

If it involves waste, act with haste

By Sierra Wright

Almost four years ago in 2019, a claimant sustained a sewage backup. The cleanout was located near the claimant's back entry to the basement of their residence. Sewage spread amongst the yard and slithered its way into the basement gaining access to several rooms. Upon assessment of the situation, it was discovered that the manhole upstream from the home was completely full. To mend and restore the pipeline back to its usual flow, the sewer main line was jetted. This process uncovered that the blockage was due to a copious amount of grease in the sewer pipe walls. Although the backflow of sewage was stopped from continuing to infiltrate the home, the claimant's basement, along with the items inside, were left soiled.

As expected, a Claim for Damages was received to compensate the homeowners for the destruction of their real and personal property. WCIA's liability investigation revealed whilst the City follows a five-year flushing and inspection program to maintain the main sewer line, the last inspection that took place was in fact eight years prior. The claimant asserts City staff on scene mentioned there was a broken sewer pipe nearby and they were too short staffed to meet their maintenance schedule. Because the blockage did not occur in the private side sewer and we were unable to identify an at-fault third party, along with not fulfilling the maintenance schedule, we were forced to accept liability for this loss.

The claimants were absolutely devastated about the condition of their home and the intolerable smell that lingered. After WCIA received an estimate, which was approved by the family's contractor, a partial release was sent to assist with the financial burden of starting the repairs. As it is a claimant's duty to prove their damages, we conveyed they would need to provide updates on construction as well as additional costs incurred. WCIA paid a total of \$51,176.45 in repairs, but the claim remained open as the claimants discontinued contact with us once we began requesting photos of the progress of the repairs.

The next contact was from an attorney with an updated Claim for Damages for \$150,000, almost two years after the date of loss. A summons and complaint shortly followed. The plaintiffs' intentional delays in repairs and lack of evidence to support the claim led us to believe we had a strong failure to mitigate defense. WCIA requested a statement of damages from the plaintiffs. It was disclosed that they were seeking \$114,398.11 in specials, not including pending medical expenses or general damages. They also alleged damages for yard remediation. The homeowners did not provide any documentation to support the cost of damaged personal items, nor did they provide anything to support their yard remediation claim. Through defense counsel WCIA filed a partial summary judgement motion pursuant to [RCW 4.16.130](#), which declares the statute of limitations for real property is two years. Our motion was heard and granted by the court.

After the win, WCIA sought a personal property demand. To our surprise, the plaintiffs sent a demand of \$81,597.68, which included the purchase of a Winnebago travel trailer as temporary housing. There was no evidence to support the need for temporary housing as the first floor of the home was livable and unaffected by wastewater. We held strongly in our position of damages not being proven by the plaintiff. WCIA was able to negotiate the plaintiffs down nearly \$100,000, resolving the case for \$15,000 in exchange for a dismissal.

Even when a claim appears to be a lost cause, there are avenues to protect cities from litigation abuse, and WCIA stands lock step with members in that pursuit. If you have questions about your claim situation or the applicable statute of limitations, please do not hesitate to contact WCIA claims staff.