

DEPARTMENT: County Counsel

BY: Jeffrey G. Green, County Counsel
PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:

Authorize Chair to sign an Order of the Board to reject Claim No. C03-3 for an undisclosed amount. Claimant alleges losses suffered as a result of the Board of Supervisors decision rendered on October 1, 2002. Counsel is requesting denial of this claim based on the following: 1) Claim not filed timely; 2) No basis for claim; 3) Matter is pending litigation.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board usually follows Counsel's recommendation in matters of this nature.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

- ❖ Reject claim as recommended.
- ❖ Take no action; claim with automatically be denied if no action is taken.

Financial Impact? () Yes (X) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		Claim No. 033
Source:		Report from Safety Officer
Internal Transfer		Resolution Denying Claim
Unanticipated Revenue _____ 4/5's vote		Proof of Service
Transfer Between Funds _____ 4/5's vote		
Contingency _____ 4/5's vote		
() General () Other		

CLERK'S USE ONLY:

Res. No.: 03-219 Ord. No. _____
 Vote - Ayes: 5 Noes: _____
 Absent: _____
 Approved _____
 () Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
 Comments:
Claim
Resolution Denying Claim

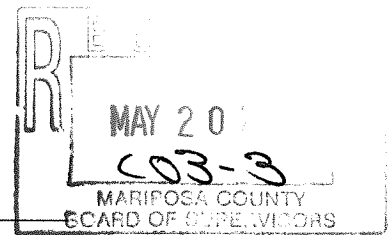
The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
 Attest: MARGIE WILLIAMS, Clerk of the Board
 County of Mariposa, State of California
 By: _____
 Deputy

CAO: [Signature]

Claim of Yosemite West Lodging, Inc.,
a California corporation,

No. 10142



-vs-

CLAIM FOR INCIDENTAL RELIEF

County of Mariposa, a political
subdivision of the State of California.

To the Mariposa County Board of Supervisors ("Board"):

You are hereby notified that, pursuant to the 1963 Tort Claims Act, Gov. Code, §§ 810-996.6 ("Act"), and without in any manner waiving the right to assert that its claim is exempt from the Act's requirements, Yosemite West Lodging, Inc., a California corporation whose address is Post Office Box 720, Bass Lake, CA 93604, claims relief from the County of Mariposa ("County") in the form of compensation for its loss of business and related pecuniary harm, which is incidental to the writ of mandate and other relief prayed for in the Verified Petition for Writ of Mandate, Etc., Mariposa County Superior Court Case No. 8423, filed on February 4, 2003 ("Petition"), the contents of which are incorporated into this claim by this reference as if set forth here in full. Although it is as readily available to you as to the claimants, a copy of the Petition will be promptly provided upon request.

This claim is based on the losses suffered by the claimant as a result of the Board's "Decision," rendered on October 1, 2002, erroneously determining that various County ordinance and other violations had occurred and ordering that the claimant "cease and desist all transient rental use[s]" involving three residential dwellings located in Yosemite West and owned by Thomas and Eva Kroon as trustees of the Kroon Family Trust. The facts and circumstances underlying the claim are described in the Petition that is incorporated into and part of this claim.

In addition to the honorable members of the Board who endorsed the Decision, the public employees who caused the claimant's losses include the County Planning Director, Eric Toll, who made the determination underlying the Decision, his staff, and various other past and present County personnel, whose identities are better known to the County than the claimant.

As far as presently known, the harm suffered by the claimant as a result of the erroneous Decision includes, but is not necessarily limited to, the loss of rental income suffered by the claimant, as well as the loss of good will, business reputation and other income, benefits or privileges, in an amount not presently ascertainable. The estimated prospective losses the claimant will suffer far exceeds \$10,000.

All notices or other communications regarding this claim should be sent to the claimant's attorneys:

Oliver L. Saunders
ASSOCIATED LEGAL SERVICES
Post Office Box 612147
South Lake Tahoe, CA 96152
Telephone: (530) 544-4591
Facsimile: (530) 544-7430

PROOF OF SERVICE BY CERTIFIED MAIL

I am a United States citizen, over 18 years of age, and not a party to this action. My business address is Post Office Box 612147, South Lake Tahoe, California.

On the date designated below, I caused the foregoing CLAIM FOR INCIDENTAL RELIEF to be served on the County of Mariposa by placing or causing a true copy of it to be placed in a sealed envelope, with Certified Mail postage prepaid, and placing or having the envelope placed in a mailbox at South Lake Tahoe, California. The envelope was addressed as follows:

Board of Supervisors
County of Mariposa
P. O. Box 784
Mariposa, CA 95338-2039

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and this declaration was executed on the date designated below at South Lake Tahoe, California.

Dated: May 15, 2003



Oliver L. Saunders
Attorney for Claimant

1 JEFFREY G. GREEN
2 County Counsel
3 P.O. Box 189
4 5100 Bullion Street
5 Mariposa, CA 95338

6 BEFORE THE BOARD OF SUPERVISORS

7 OF

8 MARIPOSA COUNTY, STATE OF CALIFORNIA

9 In the Matter of:)
10) CLAIM NO. 03-3
11 CLAIM FOR DAMAGES PURSUANT)
12 TO GOVERNMENT CODE § 911.6)
13 _____)

14 YOSEMITE WEST LODGING, INC. A CALIFORNIA CORPORATION, Post Office Box 720, Bass
15 Lake , California, having filed with this Board on May 20, 2003, a claim for damages in
16 an undisclosed amount.

17 NOW, THEREFORE, IT IS ORDERED by the Board of Supervisors that the claim is hereby
18 rejected.

19 The foregoing order was passed by the following vote of the Board:


20 AYES: Stetson, Balmain, Bibby, Parker, Pickard
21 NOES: None
22 ABSENT: None
23 ABSTAINED: None

24 Dated this 24th day of June, 2003.

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26 BOB PICKARD, Chair
27 Board of Supervisors

28 ATTEST:

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30 MARGIE WILLIAMS, Clerk of the Board

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TO: Oliver L. Saunders
Associated Legal Services
P.O. Box 612147
South Lake Tahoe, CA 96152

RE: CLAIM FOR DAMAGES (YOSEMITE WEST LODGING, INC. CLAIM NO. C03-4)
AMOUNT OF CLAIM: \$Undisclosed
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim, which you presented to the Board of Supervisors of Mariposa County on May 20, 2003 was rejected by action of the Board on June 24, 2003.

WARNING

"Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim." (See Government Code § 945.6)

"NOTE: This six-month filing period applies only to State Court actions. If your action is based on federal law and/or you intend to file it in Federal Court, a shorter or longer period within which to file the action may apply."

"You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

JEFFREY G. GREEN
Mariposa County Counsel

PROOF OF SERVICE BY MAIL (1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA, COUNTY OF MARIPOSA:

I am a citizen of the United State and a resident of the County aforesaid. I am over the age of eighteen years and not a party to the within entitled action; my business address is 5100 Bullion Street (P.O. Box 189), Mariposa, CA 95338. On July 10, 2003, I served the within Notice of Rejection of Claim on the claimant in said action by placing a true copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing a copy into an inter-office delivery receptacle located in Counsel's office:

Oliver L. Saunders
Associated Legal Services
P.O. Box 612147
South Lake Tahoe, CA 96152

I declare, under penalty of perjury, that the foregoing is true and correct.
Executed on July 10, 2003 at Mariposa, California.


Rhonda Scherf