Rachelle Blitch

From: Allison C. De Franze <allisond@cvmic.com>
Sent: Friday, April 11, 2025 10:40 AM
To: Rachelle Blitch
Subject: Linda Tortomasi v City of Whitewater

Hi Rachelle,

I am in receipt of the claim that has been filed by Linda Tortomasi against the City of Whitewater, in the amount of $198.86, for a trip and fall that occurred on 12/04/2024. As you are aware, the City of Whitewater is self-insured for this loss, and should the City decide to settle this matter, the settlement would come from City funds.

Under Wisconsin law, a municipality does not face liability unless there is a "known danger" that is compelling enough to warrant specific, non-discretionary action by the municipality. *Lodl v. Progressive Northern Insurance Co., 2002 WI 71, 253 Wis. 2d 323, 646 N.W.2d 314.* Wisconsin courts have developed a three-step test to determine whether the known and compelling danger exception applies in a given case: (1) whether something happened to create a compelling danger; (2) whether a government actor "[found] out about the danger, making it a known and compelling danger"; and (3) whether the government actor addressed the danger by taking one or more precautionary measures or instead "[did] nothing and let the danger continue." *Heuser v. Community Ins. Corp., 2009 WI App 151, ¶¶27-28, 321 Wis.2d 729, 774 N.W.2d 653.*

In this case, Ms. Tortomasi tripped over a bench leg, causing her fall. There was no known or compelling danger, no member of staff was notified about any danger, nor did any member of staff fail to act upon a reported danger. It is my opinion that there is no liability against the City, and my recommendation that this claim be denied.

Thank you,