



# OFFICE OF THE CITY ATTORNEY

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## CLAIMS MEMORANDUM #DC-2024-008

**TO:** Mayor and Council

**FROM:** Garrett Lam  
Assistant City Attorney 

**DATE:** April 8, 2024

**MEETING:** April 23, 2024

**RE:** Damage claim of Amanda Hale  
4024 A NW Ozmun Avenue  
Lawton, Oklahoma 73505

Submitted in the amount of \$189.00 on February 19, 2024

**RECOMMENDATION:** Approval in the amount of \$189.00

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**BASIS OF CLAIM:** Lu and Amanda Hale are the owners of the property located at 4024-A, NW Ozmun Avenue. Mrs. Hale alleges on February 9<sup>th</sup>, 2024, the City's sewer main collapsed and sewage came up through the toilets into the bathroom. Mrs. Hale called a plumber, and the plumber told her the blockage was in the City's main. Claimant's have filed a claim in the amount of \$189.00 for the plumber bill.

**DATE OF DAMAGE:** February 9, 2024

**FACTS:** According to Wastewater Collections records, on February 9, 2024, at approximately 10:50 a.m. the Wastewater Collections Division received a call from the resident at 4024 NW Ozmun Avenue, Apt. A. Wastewater collections responded to the call and arrived at approximately 11:05 a.m. The crew rodded the City's main line and pulled back mud. They were able to get the residence line flowing and turned to the call over to the City of Lawton, Sewer Construction Division. Sewer Construction assessed the issue and hired Andy's Plumbing for excavation and repair. The repair was completed on February 13, 2024. Records indicate there was one prior obstructions on the actual pipe segment, and no obstructions on the first pipe segment below, second pipe segment below, third pipe segment below, fourth pipe segment below, or fifth pipe segment below this location in the last three (3) years.

**LEGAL BASIS FOR APPROVAL OF CLAIM:** Pursuant to Title 51, Oklahoma Statutes, §151 et seq., municipalities are held accountable in the same manner as private entities or individuals for negligent acts or omissions that result in harm to others. However, negligence is never presumed, and the burden of proving negligence and that it was the proximate cause of the harm complained of, is on the complaining party. Oklahoma Ry. Co. v. Ivery, 204 P.2d 978

(Okla. 1949). **In the case of a defective water and sanitary sewer system, the Oklahoma Supreme Court has held that a complaining party does not meet his burden of proving negligence unless prior notice of the defective condition, actual or constructive, has been received by the entity controlling and managing the system. City of Holdenville v. Griggs, 411 P.2d 521 (Okla. 1966). In that instance, a duty arises to abate the defect within a reasonable time. Id. at 522.**

In this instance:

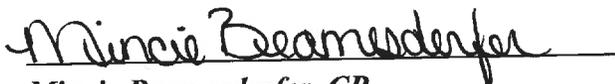
1. The City had prior notice of an issue with the actual pipe segment that services Claimant's residence.

Accordingly, this office recommends approval of this claim in the amount of \$189.00.

**In the future, if Claimant experiences a problem with the sewer line at this residence, it is advised that they notify Wastewater Collections/Maintenance at 581-3500 or after hours and weekends at 581-3272. The City will send a crew out to the residence to check the main line immediately.**

**It is highly recommended that the Claimant contact a private plumber to install a backflow/backwater valve preventer. Information regarding the application and assistance with the costs of a backwater valve can be obtained from the City of Lawton License and Permits Division.**

GARRETT LAM  
ASSISTANT CITY ATTORNEY

  
**Mincie Beamesderfer, CP**  
**Claims Investigator**