



**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 0214-21

AGENDA DATE: April 12, 2021

DEPARTMENT: City Attorney's Office

Prepared By: Assistant City Attorney Marisa Roubik

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

EXECUTIVE SUMMARY:

Brittanie Robbins filed a claim with the City requesting \$268.91 in damages for repairs to her vehicle allegedly arising from driving over a snowbank located at the exit of the alleyway where it meets the roadway on or about the 1300 block of Cleveland Avenue on February 17, 2021. The city denies liability for any damages sustained by reason of an accumulation of snow or ice upon any highway, pursuant to Wis. Stat. § 893.83. Furthermore, the claimant was negligent for failing to maintain a proper lookout for potential hazards in plain sight within the roadway.

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

BACKGROUND & ANALYSIS:

Brittanie Robbins, of 1320 Cleveland Avenue, Racine, Wisconsin, claims reimbursement in the amount of \$268.91 in damages for repairs to her vehicle allegedly arising from driving over a snowbank located at the exit of the alleyway where it meets the roadway on or about the 1300 block of Cleveland Avenue on February 17, 2021. After reviewing the circumstances of this claim, the City Attorney's Office contends that the City is not liable for this alleged damage.

Pursuant to Wis. Stat. § 893.83, "[n]o action may be maintained against a city, village, town, or county to recover damages for injuries sustained by reason of an accumulation of snow or ice upon any

bridge or highway, unless the accumulation existed for 3 weeks.” A “highway,” as that term is used in Wis. Stat. § 893.83, is defined as an area that the entire community has free access to travel on; therefore, whether this snow pile was located in the alley or in the street, the law would view this snow as being located in a “highway.” See *Ellerman v. City of Manitowoc*, 2003 WI App 216, 267 Wis. 2d 480, 671 N.W.2d 366. Furthermore, by claimant’s own admission, the alleged snow pile had only been present for approximately 24 hours after a snowstorm, which is well short of the 3-week duration required for liability under the law. As such, the city denies liability for any damages sustained by reason of an accumulation of snow or ice upon any highway, pursuant to Wis. Stat. § 893.83.

Furthermore, all drivers have a duty to look out for potential roadway hazards in plain sight, such as large accumulations of snow. If a driver fails to keep a proper lookout for such potential hazards in their plain sight, the driver is negligent.

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

BUDGETARY IMPACT:

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

OPTIONS/ALTERNATIVES:

If the Committee recommends that this claim be paid by the City (contrary to any indication of the City’s liability for the alleged damages), this item would have up to a \$268.91 impact on the City’s 2021 claims budget.

RECOMMENDED ACTION:

That the claim of Brittanie Robbins be disallowed.