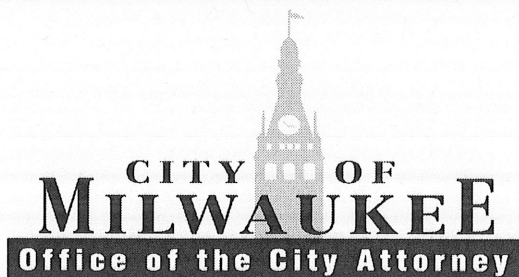


TEARMAN SPENCER
City Attorney

ODALO J. OHIKU
ROBIN A. PEDERSON
S. TODD FARRIS
JENNIFER L. WILLIAMS
Deputy City Attorneys



Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551
Telephone: 414.286.2601 • TDD: 414.286.2025 • Fax: 414.286.8550

HEIDI WICK SPOERL
KATHRYN Z. BLOCK
THOMAS D. MILLER
PETER J. BLOCK
PATRICK J. MCCLAIN
HANNAH R. JAHN
JULIE P. WILSON
MEIGHAN M. ANGER
ALEXANDER R. CARSON
ALEXANDER T. MUELLER
ALEXANDER D. COSSI
LISA A. GILMORE
KATHERINE A. HEADLEY
L. ANTHONY JACKSON
STACY J. MILLER
MICHAEL C. RADAVIDICH
JORDAN M. SCETTLE
THERESA A. MONTAG
ALEXANDER E. FOUNDOS
TRAVIS J. GRESHAM
KYLE W. BAILEY
JOSEPH M. DOBBS
WILLIAM K. HOTCHKISS
CLINT B. MUCHE
JOANNA FRACZEK
Assistant City Attorneys

November 16, 2023

To the Honorable Common Council
Of the City of Milwaukee
Room 205 - City Hall

RE: C.I. File No. 1068-2023-215 -MARY WHALEN
C.I. File No. 1068-2022-1451 - PHILLIP CHAVEZ

Dear Sir or Madam:

We have completed an investigation into this matter regarding damages sustained when a city tree fell on the property located at 3401 S. Delaware Avenue. Phillip Chavez and Mary Whalen own the property. Mr. Chavez and his insurer, Liberty Mutual Insurance submitted a damage claim in the amount of \$7,139.59, under the homeowners' policy. Ms. Whalen submitted an estimate for damages beyond insurance repairs for \$31,588.43.

Our investigation revealed that Forestry Services reported they responded to a call received in the call center on September 25, 2022, regarding a tree down at 3401 S. Delaware Avenue and a forestry crew responded. The subject tree was a green ash and appeared normal. The subject tree was removed from 3379 S. Delaware Avenue. Forestry reported there was no evidence of decay at the point of failure.

Further investigation revealed that the Forestry Section received 67 calls for broken branches and other storm related issues that day. Winds averaged 9.4 MPH with peak wind gusts to 35 MPH as recorded at General Mitchell.

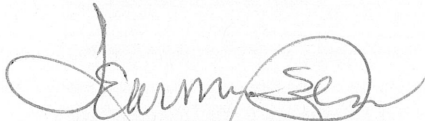


To the Honorable Common Council
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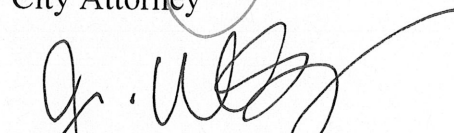
Additional maintenance records reveal that on August 2, 2021, a contractor was hired to replace the sidewalk at 3379 S. Delaware Avenue to complete special provisions of arcing the walk and removing only the surface roots necessary to install a 5" concrete walk. Forestry further reported the removal of the surface roots at that time did not appear to affect the trees' stability.

It is our position that the City is not liable for damages and we recommend that the claims be denied.

Very truly yours,



TEARMAN SPENCER
City Attorney



JENNIFER L. WILLIAMS
Deputy City Attorney

TS/JLW/MG/cdr

1068-2023-215/288474