

**CITY OF WAUKESHA****Administration**

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Source: City Attorney	Date: 5/23/2017
Common Council Item Number: #17-0868	Date: 6/6/2017
Submitted By: Brian Running, City Attorney	City Administrator Approval: Kevin Lahner, City Administrator Click here to enter text.
Finance Department Review: Rich Abbott, Finance Director Click here to enter text.	City Attorney's Office Review: Brian Running, City Attorney Click here to enter text.
Subject: Disallowance of claim for taking of property.	

Details:

White Rock 1, LLC, filed a notice of claim for damages with City on May 22, 2017. The claim alleges that the claimant's property at 1445 White Rock Avenue lost substantially all of its value as a result of the East Moreland Boulevard reconstruction project. The property in question is the gas station at the intersection of White Rock and Moreland. This claim is what is known as an "inverse condemnation," in which a private property owner alleges that the City essentially condemned the property but did not pay the fair value for the property. The claimant alleges damages of \$361,000.

A notice of claim is required to be filed to preserve the claimant's right to sue the City. A disallowance of the claim serves to shorten the time period in which a lawsuit can be filed against the city to 6 months. Disallowance is recommended in this case because there are issues of whether the City's actions actually constituted a "taking" of the property without compensation, and the value of the taking if a taking occurred. The claim was presented to the City's liability insurer, and the insurer is also recommending disallowance.

Options & Alternatives:

If no formal notice of disallowance is done, then the claimant will not be required to file suit within 6 months. Limiting the time for filing suit is advantageous for the City because it minimizes the number of contingent, unknown liabilities that we have at any given time.

Financial Remarks:

There is no cost associated with a disallowance. The eventual resolution of the claim may involve some payment by the City, but that is not able to be determined now.

Staff Recommendation:

City Attorney recommends disallowance of the claim.