




## OFFICE OF THE CITY ATTORNEY

---

### CLAIMS MEMORANDUM #DC-2021-029

**TO:** Mayor and Council

**FROM:** Kelea L. Fisher  
Deputy City Attorney 

**DATE:** October 12, 2021

**MEETING:** October 26, 2021

**RE:** Damage claim of  
Max Sasseen on behalf of Charlie and Carla Crutcher  
1701 NW Cache Road  
Lawton, Oklahoma 73507

Submitted in the amount of \$575.00 on August 10, 2021

**RECOMMENDATION:** Approval in the amount of \$575.00

---

**BASIS OF CLAIM:** Max Sasseen manages rental property at 924 Runyon Road for Charlie and Carla Crutcher. Mr. Sasseen alleges on May 26, 2021, a City of Lawton backhoe struck the roof of the house at 924 Runyon Road causing damage to the roof and soffit. Mr. Sasseen has submitted an estimate in the amount of \$575.00 from Steve Hoffman to repair the roof and soffit.

**DATE OF DAMAGE:** May 25, 2021

**FACTS:** City of Lawton records indicate that on May 25, 2021, a Sewer Construction employee was working on the City's sewer main at 924 Runyon Road and was attempting to move a trench box. When the employee lifted the boom on the track hoe, it struck the corner of the roof causing damage to the fascia, soffit and corner boards. According to the Safety Review Board, this was a chargeable incident, and one (1) point was assessed against the employee's driving record

**LEGAL BASIS FOR APPROVAL OF CLAIM:** In Oklahoma, it is the duty of every operator of a vehicle to exercise ordinary care in keeping a lookout consistent with the safety of other vehicles, property, and persons. Rosamond v. Reed Roller Bit Co., 292 P.2d 373 (Okla. 1955); Townley's Dairy v. Creech, 476 P.2d 79 (Okla. 1970). Ordinary care is defined in Oklahoma Statutes, Title 25, Section 4 and further explained in the Oklahoma Uniform Civil Jury Instructions Section 9.3 as "the care which a reasonably careful person would use under the same or similar circumstances." Title 25 O.S. Section 4 and the Oklahoma Uniform Civil Jury Instructions Section 9.2 define negligence as the failure to exercise

*Claims Memorandum*

#DC-2021-029

Page 2 of 2

ordinary care to avoid injury to another's person or property.

In this instance:

1. The City of Lawton employee could be found to have breached his duty of care in his operation of the track hoe and the resulting damage to the Claimant's property could constitute negligence for which the City may be held liable.

It is recommended that the claim be approved for \$575.00, the amount of the estimate submitted with the claim.

KELEA L. FISHER  
DEPUTY CITY ATTORNEY

  
Mincie Beamesderfer, CP  
Claims Investigator