

CITY OF MILWAUKEE
2004 OCT 14 PM 4:18
RONA E. SCHARDT
CITY CLERK

October 11, 2004

Office of City Attorney
Attention: Attorney Grant F. Langley
800 City Hall
200 East Wells Street
Milwaukee, Wisconsin 53202

**RE: MOUNT CARMEL LUTHERAN CHURCH
C.I FILE NO. 04-S-305**

Dear Mr. Langley:

Mount Carmel Lutheran Church hereby appeals from your determination contained in your letter of October 4, 2004 denying the above claim.

I enclose a copy of the letter from the insurance adjuster alleging the involvement of the city engineering department in proceeding with the excavation and damaging of the lawn sprinkling system. I also enclose a recent repair bill for the damage of the \$2,808.05.

Please consider this an appeal pursuant to the terms of your letter of October 4, 2004. Please respond in duplicate to Douglas F. Mann, 8424 West Center Street, Milwaukee, Wisconsin 53226 and 740 North Plankinton Avenue, #210, Milwaukee, Wisconsin 53203.

Very truly yours,

A handwritten signature in black ink, appearing to read "Douglas F. Mann", written in a cursive style.

Douglas F. Mann
President,
Mount Carmel Lutheran Church

DFM/kk

cc: Reverend Kenneth Carlson
Joel Richmond, Property Committee

CITY OF MILWAUKEE
CITY ATTORNEY
2004 OCT 15 PM 3:42
MILWAUKEE, WISCONSIN



BITUMINOUS

Insurance Companies

3333 N. Mayfair Road, Suite 104
Milwaukee, WI 53222-3226
414 476 5440
800 242 6258
FAX 414 476 8887

September 23, 2004

MT CARMEL CHURCH
Attn.: Douglas Mann
8424 W. CENTER STREET
MILWAUKEE, WI 53207

Re: Claim #: 194-U-10352-31-Y
Our insured: Lalonde Contractors, inc.
D/A: 08/23/2004

Dear Mr. Mann:

Bituminous Insurance is the liability insurance carrier for Lalonde Contractors, Inc. Mt Carmel presented a claim for damages to its underground sprinkler system which occurred during the West Center Street construction project.

All affected property owners of this project were put on notice of the impending construction prior to the work beginning and, most recently, by letter dated May 24, 2004. You did not make our insured aware of the Church's sprinkler system which ran next to and under, the sidewalks around the Church.

When our insured came across the sprinkler system, they were told by the City of Milwaukee Engineer to continue working. The work was continued because the City had not been made aware of the system as requested, and therefore, considered the system abandoned by the owner. This is the standard operating procedure when an unreported sprinkler system is found within the City's right-of-way during a construction project.

Additionally, City of Milwaukee Ordinances, Chapter 115-37, states, in part, that "The property owner shall at his own expense remove sprinkling systems within the public way when so ordered by the commissioner." A copy of this ordinance is enclosed for your review.

Because our insured was not warned about the sprinkler system, they could do nothing to protect it. In addition, because the system was not on any of the City's plans, the City Engineer considered the system abandoned, and advised our insured to continue working.

Even if our insured and the City were aware of the system, the commissioner still has the authority to order the system abandoned at the owner's expense. Therefore, the cost to remove and replace the sprinkler system would have been Mt. Carmel's responsibility.

For these reasons, Bituminous Insurance must respectfully deny your claim.

If you have any questions, please feel free to call me at 800-242-6258, x 202.

Sincerely,

Bituminous Insurance Company

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

Brian Bean
Senior Claims Representative

**Street Construction And
Work On Public Ways 115-36**

b. Such applications shall be accompanied by a bond in the sum of \$1,000 of a surety company duly incorporated in the state of Wisconsin or duly licensed to do business in this state, such bond to be approved by the city attorney conditioned upon the full and proper performance of and compliance with all the provisions of this section; and further, that permittee shall be primarily liable for damages to persons or property by reason of the granting of this special privilege. Such applications shall also be accompanied by a certificate of insurance indicating applicant holds a public liability policy in the amount of at least \$25,000 covering bodily injury to any one person, and \$50,000 covering bodily injury in the aggregate in any one accident, and \$5,000 covering property damage to any one owner, and \$10,000 covering property damage in the aggregate in any one accident on the licensed premises and naming the city of Milwaukee as an insured. Both bond and insurance policy shall provide that they shall not be cancelled until after at least 30 days' notice in writing to the city clerk.

c. See s. 81-55 for the required permit fee.

3. **REVOCAION.** At any time that permittee shall violate any of the conditions upon which said permit was issued, the commissioner of health or his agent, or the commissioner of public works or his agent, or any police officer shall forthwith serve a written notice upon the permittee specifying the nature of the violation and shall forthwith make written complaint to the common council which shall hold a public hearing thereon, after the permittee shall have had 10 days written notice of such hearing. Thereafter, for cause shown, the common council may suspend or revoke such permit. If the common council revokes such permit and approves a new application for the same permittee during the same year, it shall be in the same manner and after payment of the same fee as provided for in the original issuance of a permit. Nothing contained in this subsection shall be construed to limit the power of any enforcement officer in prosecuting violations of the code.

115-36. Heated Pavements. 1. **PERMISSION.** Pipes or conduits for warming pavements may be placed within or below pavements in a

public way when installed or maintained as regulated in this chapter and upon the condition that the right to install or maintain such installations may be revoked by the commissioner. Such installations shall not interfere with any public work or improvements, and the city in granting the right to install said pipes or conduits reserves the right to install municipally owned utilities under, upon or over the heated pavement sections.

2. **IDENTIFICATION.** The surface of all heated pavement hereafter constructed shall bear identification marks as required and regulated by the commissioner.

3. **REMOVAL.** The owner of the property shall remove at his own expense all heated pavements and all appurtenances thereto within the public way whenever public necessity or public safety require when ordered by the commissioner, and all pavements shall be restored in accordance with the current rules, regulations or specifications or as directed by the commissioner, without claim for damages by reason of such removal or pavement restoration. If the order to remove a heated pavement is not complied with within 30 days of receipt thereof, the commissioner may remove said heated pavement and all appurtenances thereto within the public way either by contract or by city forces, and shall certify the costs thereof in the proper manner to have them levied as special assessments against such property, and the proper officers of the city are authorized and directed to enter such charges on the tax rolls.

115-37. Underground Lawn Sprinkling System.

1. Underground sprinkling systems may be installed within a public way when installed and maintained as regulated in this chapter and upon condition that the right to install or maintain such installation may be revoked by the commissioner. Such systems shall not interfere with any public works or improvements and shall be installed and operated in such a manner so as not to create a nuisance or hazard to pedestrians and vehicles using the public ways, and shall comply with all state statutes and city ordinances.

2. The property owner shall at his own expense remove sprinkling systems within the public way when so ordered by the commissioner. Pavements shall be restored in

**115-38 Street Construction And
Work On Public Ways**

accordance with s. 115-8. If the order to remove a sprinkling system from the public way is not complied with within 30 days of receipt thereof, the commissioner may cause the removal of said sprinkling system and shall certify the costs thereof in the proper manner to have them levied as special charges against such property, and the proper officials of the city are authorized and directed to enter such charges on the tax rolls.

115-38. Mail Collection Boxes. 1. PRIVATE MAIL BOXES. Where direct to door postal deliveries are not made, private mail boxes may be placed adjacent to roadway pavements at locations designated by the United States postal department upon condition that said mail boxes shall be removed at the owner's expense when so ordered by the commissioner of postal authorities, and do not interfere with the use of or obstruct the street or sidewalk.

2. UNITED STATES POSTAL DEPARTMENT BOXES. Facilities for the collection and distribution of mail may be placed within public ways at the discretion of the United States postal department, provided the same do not interfere with the use of or obstruct the street or sidewalk.

115-39. Erection of Telephone Booths on Public Property. 1. No public utility, as defined in s. 196.01, Wis. Stats., which owns, operates or has under its management or control any plant or equipment, or part of a plant or equipment, within this state for the conveyance of telephone messages, shall erect, maintain or operate any public telephone booth on public property except in accordance with this section.

2. Application for permission to install a public phone booth shall be made on forms provided by the department of public works. Such application shall state the name and address of the applicant and, if it be a corporation, signed by the proper officer or agent thereof. Such application shall have attached to it a sketch showing the proposed location of such phone booth with relation to the street lines and the building lines of adjacent buildings.

3. The applicant shall pay to the city treasurer the sum of \$10 and a duplicate copy of the receipt of the city treasurer shall be

attached to the application. Such fee is to cover the costs incidental to the regulation of the placing of public phone booths and the processing of such application. The applicant shall save the city harmless from all liability for damages and from all claims, actions and causes of action, and liens of any kind whatsoever, and from all costs, charges and expenses incurred in defending such suits or actions which may in any way arise out of the installation and maintenance of said booth or result therefrom.

4. The department of public works shall secure on said application the approval of the city engineer, and shall approve said application if the plans for such public phone booths conform to all ordinances and regulations of the city. No application shall be granted unless said booth is proposed to be lighted at applicant's expense and unless adequate access walks leading from the public sidewalk to said phone booth are to be provided at the expense of the applicant.

5. After approvals have been secured, the department of public works shall issue a permit for each booth so approved. Such permit may be revoked by the city at any time upon giving at least 30 days written notice to the public utility. The public utility may remove any booth on public property at any time upon giving at least 30 days written notice to the city. In the event of any such removal, the permit for such location shall be cancelled.

6. The public utility shall compensate the city for permitting said installation, on at least a quarterly basis, by payment of a commission at the same rate paid by the public utility to all other owners of property on which public booths are located, said payments to be forwarded to the city treasurer, who shall place said moneys in the general fund.

7. There shall be posted inside of said booth in a conspicuous space and in large type the telephone numbers of the police department and fire department.

115-40. Removal of Obstruction. Whenever there shall be any building, fence or other obstruction without limitation by reason of enumeration in and upon any public way or public place, the commissioner shall order the owner or his agent in control of such obstruction to remove said obstruction from the

Invoice 49129



SYSTEMS/INC.

Page # 1

6101 N. Flint Road, Glendale, WI 53209

Phone 414-351-8866

FAX 414-351-88.78

Customer No.: 1328

Invoice No.: 49129

Bill To: MT. CARMEL LUTHRN CHURCH
 8424 W. CENTER ST.
 WAUWATOSA, WI 53222

Ship To: MT. CARMEL LUTHRN CHURCH
 8424 W. CENTER ST.
 WAUWATOSA, WI 53222

Date		Ship Via	F.O.B.	Terms	
09/30/04				Net 10	
Purchase Order Number		Order Date	Sales Person	Our Order Number	
		09/30/04	SERVICE CREW	11342	
Quantity		Item Number	Description	Unit Price	Amount
Required	Shipped / B.O.				
1		SERV	SERVICE CALL REPAIR DAMAGES TO IRRIGATION SYSTEM DUE TO SIDEWALK CONST	0.00	0.00
2		SIF50F	1-1/4in. X 1 X 1/2in. F TEE	5.25	10.50
4		SIF75	3/4in. INSERT COUPLING	0.95	3.80
6		SIF100	1in. INSERT COUPLING	1.50	9.00
24		SAD100C	1 X 1/2 KS SADDLE	2.95	70.80
25		SFP	3/8in. SWING PIPE	0.55	13.75
24		SFP5ME	1/2in. SWING MALE ELL	0.65	15.60
12		SPN06	1/2in. X 6in. POLY NIPPLE	1.15	13.80
20		SCC75	3/4in. CRIMP CLAMP	0.85	17.00
38		SCC100	1in. CRIMP CLAMP	0.95	36.10
16		SC28	1-1/2in. SS SCREW CLAMP	1.65	26.40
150		SPP100	1in. POLY PIPE	0.65	97.50
30		SPP125	1-1/4in. POLY PIPE	1.05	31.50
16		SHPRO4	HUNTER 4" PRO SPRAYHEAD	3.85	61.60
24		SH574P	4in. TORO SPRINKLER LESS NOZ	4.25	102.00
2		SIF150	1-1/2in. INSERT COUPLING	2.15	4.30
16		SRN	Rainbird Spray Nozzle std	1.90	30.40
24		SH57N	TORO 570 NOZZLE	2.25	54.00
8.000		SL46	SERV CALL/LABOR(PAUL Z.) 9/22,9/25 & 9/26	65.00	520.00
6.000		SL44	LABOR/SERV CALL (PER HR JEFF 9/25 & 9/26	65.00	390.00
18.000		SL	LABOR/SERV CALL (rate per hr 9/25 & 9/26 ANGEL, RAYMUNDO & ABRAHAM	65.00	1170.00

Thank You We appreciate your business!

Invoice 49129

Page # 2

Acme

SYSTEMS/INC.

6101 N. Flint Road, Glendale, WI 53209

Phone 414-351-8866

FAX 414-351-88.78

Customer No.: 1328

Invoice No.: 49129

Bill To: **MT. CARMEL LUTHRN CHURCH**
 8424 W. CENTER ST.
 WAUWATOSA, WI 53222

Ship To: **MT. CARMEL LUTHRN CHURCH**
 8424 W. CENTER ST.
 WAUWATOSA, WI 53222

Date		Ship Via		F.O.B.		Terms					
09/30/04						Net 10					
Purchase Order Number		Order Date		Sales Person		Our Order Number					
		09/30/04		SERVICE CREW		11342					
Quantity		Item Number		Description		Unit Price		Amount			
Required	Shipped	B.O.									
2.000		SL		LABOR/SERV CALL (rate per hr 9/20 KEVIN & PAUL		65.00		130.00			
1		PL		PLEASE PRINT INVOICE NUMBER ON REMITTANCE		0.00		0.00			
1		SC		1.8% SC ON PAST DUE ACCTS		0.00		0.00			
								Invoice subtotal		2808.05	
								Invoice total		2808.05	

STATE TAX REQUIRED ON PUMP PARTS & SERVICE

Thank You. We appreciate your business!

MOUNT CARMEL LUTHERAN CHURCH
8424 West Center Street
Milwaukee, Wisconsin 53222-5020

September 3, 2004

City Hall
Attn: Claims City Clerks Office
200 East Wells Street, Rm. 205
Milwaukee, Wisconsin 53202

RE: DAMAGE TO LAWN SPRINKLER SYSTEM
ESTIMATED DAY OF LOSS AUGUST 12, 2004

Dear Clerk:

On behalf of Mount Carmel Lutheran Church I am presenting a claim for a loss and damage to the sprinkler system.

The City of Milwaukee is currently redoing Center Street from 76th Street to 92nd Street. In the process of doing this they removed various segments of the sidewalk on the north side of the street adjacent to Mount Carmel Lutheran Church from 84th Street through 85th Street particularly at the corners. In doing so, the contractor LaLonde Construction Inc. a contractor of the City of Milwaukee severely damaged the lawn sprinkling system in an estimated eight to twelve locations. Although the pipes were obvious in many of the excavations, they continued to tear up the system damaging it in numerous sites.

I have enclosed the estimate for the repairs of \$2,000-\$2,800. Please acknowledge this claim and your decision on this claim. Any correspondence on the claim should be sent a duplicate to: Mount Carmel Lutheran Church 8424 West Center Street Milwaukee, Wisconsin 53222 attention Douglas Mann President and Douglas Mann 740 North Plankinton Ave. Suite 210 Milwaukee, Wisconsin 53203.

I have attached a photocopy of the letter to LaLonde Contractors notifying them of this loss on August 18, 2004.

SEP 07 11:20 AM
CITY CLERK'S OFFICE

SEP 04 8:08 AM
CITY CLERK'S OFFICE

Very truly yours,

A handwritten signature in black ink, appearing to read "Douglas F. Mann". The signature is fluid and cursive, with a large initial "D" and "M".

Douglas F. Mann
President

DFM/jg

Enclosure: Letter to LaLonde Contractors dated August 18, 2004
Estimate for repair from Acme Systems

cc.

Joel Richmond, Mount Carmel Church

August 18, 2004

Lalonde Contractors
Attn: Bob Field
2929 S. Chase
Milwaukee, WI 53207

Dear Mr. Field:

In removing concrete sidewalks around our church, the underground water sprinkling system has been damaged in about 6-8 places. The damage is along Center Street from 84th to 85th Street and on N. 85th Street. The damage is on both sides of the walk.

Please take corrective measures to repair the damage to the piping, replace damaged sprinkler heads and otherwise repair the damage to bring it back to operating condition. Thank you.

If you have any questions, call me at my daytime number of 414-276-5355.

Very truly yours,

Douglas F. Mann
President

/mvj

Acme

SYSTEMS / Inc.

IRRIGATION EXCELLENCE SINCE 1956

www.acmesystem.net
FAX:414-351-8878



Mr Mann
Mt Carmel Lutheran Church
8424 W. Center St.
Wauwatosa, WI 53222

Sept. 2, 2004

Re: Lawn Sprinkler System

Dear Mr Mann:

The sidewalk construction damage to the lawn sprinkler system is fairly extensive. In addition to replacing broken/removed pipes and heads we will need to drill under at least 2 sidewalks. We estimate approx 30 man hours labor @ \$65 per hour plus materials and other charges will total near \$2000 - \$2800. Any repairs made unrelated to the construction damage would be billed separately at the rate of \$65 per hour plus parts. There are at least 3 valves that need to be replaced with an estimate for that alone to be in the \$500 - \$1000 range.

Sincerely,

Dave Hollinger
Service Manager

414 / **351-8866**

6101 N. Flint Road
Glendale, WI 53209

Acme

SYSTEMS/Inc.

IRRIGATION EXCELLENCE SINCE 1956

www.acmesystem.net

FACSIMILE TRANSMITTAL COVER SHEET

DATE 9/3/04
FROM Dave Hollinger

FAX NO. 414/351/8878

NUMBER OF PAGES 2 INCLUDING COVER SHEET

⇒ ⇒ IF ALL PAGES ARE NOT RECEIVED, PLEASE CALL 414/351-8866 A.S.A.P. ⇐ ⇐

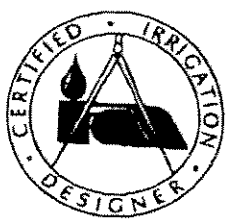
COMMENT: Estimate for sprinkler system
damaged by sidewalk construction

PLEASE DELIVER TO:

NAME: Mr. Mann
COMPANY: Mt Carmel Lutheran Church
FAX NUMBER: 414 271-1328

414 / **351-8866**

6101 N. Flint Road
Glendale, WI 53209



Irrigation Association



National Foundation
Independent Businesses



Wisconsin Landscape
Contractors Association

