



December 31, 2012

Mr. William H. Brown  
Fischer, Brown, Bartlett & Gunn, PC  
1319 East Prospect Road  
Fort Collins, CO 80525

RE: Claim Number: 5020149  
CIRSA Member: City of Loveland  
Claimant: Russ Morgan  
Date of Loss: 11-14-12

Dear Mr. Brown:

This office represents the Colorado Intergovernmental Risk Agency (CIRSA), a public entity, self-insurance pool in which the City of Loveland is a member. This is in regards to your November 9, 2012 Notice of Claim directed to the City of Loveland. My investigation is now complete. I have met with City officials, and you were kind enough to allow me to meet with your client at the site. I have also reviewed additional documentation.

Mr. Morgan believes that the City of Loveland is liable for allowing Master Metal Works to construct a berm adjacent to his properties. The berm was built by Master Metal Works without the knowledge or consent of the City of Loveland prior to its construction. The City of Loveland has agreed to accept an engineer's report to state the berm is acceptable in its completed condition and poses no risk to other property. I asked Mr. Morgan on more than one occasion to show me any damage this construction or alleged water runoff has done, and he would not or could not show me.

The City of Loveland would be afforded immunity under the Colorado Governmental Immunity Act, (24-10-106), which states:

**“A public entity shall be immune from liability in all claims which lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant except as provided otherwise in this section.”**

Since this occurrence does not meet one of the six waivers of immunity under the Act that an individual can assert a claim, the City of Loveland would be immune from this type of incident.

303 757-5475  
800 228-7136  
FAX 303 757-8950

3665 Cherry Creek North Drive  
Denver, Colorado 80209

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The six exceptions an individual can assert a claim against a City are:

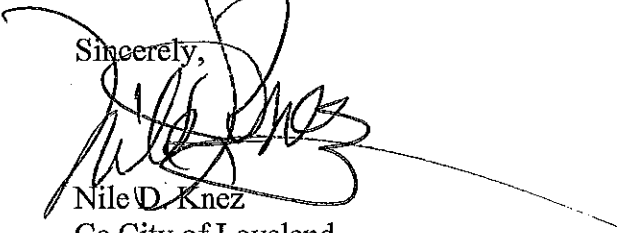
1. The operation of a motor vehicle;
2. The operation of any public hospital, correctional facility or jail;
3. A dangerous condition of any public building;
4. A dangerous condition of a public highway, road, or street which physically interferes with the movement of traffic;

(III) A dangerous condition caused by an accumulation of snow and ice which physically interferes with public access on walks leading to a public building open for public business when a public entity fails to use existing means available to it for removal or mitigation of such accumulation and when the public entity had actual notice of such condition and a reasonable time to act.

5. A dangerous condition of any public hospital, jail, public facility located in any park or recreation area maintained by a public entity, or public water, gas, sanitation, electrical, power, or swimming facility;
6. The operation and maintenance of any public water facility, gas facility, sanitation facility, electrical facility, power facility, or swimming facility by such public entity;

Therefore, the City of Loveland would be afforded immunity under the Act and we must respectfully decline your claim. We suggest you refer this incident to Master Metal Works who built the berm adjacent to your client's property.

Sincerely,



Nile D. Knez  
Cc City of Loveland

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