RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No X)

Authorize Chair to sign an Order of the Board to reject Claim No. C98-3 in the amount of $870.00. The claimant, Tim Erickson, contends that erroneous information was given to him by the Planning Department regarding a Williamson Act parcel. The advice given to Mr. Erickson was based upon information the Planning Department knew at the time as a legal determination had not been made at that point. When the issue was raised by Mr. Erickson, I performed extensive legal research and it was only after this research that it was discovered the advice given was in error. Based upon the information the Planning Department had at the time and because the advice given was in good faith, I don't believe the County has any liability exposure in this matter.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

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

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

➢ Reject claim as recommended.
➢ Take no action; claim will automatically be denied if no action is taken.

<table>
<thead>
<tr>
<th>COSTS:</th>
<th>SPECIAL INSTRUCTIONS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Budgeted current FY</td>
<td>List the attachments and number</td>
</tr>
<tr>
<td>B. Total anticipated costs</td>
<td>the pages consecutively:</td>
</tr>
<tr>
<td>C. Required additional funding</td>
<td>Claim.</td>
</tr>
<tr>
<td>D. Internal transfers</td>
<td>Notice of Rejection.</td>
</tr>
</tbody>
</table>

SOURCE: 4/5ths Vote Required
A. Unanticipated revenues $ __________
B. Reserve for contingencies $ __________
C. Source description: Balance in Reserve for Contingencies, if approved: $ __________

CLERK'S USE ONLY
Res. No.: 3-66
Vote: Ayes: 5  Absent: 0  Abstained: 0
Nees: 0  Minute Order Attched: ( ) Denied
( ) No Action Necessary

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

Date: ______________

Attest: ______________

County of Mariposa, State of California

By: ______________

Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:
☐ Recommended
☐ Not Recommended
☐ For Policy Determination
☐ Submitted with Comment
☐ Returned for Further Action

Comment: ______________

A.O. Initials: ______________

Action Form Revised 5/92
COUNTY OF MARIPOSA CLAIM FORM

CLAIM OF ____________________________________________
(Claimant) ____________________________________________

V. ____________________________________________________________________________

COUNTY OF MARIPOSA __________________________________

TO THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY:

YOU ARE HEREBY NOTIFIED that: (PLEASE TYPE OR PRINT)

Claimant: Timothy & Bette Ann Erickson

Whose address is: P.O. Box 9

City and State: Snelling CA Zip: ________

claims damages from the COUNTY OF MARIPOSA in the amount, computed as of
the date of presentation of this claim, of $ ________.

This claim is based on: (CHECK APPROPRIATE BOX OR BOXES)

< > Property Damage <X> Other (LIST)

< > Personal Injury Legal Costs

< > Contract

which occurred on Nov 30, 1997, in the vicinity of:

01-26-97

(MONTH/DAY)

(PLACE WHERE INCIDENT OCCURRED)

Describe generally the facts and circumstances that give rise to the claim:

(PLEASE USE BACK OF THIS PAGE IF MORE SPACE IS NEEDED )

Mariposa Co. was purchasing above parcel for sewer treatment plant. During the course of this transaction the Planning Dept informed us since this was (1) one of (6) parcels contiguous
which are under the Williamson Act if less than 100 acres was sold to anyone we would be in breach of our Williamson Act. The name(s) of the public employee(s) causing claimant's injuries or
damages under the above-described circumstances is/are:

Sarah Williams
Contract and the County would go forward in its claim against that breach. The County itself would be exempt to this 100 acre minimum but would create a 40 parcel which was now isolated from our other properties. These parcels were created from historical parcels and have been under the Williamson Act long before these parcels were pulled out. At the time these parcels were created there was no issue about parcels less than 100 acres. Since this new information was given to us we were at great risk by selling property to the County and isolating one parcel. Due to the tax consequences we could be faced with. We contacted Don Starchman who had handled the creation of these historical parcels. The cost of our claim is the amount of his bill for further researching and meeting with County Counsel to resolve what had already been resolved for many years. It has cost me $575.00 to defend myself against an improper interpretation. The public should not be penalized for an employee's error.

Attached billing Don Starchman and memo from County Counsel.
The injuries sustained by claimant, as far as known, as of the date of presentation of this claim consist of: (DESCRIBE GENERALLY CLAIMANT'S INJURIES OR DAMAGES)

Bill for legal expenses only

The amount claimed, as of the date of presentation of this claim is computed as follows:

**Damages incurred to date:**

Expenses for medical and hospital care $________

Loss of earnings $________

Specific damages incurred (Signature)

Legal - Don Starchman $ 870

Other damages incurred

TOTAL DAMAGES INCURRED TO DATE: $ 870

Estimated future damages as far as known from this incident:

Total estimated prospective damages: $ 0

TOTAL AMOUNT CLAIMED AS OF DATE OF PRESENTATION OF THIS CLAIM: $ 870

All notices or other communications with regard to this claim should be sent to claimant at: P.O. Box 9 Snelling Ca 95369

ADDRESS TO WHICH NOTICES ARE TO BE SENT


CLAIMANT/AGENT FOR CLAIMANT

**Government Code § 911.2 Time of presentation of claims**

A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with § 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with § 915) of this chapter not later than one year after the accrual of the cause of action.
<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
<th>Hours</th>
<th>Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>11/19/97</td>
<td>Telephone conf. w/Tim Erickson; telephone message to Chris Lake; telephone conf. w/Sarah at Planning Dept.; research</td>
<td>1.1</td>
<td>$155.00</td>
<td>170.50</td>
</tr>
<tr>
<td>11/20/97</td>
<td>Research; telephone conf. w/Eric Erickson; telephone call to Planning Dept.; telephone conf. w/County Counsel; secure copy of original Williamson Act contract; deliver Williamson Act contract to County Counsel</td>
<td>2.3</td>
<td>345.00</td>
<td>838.50</td>
</tr>
<tr>
<td>11/24/97</td>
<td>Review closed files, re: certificates of compliance and lot line adjustments</td>
<td>.2</td>
<td>30.00</td>
<td>6.00</td>
</tr>
<tr>
<td>11/25/97</td>
<td>Telephone conf. w/Jeff Green; office conf. w/Jeff Green; telephone message to client; telephone message to Chris Lake</td>
<td>.6</td>
<td>90.00</td>
<td>54.00</td>
</tr>
<tr>
<td>11/26/97</td>
<td>Telephone conf. w/Doug Balmain; telephone conf. w/Chris Lake</td>
<td>.3</td>
<td>45.00</td>
<td>13.50</td>
</tr>
</tbody>
</table>

**TOTAL**   $970.00
MEMORANDUM

DATE: December 18, 1997

TO: Ed Johnson, Planning Director
Sarah Williams, Planning Manager

FROM: Jeffrey G. Green, County Counsel

RE: Sale of Parcels of Less Than 100 Acres Located Within a Williamson Act Contract/Preserve

Based upon our recent conversation regarding the above matter, I have had an opportunity to fully research the issue as to whether or not the sale of a legal parcel of real property of less than 100 acres and located within a Williamson Act contract and/or preserve violates the Williamson Act contract. As you know, the Williamson Act is contained in Government Code sections 51200, et seq. The scheme which has been set up by the state legislature is as follows:

A county or city, either upon its own initiative or upon the initiation of a property owner, may create an agricultural preserve within its boundaries in order to encourage preservation of agricultural land. Pursuant to state law, the preserve shall consist of no less than 100 acres. There is an exemption to have less than 100 acre preserves if certain conditions are determined to exist by the county or city. The preserves are established for the purpose of defining the boundaries of real property within which a city or county is willing to enter into contracts with landowners pursuant to the Williamson Act. This process is set forth in Government Code section 51230, a copy of which is attached for your review.

In 1977, the Mariposa County Board of Supervisors implemented the Williamson Act in Mariposa County by adopting Resolution No. 77-157; a copy is attached for your review. Resolution No. 77-157 essentially outlines the law as prescribed in the Williamson Act. Although the Board of Supervisors has never, on its own initiative, designated any portions of real property within its boundaries to be a "preserve", there are a number of existing Williamson Act contracts which have been requested by landowners and approved by the Board of Supervisors. Mariposa County, therefore, does not have any designated preserves which contain land not covered by a
Williamson Act contract. The state law and County Resolution No. 77-157 require a minimum of 100 acres for the establishment of a preserve. Neither state law nor County rules, regulations, ordinances, or resolutions require any minimum parcel size within the preserve itself. As long as the preserve contains a minimum of 100 acres, there is no statutory minimum relative to parcels located within the preserve.

Although County Resolution No. 77-157 does not have a minimum acreage for parcels located within the preserve as long as the preserve is 100 acres, the Resolution does prohibit construction of new dwellings on parcels located within a preserve if the parcel is less than 40 acres.

The issue which has arisen is whether or not a property owner, who has property under contract within a Williamson Act preserve, can sell parcels of less than 100 acres which are contained within the contract and the preserve. Additionally, the question arises as to whether or not historic parcels which have been recognized as legal parcels subsequent to entering into the contract can be sold, if those parcels contain less than 100 acres.

Based upon my analysis of the law as above-stated, it is my opinion that there is no minimum parcel size either in state law or pursuant to County Resolution No. 77-157 for Williamson Act contracts, as long as the preserve itself is 100 acres or larger. Both Resolution No. 77-157 and Government Code 51230 clearly contemplate that there will be separate ownership of parcels located within preserves. Section 51230 in part reads: "An agricultural preserve shall consist of no less than 100 acres; provided, that in order to meet this requirement two or more parcels may be combined if they are contiguous or if they are in common ownership..." (emphasis added).

Similar language is contained in Resolution No. 77-157 under section l, page 1 which states: "The Board on its own cognizance, or at the written request of landowners, may establish an agricultural preserve. Such preserve shall contain a minimum of 100 acres which shall be contiguous..." Additionally, under paragraph 7(b) relative to parcels within a preserve, the language states: "If contiguous, and under the same ownership, multiple parcels should be merged to create a single unit." The above language clearly contemplates that there may be multiple parcels not under the same ownership within a preserve. It is, therefore, my opinion that the County cannot restrict the sale of separate legal parcels located within preserves regardless of the size of those legally created parcels. However, any parcels which are located within a preserve and under contract and sold or disposed of remain subject to the contract until formal action is taken to remove the parcels from the contract.

The contract, which is recorded, describes all of the real property covered by the contract and is, therefore, constructive notice to any potential purchasers of parcels covered by the contract. However, in an abundance of caution, I would recommend that in the future when Certificates of Compliance are issued recognizing parcels located within a preserve and which is covered by a Williamson Act contract, language should be placed in the Certificate of Compliance that the property is subject to a Williamson Act contract.
I hope this memo is helpful relative to processing parcels within a Williamson Act contract/preserve. Should you have any additional questions regarding this matter, please feel free to contact me.

sa

attachments
§ 51230  CITIES AND COUNTIES

Article 2.5

AGRICULTURAL PRESERVES

Sec.
51230. Establishment; hearing; notice; land included.
51231. Rules governing administration of preserves.
51232. Notice of proposed alteration of boundary or disestablishment of preserve.
51233. Proposed establishment, disestablishment or alteration of boundary by county; notice.
51234. Submission of proposal to establish preserve to city or county planning department or to planning commission; report.
51235. Continuation of preserve following annexation, incorporation or disincorporation of land within preserve; rights of cities and counties.
51236. Removal of land under contract from preserve.
51237. Map and resolution; filing.
51237.5. City or county map; filing.
51238. Compatible uses.
51238.5. Private land; agreement to allow use for free public recreation; agreement to indemnify owner.
51239. Advisory board.

Article 2.5 was added by Stats.1969, c. 1372, p. 2307, § 8.

Law Review Commentaries

Open space zoning and the urban reserve. (1973) 15 San Diego L.Rev. 1211.

United States Code Annotated

Forest and range land renewable resources planning, see 16 U.S.C.A. § 1600 et seq.

§ 51230. Establishment; hearing; notice; land included

Beginning January 1, 1971, any county or city having a general plan, and until December 31, 1970, any county or city, by resolution, and after a public hearing may establish an agricultural preserve. Notice of the hearing shall be published pursuant to Section 6051, and shall include a legal description, or the assessor’s parcel number, of the land which is proposed to be included within the preserve. The preserves shall be established for the purpose of defining the boundaries of those areas within which the city or county will be willing to enter into contracts pursuant to this act. An agricultural preserve shall consist of no less than 100 acres; provided, that in order to meet this requirement two or more parcels may be combined if they are contiguous or if they are in common ownership; and further provided, that in order to meet this requirement land zoned as tim-
berland production pursuant to Chapter 6.7 (commencing with Section 51100) may be taken into account.

A county or city may establish agricultural preserves of less than 100 acres if it finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves of less than 100 acres is consistent with the general plan of the county or city.

An agricultural preserve may contain land other than agricultural land, but the use of any land within the preserve and not under contract shall within two years of the effective date of any contract on land within the preserve be restricted by zoning or other suitable means in such a way as not to be incompatible with the agricultural use of the land, the use of which is limited by contract in accordance with this chapter.

Failure on the part of the board or council to restrict the use of land within a preserve but not subject to contract shall not be sufficient reason to cancel or otherwise invalidate a contract.


Historical Note

Construction of Stats.1969, c. 1372, p. 2806, see Historical Note under § 51201.

The 1976 amendment, added, at the end of the fourth sentence of the first paragraph, “and further provided, that in order to meet this requirement land zoned as timberland pursuant to Chapter 6.7 (commencing with Section 51100) may be taken into account”.

Operative effect of 1976 amendment, see Historical Note under Rev. & T.C. § 38101.

The 1977 amendment, changed, in the fourth sentence of the first paragraph, “timberland” to “timberland preserve” (now “timberland production”, see 1982 amendment note).

Application of provisions of Stats.1977, c. 859, p. 2857, to all activities undertaken pursuant to Stats.1976, c. 176, p. 293, see Historical Note under § 51100.

The 1980 amendment deleted, from the second sentence of the first paragraph, “of this code” after “Section 6061” and made other, nonsubstantive, grammatical and technical changes.

The 1982 amendment changed, in the fourth sentence of the first paragraph, “timberland preserve” to “timberland production”.

Forms

See West's California Code Forms. Government.

Library References

Health and Environment §25.5(2).

C.J.S. Health and Environment §§ 91 et seq., 106 et seq., 129 et seq.

Notes of Decisions

1. In general

Land Conservation Act, or Williamson Act, providing for establishment of agricultural preserves by cities or counties, is

not mandatory and county board of supervisors of county with general plan did not
MARIPOSA COUNTY RESOLUTION NO. 77-157

IMPLEMENTING THE

CALIFORNIA LAND CONSERVATION ACT OF 1965, AS AMENDED,

IN THE COUNTY OF MARIPOSA

WHEREAS, the orderly planning and development of land use is in the public interest of all taxpayers of Mariposa County; and

WHEREAS, agricultural production is and will remain a principal use of land in Mariposa County since other alternatives do not appear to be readily available; and

WHEREAS, agricultural production on these lands constitutes an important physical, social, aesthetic, and economic asset to the County; and

WHEREAS, the Land Conservation Act of 1965, as amended, provides a method for accomplishing the land use planning objectives of the County;

NOW, THEREFORE, BE IT RESOLVED that this Board of Supervisors does hereby make available to qualified landowners of Mariposa County the provisions of the Land Conservation Act of 1965, as amended; and

BE IT FURTHER RESOLVED that for the purpose of implementing such Act this Board does hereby establish policies and rules for establishing and governing agricultural preserves in the County of Mariposa:

1. The Board on its own cognizance, or at the written request of landowners, may establish an agriculture preserve. Such preserve shall contain a minimum of 100 acres which shall be contiguous. The Board may establish agricultural preserves of
less than 100 acres if the Board finds that a smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves of less than 100 acres is consistent with the General Plan of Mariposa County.

2. Requests for the establishment of agricultural preserves shall be filed with the Secretary of the Mariposa County Planning Commission on application forms provided by the Secretary. Such application form shall identify the landowner(s), locate the property on County maps, give legal description of the property as on the current Assessor's roles, state the size of the property, provide certification that the property has for the past three (3) years and is presently devoted to agricultural production and compatible uses, and indicate the applicant's intention to enter into a contract that will qualify as an enforceable use restriction as specified in Section 422 of the Revenue & Taxation Code of the State of California.

3. "Agricultural production and compatible uses" refer to those enumerated in Exhibit "A", attached hereto and made a part of this Resolution; provided, however, that Exhibit "A" can be separately amended by this Board.

4. The Planning Commission of Mariposa County shall review all applications for the establishment of agricultural preserves and forward such applications, along with a Commission recommendation, to the Board of Supervisors.

5. The Board of Supervisors shall hold a public hearing on all applications, singularly or jointly. The purpose of such hearing is to permit all interested parties to inform themselves
and present testimony if desired. The Board shall establish each agricultural preserve by resolution.

6. At the time of establishing an agricultural preserve, the Board shall authorize the Chairman of the Board to sign a Land Conservation Act contract, of a standard form to be hereafter specified by the Board, with any owner of land within the preserve who qualifies for the contract and has requested to enter into such contract with the County.

7. The following conditions shall be met in order to qualify a parcel of land for inclusion within an agricultural preserve:

a. The parcel wishing to contract must have been used for agricultural purposes for three (3) years prior to application.

b. If contiguous and under the same ownership, multiple parcels should be merged to create a single unit.

c. That no new dwellings be constructed on parcels less than forty (40) acres in size.

d. The agricultural use must be profitable except under uncontrollable circumstances.

e. Existing and future homesites on parcels wishing to contract shall be allocated parcel sizes of no less than 2.5 acres for appraisal purposes.

f. The minimum contract period shall be no less than twenty (20) years.

g. The minimum cancellation penalty shall be no less than an amount equal to one hundred percent (100%) of the new assessed valuation of the property.

h. The parcel wishing to contract shall within one (1) year of the effective date of the contract be restricted by zoning of said parcel to agricultural use and said agricultural use zoning shall have a minimum two-year waiting period for change of said agricultural use which said two-year period shall commence upon the filing of the application for change of use. Application for change from A/E Zone cannot be made prior to the 18th year of the contract.
8. The provisions of this Resolution are not intended to modify or negate any restrictions imposed by previous County ordinances:

The foregoing Resolution was passed and adopted by the Board of Supervisors of the County of Mariposa, State of California, on this 18th day of October, 1977, by the following vote:

AYES: Clark, Dalton, Long.
NOES: Owings.
NOT VOTING: None
ABSENT: None

FRANK L. LONG, JR.
CHAIRMAN
BOARD OF SUPERVISORS

ELLEN BROWNSON, COUNTY CLERK AND EX OFFICIO CLERK OF THE BOARD
"Agricultural production and compatible uses" as contained in this Resolution and applicable to land qualifying for inclusion in an agricultural preserve shall be defined as follows:

1. Agricultural Production: The following land uses, and those uses which in the opinion of the Board of Supervisors may be substantially similar in nature thereto, shall be deemed agricultural production and thus permitted within such preserves:

a. General farming, including but not limited to the growing and harvesting of vegetables, field crops, fruit and nut crops, bush and berry crops, vineyards, hay crops, and nursery, cut flower, and other ornamental crops.

b. Raising, feeding, maintaining, and breeding horses, cattle, sheep, goats, hogs, chickens, and turkeys.

c. Dairies.

d. Growing and harvesting of hardwoods.

e. Accessory uses and structures appurtenant and necessary to the operation of the permitted uses, including one-family dwellings located on the land and occupied by persons directly engaged in the operation.

2. Compatible Uses: The following compatible uses, and those which in the opinion of the Board of Supervisors may be substantially similar in nature thereto, shall be permitted within such preserves, providing they are not the principal use:

a. Forestry, but not including any processing facilities.

b. Utility lines and substations.

c. Vending facilities for products grown on land within the preserve.

d. Recreation, but not including permanent structures.

e. Private airstrips.

f. Raising of game birds and fish.

g. Mining.
BEFORE THE BOARD OF SUPERVISORS

OF

MARIPOSA COUNTY, STATE OF CALIFORNIA

In the Matter of: CLAIM NO. C98-3
CLAIM FOR DAMAGES PURSUANT TO GOVERNMENT CODE § 911.6

Timothy and Bette Ann Erickson
P.O. Box 9
Snelling, CA 95369

having filed with this Board on February 4, 1998, a claim for damages in the amount of $870.00.

NOW, THEREFORE, it is ordered by the Board of Supervisors that the claim is hereby REJECTED.

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

AYES: Reilly, Stewart, Pickard
NOES: Balmain
ABSENT: Parker
ABSTAINED: None

Dated this 24th day of February, 1998.

PATTI A. REILLY, Chair
Board of Supervisors

ATTEST:

MARGIE WILLIAMS, Clerk of the Board
TO:    Timothy and Bette Ann Erickson  
P.O. Box 9  
Snelling, CA  95369  

RE:    CLAIM FOR DAMAGES (Claim No. C98-3)  
AMOUNT OF CLAIM: $870.00  
NOTICE OF REJECTION  

NOTICE IS HEREBY GIVEN that the claim, which you presented to the Board of supervisors of Mariposa County on February 4, 1998 was rejected by action of the Board on February 24, 1998.  

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 States 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 5037 Stroming Road (P. O. Box 189), Mariposa, CA 95338. On March 11, 1998, I served the within Notice of Rejection of Claim No. C98-3 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:  

Timothy and Bette Ann Erickson  
P.O. Box 9  
Snelling, CA  95369  

I declare, under penalty of perjury, that the foregoing is true and correct.  

Executed on March 11, 1998 at Mariposa, California.  

______________________________  
Sandra V. Adams