

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
FILED BY THE CITY OF RAPID CITY,
RAPID CITY, SD AGAINST KTM, RAPID
CITY, SD FOR AN INCIDENT
OCCURRING ON MARCH 3, 2023 AT
EAST PHILADELPHIA / EAST ANAMOSA
STREETS IN RAPID CITY, SD.

**ENFORCEMENT PANEL
RECOMMENDATION TO THE SOUTH
DAKOTA ONE CALL BOARD**

OC23-002

On March 3, 2023, the South Dakota One Call Notification Board received a Complaint filed by City of Rapid City (herein "Claimant") against KTM (herein "Respondent") for an incident occurring on March 3, 2023, at East Philadelphia / East Anamosa Streets in Rapid City, South Dakota. The Complaint alleges a violation of South Dakota One Call law but does not specify which when Respondent requested a survey ticket to be done in two days for property corner excavation at an 8-foot depth. Claimant alleges that property pins are never 8-foot deep.

A copy of the Complaint was sent to Respondent on March 31, 2023, and a second notice was sent to Respondent on November 13, 2023. The final deadline to respond was December 6, 2023. Respondent answered the Complaint on December 8, 2023. Respondent does dispute that a violation of South Dakota One Call law occurred. Respondent alleges they call in their locates for property corners and mapping for design as previously advised to do by South Dakota One Call in 2018.

On January 19, 2024, the Enforcement Panel (herein "Panel") convened pursuant to the authority present in SDCL 49-7A. The Panel cannot determine probable cause with any other information than what is submitted as a Complaint and Response. The statute or rule alleged to have been violated needs to be specified in the Complaint, and the Board and/or Panel cannot make an assumption of the rule or statute violated based on the description of the allegation. Therefore, the Panel recommends the Complaint be dismissed with the Claimant understanding that the Complaint can be refiled.

The Panel recommends the South Dakota One Call Notification Board accept its findings and recommendations herein. If either party to this Complaint disagrees or objects to the

recommendations or findings herein, a hearing may be requested. To request a hearing, a party must reply within twenty (20) days from the date of service of this notice. Failure to request a hearing is considered acceptance of the recommendations and findings herein.

The South Dakota One Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A and ARSD 20:25.