

October 3, 2009

Milwaukee City Clerk,
200 East Wells Street Room 205
Milwaukee, Wi. 53202

Dear Sir

I Richard Benish Jr.(C.I. file No. : 09-V-156) would like to appeal your decision. I am requesting a hearing.

Very truly yours,



Richard Benish Jr.



*Mr. Richard Benish
5801 W Bluemound Rd.
Milwaukee, WI 53213*

CITY OF MILWAUKEE
2009 OCT -8 PM12:56
RONALD D. LEONHARDT
CITY CLERK

Dear Sir:

We are filing a claim with the city because the garbage service has been backing the garbage truck into our shared drive at 135-147 N Hawley rd.. There are ruts in the drive way. I called last spring 2008 and got no response from the Dept of sanitation. The garbage truck continue to back into the driveway. This spring I called again because it was getting worse. This time I received a claim number, and still no response. So I called back and they gave me to a claim investigator . That was on about 06/12/09. investigator gave "city" Vehicle Number 32387/various. We have a picture that one of your tenant took of the garbage truck in the driveway

Thank You for your corporation

 8/4/09

Richard Benish jr.
5801 w bluemound rd.
Milwaukee, wi 53213

Work 414-259-0707 - 8Am - 6Pm
Home 414 449-1762
Cell 414 708-3840

2009 AUG -7 PM 1:57
CITY OF MILWAUKEE
RECEIVED
OFFICE OF
CITY ATTORNEY

2009 AUG -7 AM 11:32
CITY OF MILWAUKEE
RONALD D. LEONHART
CITY CLERK

OFFICE OF THE CITY CLERK
Milwaukee, Wisconsin

INSTRUCTIONS FOR FILING A CLAIM AGAINST THE CITY OF MILWAUKEE

To file a claim against the City, a claimant must comply with Section 893.80(1), Wis. Stats., a copy of which is printed on the reverse side of this instruction sheet. Generally, the statute requires the claimant to submit to the City Clerk:

1. A document stating the circumstances of the claim which must be signed by the claimant, or his/her agent or attorney. This document should be filed within 120 days of the event.
2. A document stating the address of the claimant and a statement of the relief sought. If money damages are sought, a specific sum must be stated.

(The above information may be combined in a single document.)

The following information should also be submitted to allow the City to promptly act on your claim:

1. Proof of the amount of the claim by means of either itemized receipts or two itemized estimates.
2. A phone number where the claimant can be reached during business hours.
3. As detailed a description of the incident as possible, including the date, time and place. Include the "City" vehicle #.

All information should be submitted to:

City Clerk
ATTN: CLAIMS
200 E. Wells St., Room 205
Milwaukee, WI 53202-3567

ADDITIONAL INFORMATION

Before you can file a lawsuit against the City of Milwaukee for reimbursement, State law requires that you first follow the claim procedures established by the City Clerk.

Filing a claim against the City does not automatically guarantee reimbursement from the City. However, the City examines each claim on an individual basis in determining if reimbursement is legally required.

In order to obtain reimbursement for a claim against the City, you must prove that the City or its employees acted unlawfully or negligently.

Only the City Attorney or the Common Council and the Mayor can authorize payment of a claim against the City. Any other representations made by City employees are not legally binding on the City.



893.80 Claims against governmental bodies or officers, agents or employees; notice of injury; limitation of damages and suits. (1) Except as provided in subs. (1g), (1m), (1p) and (8), no action may be brought or maintained against any volunteer fire company organized under ch. 213, political corporation, governmental subdivision or agency thereof nor against any officer, official, agent or employee of the corporation, subdivision or agency for acts done in their official capacity or in the course of their agency or employment upon a claim or cause of action unless:

(a) Within 120 days after the happening of the event giving rise to the claim, written notice of the circumstances of the claim signed by the party, agent or attorney is served on the volunteer fire company, political corporation, governmental subdivision or agency and on the officer, official, agent or employee under s. 801.11. Failure to give the requisite notice shall not bar action on the claim if the fire company, corporation, subdivision or agency had actual notice of the claim and the claimant shows to the satisfaction of the court that the delay or failure to give the requisite notice has not been prejudicial to the defendant fire company, corporation, subdivision or agency or to the defendant officer, official, agent or employee; and

(b) A claim containing the address of the claimant and an itemized statement of the relief sought is presented to the appropriate clerk or person who performs the duties of a clerk or secretary for the defendant fire company, corporation, subdivision or agency and the claim is disallowed.

To File A CLAIM with The **CITY OF MILWAUKEE:**

You will need the following information

DATE of Incident VARIOUS - 06/12/09

INV @ 135-147 N. HAWLEY AVE.

"City" Vehicle Number 32387 / VARIOUS

| DATE | PROPOSAL NO. |
|-----------|--------------|
| 7/14/2009 | 09-2656 |

| | | |
|--|------------------|--|
| PROPOSAL SUBMITTED TO: | ESTIMATOR | JOB LOCATION: |
| Richard Benish, Jr. 5801 West Bluemound Road Milwaukee, WI 53213 (414) 259-0707 | RK | 147 North Hawley Road Milwaukee, WI |
| | DISCOUNT | |
| | New | |

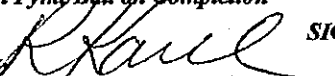
| DESCRIPTION | TOTAL |
|--|----------|
| <p>We hereby submit specifications and estimates for the following work:</p> <p>Procedure to Remove and Replace Existing Parking Lot. Condition of asphalt and base fatigued will only allow for the following to be done. We would not offer any other bid due to condition of lot.</p> <p>Owner to have lot clear of vehicles and debris along west fence line.</p> <p>Remove and haul away existing asphalt pavement in indicated area(s).</p> <p>Excavate entire lot to allow for 8" compacted stone base and discard waste.</p> <p>Install 8" compacted stone base per diagram.</p> <p>Shape and fine grade base stone.</p> <p>Compact base with dual drum vibratory rollers, in order to obtain maximum compaction.</p> <p>Apply soil sterilizer as or if necessary to help prevent weed growth.</p> <p>Machine pave (3") FINAL COMPACTED THICKNESS) State Spec. Hot Mix Asphalt.</p> <p>Finish any exposed edges to an even 45 degree angle for added strength.</p> <p>Layout and stripe lot per existing layout. Color: Yellow</p> | 11324.00 |
| THANK YOU! Please Sign & Remit Copy. | |

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to industry standards. Any alteration or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over original the proposal. All agreements contingent upon strikes, accidents or delays beyond our control. Property owner to carry fire, tornado and other necessary insurance upon above work. Our workers are fully covered by Worker's Compensation insurance. Wisconsin Lien Law applies, a copy furnished upon request. All labor and material is conclusively accepted as satisfactory unless stated in writing within 7 days of performance. Any unpaid balance will bear interest at the rate of 1.5% per month.

ACCEPTANCE OF PROPOSAL: The above prices, specifications and conditions are satisfactory and are hereby accepted. Pro-Seal is authorized to do the work as specified. Customer responsible for all permits. 7% Cancellation Fee of Signed Proposals.

Terms: 1/4-Down Pymt. Bal. on Completion

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SUBMITTED BY: 

SIGNATURE AND DATE OF ACCEPTANCE: _____

Corporate Office
N3 W23650 Badinger Road
Waukesha, WI 53187

Payne & Dolan, Inc.



Lisa M. Brux
Direct: 262-524-1788
Cell: 262-366-5097
Fax: 262-524-1845
lbrux@payneanddolan.com

PROPOSAL

SUBMITTED TO:

Richard Benish Jr.
5801 W. Bluemound Road
Milwaukee, WI. 53213

DATE: July 22, 2009
PHONE:
FAX:
JOB NAME: Duplex Lot Repair
JOB LOCATION: 147 N. Hawley Road - Milwaukee
PLAN DATE: Field Measured 07/22/09

For furnishing the necessary labor, material and equipment to complete the following:

Base Proposal

- ☐ Remove the existing asphalt pavement and base to a depth of 15" in the area to be patched (approximately 215 SY). See attached drawing for area of repair.
- ☐ Furnish, install, water and compact a 10" crushed aggregate base course in the area mentioned above.
- ☐ Construct a two-course, 5" compacted average depth asphalt pavement consisting of a 3" lower course and 4" upper course in the area mentioned above.
- ☐ Apply tack coat between lifts of asphalt.

TOTAL PRICE: \$12,045.00

PROPOSAL NOTES:

- ☐ Project is to be built in 1 phase. Each additional mobilization will be at a cost of \$1,000.00 each.
- ☐ All bases or pavements constructed on wet, frozen or otherwise compromised subbase or below freezing temperatures will be at the owner's expense and without warranty.
- ☐ If unstable subgrade or base course conditions are encountered during construction, the above pricing does not include the undercut or stabilization of the unstable material which must take place prior to completion of the asphalt paving.
- ☐ Owner is responsible for disposing of any and all contaminated material.
- ☐ All permits and private utility locates, by others.

If you have any questions on this proposal, please call me at the contact information listed above.

Thank you,

Lisa M. Brux

IF THIS PROPOSAL IS NOT ACCEPTED AND RETURNED WITHIN **15 DAYS** FROM THE DATE OF THIS PROPOSAL OR IF THE WORK IS NOT COMPLETED BY **October 15, 2009**, PAYNE & DOLAN, INC. RESERVES THE RIGHT TO WITHDRAW THE PROPOSAL OR MODIFY THE TERMS OF THE PROPOSAL/CONTRACT.

PRIOR TO PAYNE & DOLAN, INC. BEGINNING WORK UNDER THIS CONTRACT, OWNER/CONTRACTOR SHALL PROVIDE EVIDENCE THAT THE FOLLOWING PAYMENT TERM IS MET OR PAID AND IS ACCEPTABLE TO PAYNE & DOLAN, INC. TO FULFILL THEIR OBLIGATIONS UNDER THIS CONTRACT: 50% OF CONTRACT DUE WITH SIGNED CONTRACT,

PLEASE CALL CAT WARDEN AT 262-524-1739 TO GET APPROVAL ON YOUR PROPOSED SCHEDULE OR TO MAKE PAYMENT ARRANGEMENTS.

FOR OFFICE USE ONLY

Financial Terms Approved

Date

PROPOSAL TERMS AND CONDITIONS

Payne & Dolan, Inc. will not be responsible for damage to any underground utilities or other hidden conditions if the Owner/Contractor fails to give Payne & Dolan, Inc. advance notice of their existence and location. Owner/Contractor agrees to indemnify and hold Payne & Dolan, Inc. harmless for any loss, expense or damage resulting from, arising out of, or in any way related to such condition.

Physical access by heavy equipment and material delivery vehicles to the site that is the subject of this contract may result in physical damage to property including but not limited to existing pavement, landscape or structures. Subcontractor will cooperate with the Contractor or Owner in finding alternative access solutions, but the Contractor and Owner do hereby release and hold harmless the subcontractor from any claims for physical damage caused from access to the site. Contractor or Owner agree that any physical damage to property caused by Subcontractor's heavy equipment and material delivery vehicles in the process of gaining access to the site, where no other access options have been made available, shall be the responsibility of the Contractor or Owner.

Prior to the commencement of the Work, the work of others shall be completed to such an extent that it will not in any way conflict or interfere with the Work. If Payne & Dolan, Inc. is directed to commence Work prior to the time such other work is completed, Owner/Contractor agrees to pay the costs of any extra mobilizations or reduced productivity attributable to Payne & Dolan, Inc. commencing any of the Work before any others have completed their work.

The total allowable number of working days under normal conditions required to complete the Work is 10 days. In order to meet any agreed upon completion date, Payne & Dolan, Inc. must receive a 10 days advance notice to proceed plus the total allowable number of working days required to complete the Work under normal conditions.

Any changed condition of the job specifications involving extra costs will be performed only upon submission of a written change order, and Owner/Contractor will be required to pay to Payne & Dolan, Inc. an extra charge over and above the original contract price for performance of the requested change order.

If any other agreement is entered into between the parties, the terms of this agreement shall be incorporated into any such agreement and shall supersede any conflicting terms contained therein.

Payne & Dolan, Inc. reserves the right to refuse to construct a pavement unless minimum grades of 1% are attainable for surface drainage. If the Owner/Contractor directs construction with less than a minimum grade of 1%, it is understood that waterponding may occur and that no warranty attaches to the Work as to satisfactory surface drainage. Payne & Dolan, Inc. is not responsible for the redesigning of plan grades in order to establish a minimum of 1% drainage.

"AS REQUIRED BY THE WISCONSIN CONSTRUCTION LIEN LAW, BUILDER (PAYNE & DOLAN, INC.) HEREBY NOTIFIES OWNER THAT PERSONS OR COMPANIES FURNISHING LABOR OR MATERIALS FOR THE CONSTRUCTION ON OWNER'S LAND MAY HAVE LIEN RIGHTS ON OWNER'S LAND AND BUILDINGS IF NOT PAID. THOSE ENTITLED TO LIEN RIGHTS, IN ADDITION TO THE UNDERSIGNED BUILDER, ARE THOSE WHO CONTRACT DIRECTLY WITH THE OWNER OR THOSE WHO GIVE THE OWNER NOTICE WITHIN 60 DAYS AFTER THEY FIRST FURNISH LABOR OR MATERIALS FOR THE CONSTRUCTION. ACCORDINGLY, OWNER PROBABLY WILL RECEIVE NOTICES FROM THOSE WHO FURNISH LABOR OR MATERIALS FOR THE CONSTRUCTION, AND SHOULD GIVE A COPY OF EACH NOTICE RECEIVED TO HIS MORTGAGE LENDER, IF ANY, TO SEE THAT ALL POTENTIAL LIEN CLAIMANTS ARE DULY PAID."

Owner/Contractor, at its sole expense, shall comply with and obtain all necessary licenses and permits under present and future laws, statutes, ordinances, rules, orders or regulations of any governmental body having jurisdiction over the site, the Work, or the Owner/Contractor and shall bear the sole cost of any fines or penalties for failure to comply with or obtain the same.

If any amount due under this contract is not paid when due, is referred to any attorney for collection (whether or not litigation is commenced), or if any legal advice, services or action shall be necessary, Owner/Contractor agrees to pay all attorney's fees, costs and expenses incurred by Payne & Dolan, Inc. in connection with collecting that amount.

Payne & Dolan, Inc. proposes to furnish material and labor - complete in accordance with above specifications and prices. Payne & Dolan, Inc. is entitled to final payment upon substantial completion of the "Work" required herein. Terms of payment shall be net on receipt of invoice. A 1.5% per month service charge shall be charged on all outstanding balances. Upon receipt of payment in full, Payne & Dolan, Inc. will provide a lien waiver required by Owner/Contractor.

This proposal is contingent upon the express agreement that indemnification, defense and additional insured status, if required by the contract or contractor, shall be provided by the bidder but only to the extent of bidders' negligence.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond Payne & Dolan, Inc.'s control. Owner to carry fire, tornado and other necessary insurance. Payne & Dolan, Inc.'s workers are fully covered by Workmen's Compensation Insurance.

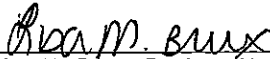
Subgrade/Aggregate Base: No materials will be placed on a wet, unstable or frozen subgrade/aggregate base. The Owner/Contractor is responsible to furnish Payne & Dolan, Inc. a suitable subgrade/aggregate base having the ability to support the maximum axle loads transmitted from the heaviest construction and/or vehicle traffic anticipated as not to cause any deformation to the subgrade/aggregate base. All subgrade must be rough graded by Owner/Contractor to within $\pm 0.1'$ of the proposed plan subgrade elevations.

Fine Grading of Aggregate Base by Payne & Dolan, Inc.: If Payne & Dolan, Inc. fine grades the surface to be paved, the Owner/Contractor shall furnish a surface rough graded to within $\pm 0.1'$ of the proposed plan aggregate base course elevations.

Fine Grading of Aggregate Base by Others: If Owner/Contractor fine grades the surface to be paved, Payne & Dolan, Inc. may choose to request additional work to correct the surface to be paved for (but not limited to) stability, surface drainage, slope and elevation. Additional corrective work will be done at no cost to Payne & Dolan, Inc.

Heaving and Cracking: Heaving of asphalt pavements caused by, but not limited to, wet conditions, expansive soils and freezing-thaw cycles, is not the responsibility of Payne & Dolan, Inc. Cracking of asphalt pavements caused by, but not limited to, excessive drying of expansive soils, clay soils and reflective cracking, is not the responsibility of Payne & Dolan, Inc.

When resurfacing concrete, brick or asphalt pavements Payne & Dolan, Inc. is not responsible for the reproduction of cracks or expansion joints which may occur.

Authorized Signature: 
Lisa M. Brux, Project Manager

Acceptance of Proposal - The above prices, specifications and terms and conditions are satisfactory and are hereby accepted. Payne & Dolan, Inc. is authorized by Owner/Contractor to do the Work as specified. Payment will be made to Payne & Dolan, Inc. by Owner/Contractor as outlined above. If separate bids or alternate bids are indicated, acknowledge acceptance by initialing those prices which you hereby accept.

Owner/Contractor: _____ Date: _____

Signature: _____

Job Name: Duplex Lot Repair

Date of Proposal: July 22, 2009

