

Memo

To: Village Board
Fr: Craig Berndt *CB*
Re: Sewer Backup Claims
Date: March 24, 2016

This memo is in regard to the two sewer backup claims by Tomcheck and Pascoe.

Both claims for reimbursement were submitted by the homeowner's insurance companies which have already reimbursed their insured's for the damages.

These backups occurred as a result of the heavy rains on December 14, 2015. Over two days the Village experienced more than 4" of rainfall. This rainfall on saturated ground resulted in excess sanitary sewer flows and the need for the Village to bypass pump out of the sewer system to try to reduce the amount of basement backup's.

There were a number of basement backups, but these are the only two claims have been received for.

Since this is an act of nature and therefore out of Village control, the Village has discretionary immunity and should deny these claims.

RESOLUTION NO. 2016-07

**A RESOLUTION DISALLOWING INSURANCE CLAIM FOR DAMAGE FROM
A SEWER BACKUP INTO HOME OF JOSH & KRISTA PASCOE**

WHEREAS, a Notice of Claim has been filed against the Village of Allouez by the above claimant and

WHEREAS, the Village Board of the Village of Allouez is hereby authorized and directed, upon review and recommendation by Statewide Services, Inc, the third-party insurance administrator for the League of Wisconsin Municipalities Mutual Insurance, to disallow the following claim:

CLAIM OF: AAA, on behalf of Josh & Krista Pascoe, 815 Karl St
DATE OF LOSS: December 14, 2015
 (for damage from a sewer backup into the home of Josh &
 Krista Pascoe at 815 Karl St); and

NOW THEREFORE BE IT RESOLVED that, upon disallowance by the Village Board, the Village Clerk shall notify the claimant of such disallowance. Notification shall be in writing, by registered or certified mail, return receipt requested, pursuant to Section 893.80(1)(a), Wisconsin Statutes. The notice shall contain the following language:

No action may be brought against the Village of Allouez in regard to this claim after six months from the date of service of this notice upon you, pursuant to Section 893.80 of the Wisconsin Statutes.

BE IT FURTHER RESOLVED that the Village Clerk is directed to send a copy of this resolution and notice of disallowance to the appropriate insurance carrier for the Village of Allouez.

PASSED AND APPROVED by the VILLAGE BOARD of the VILLAGE OF ALLOUEZ, this 29th day of March, 2016.

Randall L. Gast, Village President

ATTEST:

Debra M. Baenen, Clerk Treasurer

Statewide Services, Inc.

Claim Division

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

March 15, 2016

AAA

Attn: Ms. Denise Waldenmeyer, Claim Representative
25110 W. 11 Mile Road
Southfield, MI 48034

Regarding: Our Insured: Village of Allouez
Our Claim No: WM000051020091
Your Insured: Josh & Krista Pascoe
Your Claim No: 400596077
Date/Loss: 12/14/2015

Dear Ms. Waldenmeyer:

Statewide Services, Inc. administers the claims for the League of Wisconsin Municipalities Mutual Insurance, which provides the insurance coverage for the Village of Allouez. We are in receipt of the above-captioned subrogation claim involving damage from a sewer backup into the home of Josh & Krista Pascoe

We have completed our investigation regarding this loss, and we are recommending that the Village of Allouez disallow your claim. We base the disallowance on several factors:

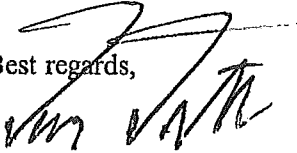
- 1) This unfortunate loss occurred when the Village drainage pipes became overwhelmed by heavy rains—rains which the Village obviously could not control.
- 2) There is no evidence that Village staff failed to adhere to any required ministerial functions regarding their maintenance of their drainage and/or sewer pipes. If there is no ministerial duty that must be followed, the Village is provided discretionary immunity for their “governmental” acts or decisions about the pipe.
- 3) Per WI Statute, the Village has discretionary immunity for the “...acts of designing, planning and implementing a sewer system.....”
- 4) Per WI Statue, the Village has discretionary immunity “...regarding decisions: a) to adopt a water works system; b) to select and place pipe in the ground; and c) in the continued existence of such pipe.”

Given the Village is obviously not liable for causing the onslaught of rain water which overwhelmed their system; and given the specific immunities in place for the Village regarding

their sewer and water works system, Statewide Services, Inc. will not be able to pay for your damages.

Thank you,, Denise, for your attention to the above, and please do not hesitate to contact me with any questions.

Best regards,



Douglass A. Detlie
Casualty Claims Specialist
Statewide Services, Inc
PO Box 5555
Madison, WI 53705-0555
Office: 608-828-5503
Fax: 800-720-3512
e-mail: ddetlie@statewidesvcs.com

Cc: Village of Allouez

RESOLUTION NO. 2016-08

**A RESOLUTION DISALLOWING INSURANCE CLAIM FOR DAMAGE FROM
A SEWER BACKUP INTO HOME OF STEVEN TOMCHECK**

WHEREAS, a Notice of Claim has been filed against the Village of Allouez by the above claimant and

WHEREAS, the Village Board of the Village of Allouez is hereby authorized and directed, upon review and recommendation by Statewide Services, Inc, the third-party insurance administrator for the League of Wisconsin Municipalities Mutual Insurance, to disallow the following claim:

CLAIM OF: Trover Solutions, on behalf of Steven Tomcheck
DATE OF LOSS: December 14, 2015
(for damage from a sewer backup into the home of Steven Tomcheck at 729 Dauphin St); and

NOW THEREFORE BE IT RESOLVED that, upon disallowance by the Village Board, the Village Clerk shall notify the claimant of such disallowance. Notification shall be in writing, by registered or certified mail, return receipt requested, pursuant to Section 893.80(1)(a), Wisconsin Statutes. The notice shall contain the following language:

No action may be brought against the Village of Allouez in regard to this claim after six months from the date of service of this notice upon you, pursuant to Section 893.80 of the Wisconsin Statutes.

BE IT FURTHER RESOLVED that the Village Clerk is directed to send a copy of this resolution and notice of disallowance to the appropriate insurance carrier for the Village of Allouez.

PASSED AND APPROVED by the VILLAGE BOARD of the VILLAGE OF ALLOUEZ, this 29th day of March, 2016.

Randall L. Gast, Village President

ATTEST:

Debra M. Baenen, Clerk Treasurer

Statewide Services, Inc.

Claim Division

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

VIA E-MAIL ONLY

March 15, 2016

Village of Allouez
Attn: Ms. Angie Cepeda, Clerk
1900 Libal St.
Green Bay, WI 54301

RE: Our Claim #: WM000051020091
Date of Loss: 12/14/2015
Claimant: Trover Solutions, on behalf of Steven Tomcheck
Attn: Mr. Daniel Scully
P.O. Box 36220
Louisville, KY 40233

And

AAA, on behalf of Josh and Krista Pascoe
Attn: Ms. Denise Waldenmeyer
25510 W, 11 Mile Road
Southfield, MI 48034

Loss location: Tomcheck—729 Dauphin St, Green Bay, WI 54304
Pascoe—815 Karl St. Allouez, WI 54301

Dear Ms. Cepeda:

As you know, Statewide Services, Inc. administers the claims for the League of Wisconsin Municipalities Mutual Insurance, which provides the insurance coverage for the Village of Allouez. We are in receipt of the above-captioned claim involving a backup of sewer water into the claimant properties. Both matters are subrogation claims presented by the claimant carriers.

Our investigation has revealed that the Village was not negligent for this incident. Therefore, we recommend that the Village disallow this claim pursuant to the Wisconsin Statute for disallowance of claim 893.80(1g). The disallowance of the claim in this manner will shorten the statute of limitations period to six months.

Both losses occurred when the Village drainage system became overwhelmed by an onslaught of rain—an event which the Village obviously could not control. Furthermore, the Village has discretionary immunity for the "...acts of designing, planning and implementing a sewer system..." along with discretionary immunity "regarding decisions a) to adopt a water works system; b) to select and place pipe in the ground; and c) in the continued existence of such pipe."

Given the Village is not liable for the loss, and given the immunities in place for the Village, we recommend that the claim be disallowed.

I have enclosed a sample Notice of Disallowance for your use, should you choose to use it, or you may use your own. Please send your disallowance, on your letterhead, directly to the claimant subrogation carriers at the above listed addresses. These should be sent certified or registered (restricted) mail, and must be received by the claimants within 120 days after you received the claim. Please send me copies of the letters for our file.

Thank you for your attention to the above, Angie, and please do not hesitate to contact me with any questions.

Best regards,

Doug Detlie

Douglass A. Detlie
Casualty Claims Specialist
Statewide Services, Inc.
PO Box 5555
Madison, WI 53705-0555
Office: 608-828-5503
Fax: 800-720-3512
E-mail: ddetlie@statewidesvcs.com

Cc: David Krueger, Agent

Statewide Services, Inc.

Claim Division

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

March 15, 2016

Trover Solutions, Inc.
Attn: Mr. Daniel Scully
P.O. Box 36220
Louisville, KY 40233

Regarding: Our Insured: Village of Allouez
Our Claim No: WM000051020091
Your Insured: Auto-Owners Insurance Co, on behalf of Steven Tomcheck
Your Claim No: TPCS-3333509-4886293
Date/Loss: 12/14/2015

Dear Mr. Scully:

Statewide Services, Inc. administers the claims for the League of Wisconsin Municipalities Mutual Insurance, which provides the insurance coverage for the Village of Allouez. We are in receipt of the above-captioned subrogation claim involving damage from a sewer backup into the home of Steven Tomcheck.

We have completed our investigation regarding this loss, and we are recommending that the Village of Allouez disallow your claim. We base the disallowance on several factors:

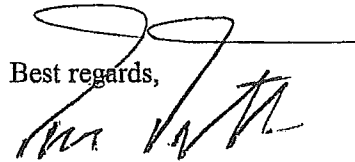
- 1) This unfortunate loss occurred when the Village drainage pipes became overwhelmed by heavy rains—rains which the Village obviously could not control.
- 2) There is no evidence that Village staff failed to adhere to any required ministerial functions regarding their maintenance of their drainage and/or sewer pipes. If there is no ministerial duty that must be followed, the Village is provided discretionary immunity for their “governmental” acts or decisions about the pipe.
- 3) Per WI Statute, the Village has discretionary immunity for the “...acts of designing, planning and implementing a sewer system.....”
- 4) Per WI Statute, the Village has discretionary immunity “...regarding decisions: a) to adopt a water works system; b) to select and place pipe in the ground; and c) in the continued existence of such pipe.”

Given the Village is obviously not liable for causing the onslaught of rain water which overwhelmed their system; and given the specific immunities in place for the Village regarding

their sewer and water works system, Statewide Services, Inc. will not be able to pay for your damages.

Thank you, Daniel, for your attention to the above, and please do not hesitate to contact me with any questions.

Best regards,

A handwritten signature in black ink, appearing to read "Douglass A. Detlie", written over a horizontal line.

Douglass A. Detlie
Casualty Claims Specialist
Statewide Services, Inc
PO Box 5555
Madison, WI 53705-0555
Office: 608-828-5503
Fax: 800-720-3512
e-mail: ddetlie@statewidesvcs.com

Cc: Village of Allouez