



OFFICE OF THE CITY ATTORNEY

CLAIMS MEMORANDUM #DC-2024-007

TO: Mayor and Council

FROM: Garrett Lam
Assistant City Attorney

DATE: April 8, 2024

MEETING: April 23, 2024

RE: Damage claim of
Sandra Roberts
1101 NW Willow Place
Lawton, Oklahoma 73505

A handwritten signature in blue ink, appearing to be "AL", is written over the name "Garrett Lam" in the "FROM:" field.

Submitted in the amount of \$220.00 on February 13, 2024

RECOMMENDATION: Denial

BASIS OF CLAIM: Sandra Roberts is the owner of the property located at 1101 NW Willow Place. Ms. Roberts states from February 7th – 10th, 2024, her sewer was backing up, so she called Affordable Plumbing to check her sewer line. The plumber was unable to clear the blockage, so she called the City of Lawton, Wastewater Collections Division, and they cleared the obstruction. Ms. Roberts is seeking reimbursement of the plumbing bill and submitted and invoice from Affordable plumbing in the amount of \$220.00.

FACTS: According to Wastewater Collection records, the Wastewater Collections Division received a call from Ms. Roberts on February 10, 2024, at approximately 11:57 a.m. that the City's main was holding and her residence was backing up. The Wastewater Collections crew arrived at 12:30 p.m. and entered the lower manhole and flushed the City's main 50 feet and cleared an obstruction of non-biodegradable wipes. **Records show no prior main history on the actual pipe segment, first pipe segment below, second pipe segment below, third pipe segment below, or fourth pipe segment below this location in the last three (3) years.** The pipe segments from the actual pipe segment to the fourth pipe segment below do not appear on the SSES report.

LEGAL BASIS FOR DENIAL 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

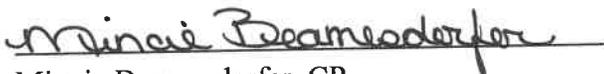
of proving negligence and that it was the proximate cause of the harm complained of, is on the complaining party. Oklahoma Ry. Co. v. Ivery, 204 P.2d 978 (Okla. 1949). **In the case of a defective water and sanitary sewer system, the Oklahoma Supreme Court has held that a complaining party does not meet 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, there is no prior history on the actual pipe segment in question or the first, second, third, or fourth pipe segments below this pipe segment in the past three years. Therefore, it is recommended that this claim be denied, due to no prior history.

It is recommended that the Claimant (and Claimants' neighbors) not flush wipes and/or grease down the line.

In the future, if Claimant experiences a problem with the sewer line at this residence, it is advised that she 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.

GARRETT LAM
ASSISTANT CITY ATTORNEY



Mincie Beamesderfer, CP
Claims Investigator