

**VILLAGE OF WINDSOR
BOARD RESOLUTION 2018-20**

DISALLOWANCE OF GARY WOJTOWICZ CLAIM AGAINST VILLAGE OF WINDSOR

WHEREAS, Gary Wojtowicz ("Claimant") filed a claim against the Village of Windsor for damages with a date of loss of 02/04/2018 (Claim #WM000130680001)(the "Claim"); and

WHEREAS, the Village referred the claim to its insurer, League of Wisconsin Municipalities Mutual Insurance ("Insurer"), for investigation and recommendation; and

WHEREAS, Statewide Services, Inc. administers the claims for the League of Wisconsin Municipalities Mutual Insurance; and

WHEREAS, Statewide Services, Inc. found no negligence on the Village's part, provided notice of its findings to Gary Wojtowicz and recommended that the Village disallow the claim and forward notice of disallowance to the Claimant; and

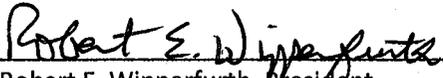
WHEREAS, following review of information from the Insurer, the Village Board finds it in the public interest to disallow the claim, as set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Windsor as follows:

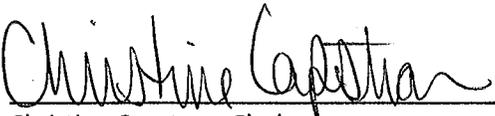
1. The Claim is hereby disallowed.
2. Notice of the disallowance shall be provided the Claimant by the Village Administrator in the form attached hereto.

The above and foregoing Resolution was duly adopted by the Village Board of the Village of Windsor, Dane County, Wisconsin at a meeting held on the 19th day of March, 2018 by a vote of 4 in favor and 0 opposed. and 1 abstension.

VILLAGE OF WINDSOR


Robert E. Wipperfurth, President

Attested by:


Christine Capstran, Clerk

Incorporated by Reference:

March 1, 2018 Letter to Village from Statewide Services, Inc.
March 1, 2018 Letter to Gary Wojtowicz from Statewide Services, Inc.
March 19, 2018 Notice of Disallowance from Village

Statewide Services, Inc.

Claim Division

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

VIA E-MAIL ONLY

March 1, 2018

Village of Windsor
Attn: Ms. Tina Butteris, Administrator
4084 Mueller Rd.
Deforest, WI 53532

RE: Our Claim #: WM000130680001
Date of Loss: 02/04/2018
Claimant: Gary Wojtowicz
4478 Windsor Rd.
Windsor, WI 53598

Loss location: 4478 Windsor Rd.
Windsor, WI 53598

Dear Ms. Butteris:

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 Windsor. As discussed, we are in receipt of the above-stated claim regarding water damage to the claimant's home on account of a break to a Village water main.

As further discussed, 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.

This loss is on account of a water main break which Village operations did not cause, thus, Village staff has no liability for the break. Village staff had no prior notice that there was a problem with the water main; thus, staff was unable to take measure to prevent the break from occurring. Finally, WI Statute 893.80 affords the Village discretionary immunity for their governmental action or 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". Therefore, 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 at the above listed address. This should be sent certified or registered (restricted) mail, and must be received by the claimant within 120 days after you received the claim. Please send me copies of the letters for our file.

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

Best regards,

Doug Detlie

Douglas A. Detlie

Casualty Claims Specialist

Office: 608-828-5503

Fax: 800-720-3512

E-mail: ddetlie@statewidesvcs.com

Cc: Mike Zagrodnik, Agent

Statewide Services, Inc.

Claim Division

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

March 1, 2018

Mr. Gary Wojtowicz
4478 Windsor Rd.
Windsor, WI 53598

Regarding: Our Insured: Village of Windsor
Claim No: WM000130680001
Date/Loss: 02/04/2018

Dear Mr. Wojtowicz:

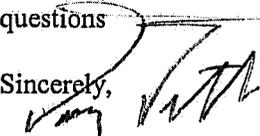
Statewide Services, Inc. administers the claims for the League of Wisconsin Municipalities Mutual Insurance, which provides the insurance coverage for the Village of Windsor. As discussed, we are in receipt of the above-captioned claim involving water damage to your home due to a break to the City water main.

As further discussed, we have completed our investigation, and we recommend that the Village of Windsor disallow your claim. This unfortunate loss occurred when the Village water main broke, and the immense pressure of the escaping water created a hole to your sewer lateral resting near the water main, hence allowing the water from the broken main to enter into your home to cause the damage. Village operations did not cause the break to the water main, thus, they bear no liability for it. Furthermore, Village staff had no prior notice of a problem with the water main, thus, they had no opportunity to take a measure to prevent the break. Finally, WI Statue 893.80 affords the Village discretionary immunity for their governmental actions or 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 negligent for the causing the break to the water main; and given the Village had no prior notice of a problem with the water main and/or given the discretionary water pipe immunity in place for the Village, Statewide Services will be unable to pay for your damages.

I am sorry that we cannot of assistance to you, and please do not hesitate to call me with any questions

Sincerely,



Douglass A. Detlie
Casualty Claims Specialist
Statewide Services, Inc
PO Box 5555
Madison, WI 53705-0555
Office: 608-828-5503
Cc: Village of Windsor



March 21, 2018

SENT VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Gary Wojtowicz
4478 Windsor Road
Windsor, WI 53598

Re: Notice of Disallowance of Claim

Greetings:

PLEASE TAKE NOTICE that, on the 19th day of March, 2018, the Village Board of the Village of Windsor, Dane County, Wisconsin disallowed your claim for damages to 4478 Windsor Rd. in the Village of Windsor, WI. The date of the loss per the claim was February 4, 2018. This claim was disallowed by the Village's insurer because the insurer found no basis for negligence against the Village.

You are hereby also notified pursuant to Wis. Stat. §893.80(1g) that no action on the above claim(s) may be brought against the Village after six (6) months from the date of service of this Notice of Disallowance upon you.

Sincerely,
VILLAGE OF WINDSOR

Tina Butteris
Administrator