

NIAGARA APPRAISAL SERVICES

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OUR FILE NO.: W15224

April 22, 2013 **VIA AUDATEX**

Dominion of Canada
1275 North Service Road West, 2nd Floor
Oakville, Ontario
L6M 3M3

Attention: **Mr. Ryan Fowler**

Dear Ryan:

Your Reference:	0725458-13001-1 / APP0725458
Date of Loss:	March 22,2013
Insured:	Dr. Adriano Persi
Vehicle:	2012 BMW X5-35D AWD Wagon
Serial Number:	5UXZW0C59CL674792
License:	BKPF 395
Mileage:	6,258 km

This acknowledges your request for an inspection of the above-captioned automobile, which was reported by the insured to have sustained damages as the result of rolling away while parked in his driveway.

It has rolled over the edge of the driveway and down an embankment striking trees creating damages down its right rear and right side in a direction from rear to front.

This assignment was received by our office on March 28, 2013, after which we had a conversation with the insured by telephone, who explained in detail the circumstances that surrounded this loss.

It was at that point I called Budd's BMW in Oakville and requested that the vehicle not be touched or examined until we could have our own technician present and, in fact, the request by myself and the insured was ignored, and a download of the information stored in the computer module was carried out by their Shop Foreman, Mr. Breant Krajnak, on April 1, 2013.

Dominion of Canada
Page 2
April 22, 2013

Our inspection of the vehicle was completed at Budd's Service Centre in Oakville on April 3, 2013 when it was convenient for all parties to be present, including the insured, our independent technician, myself, and Mr. Lucio Biasucci of your office.

Your insured describes the events that occurred on March 3rd and March 22, 2013, where he parked the vehicle in his driveway facing forward on a slight incline.

At that time, the vehicle was discovered to have been moved approximately 20 feet, but remained in the driveway and after that event, the insured expressed no real concern in that he felt that the vehicle simply slid down the driveway for a distance after being parked on what he thought was an icy driveway surface.

It sustained no impact damage.

On March 22, 2013, through the night, which was the date of the second event, the vehicle was parked in a similar manner, however, on this occasion, the vehicle rolled down the driveway and over the embankment and has struck several trees stopping a few feet from the residence.

After the second incident, the security cameras were checked and both events were recorded.

In the March 3rd incident, it can be clearly seen that the wheels were in fact rotating and not sliding, contrary to his original belief that the vehicle simply slid back on an icy surface.

At the end of the recording, it appears that the automatic parking system has become re-engaged causing the rear wheels to lock up and prevent any further movement, and it was discovered in that position the following morning.

In the March 22nd incident, however, the vehicle continued to roll during which the security system became activated causing the lights to flash while the vehicle rolled out of sight over the driveway embankment.

This automobile is equipped with a 6-speed automatic transmission with electronically controlled AWD and additional gear selection modes.

It does, however, have an automatic parking system that applies when the engine is shut off after the parking mode has been selected.

It appears that the transmission parking lock system in this particular vehicle has failed creating the events that were recorded and resulting in the current loss.

Both downloads performed through the onboard diagnostic retrieving system show no fault codes that relate to a transmission malfunction, and those that are recorded relate to the actual collision damage.

Copies of both downloads are provided for your files.

This particular model was the subject of a recall early in the production run and affected six vehicles for what appears to be an identical problem.

The National Highway Traffic Safety Administration (NHTSA) mandated a **recall**, which was dated **January 23, 2012** under their **Campaign Number 12V019000**, with the subject heading being "**Transmission Parking Lock.**"

The recall was to correct a problem wherein the transmission's parking lock system would not function, even if the park position had been properly selected and displayed on the monitor.

The corrective measures required that the transmission be replaced.

The BMW **Recall ID was #94128.**

Copies of the documentation for that recall are included with our report.

The current events in the subject vehicle have identical symptoms.

Although not directly related to this particular model, certain BMW 7 Series automobiles were experiencing the possibility of a similar problem and were subject to a Recall Campaign #2012-350 that related to a roll-away problem with that particular vehicle.

While the two campaigns are not related, they do, however, identify that a problem exists in general with the systems in both models.

When properly engaged, manually releasing the parking system is a complicated process that requires the work to be performed by a qualified technician from the underside of the vehicle and, therefore, it is not reasonable to assume that the functions of the transmission were tampered with in the driveway of the insured's residence.

A copy of the **Service Manual Instructions** for manually releasing the parking lock from underneath the vehicle as provided by BMW to their Service Departments is provided also.

Dominion of Canada
Page 4
April 22, 2013

It appears from our discussion with the insured that the BMW Service Office has expressed little interest in investigating this matter beyond the service inspection carried out Budd's BMW and, in our opinion, this creates a potential serious future hazard wherein both the selling dealer and the manufacturer should be placed on notice of the potential exposure for a future claim, as well as subrogation for the current damage.

It is my understanding, again, from my conversation with your insured, the manufacturer at this point has no interest with respect to becoming involved with the repair or the replacement of the vehicle.

While the damages to the exterior of the vehicle, though extensive, appear to be relatively cosmetic, the greater issue, of course, is the possibility of a future failure of the parking lock system, which in our opinion should be addressed by the manufacturer at this point in time.

This vehicle is currently protected by the manufacturer's full 4-year 80,000 km warranty.

We leave this matter at your disposal, and we trust you will find to be of some assistance.

If in the event we can offer any further help or you have any further questions, please feel free to call.

Yours very truly,

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WC/nk

Encl: Onboard Diagnostic Downloads
BMW Recall Documentation
Manually Releasing Parking Lock Instructions
Internet Recall Ads
Operations Reports (2)

Cc: Lucio Biasucci (Dominion of Canada, via email)
Dr. Adriano Persi (via email)