

**WESTBROOK CITY COUNCIL
FINANCE COMMITTEE AGENDA
MONDAY AUGUST 19, 2019 AT 6:30PM
WESTBROOK HIGH SCHOOL ROOM 114**

Westbrook City Council's Finance Committee, chaired by Councilor Michael Foley, will meet at 6:30pm, immediately prior to a Special City Council meeting. The agenda items are as follows:

- 1. Appeal of Insurance Claim Denial**



City of Westbrook, Maine

Michael J. Sanphy
Mayor
msanphy@westbrook.me.us

2 York Street
Westbrook, Maine 04092
Phone: (207)591-8110
Fax: (866)405-0776

Jerre R. Bryant
City Administrator
jbryant@westbrook.me.us

August 16, 2019

To: Westbrook City Council – Finance Committee
From: Jerre R. Bryant
Re: Appeal of Insurance Claim Denial

This past spring when China Villa was planning to resurface their parking lot, the city asked to inspect an existing private catch basin located in that parking lot. The purpose of that inspection was to determine if the storm drain attached to the catch basin was connected to the city's storm drain or to the sanitary sewer line. As the enclosed statement from Daniel Vaughan, Wastewater Division Supervisor reports, the top of the catch basin was at a higher elevation than most of the existing parking lot and was partially filled with water. Since there was no storm drain connection visible, the wastewater crew drained the water from the catch basin and subsequently sucked out the sand filling the bottom of the basin until an outlet drain was visible. They also conducted an inspection of the basement and the owner identified what she believed was the storm drain connected to the catch basin. There was no flow coming through that line, which is consistent with the existence of standing water in the catch basin structure. Nothing that was done by the city crew during the inspection/cleaning of the catch basin would have damaged the drainage system.

Following China Villa's paving project, the level of the parking lot was raised and properly graded so that the entire lot drained to the catch basin. We believe that this is the reason that the lot now experiences temporary flooding following storm events is the increased volume of storm water that now flows to the catch basin, which is connected to an underperforming or non-performing storm drain.

Ironically, if that drain was performing properly and, as we suspect, is connected to the sanitary public sewer, it would be an illegal connection and would have to be removed and connected to the public storm line. Since the current line is not properly functioning, it is our recommendation that a new storm drain connection be installed connecting the catch basin to the existing public storm drain in Mechanic Street.

Based on all factors reviewed and identified, we concur with the findings of the insurance company that the city has no liability or responsibility for the flooding condition in the China Villa parking lot.

CC: Michael Sanphy, Mayor
Eric Dudley, Director of Engineering & Code Enforcement
Katherine Kelly, Wastewater Manager
Daniel Vaughan, Wastewater Supervisor
Natalie Burns, City Solicitor

Mike Sanphy
Mayor of Westbrook, Maine
2 York Street
Westbrook, Maine 04092

Dear Mayor Sanphy,

I'm reaching out for your assistance with a recent issue I have started having at my restaurant here in Westbrook.

My husband and I purchased 910 Main Street and opened China Villa in March of 2007. This year I made the decision to repave our parking lot. When working with the city for approval of the work to be done, the city made a decision to clear out the drain in our parking lot as they had questions regarding the drainage and where it was going to. Since that time if there is a heavy rain the drain now gets clogged up and water overflows out it. Once the rain slows down or stops the drain in the parking lot will clear out, but it does take quite a while for it to drain. Prior to the work being done on the drain we have not seen this issue since we started here in 2007. Since we opened our business both my husband and myself have been working here full time and have always paid attention to our building and are very familiar with the property.


After we discovered the drain was not working properly we did file a claim with the city. I have received notification from the city's liability carrier; Trident; they are denying liability of the claim and stating any issue was already there prior to the work the city performed on May 19, 2019.

I do have photos from June 20, 2019 when we had a very heavy rainfall showing that this drain is no longer working properly and is backing up water into the parking lot instead of draining it away. Please let me know of any additional information you may need or any steps that I can take to get this issue rectified.

Thank you for your consideration in this matter.

Sincerely,

Keri Li
Yong Li
Owners of China Villa



7-16-19



TRIDENT
PUBLIC RISK SOLUTIONS

Member Argo Group

July 1, 2019

China Villa
Attn: Li Yu Huang
910 Main Street
Westbrook, ME 04074

RE: Insured: City of Westbrook
Date of Loss: May 19, 2019
Claim Number: TNT-0154638
Insurer: Argonaut Insurance Company

Dear Ms. Huang:

Please be advised that we represent the liability insurance carrier for the City of Westbrook. We are in receipt of your claim referenced above. Your claim damage was done to the drain in your parking lot as a result of work the City did on May 19, 2019 to inspect the drain. It is alleged that the drain in the parking lot no longer drains during heavy rain events.

After review of the facts, we do not find that any negligence or liability rests with the City of Westbrook. We have found no evidence to substantiate your claim that the problems you're having were caused by our insured. On May 19, 2019, the City responded to inspect the manhole drain in your parking lot. Upon arrival they had found the drain to be full of water and dirt and proceeded to pump it down to the bottom of the manhole at which time it was determined that this drain line appeared to be leading into your property. When pumping the drain, the City followed normal protocol and had done nothing out of the ordinary. There was nothing done during the pumping that would have caused any additional problems beyond what had already existed.

Based upon this, it has been determined there is no negligence or liability on behalf of our insured and we must deny your claim.

Very Truly,
Argonaut Insurance Company

Mark Howard, AIC
Sr. Claims Examiner

Cc: City of Westbrook
P & C Insurance

Rec'd 6/11/19 3:20pm JAW

CITY OF WESTBROOK NOTICE OF LOSS

If you are requesting reimbursement from the City of Westbrook, please complete this form. The claim will be submitted to the City's insurance carrier and if necessary heard by the City Council's Accounts and Claims Committee. If they recommend payment, the claim will be heard by the City Council. You will be notified by mail of the Accounts and Claims Committee meeting so that you may attend.

NAME: ckeri) Liyu Huang china villa

ADDRESS: 910 main st Westbrook ME 04074

HOME PHONE: Business 207-854-8888 CELL PHONE: 207-450-0348

DATE OF LOSS: May - 19 TIME OF LOSS: _____

DESCRIPTION OF INCIDENT: the city public work came to check the sewer water line, after that the water won't drain

DESCRIPTION OF LOSS: drine no longer works.

NAME OF WITNESS TO INCIDENT (if any): Ray (manager)

WITNESS ADDRESS: same as above

WITNESS PHONE: 207-854-8888

Please attach all signed receipts or estimates by independent appraisers supporting your claim for damages.

PLEASE NOTE: Charges for estimates and/or appraisals are not reimbursable expenses.

CLAMAIN SIGNATURE: [Signature] DATE: 6-11-19

RETURN FORM AND SUPPORTING DOCUMENTS TO:

Westbrook City Hall
c/o Jennifer Pratt
2 York Street
Westbrook, Maine 04092
Phone: (207) 854-9105 x1207
Fax: (207) 854-0635
Email: jpratt@westbrook.me.us