the alleged damages.

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42 **BUDGETARY IMPACT:**

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

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46 **RECOMMENDED ACTION:**

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

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