




OFFICE OF THE CITY ATTORNEY

CLAIMS MEMORANDUM #DC-2024-064

TO: Mayor and Council

FROM: Garrett Lam
Assistant City Attorney 

DATE: December 19, 2024

MEETING: January 14, 2025

RE: Damage claim of
Antranet Moorner
5328 NW Oak Avenue
Lawton, Oklahoma 73505

Submitted in the amount of \$4,969.11 on October 30, 2024

RECOMMENDATION: Denial

BASIS OF CLAIM: Antranet Moorner alleges on March 20, 2024, at 11:00 p.m., she was traveling westbound on SW 25th and Franklin Avenue, in her 2008 Mitsubishi, Outlander SUV. When she turned the corner, she hit a pothole full of water on the passenger side of her vehicle. Claimant has filed a claim in the amount of \$4,969.11 to replace the left and right tie rod, left and right lower control arm, with ball joint, left and right drive axle, left and right cv assembly, stabilizer bar, sway bar link, front stabilizer bar control link, alignment, left and right strut assembly, remove and replace rear shock and or strut assembly.

DATE OF ALLEGED DAMAGE: March 20, 2024

FACTS: According to Streets Department records, they *did not* receive a call from Ms. Moorner on or about March 20, 2024, about this pothole. Although, they have received reports from her in the past on different locations, in which she reported potholes and stating her vehicle was damaged. On June 21, 2024, Ms. Moorner called the Streets Division and reported the pothole at SW 25th and Franklin Avenue. Street Supervisor, David Little went out to check the hole and determined that the area looked rough but would not cause that type of damage to an SUV. At that time, he laid some millings and smoothed it out. After the Streets Department was notified of this current claim, (in which damage is alleged to have occurred over 7 months ago) Street Supervisor, David Little went to the location to check the pothole and it was full of water. He placed orange cones until they could get it dried out to assess the pothole. Once it was dried out, it was found that the pothole/depression was 4 feet wide by 12 feet long, and the overall depth was 3 inches. This was still not significant enough to cause the type of damage to an SUV that is alleged to have occurred. The Street crew put the area on a list for an asphalt repair. The area was resurfaced, and the repair was complete on December 2, 2024. Ms. Moorner was the only person that has

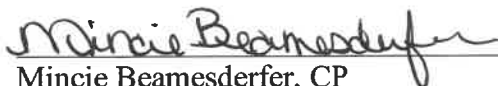
reported the pothole, which was on June 21, 2024, and this claim which she filed on October 30, 2024, in which she alleges damages occurred on March 20, 2024, which is prior to the first reported incident on June 21, 2024. It should be noted that the pothole was located at a 90-degree turn, in which a vehicle should be driving at the most minimal speed.

LEGAL BASIS FOR DENIAL OF CLAIM: Under Oklahoma law, a municipality has a duty to use ordinary care to maintain its streets in a reasonably safe condition for usual and ordinary use, or to use ordinary care to adequately warn of any dangerous condition of which the municipality **knows, or reasonably should know, in sufficient time to have removed or corrected the condition, or have given adequate warning of its existence.** OUJI 2d 11.1 (Duty of Municipality to Maintain Public Ways). The test to determine whether the City was negligent is “whether or not such municipality, in the exercise of reasonable care and prudence, could have or should have, anticipated danger and damages to the traveling public using the way.” Rider v. City of Norman, 476 P.2d 312, 313 (Okla. 1970). A municipality, however, is not an insurer of the safety of travelers. Zachary v. City of Sapulpa, 442 P.2d 328 (1966). A municipality will, therefore, not be liable for every defect or obstruction, however slight or trivial, or little likely to cause injury, or for every mere inequality or irregularity in the surface of the way. Id. It is only against danger which can or ought to be anticipated, in the exercise of reasonable care and prudence, that the municipality is bound to guard. Id.

This office recommends denial of this claim for the following reason:

1. The City did not act negligently and was not on notice of any defect in the roadway in the area at the time which the damage allegedly occurred. Nor is it possible that the alleged damage occurred when claimant struck a pothole at minimal speed.

GARRETT LAM
ASSISTANT CITY ATTORNEY



Mincie Beamesderfer, CP
Claims Investigator