

TO: Milwaukee City Clerk
FROM: Mary C. Whalen resident and owner of 3401 S Delaware Ave, Milwaukee, WI 53207
RE: Claim for Damages Against the City of Milwaukee

Claimant:
Mary C. Whalen
3401 S Delaware Ave, Milwaukee, WI 53207
(414)687-9961
murwhalen@gmail.com

CITY OF MILWAUKEE
2023 JAN 23 AM 11:33
CITY CLERK'S OFFICE

CIRCUMSTANCES ARISING TO CLAIM:

On September 25th, 2022 approximately between 5:00 PM and 6:30 PM CST a tree located across the street on E Holt Ave, outside the home of 3379 S Delaware Ave, Milwaukee WI 53207, on City of Milwaukee property ("the Tree"), fell on to my home located at 3401 S Delaware Ave, Milwaukee, WI 53207 ("my Home"). The Tree was negligently maintained by the City of Milwaukee directly resulting in the tree falling on my Home causing roof, siding, window, backyard furnishing and fence damage and nearly crushing me in the process.

On or about the week of August 26, 2021, the Tree was disrupting and causing damage to the north side sidewalk adjacent to it on E Holt Ave from the roots that were growing underneath, causing the sidewalk to crack and buckle. City of Milwaukee workers ("the City") arrived to fix the sidewalk and took measures to minimize this type of damage to the sidewalk in the future. The actions the City took was to dig up the sidewalk and the surrounding earth around the Tree on its north side, sever and cut many of the largest roots that were on the northern side of the Tree so these roots would no longer grow underneath the sidewalk to cause it damage again, and then replace the entire damaged sidewalk over the area of roots that they cut with a new sidewalk. The result of their actions, however, also gave the Tree very little anchor on the north side causing it to lean precariously southward over Holt Ave in the direction of my Home.

I am submitting pictures taken from a concerned citizen witness, Cletus Hasslinger of 2610 E Holt Ave, City of Milwaukee 53207, on the date of September 2, 2021:

Picture #1(a): shows the Tree with roots that were cut by the City and left next to the Tree on its northern side. You can also see the portion of the sidewalk that was replaced as well as the portion of earth dug up around the north side of the Tree providing little support.

Picture #2(a): shows the Tree leaning precariously south over E Holt Ave towards my Home.

Picture #3(a): shows the tree leaning precariously south over E Holt Ave as well as little to no ground nor root support on its north side.

On the evening of September 25, 2022, approximately between 5:00 PM and 6:30 PM CST, my husband and I were in my Home's upstairs living room when we noticed it was getting windy outside. Since large branches fall in our yard constantly from the trees when it is windy, I went to

OFFICE OF CITY ATTORNEY
24 JAN 23 AM 08:49

check on our dog, Dublin, to see if she was still outside, and if she was, to bring her inside so she would not get injured. I opened the door on the north side of my Home facing E Holt Ave and went outside in our backyard to look for our dog. Finding no sign of her outside, and as I was re-entering my Home, I shut the door and turned to the north to see the Tree falling my way. I screamed as the Tree crashed into my fence and the screen door I had just closed to my Home at the very spot I had been standing outside a moment before. As this was happening, my husband was still upstairs, and when the Tree fell into my Home, a portion of the Tree hit the roof directly above his head. He heard a loud crash and heard me scream downstairs. Thinking the absolute worst, he jumped to his feet, ran downstairs and called out to me. I was standing by the north door with leaves and branches smashed against the screen door behind me. The Tree had fallen onto my Home and very nearly crushed me in the process. Thankfully my dog was not outside at that moment, otherwise she may have been crushed as well.

I am submitting pictures my husband and I personally took. Pictures #1 - #10 were taken on September 25, 2022, shortly after the Tree fell. All other pictures will have corresponding dates as to when they were taken below:

Picture #1: shows the Tree laying on my Home across E Holt Ave.

Picture #2: shows the Tree laying across E Holt Ave looking West

Picture #3: shows the Tree laying on top of my Home

Picture #4: shows the Tree laying on top of my Home and fence

Picture #5: shows a closer view of the Tree laying on top of my Home and fence

Picture #6: shows a closer view of the Tree laying on top of my Home and fence

Picture #7: shows the Tree uprooted laying across E Holt Ave and on top of my Home and fence

Picture #8: shows the Tree uprooted

Picture #9: shows the Tree uprooted. Please note there is no damage to the sidewalk adjacent to the Tree on the north side where there were roots growing underneath before the City cut them.

Picture #10: shows the Tree crushing the roof and gutters on my Home.

Picture #11: shows the Tree crushing the fence on my Home and where I was initially standing as the Tree fell (taken September 26, 2022).

Picture #12: shows the Tree on top of the fence of my Home and the backyard of my Home (taken September 26, 2022).

Picture #13: shows further damage to the backyard furnishings from the Tree (taken on September 26, 2022).

Picture #14: shows roof and gutter damage to my Home from the Tree (taken on September 27, 2022).

Picture #15: shows roof and gutter damage to my Home from the Tree (taken on September 27, 2022).

Picture #16: shows roof, siding and gutter damage to my Home from the Tree (taken on September 27, 2022).

Picture #17: shows roof, siding, gutter and window damage to my Home from the Tree (taken on September 27, 2022).

Picture #18: shows the stump of the Tree, the undamaged sidewalk north of the Tree and the largest northern roots all cut smoothly by the City (taken on September 27,2022).

Picture #19: shows a close-up of another anchoring root on the north side of the Tree which was cut smooth by the City (taken on September 27,2022).

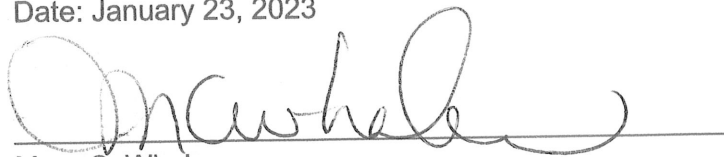
Picture #20: shows the stump of the Tree and the undamaged sidewalk to the north side of the Tree (taken on September 27,2022).

Picture #21: shows the undamaged sidewalk and where the City replaced the old sidewalk with new in August of 2021 due to the root damage caused by the Tree (taken on September 27,2022).

But for the negligence of the City of Milwaukee in cutting the Tree's anchoring roots and leaving little earth to support the Tree as their solution to fix the sidewalk, this incident would not have occurred. The City should have known that the tree was enormous, old and physics would not allow the Tree to stand much longer if its roots were cut away on its north side and there was not enough earth to support the tree on its north side, which is clearly shown by the photos from Mr Hasslinger. The precarious angle at which the tree leaned towards my Home over E Holt Ave is further evidence of how inevitable this tree falling on my property actually was. Furthermore, after the Tree had fallen, there was no damage to the sidewalk on the Tree's north side where the roots had previously been cut away by the City. This is further evidence that there indeed were no anchoring roots to that side, otherwise those roots would have severely damaged that portion of the sidewalk when the Tree was completely uprooted. This entire incident not only damaged the roof, gutters, windows, fence, siding and backyard furnishings of my Home, but it very nearly caused me to be either seriously injured or killed.

I have supplied the City with two itemized estimates from bonded and insured contractors as proof of the amount of this claim. I am asking for damages from the City in the amount of \$31,588.43 (Thirty-one thousand five hundred eighty-eight dollars and forty-three cents) to make me whole again.

Date: January 23, 2023



Mary C. Whalen