

David C. Donohue Attorney at Law



77 Broad Street
Tonawanda, New York 14150
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Email: david@donohuelaw.com

July 9, 2019

E.C. Water Authority
Att: Claims Department
295 Main Street, Room 350
Buffalo, NY 14203

Re: Claimants: David and Barry Donohue
Property: 77 Broad Street, Tonawanda
Amount: \$3,500

To whom it may concern:

PLEASE TAKE NOTICE that we are hereby making a claim for the expense of investigating and excavating a water leak at 77 Broad Street in the City of Tonawanda, New York. Enclosed herein, please find our letter to the City of Tonawanda dated April 5, 2019 along with an invoice from Roy's Plumbing in the sum of \$3,500 for excavating a water leak in the front of our law office on Broad Street.

In early Spring, the basement of our office building was receiving a considerable amount of water seepage. We believed that it was attributable to our neighbor's sewer. That does appear to have been a factor since the sewer smell was remedied when they performed repairs on their sewer line. However, the basement still had water seepage from all three walls in the front of the building.

Unbeknownst to our office, the City of Tonawanda believed that there may be an issue with the water supply and asked the Water Authority (herein as "ECWA") to visit the area and inspect it. To our knowledge, a City official and an official from the ECWA visited at or near our property, but no testing was ever done.

In May, 2019, one of our two tenants called the ECWA and advised them we were having water pressure issues. He was told that it was our problem, not the ECWA's problem. So too, I called the ECWA, and I was told it could not be on their end, it must be a problem with our plumbing. As such, we were required to hire a plumber to investigate.

On June 4, 2019, we hired Roy's Plumbing to investigate the water pressure issue and ultimately to excavate in front of our property to discover the cause of our building's water supply issues.

To: Erie County Water Authority
July 9, 2019
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As is now well documented in the ECWA's records, Roy's Plumbing called the ECWA on June 6, 2019 to advise them that they performed excavation in front of our law office at 77 Broad Street in the City of Tonawanda and discovered that the water leak was coming from the portion of the water line that was the responsibility of the ECWA. Upon information and belief, a second leak was also discovered on the other side of the street at the Water Main.

We understand and appreciate that not every conceivable water issue can be known to the ECWA. However, our contention here is as follows: a City of Tonawanda official met with someone from the ECWA to discuss their concerns regarding our property; a tenant called the ECWA as well but was dismissed; and I too was dismissed as this must be an issue that is not the problem of the ECWA. However, we contend that the ECWA having sufficient notice of a potential problem at our property, could have and should have performed a few simple tests to determine if the problem could have been a leak in lines controlled by the ECWA.

Since the ECWA did not perform these simple tests, we were saddled with the expense of excavation, to wit: \$3,500.

Therefore, we ask that the ECWA reimburse us for the expense hiring Roy's Plumbing to investigate and excavate the water line issue on our property in the sum of \$3,500. In addition, as our property is a business, we would greatly appreciate the ECWA expediting the concrete repair in front of our office remaining from the excavation.

Your anticipated cooperation in this matter is greatly appreciated.

Thank you.

Very truly yours,



DAVID C. DONOHUE, ESQ.

Enc.

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April 5, 2019

City of Tonawanda
Att: Erik Lindhurst, Building Inspector
200 Niagara Street
Tonawanda, NY 14150

Re: Complaint: City Code Art. 12, § 14-502
Complainants: David & Barry Donohue
Owners of 77 Broad Street
Offender: 75 Broad Street

Dear Mr. Lindhurst:

As we discussed by phone earlier this week, our office building is receiving sewage waste and fumes from the sewer waste of 75 Broad Street. A brief history is in order. The buildings at 77 and 75 Broad Street shared a sewer line down the shared driveway for many decades. This clay tile line became damaged over the years by tree roots at the apron of the driveway. For a number of years, we paid Grand Jude Plumbing to snake the line to the street every six months. Since our building is lower than 75 Broad Street, sewer back ups would effect us first.

In November, 2018, we hired Roy's Plumbing to install a new sewer line. We placed the owner of 75 Broad Street on notice that we were doing so. It is my understanding that the owner of 75 Broad Street contacted Roy's Plumbing, that Roy's inspected the line, told them it was badly damaged clay tile and gave them an estimate for repair which was not acted upon.

Our sewer project was completed in November, 2018. Since that time, Cellino Plumbing was hired by 75 Broad Street for some sewer issue. I am not aware of any repairs made by Cellino Plumbing.

The sewage generated by 75 Broad Street does not reach the City Sewer Main and is now backing up into our old sewer lines and leaking into our basement where Roy's Plumbing sealed the lines. The sewage is also leaching into the ground and penetrating our basement walls.

To: Mr. Lindhurst
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Note we have contacted our neighbor and asked if he would repair the sewer line for 75 Broad Street. We have not received a response.

The sewage leaking into our basement is causing a significant gaseous odor in our law office on the main floor of 77 Broad Street. Barry and I are very concerned that the sewer water and gas may cause significant harm to our employees and clients, our property and ourselves.

In reviewing the City Code, we believe that 75 Broad Street creates a public nuisance as defined by Art. 12, § 14-502(a)(4) because noxious gases are being emitted from the sewage of 75 Broad Street that may cause physical harm to individuals and or damage to property.

Therefore, we would ask that the City take the necessary measures to cause the owner of the sewer line of 75 Broad Street to repair or replace their sewer line.

Your assistance in this matter would be greatly appreciated.

Thank you.

Very truly yours,



DAVID C. DONOHUE, ESQ.

cc: S. Michael Rua, City Attorney



(716) 873-5000
www.ILoveRoys.com

140 Cooper Avenue, Tonawanda, NY 14150

DATE: 06 06 19 DS #: 483485

CUSTOMER NAME (Financially Responsible Party) Donohue Law		CALLER NAME		JOB CONTACT NAME	
JOB ADDRESS 77 Broad St		CITY Tonawanda		STATE NY	
BILLING ADDRESS (if Different)		PH1 (716) 693-3344		PH2	
E-MAIL ADDRESS		SERVICE PARTNER MEMBER? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

ORIGINAL REASON FOR THE CALL: Replace water service

WORK AUTHORIZATION: I, the undersigned, am owner/authorized representative of the premises at which the work above is being done. I hereby authorize you to perform the above recommendation, and to use such labor and materials as you deem advisable. Unless prior-authorized for billing, all work done is due upon completion (C.O.D.). Roy's further states & owner recognizes that there may be other service providers willing to perform this work at a lower price and recognizes they have the option of seeking other solutions before authorizing this work. I agree to pay reasonable attorney's fees, court costs and collection fees in the event of legal action. I have read this contract, including the terms and conditions on the reverse side hereof and agree to be bound by all the terms contained herein. All parts will be removed from premises and discarded, unless otherwise specified herein. I HEREBY AUTHORIZE YOU TO PROCEED WITH THE ABOVE WORK AT THE UPFRONT FEE OF \$ 3500.00 DSC

Signature: Marty Print Name: X

For your peace of mind, should the repair amount exceed 25% of your system's replacement value, our technician is required to inform you of options for both repairing and replacing the equipment.

Qty	Task#	Description	Rate
		Service Call Charge	
		Service Partner Membership	
		Excavated area by water valve box at leak discovered leak on road side of curb box. FCWA is taking responsibility on the lead svc to main. Svc is copper from box to dwelling. FCWA is responsible for backfilling excavated area after repair is made. FCWA is also responsible for concrete restoration of property.	

Pre-Approved Financing Terms: Please pay from this invoice - Work performed C.O.D. See Summary of Findings sheet for additional information

PAYMENT 1 Cash Check Check #: _____
 MC Visa Disc Am Ex Auth #: _____
 Amount \$ _____
 Card #: _____ Exp:

PAYMENT 2 Cash Check Check #: _____
 MC Visa Disc Am Ex Auth #: _____
 Amount \$ _____
 Card #: _____ Exp:

WANT TO PAY LESS?
 My Service Technician presented me with a Service Partner Program and explained the benefits

I want to save money and become a Service Partner Initial ONE

OR

At this time I decline the offer

COUPON	
DISCOUNT	
SUBTOTAL	3500.00
TAX	
TOTAL COST	3500.00

ACCEPTANCE OF WORK PERFORMED: I acknowledge satisfactory completion of the above described work and that the premises has been left in satisfactory condition. I understand that if my check does not clear, I am liable for the check and any charges from the bank. I agree to pay 1.75% per month for past due contracts (minimum charge \$15). In the event that collection efforts are initiated against me, I shall pay for all associated fees at the posted rates as well as all cost of collection fees and reasonable attorney fees. I agree that the amount set forth in the space marked "TOTAL COST" is the total flat price I have agreed to.

SIGNATURE: [Signature]

SERVICE TECHNICIAN ACKNOWLEDGEMENT
 Prior to the customer entering into the contract, I have discussed the nature of the service and cost and I have given a copy of the contract to the customer. All work I have done has been in compliance with company standards in a workmanship manner, to building codes when applicable.

SIGNATURE: [Signature]

SERVICE PARTNER SAVINGS
 \$ _____

CUSTOMER SERVICE IS OUR #1 FOCUS
 If you are not completely satisfied for any reason, please call and ask to speak with the Customer Service Manager. Your feedback is very important to us.

I decline to have the recommended work performed at this time. SIGNATURE _____ DATE _____

THANK YOU FOR CHOOSING US FOR YOUR SERVICE NEEDS!

John F. Donohue Attorney at Law
77 Broad Street
Tonawanda, New York 14150



BUFFALO
NY 14203
10 JUL 19
14203

FIRST-CLASS



PRIME BOWES **
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ERIE COUNTY
WATER AUTHORITY

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RECEIVED



E.C. Water Authority
Att: Claims Department
295 Main Street, Room 350
Buffalo, NY 14203

14203-249499

