



City of Grand Island

Tuesday, August 26, 2008

Council Session

Item G1

Receipt of Official Document - Tort Claim Filed by Jeff Raitt

Staff Contact: Dale Shotkoski

Council Agenda Memo

From: Dale Shotkoski, City Attorney

Meeting: August 26, 2008

Subject: Receipt of Official Document – Tort Claim filed by Jeff Raitt

Item #'s: G-1

Presenter(s): Dale Shotkoski, City Attorney

Background

The City of Grand Island has received a Notice of Tort Claim from Jeff Raitt, alleging certain claims in connection with an accident with a Grand Island ambulance which occurred on April 21, 2008 at the intersection of Highway 281 and State Street in Grand Island, Nebraska.

Without getting into issues concerning the City's and other parties' liability, and whether the claim of Jeff Raitt is fair and reasonable, we are simply providing a copy of this claim to you in compliance with the Nebraska Political Subdivision Tort Claims Act.

For a person to assert a tort claim against the City of Grand Island, a written notice of the claim must be filed with the City Clerk, Secretary or other official responsible for keeping official records. The claim must be filed within one year of the accrual of the claim, and the Council has six months to act on the claim. No suit can be filed until after the Council acts on the claim, or the six months has run.

Historically, the City of Grand Island has simply let the six months run. Not all claims result in a suit being filed, so it makes good sense to not act affirmatively in many instances. In any event, if you wish to look further into this claim, please contact the City Attorney's office, and we will provide you with the information which we have in connection with the claim. Our recommendation is to continue to take no affirmative action on tort claims. It must be emphasized that by providing copies of alleged claims to you, we are not making an admission or representation that a claim has been properly filed in any respect. We also recommend that no comments concerning a particular claim be made during Council meetings, unless you decide to bring the matter on for formal consideration. Even then, we ask that comments be carefully considered so that the legal rights of all parties are preserved.

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

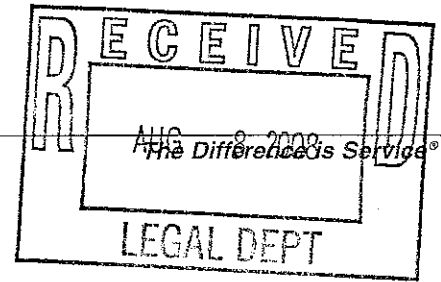
Move to approve acknowledgement of the Tort Claim filed by Jeff Raitt.



GREAT WEST

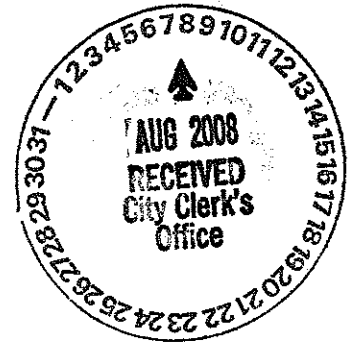
Casualty Company

1100 West 29th Street • P.O. Box 277
South Sioux City, NE 68776-0277 • 402-494-2411



August 7, 2008

MR WARREN ELMORE
EMC INSURANCE COMPANY
P O BOX 2070
OMAHA NE 68103-2070



RE: O/File #: C68774-W-926
O/Insured: Jeff Raitt
D/Loss: 4/21/08
Y/Claim #: BA80 Z00 496 395
Y/Insured: City of Grand Island, NE

Dear Mr. Elmore:

It is my understanding you are denying our subrogation claim for the accident caused by the Grand Island, Nebraska ambulance on April 21, 2008 in the City of Grand Island, Nebraska. Pursuant to Nebraska law, I am putting you on notice of the amount of our damages and our claim against the City. By copy of this letter, I am also notifying the City of Grand Island.

As a result of the negligence of the ambulance driver, our insured's truck was a total loss. Our insured's truck had an actual cash value of \$25,000 and my insured had a \$500 deductible. Great West Casualty Company issued payment of \$24,500, and has received a high salvage bid of \$7,500. In addition, Great West Casualty Company paid for a tow and recovery of \$5,253.40. This brings our pay out on the tractor file to \$22,253.40.

Great West Casualty Company also made payments on the trailer file for tow, and parts and labor in the amount of \$1,478.05. Our liability department has also issued payment to Debra and Allen Radowsky for the damages they received as a result of this accident for \$13,169.27.

At this point, Great West Casualty Company's total damages are \$36,900.72.

My insured, in addition to his \$500 deductible, has downtime or loss of use for a reasonable time to replace his truck in the amount of \$469.09 a day for 41 days, or \$20,339.69. This brings my insured's property damage claim to \$20,839.69.


WE CAN PROVIDE BETTER CUSTOMER SERVICE WHEN YOU REFER TO THE ABOVE FILE NUMBER

Claim No.: C68774-W-926
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If you have reconsidered your denial of this claim and wish to discuss settlement, please contact me.

Very truly yours,

GREAT WEST CASUALTY COMPANY


Michelle R. Sherman
Senior Subrogation Attorney
402-494-7876

DMSau1we/mc

Enclosures

Cc: City of Grand Island, Nebraska