

## Inga Cushman

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**From:** Tom Mann <tem@cvmic.com>  
**Sent:** Tuesday, September 06, 2016 2:40 PM  
**To:** Inga Cushman  
**Subject:** Schoen v Milton; DOL:8-17-16

Inga

I am in receipt of the above claim that has been filed against the City of Milton in the amount of 4,380.50. The claimants have indicated that they had a sewer backup and incurred damage. Sewer backups are specifically excluded from coverage under the CVMIC policy in Section VII (1) and even if there was no exclusion for coverage, the City of Milton has a self-insured retention of 17,500 and the claimed damages are within the City's retention. As such, should the City decide to settle this matter, the settlement would come from City funds.

I have been advised that the City hired a contractor to do work for the City and as a result of doing this work, the contractor struck the claimants sewer line. As such any responsibility for this claim would be with the contractor as they were the ones that actually struck the sewer line on the claimants property.

The claimants have indicated that they attempted to pursue a claim with the insurer of the contractor, but the insurer has denied the claim based on the fact that the City did not mark the sewer lines and therefore the contractor did not know the line was there and could not avoid the line.

I have been in contact with Howard Robinson and he has indicated that the city does not locate private lines, only public lines. Howard also indicated that he felt that it was the contractors responsibility to mark the lines or have the lines marked prior to digging.

As such, it would be my recommendation that this claim be denied as it is my opinion that the negligence rests with the contractor.

If you have further questions regarding this matter, please feel free to contact me.

Tom



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