



OFFICE OF THE CITY ATTORNEY

CLAIMS MEMORANDUM #DC-2024-006

TO: Mayor and Council

FROM: Garrett Lam
Assistant City Attorney 

DATE: April 4, 2024

MEETING: April 23, 2024

RE: Damage claim of
Kelly Price
121 Spring Street
P.O. Box 47
Medicine Park, Oklahoma 73557

Submitted in the amount of \$4,031.31 on February 7, 2024

RECOMMENDATION: Approval

BASIS OF CLAIM: Claimant, Kelly Price, alleges on June 15, 2024, at approximately 4:30 - 5:00 p.m., she was seeking refuge from the tornado/hailstorm at the museum of the Great Plains. In between the second hail wave of the storm, she left the building to make the drive home. Upon leaving the parking lot the wind swung one of the loose gates and it impaled the front of her 2015 Ford Super Duty pickup, causing damage to the fan and wiring harness, which disabled her pickup. Claimant submitted two estimates to repair her vehicle, one from Send It Auto Repair in the amount of \$3,285.26 and the other from Billingsley Ford in the amount of \$3,362.31. She also submitted an invoice from Billingsley Ford in the amount of \$169.00 for diagnosing her wiring issue and writing her an estimate. She is also seeking \$500.00 for the deductible that she paid for the body damage portion of her claim. Total claim amount is \$4,031.31. Claimant states that she did not have all the items repaired when she filed her insurance claim because they said it would exceed the value of her vehicle and they would have to total the truck and she needed the truck to operate her business.

DATE OF DAMAGE: June 15, 2023

FACTS: On June 15, 2023, a severe thunderstorm with large hail, and damaging winds struck the City of Lawton between 4:30 and 5:00 p.m. Straight line winds were reported up to 103 mph and tornado sirens activated. Damage was reported throughout the City, due to these winds and large hail. Ms. Price did not make a report of damage to the City of Lawton Police Department or the Parks and Recreation Division regarding the gate at Elmer Thomas Park on June 15, 2023. Claimant did submit a photo of the gate arm

stuck in the grille of her pickup after she struck the gate on June 15, 2023. The Claims Investigator reached out to the Parks and Recreation Division on February 13, 2024, after receiving the claim and they were unable to provide any information regarding the gate, since that date was the first notification they received of the gate being struck on June 15, 2023.

LEGAL BASIS FOR APPROVAL 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).

This office recommends approval of this claim in full because in this instance:

1. The gates in question was equipped with a lock and chain that was not in use at the time of the severe thunderstorm and high winds, therefore the City could be held liable for the damage.

GARRETT LAM
ASSISTANT CITY ATTORNEY


Mincie Beamesderfer, CP
Claims Investigator