CITY OF MENASHA CLAIM FORM

NOTICE OF CIRCUMSTANCES (§893.80(1)(a))

NAME Debra A. Wenzel TELEPHONE NO. 920 202 4492

ADDRESS 635 DePere St (street)

Menasha WI 54952 (city, state, zip code)

CIRCUMSTANCES OF CLAIM: On the reverse side, describe the circumstances of your claim (attach additional sheets if necessary). For auto/property damages attach a copy of police report, if any; and a diagram of the accident scene including north, south, east or west. For personal injury indicate the nature of the injury; if medical attention was given, the name of the physician/immediate care/hospital. List the names and addresses of any witnesses to the incident/accident. The more specific the information, the easier the processing will be.

Incident/Accident Information:

Date Sept 2010 Place: 635 DePere St

Time _____ Menasha WI 54952

(Circumstances of claim and witnesses on reverse)

Signed: Debra A Wenzel Date: 1-14-11

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CLAIM FORM (§893.80(1)(b))

You are not required to make a claim at this time. As long as you have completed and filed the above Notice of Circumstances of claim with the City of Menasha, you may file a claim against the City of Menasha at any time consistent with the applicable statute of limitations. **In order for the City of Menasha to formally accept or disallow your claim at this time, you must complete and sign the form below.** Please provide copies of any bills supporting the amount of the claim. For claims involving auto/truck/property damage, please attach two estimates.

The undersigned hereby makes a claim against the City of Menasha arising out of the circumstances described above. The claim is for relief in the form of money damages in the amount as indicated below, and non-monetary relief as follows: _____

Auto/truck: $_____ Personal Injury: $_____

Property: $7,225.00 Other (specify:) $_____

Signed: Debra A Wenzel Date: 1-14-11

Address: 635 DePere St (street)

Menasha WI 54952 (city, state, zip code)

revised 02/10

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Circumstances of claim (attach additional sheets if necessary):

The roots of the cities oak tree located on the easement at 635 Delete St caused mayor damage to the main sewer line for my house. The problem was first noticed in September 2003 when my pipes became backed up and it was necessary for me to have a plumber auger the main. I contacted the city at this time asking how I would go about getting the tree removed as it was damaging my property. I was informed the tree would need to be dead before they would consider removing it. ~~In that~~ I continued to use Root-X on a bimonthly basis to help slow down the damage to my property by the city's tree. In May 2010 my pipes backed up again. At this time

Witnesses (names and addresses):

Procedure for filing claims:

1. In most instances, a signed Notice of Circumstances of claim must be filed with the City Clerk within 120 days after the happening of the event giving rise to the claim or will be barred by the Statute of Limitations.
2. A Claim must also be filed with the City Clerk containing your address and an itemized statement of the relief or damages(s) sought. This is the bottom portion of the form entitled "Claim Form" Until this portion is completed and submitted to the City, no action will be taken. Mail or submit claims to: City Clerk, City of Menasha, 140 Main Street, Menasha, WI 54952.
3. The City Risk Manager and/or CVMIC (the City's liability insurance carrier) will then determine if your claim should be paid, compromised or disallowed. You will be notified by letter should the City determine to pay or compromise your claim. If your claim is determined to be disallowed, the matter may go before the Common Council for formal disallowance.
4. This procedure is established by State Statutes to provide a mechanism for persons to recover damages in the event a municipality is responsible for an incident. This procedure is also designed to protect the municipality and its taxpayers from having to pay out inappropriate and/or nuisance claims.

It was determined the damage was so severe it was at risk of the pipe collapsing. After getting quotes from various plumbing business it selected RJ Kampo. They were chosen based on their price, their ability to coordinate themselves with an excavation company and their reputation.

Menasha

Memorandum

DATE: February 14, 2011

TO: Pam Captain, City Attorney

FROM: Mark Radtke, Director of Public Works MR

RE: Wenzel Claim - Sanitary Sewer Lateral Damage
635 DePere Street

The claimant, Debra Wenzel, states roots of a City terrace tree caused major damage to the sewer line for her house located at 635 DePere Street. She indicates the problem was first detected in September, 2003 when the sewer line backed up, after which she said she contacted the City to inquire of the possibility of the City removing the tree due to the damage it was doing to her pipes. In her claim, Ms. Wenzel states the City informed her the tree would need to be dead before it would be considered for removal.

After the 2003 incident, Ms. Wenzel indicated she continued to use a root inhibitor in her sewer lateral on a bi-monthly basis to help minimize root penetration. In 2010 her lateral backed up again and it was determined (by her plumber?) the pipe was in a severely damaged condition to the point of risking a pipe collapse. She sought and received contractor proposals for repair and selected RJ Kampo for the work. She is seeking relief in the form of money damages in the amount of $7,225.00.

The City of Menasha's policy regarding sanitary sewer laterals places responsibility on the property owner for the entire lateral, including the portion within the street right of way. Any tree growing near the sewer lateral has the potential for its root system to break through the lateral pipe if the pipe is in poor enough condition to allow such penetration. The mere fact the City has chosen to plant terrace trees does not implicate them in a damage claim of this sort, similar to the City's level of responsibility in the case of a motorist striking a properly located terrace tree. I see no culpability on the City's part for the claimed damage to the sewer lateral.

I believe it's relevant to note Ms. Wenzel supplied the City with a video of the sewer lateral taken prior to its replacement. An Engineering Department employee (who has viewed countless feet of televised sewer) and I reviewed the video and did not see evidence of major damage from the roots. We do not share the opinion Ms. Wenzel received that the sewer was at risk of collapse, an issue she could review with the involved company who gave her that assessment.

Based on the above information, I recommend the City deny this claim.

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