



MEMORANDUM

Date: October 20, 2020

To: Water Commission

From: Lynn Gomez, Assistant Manager – Employee Relations

Re: Disallowance of Claim – Thomas Starich

On September 15, 2020, Waukesha resident Tom Starich sustained damage in the amount of \$4,115 to his car after he drove into our construction ditch on E. Broadway. I've attached a copy of Mr. Starich's email that claims the incident was due to improper signage by the Utility, that didn't properly warn him of the road work ahead.

Email #2 in your packet details our internal investigation (note that Mr. Starich is car #2 as referred to in the email). The pictures included are how the signage/barricades were placed. These pics are after-the fact but mimic how they were set up after the work-day ended, and prior to the incident(s).

Also note that our emergency on-call person reported to the scene at 9 PM, as soon as he was notified that the barricades had been disturbed.

Lastly, I've enclosed a copy of our insurance carriers letter stating that there will be no coverage by our insurance because there was no negligence on our behalf. Furthermore, as soon as we were made aware of the situation, we corrected it.

I will ask for your formal motion to disallow this claim at the October Commission meeting.

Recommended Motion: Disallow Claim of Tom Starich in the amount of \$4,115 as recommended by our insurance carrier.

Thank you!

Enc.

Lynn Gomez

Subject: FW: Accident due to improper signage on West Broadway

From: tkstarich01@hotmail.com <tkstarich01@hotmail.com>

Sent: Wednesday, September 16, 2020 6:30 PM

To: _DPW <DPW@waukesha-wi.gov>

Subject: Accident due to improper signage on West Broadway

NOTICE: External Email

This email message originated from outside the City of Waukesha. Do not click on links or open attachments unless you have verified the sender. If there is concern, please report this email.

Good evening,

At 8:30pm on Tuesday night September 15th, I was traveling westbound on Broadway before Buchner Park I was in an accident due to improper signage and barricades in my commute to pickup my daughter from the YMCA. As I was coming around the turn, there were no arrows, no barricades, etc from where the road dropped off about 6" to the gravel and appeared to be under construction for about 100ft. The skid loader and scoop were at the west end of the construction zone. I left a voice message today at your office with zero response on assistance on a solution to the repair to my car. Today at 5:45pm I drive by and now it's heavily barricaded with the skidster and equipment at the east end. I'm not looking for anything more than the repair to my vehicle and I'm fine with getting the estimate from a preferred autobody specialist. If someone could please contact me, it would be much appreciated. Thank you in advance for your help.

Sincerely,

Tom Starich
S56 W23651 Maplewood Terrace
Waukesha WI 53189
(608) 333-4644

Notice: Please be aware that email sent to, or received from, the City of Waukesha should be presumed to be a public record, that it will be retained by the City as a public record, and will be subject to public disclosure under Wisconsin's open records law. If you are not the intended recipient of this email, please do not read it or forward it to another person, but notify the sender and then delete it.

Lynn Gomez

To: Christopher J. Walter
Subject: RE: Broadway incident photos

From: Christopher J. Walter <CWalter@waukesha-water.com>
Sent: Thursday, September 17, 2020 2:18 PM
To: Lynn Gomez <lgomez@waukesha-water.com>
Cc: Kelly L. Zylstra <KZylstra@waukesha-water.com>
Subject: Broadway incident photos

Lynn,

Please see attached. I also spoke further with Mat and according to what he was told from the adjacent homeowners, there were three cars that "went in" to the work zone or gravel trench area on Tuesday evening. The first vehicle scattered the barrels. The second vehicle went in and through. And the third vehicle hit the valve box with the underside of their car (honda civic) and had to be towed. I am not sure which vehicle was owned by the individual making the email complaint. Mat said barrels and proper signs were definitely in place after the completion of work for that day and have always been in place throughout the project – aside from when they were hit and displaced on Tuesday. The advance warning "Work Area Ahead" signs have been in place the entire time and have not been disturbed. Again, this is in the bike/parking lane so no one should be driving in that lane anyway.

Chris J. Walter, P.E.

Technical Services Manager

Waukesha Water Utility | P. O. Box 1648 | Waukesha, Wisconsin 53187-1648 | (262) 521-5272

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Work Ahead signs on Broadway, approximately 600 feet East of the work zone.

This view is looking West.



East end of the beginning of the work zone looking East. Following the accident(s), the skid loader was moved to this end to better protect and highlight the work area.



Another view of the east end of the work zone



View of the West end of the work zone

Statewide Services, Inc.

Claim Division

1241 John Q. Hammons Dr.
P.O. Box 5555
Madison, WI 53705-0555
877-204-9712

September 22, 2020

Tom Starich
S56 W23651 Maplewood Terrace
Waukesha, WI 53189

Regarding: Our Insured: Waukesha Water Utility
Claim No: WM000672940007
Date/Loss: 9/15/2020
Claimant: Tom Starich

Dear Mr. Starich,

Statewide Services, Inc. administers the claims for the League of Wisconsin Municipalities Mutual Insurance, which provides the insurance coverage for Waukesha Water Utility. We are in receipt of the claim you submitted for damage to your vehicle as a result of the above-referenced incident.

We have performed an investigation and have determined that there is no negligence on the part of Waukesha Water Utility for this incident. Our investigation has revealed that the Utility did not have prior actual or constructive notice of the displaced barrels in the construction zone on Broadway, which allegedly caused this incident. A municipality has no liability unless it knew, or should have known, of the existence of the condition and had reasonable amount of time to correct the condition. The Utility maintains that the barrels were in place when it concluded construction work for the day on 9/15/20. Neighbors witnessed a vehicle enter the construction zone that evening and strike and disturb the barrels and cones present. In addition, a "Road Work Ahead" sign was present along the Westbound lane of Broadway at the time of your incident. Therefore, in the absence of negligence on the part of Waukesha Water Utility, Statewide Services Inc. is recommending that the Utility disallow your claim. We regret that this is a final decision and if you wish to further pursue your claim against the Utility, legal action would be required.

Respectfully,

Sarah Bourgeois
Statewide Services, Inc.
PO Box 5555
Madison WI 53705

CC: Waukesha Water Utility