



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
September 17, 2008**

TO: Mayor and City Council
FROM: Mercy G. Cabral, Deputy City Clerk
SUBJECT: Rejection of Claims
DATE: August 7, 2008

RECOMMENDATION:

Reject claim against the City by Dan Smedley, Claim #08-20; Nartej K. O'Malley, #08-07; Fred Morse, Claim #98-23; Robert & Sondra Jerome, #08-24; Darlene Bay, Claim #08-19; and order that the claimants be notified.

BACKGROUND:

Claims should be rejected, the claimant notified of the rejection, and referred to Municipal Polling Authority and/or the City Attorney. Government Code Section 912.6(4) provides, "If legal liability of the public entity ... is disputed, the City Council may reject the claim..."

The statute of limitations for filing a court action on a claim commences upon notification of rejection of claim.

FISCAL IMPACT:

No impact to General Fund.

ACTION:

Motion rejecting claims against the City and order that the claimants be notified of rejection.

Attachment: Claims

APPROVED BY:

City Manager



Reserve for filing stamp

CLAIM PRESENTED TO THE CITY OF MARTINEZ
* Please read the instructions on the back before completing.

RECEIVED
JUL 10 2008

CITY OF MARTINEZ
CITY CLERK'S OFFICE

08-20

1. Claimant's Name: (PRINT) DAN SMEDLEY
Address: 848 RUTH DR. PLEASANT HILL, CA. 94523
Day Phone: (925) 768-1974 Eve Phone: (925) 825-3446

2. When did the damage or injury occur?
Month: JUNE Day: 18 Year: 2008 Time: a.m./p.m. 1:30 P.M., Police Report # N/A

3. At which location did the damage or injury occur? At a parking meter ON ESCOBAR ONE block west of Sunflower Garden Rest. facing EAST, cross street FERRY

4. a. What happened and why is the City responsible? As I attempted to back my Ford VAN into the parking space, the top right corner of my VAN struck a tree limb. Upon examining the situation I saw that the limb is significantly protruding out into the street at a low level. As you look down the street all the other trees line

b. Name and position of responsible City Employee(s), if known:

(Continued on back)

5. What damage or injury occurred? A dent and several scrape marks to the top right rear upper panel of the VAN. I enclose pictures.

6. Claim amount (only if less than \$10,000): \$ 1,070.54
If the amount exceeds \$10,000, please check (X) the court of appropriate jurisdiction:
 Municipal Court (claims up to \$25,000) Superior Court (claims over \$25,000)

7. How did you arrive at the amount claimed? Please attach documentation.
Estimate from Pleasant Hill Collision Repair Center.

8. I declare under penalty of perjury under the laws of the State of California that the following information is true and correct, and that this declaration was executed on July 10, 2008, at Pleasant Hill CA.

Dan Smedley
Signature of Claimant or Representative's Signature

9. **Official Notices and Correspondence**
If represented by an insurance company or an attorney, please provide the information requested below.
Name and Capacity: (PLEASE PRINT) _____
Address: _____
City, State, Zip: _____
Daytime Telephone: () _____ Evening Telephone: () _____



Reserve for filing stamp

CLAIM PRESENTED TO THE CITY OF MARTINEZ
* Please read the instructions on the back before completing.

1. Claimant's Name: (PRINT) Narvey K. O'Malley
 Address: 113 Hogan Court, #1, Walnut Creek, 94598
 Day Phone: (510) 417-5682 Eve Phone: () Same

RECEIVED
MAR 12 2008

CITY OF MARTINEZ
CITY CLERKS OFFICE

08-07

2. When did the damage or injury occur?
 Month: Feb. Day: 26 Year: 2008 Time: a.m./p.m. 9:00am Police Report # _____

3. At which location did the damage or injury occur?
1FO 1127 Escobar Street

4. a. What happened and why is the City responsible? Please see attached

b. Name and position of responsible City Employee(s), if known:
Officer Quist was the officer who filed the report

5. What damage or injury occurred?
Please see attached

6. Claim amount (only if less than \$10,000): \$ 380.00
 If the amount exceeds \$10,000, please check (X) the court of appropriate jurisdiction:
 Municipal Court (claims up to \$25,000) Superior Court (claims over \$25,000)

7. How did you arrive at the amount claimed? Please attach documentation.
Release of vehicle = \$100.00
ATCO Tow charge = \$280.00

8. I declare under penalty of perjury under the laws of the State of California that the following information is true and correct, and that this declaration was executed on March 11, 2008, at Martinez CA.
Narvey K O'Malley
 Signature of Claimant or Representative's Signature

9. Official Notices and Correspondence
 If represented by an insurance company or an attorney, please provide the information requested below.
 Name and Capacity: (PLEASE PRINT)
 Address: n/a
 City, State, Zip: _____
 Daytime Telephone: () _____ Evening Telephone: () _____

City of Martinez Claim (Claimant: Navtej K O'Malley)

My vehicle (2000 Black Pathfinder-Lic. Plate: 4KOH206) was towed on February 26, 2008 in front of 1127 Escobar Street in downtown Martinez along with two other vehicles. According to the police report, my vehicle was parked in a temporary construction zone which had posted signs requesting that vehicles do not park in that area. However, when I arrived to work at around 8:15 am, there were no signs in that area. Additionally, there were three other vehicles parked in the same area and no signs were posted. There were signs posted further down the street (after the driveway of the house) but none in the area that my vehicle, along with the other three vehicles, was parked.

At around 1:00 pm, I did go outside to go to lunch and it was at this time that I discovered my vehicle was gone and there were three signs posted in that area that were originally not there that morning. I called Martinez PD and was informed that my vehicle was towed because I was parked in a construction zone. I went down to the station to appeal the decision and informed the commander on duty that there were no signs posted where I had parked but he would not waive the release fee of \$100.00, since the officer who reported to the scene had noted in the police report that these signs have been posted since February 22, 2008.

I needed my vehicle so I paid the release fee as well as the two charges with the intention of filing this claim after the fact.

Although, it is my word against the construction company/police officer, I do have several witnesses who would be willing to attest to the fact that there were no signs posted in the area that I parked. I have listed the names of the witnesses as well as their contact information should you need to get a hold of them.

1. Nancy Zandonella (Senior HR Consultant-Contra Costa County)-She was coming into the building when I parked and saw exactly where I was parking and she stated to me that there were no signs posted in the area where I parked.

Contact Phone Number: (925) 335-1751

2. Sandra Wimberly (Senior Clerk-Contra Costa County)-She came at around the same time that I came in to work and said there were no signs posted in that area.

Contact Phone Number: (925-335-1711)

3. Gladys Scott-Reid (Senior HR Consultant-Contra Costa County)-She came in earlier than I did and when she parked at around 7:30 am, she said there were no signs there.

Contact Information: (925) 335-1722

4. David (do not know his last name)-I recognized his truck as the one that I had parked in front of and did see him the morning after my car was towed. I spoke to him and asked him if he had been towed. He had not because someone had called him to inform him that his car was being towed. He did state to me that he did speak with Officer Quist and told him that there were no signs when he had parked (around 7:30 am) and that they were posted after he had parked. Additionally, he reputed the fact that the Officer told him that the signs have been posted since the 22nd of February since he has parked in that same spot for the last couple of weeks.

Contact Information-(510) 377-0965

I do understand that I do not have any hard evidence that the signs were not posted there but I do have four credible witnesses as well as my account of the events that took place that day. Additionally, the fact that three cars were towed (including mine) and four were parked (including David's) illustrates the fact that there were no signs in that area where the vehicles were parked. I understand if I was the only one and for some reason I just completely missed the signs but there were four vehicles that parked in that area and that would be extremely rare that none of us saw the signs. I was not able to locate the other three vehicle owners but I am sure that they would attest to the fact that there were no signs there.

I am requesting to be reimbursed for the towing of the vehicle which consists of \$100.00 for the release of the vehicle from Martinez PD and \$280.00 for the tow charges from ATCO towing.

I am a law abiding citizen and would never have parked my vehicle in that area knowing that it was not allowed. I respectfully ask you that you consider my appeal

Thank you,

Navtej O'Malley
(510) 417-5682 (cell)
(925) 335-1723 (work)

Attachments: Martinez PD Release
Receipt from ATCO towing



CLAIM PRESENTED TO THE CITY OF MARTINEZ
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RECEIVED
JUL 23 2008

CITY OF MARTINEZ
CITY CLERK'S OFFICE

08-23

1. Claimant's Name: (PRINT) FRED A. MORSE
 Address: 653 MAIN ST. MARTINEZ
 Day Phone: (925) 787-9475 Eve Phone: () SAME

2. When did the damage or injury occur?
 Month: JULY Day: 17TH Year: 2008 Time: a.m./p.m. Police Report # 08-3043

3. At which location did the damage or injury occur?
649 MAIN ST.

4. a. What happened and why is the City responsible? A BIG TREE BRANCH BROKE AND CAME DOWN ON THE HOOD OF MY TRUCK WHILE IT WAS PARKED AT 649 MAIN ST.

b. Name and position of responsible City Employee(s), if known:

5. What damage or injury occurred?
HOOD + FENDERS

6. Claim amount (only if less than \$10,000): \$1465.55
 If the amount exceeds \$10,000, please check (X) the court of appropriate jurisdiction:
 Municipal Court (claims up to \$25,000) Superior Court (claims over \$25,000)

7. How did you arrive at the amount claimed? Please attach documentation.
ESTIMATE MARTINEZ AUTO BODY

8. I declare under penalty of perjury under the laws of the State of California that the following information is true and correct, and that this declaration was executed on JULY 24TH, 2008, at MARTINEZ CA.
Fred A. Morse
 Signature of Claimant or Representative's Signature

9. **Official Notices and Correspondence**
 If represented by an insurance company or an attorney, please provide the information requested below.
 Name and Capacity: (PLEASE PRINT)
 Address: _____
 City, State, Zip: _____
 Daytime Telephone: () _____ Evening Telephone: () _____



CLAIM PRESENTED TO THE CITY OF MARTINEZ
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RECEIVED
JUL 29 2008

CITY OF MARTINEZ
CITY CLERKS OFFICE

08-24

1. Claimant's Name: (PRINT) Robert and Sondra Jerome
Address: 6370 Chattswood
Day Phone: () Eve Phone: ()
925-370-6389

2. When did the damage or injury occur?
Month: July Day: 17 Year: 2008 Time: a.m./p.m. Police Report # _____

3. At which location did the damage or injury occur?
6370 Chattswood martinez, CA

4. a. What happened and why is the City responsible?
City Water Department required unnecessary replacement of water pipe for leak that was City responsibility. Please read enclosed detailed description.

b. Name and position of responsible City Employee(s), if known:
City Water Department - Meter Readers.

5. What damage or injury occurred? on-going water leak - lack of City Water Department maintenance. Incorrectly the responsibility was mis-assigned to user rather than City Water Department. Leak was later proved to be a City maintenance issue.

6. Claim amount (only if less than \$10,000): \$2,950.00
If the amount exceeds \$10,000, please check (X) the court of appropriate jurisdiction:
 Municipal Court (claims up to \$25,000) Superior Court (claims over \$25,000)

7. How did you arrive at the amount claimed? Please attach documentation.
COST of repairs

8. I declare under penalty of perjury under the laws of the State of California that the following information is true and correct, and that this declaration was executed on July 28, 2008, at Martinez, CA.
Robert Jerome
Signature of Claimant or Representative's Signature

9. Official Notices and Correspondence
If represented by an insurance company or an attorney, please provide the information requested below.
Name and Capacity: (PLEASE PRINT) _____
Address: _____
City, State, Zip: _____
Daytime Telephone: () _____ Evening Telephone: () _____



CLAIM PRESENTED TO THE CITY OF MARTINEZ
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Rec'd July 3, 2008

08-19

1. Claimant's Name: (PRINT) DARLENE C BAY
 Address: 2261 HIDDEN LAKES Ct
MARTINEZ CA
 Day Phone: (925) 877-6711 Eve Phone: 925 687-5117

2. When did the damage or injury occur?
 Month: JUNE Day: 5th Year: 2008 Time: a.m./p.m. 12:45PM Police Report # _____

3. At which location did the damage or injury occur?
2261 HIDDEN LAKES Ct

4. a. What happened and why is the City responsible? LARGE Pine tree fall on house
Pine tree was on OPEN space NEXT to home next
to my home. FENCE WAS KNOCKED DOWN AND SOME
DAMAGE DONE TO ROOF.

b. Name and position of responsible City Employee(s), if known:

5. What damage or injury occurred? NO INJURY - FENCE WAS KNOCKED
DOWN. RAIN GUTTER KNOCKED LOOSE AND BENT
SOME SHINGLES ON ROOF DAMAGES
Fence has been repaired.
Insurance Company is investigating roof.

6. Claim amount (only if less than \$10,000): _____
 If the amount exceeds \$10,000, please check (X) the court of appropriate jurisdiction:
 Municipal Court (claims up to \$25,000) Superior Court (claims over \$25,000)

7. How did you arrive at the amount claimed? Please attach documentation. Bill for fence attacked

8. I declare under penalty of perjury under the laws of the State of California that the following information is true and correct, and that this declaration was executed on June, 2007, at Martinez CA.
Darlene C Bay
 Signature of Claimant or Representative's Signature

9. Official Notices and Correspondence
 If represented by an insurance company or an attorney, please provide the information requested below.
 Name and Capacity: (PLEASE PRINT) _____
 Address: Fidelity National Insurance Co.
Roger Westerbeas Local 1460 Washington Blvd.
 City, State, Zip: Concord, Ca 94521
 Daytime Telephone: (800 849-6140) Evening Telephone: (925-672-1887)