



TRIDENT
PUBLIC RISK SOLUTIONS

Argonaut Auto Group

June 1, 2017

William McGrath
7 Jennings Pond Road
Natick, MA 01760

Re: Our insured: Town of Natick
Our file: TNT-0141330
Date of loss: April 8, 2017

Dear Mr. McGrath:

Trident Insurance Services is the claim administrator for Argonaut Insurance Company, the insurance carrier for the Town of Natick. It has been reported to us that on April 8, 2017 sewage backed up into your finished basement causing damage to your dwelling and personal property and you are seeking compensation for your damages from the Town.

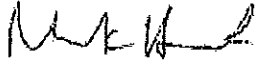
Our investigation of this matter with the Town indicates that on the evening of April 8, 2017 they received notification of a sewage back up at your residence. A crew responded to the call. They checked the main in your area and found a blockage caused by wipes, which they proceeded to clear by jetting the line. It should be noted that the Town had no prior problems with this line in the past. There have been no recent backups or blockages in the mainline and it was not on the list of problem areas for the sewer department.

Claims brought against municipalities are governed by Massachusetts General Laws, Chapter 258. This statute provides immunities and defenses to the Town for claims brought by third parties. For example, the "discretionary function" defense shields municipal officials from liability for decisions involving public policy planning. Please be advised that the Town of Natick is immune from liability for claims based on an allegation that it has an inadequate sewer monitoring system. Massachusetts courts have held that the implementation of a sewer monitoring system "would indisputably involve policy making or planning, subject to the discretionary function immunity provisions of M.G.L. c. 258, §10(b)". Caveny v. City of Fitchburg, 11 Mass.L.Rptr.274 (Worcester Superior Ct 2000).

In order to prevail on a negligence claim, it must be demonstrated that the Town of Natick failed to act in a reasonably prudent manner in connection with the maintenance of its sewer main and you sustained damages as a result. Without knowledge of culpable conduct on the part of Natick employees, the Town cannot be held liable for your property damage. Please be advised that our investigation indicates no negligence and no legal liability on the part of our insured and we must respectfully deny your claim. We are sorry that we could not provide you with a more positive response.

If you should have any questions, you may reach me at 1 800 444-3916 extension 655.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mark Howard', written over a horizontal line.

Mark Howard, AIC
Senior Claims Examiner

cc: Town of Natick
Deland Gibson



Patricia O'Neil <poneil@natickma.org>

Fwd: TNT-0141330 William McGrath

1 message

Jeremy Marsette <jmarsette@natickma.org>

Wed, Jun 14, 2017 at 8:34 AM

To: "Bill Chenard," <chenard@natickma.org>, Patricia O'Neil <poneil@natickma.org>

Please see the attached regarding 7 Jennings Pond Road.

I confirmed with Tony that at the time the blockage was removed in the public sewer main, the sewer staff were not aware of any back up in the basement of the private home nor did they enter any private property. Staff responded immediately to the call received from the Police Department and removed the blockage in the public sewer main downstream of the property.

Thanks,
Jeremy

----- Forwarded message -----

From: **Anthony Comeau** <acomeau@natickma.org>

Date: Wed, Jun 14, 2017 at 8:20 AM

Subject: Fwd: TNT-0141330 William McGrath

To: Jeremy Marsette <jmarsette@natickma.org>

----- Forwarded message -----

From: **Anthony Comeau** <acomeau@natickma.org>

Date: Thu, May 18, 2017 at 3:38 PM

Subject: Re: TNT-0141330 William McGrath

To: Tom Hladick <thladick@natickma.org>, "Howard, Mark" <mhoward@tridentpublicrisk.com>

Please see attached.

On Wed, May 17, 2017 at 2:12 PM, Tom Hladick <thladick@natickma.org> wrote:

----- Forwarded message -----

From: **Howard, Mark** <mhoward@tridentpublicrisk.com>

Date: Wed, May 17, 2017 at 1:43 PM

Subject: TNT-0141330 William McGrath

To: "THladick@natickma.org" <THladick@natickma.org>

Hi Tom,

I am investigating a sewer back up that occurred at 7 Jennings Pond Road. Could you please complete the attached questionnaire

Thank You

Mark

Mark Howard ,AIC
Senior Claims Examiner

Argo Group US

Mailing Address:
PO Box 469009
San Antonio, TX 78246

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E mhoward@tridentpublicrisk.com



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Thomas Hladick
Deputy Director / Highway/Sanitation/Recycling Supervisor
75 West Street
Phone (508) 647-6562
Fax- (508) 647-6550
Home Of Champions

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Anthony Comeau

Water/Sewer Division Supervisor

Town of Natick |Dept. of Public Works | 75 West Street | Natick, MA 01760

Tel. 508-647-6557 Fax 508-647-6560

acomeau@natickma.org

SEWER BACKUP

1 of 2

The following questionnaire to be filled out by the most knowledgeable individual connected to this loss. Please be sure to fill out the questionnaire completely and to provide as much detail as you can (Use back if necessary). In many instances, the information you provide may be sufficient for us to render a decision on liability. However, every claim is different and we may require follow up information that we will seek by telephone or in person. We ask that you cooperate with us to the best of your ability in the investigation and adjustment of this claim.

INSURED: Town of Natick

CLAIMANT: William McGrath

LOCATION: 7 Jennings Pond Road, Natick

DATE OF LOSS: 4/8/17

OUR FILE NO: TNT-0141330

1. Date the municipality first received WRITTEN NOTICE of this loss/claim? Please provide copy of the DATE STAMPED notification.

TOWN CLERK MAY 9, 2017

2. What is the TIME AND DATE that the municipality first became aware of a problem at this residence? WHO received the call and what was reported?

ALEX DREW RECEIVED CALL FROM POLICE DEPT. AROUND 8:00 PM 4/8/2017
FOR A SEWER BACKUP

3. What is the TIME AND DATE the municipality first visited the residence in question in response to this incident? IDENTIFY ALL MUNICIPAL PERSONNEL who were present.

ALEX DREW 8:30 PM 4/8/2017
TED E. - 9:00 PM

4. What caused the blockage? Please describe in detail. What was done to remedy the problem and when was this done?

WIPES, JETTED THE LINE, CLEARED THE BLOCKAGE, SAME NIGHT

5. Did the blockage occur in the homeowner's private lateral line?

NO

6. Did the homeowner have a check valve or back-flow preventer? PRIOR TO THIS LOSS was the homeowner ever advised to install one? Does the municipality have any bylaws or ordinances requiring one?

UNKNOWN, NO, NO

7. Did the blockage occur in the municipality owned main line?

YES

8. At the time of this incident was the municipality or any other person or private contractor performing work on the main or in the immediate area? If so, please explain what was being done, by whom and whether this work caused or contributed to the incident.

NO

9. Does the municipality have a contract with any outside entity for the maintenance or servicing of its water/sewer lines? If so please provide the name and address of this contractor and PROVIDE A COPY OF THE CONTRACT.

NO

10. Indicate whether this line has a PAST HISTORY OF PROBLEMS and the dates and nature of these problems?

NO

11. When is the last time PRIOR TO THIS INCIDENT that the municipality inspected the line in question. Was it video camera inspected?

UNKNOWN, NO

12. When is the last time PRIOR TO THIS INCIDENT did the municipality ROD or FLUSH the line; or provide repair work, construction work, or any other activity on this particular line? Give the dates, nature of problem, and what was done.

UNKNOWN

13. PRIOR TO THIS LOSS, was this particular section of the line placed on any written maintenance program? If yes, explain specifically what the maintenance program entailed, including the frequency and indicate whether or not the plan was adhered to.

NO

14. Do you feel this incident could have been prevented by the municipality or the property owner? If yes, please briefly explain.

NO

15. Other than the residence who reported the loss, were any abutting property owners also affected? If so please provide the name, their address and the nature of their damage.

UNKNOWN

16. Was the back up reported to the DEP? When? If not, why not? Please provide us with a copy of the report.

NO, DID NOT KNOW IT WAS BACKED UP INTO THE HOUSE

ANTHONY COMEAU, SUPERVISOR WATER/SEWER
Name and Title of Person Filling out this Form

5/18/2017
Date PAGE 2 OF 2