



City of Grand Island

Tuesday, December 21, 2004

Council Session

Item G1

**Receipt of Official Document - Tort Claim filed by Todd and
Jeannine Elsbernd**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk
Meeting: December 21, 2004
Subject: Receipt of Official Document – Tort Claim filed by Todd and Jeannine Elsbernd
Item #'s: G-1
Presenter(s): RaNae Edwards, City Clerk

Background

The City of Grand Island has received a Tort Claim on December 9, 2004 from Todd and Jeannine Elsbernd, 538 Hermitage Court alleging certain claims which took place on or about August 4, 2003 in connection with a private septic system inspection. A copy of this claim is attached to comply with the Nebraska Political Subdivision Tort Claims Act.

Discussion

This is not an item for council action other than to simply acknowledge that the claim has been received.

Recommendation

City Administration recommends that the Council take no action other than acknowledge receipt of the claim.

Sample Motion

Motion to acknowledge the filing of a Tort Claim by Todd and Jeannine Elsbernd.

POLITICAL SUBDIVISION TORT CLAIM

TO: Central District Health Department
Hall-Hamilton-Merrick
105 East 1st Street
Grand Island, NE 68801

Central District Health Department
Hall-Hamilton-Merrick
1719 16th Ave.
Central City, NE 68826

City of Grand Island
Attn: Renee Edwards
P.O. Box 1968
Grand Island, NE 68802

Hall County Attorney
Mark Young
P.O. Box 367
Grand Island, NE 68802

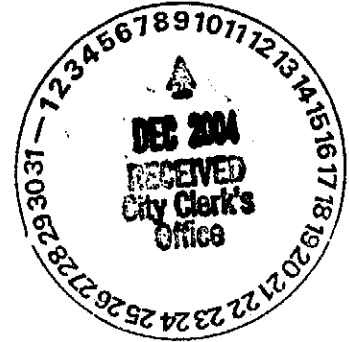
Hall County Board Assistant
Stacey Ruzicka
121 S. Pine St.
Grand Island, NE 68801

Hall County Supervisor
Scott Arnold
412 North Custer Ave.
Grand Island, NE 68803

Hall County Supervisor
Jim Eriksen
4233 Nordic Rd.
Grand Island, NE 68803

Hall County Supervisor
Richard Hartman
5075 S. Locust
Grand Island, NE 68801

Hall County Supervisor
Robert Humiston, Jr.
116 E. 8th St.
Grand Island, NE 68801



Hall County Supervisor
William Jeffries
#28 Kuester Lake
Grand Island, NE 68801

Hall County Supervisor
Pamela Lancaster
2809 Apache Rd.
Grand Island, NE 68801

Hall County Supervisor
Robert Rye
3211 Magnolia Ct.
Grand Island, NE 68803

Hall County Clerk
Marla Conley
121 S. Pine St.
Grand Island, NE 68801

Hall County Health Director
Sonja Simpson
105 E. 1st St.
Grand Island, NE 68801

Hamilton County Attorney
Michael Powell
P.O. Box 167
Aurora, NE 68818-0167

Hamilton County Clerk
Donita Friesen
1111 13th St., Ste. 1
Aurora, NE 68818

Hamilton County Commissioner
Jerry Hoegh
10 Rosewood Circle
Aurora, NE 68818

Hamilton County Commissioner
Steven Jacobsen
2007 North S Rd.
Marquette, NE 68854

Hamilton County Commissioner
Paul Kemling
1306 North S Rd.
Aurora, NE 68818

Merrick County Attorney
Steve Curry
1615 17th Ave.
Central City, NE 68826

Merrick County Supervisor
Dan Schneiderheinz
1724 24th St.
Central City, NE 68826

Merrick County Supervisor
Herman Schuett
355 I Rd.
Chapman, NE 68827

Merrick County Supervisor
Norman Euse
605 Vine St.
Silver Creek, NE 68663

Merrick County Supervisor
John Jefferson
2175 14th Rd.
Central City, NE 68826

Merrick County Supervisor
Robert Husmann
725 H Rd.
Chapman, NE 68827

Merrick County Supervisor
D.L. Hahn
2224 16th Ave.
Central City, NE 68826

Merrick County Supervisor
Rex Weller
649 Hwy. 92
Palmer, NE 68864

Merrick County Clerk
Gloria Broekmeier
P.O. Box 27
Central City, NE 68826

Administrative Services
Division of Risk Management
Executive Building
521 S. 14th St., Ste. 230
Lincoln, NE 68508

RE: **CLAIM OF:** Todd V. Elsbernd and Jeannine L. Elsbernd, Husband and Wife, Residing at 538 Hermitage Court, Grand Island, Ne 68801.

AGAINST: Central District Health Department, Hall-Hamilton, Merrick; City of Grand Island; Hall County Attorney; Hall County Board Assistant; Hall County Supervisors: Scott Arnold, Jim Eriksen, Richard Hartman, Robert Humiston, Jr., William Jeffries, Pamela Lancaster, and Robert Rye; Hall County Clerk; Hall County Health Director; Hamilton County Attorney; Hamilton County Clerk; Hamilton County Commissioners: Jerry Hoegh, Steven Jacobsen, and Paul Kemling; Merrick County Attorney; Merrick County Supervisors: Dan Schneiderheinze, Herman Schuett, Norman Euse, John Jefferson, Robert Husmann, D.L. Hahn, and Rex Weller; Merrick County Clerk; and Administrative Services, Division of Risk Management.

PLEASE TAKE NOTICE that TODD V. ELSBERND and JEANNINE L. ELSBERND, Husband and Wife, residing at 538 Hermitage Court, Grand Island, NE 68801, hereby makes their claim against Central District Health Department, Hall-Hamilton, Merrick; City of Grand Island; Hall County Attorney; Hall County Board Assistant, Hall County Supervisors: Scott Arnold, Jim Eriksen, Richard Hartman, Robert Humiston, Jr., William Jeffries, Pamela Lancaster, and Robert Rye; Hall County Clerk, Hall County Health Director; Hamilton County Attorney; Hamilton County Clerk; Hamilton County Commissioners: Jerry Hoegh, Steven Jacobsen, and Paul Kemling; Merrick County Attorney; Merrick County Supervisors: Dan Schneiderheinze, Herman Schuett, Norman Euse, John Jefferson, Robert Husmann, D.L. Hahn, and Rex Weller; Merrick County Clerk; and Administrative Services, Division of Risk Management, hereinafter referred to as "Defendant."

The following information is being provided pursuant to Neb. Rev. Stat. §13-901 et. seq. as well as 81-8,209 et. seq.

The basis for this claim is that on or about August 4, 2003, an inspection was conducted by the Central District Health Department at 538 Hermitage Court, Grand Island, NE 68801. The Individual Water Supply and Sewage System Report was prepared at the request of Jack McGowan of Regency Real Estate pursuant to a contemplated sale of the real estate located at 538 Hermitage Court, Grand Island, Hall County, Nebraska, from Russ and Pam Baker (Sellers) to Todd and Jeannine Elsbernd (Buyers). The Contemplated inspection was to inspect the private well, water quality results, and the private septic systems located at the subject property. The result of the private septic system inspection

was that "visual abnormalities ARE NOT present." Based upon this inspection and relying upon the results of this inspection, Todd and Jeannine Elsbernd purchased the subject property.

On or about April 10, 2004, Todd and Jeannine Elsbernd noticed that the clothes washing machine located upstairs in the home would drain and cause foam to appear in the downstairs toilet. A plumber was contacted and he arrived on April 25, 2004. He immediately determined that the leech field of the septic system needed to be replaced with its condition then being the same as at the time of inspection by the Central District Health Department. Todd and Jeannine Elsbernd relied upon the inspection by the Central District Health Department to their detriment.

Todd and Jeannine Elsbernd request reimbursement for damages in the sum which would fairly compensate them for their loss in the amount of between \$15,080.00 and \$25,000.00 for the replacement of the leech field referenced in this notice.

Todd and Jeannine Elsbernd hereby present their claim to the governing body to render disposition within six months of the date of filing.

DATED: December 7, 2004.

**TODD V. ELSBERND AND JEANNINE L. ELSBERND,
HUSBAND AND WIFE, RESIDING AT
538 HERMITAGE COURT, GRAND ISLAND, NE 68801**

BY: Ralph A. Bradley
Ralph A. Bradley, #10406
**BRADLEY, ELSBERND, EMERTON
& ANDERSEN, P.C.**
202 West Third Street
P.O. Box 639
Grand Island, NE 68802
Telephone: (308) 382-2128