



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
February 20, 2013**

TO: Mayor and City Council
FROM: Mercy G. Cabral, Deputy City Clerk
SUBJECT: Rejection of Claims
DATE: February, 2013

RECOMMENDATION:

Reject claims against the City by Mike Powers, Robert M. Cerri, James River Insurance Company c/o Justin Reden, Reden & Reden, Blessing & Harvey Professional Services dba Ernies Plumbing c/o Justin Reden, Reden & Reden, Safeco Insurance Company of America c/o Robert Javan, Law Officers of Katchis, Harris and Yempuku, Safeco’s subrogation claims for Shannon Greeley and Robert Cerri & Donna Cerri and Shannon Greeley, Claim #11-32; and Irene Katsuleres; Claim No. 12-09; and order that the claimants be notified. These claims have to do with one incident with all parties involved.

BACKGROUND:

Claims should be rejected, the claimant notified of the rejection, and referred to Municipal Pooling 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 the claims against the City and order that the claimants be notified.

Attachment: Claim(s) #11-32 and #12-09.

APPROVED BY:

City Manager



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

1. Claimant's Name: (PRINT) MIKE POWERS
Address: 1131 PALM AVE MARTINEZ, CA 94553
Day Phone: (425) 768-3444 Eve Phone: ()

2. When did the damage or injury occur?
Month: 12 Day: 7 Year: 2011 Time: a.m./p.m. 11AM Police Report # _____

3. At which location did the damage or injury occur?
1131 PALM AVE MARTINEZ, CA 94553

4. a. What happened and why is the City responsible? ERNIES PLUMBING HIT WATER MAIN WHILE RUNNING NEW SEWER LATERAL. ERNIES PLUMBING STATES CITY OF MARTINEZ MISMARKED WATER MAIN, AND IS AT FULL FAULT

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

5. What damage or injury occurred? _____
PERSONAL PROPERTY SEE ATTACHED LIST.
COMPLETE MESS OF YARD, PATIO AREA, GARAGE
WHICH WAS CLEANED BY EMERGENCY SERVICES THEN
FILES WERE LEFT IN SIDE AND REAR YARD

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.
PERSONAL PROPERTY IS COST OF PURCHASE. REMAINDER IS FOR
PAIN AND SUFFERING, UNFINISHED WORK / CLEANUP, LOSS OF WAGES ETC.

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 JANUARY 30, 2012, at MARTINEZ CA.


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: TBD (IF NEEDED)
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.

RECEIVED
DEC 09 2011

CITY OF MARTINEZ
CITY CLERKS OFFICE

(11-32)

1. Claimant's Name: (PRINT) ROBERT M. CERRI
Address: 4620 PLEASANT HILL ROAD EAST-MARTINEZ
Day Phone: (925) 229-2567 Eve Phone: (925) 784-2905 (CELL) CA.

2. When did the damage or injury occur?
Month: DEC. Day: 07 Year: 2011 Time: a.m. p.m. 2 pm Police Report # NONE

3. At which location did the damage or injury occur?
1110 OAK ST. MARTINEZ, CALIF. 94553. (RENTAL HOUSE)

4. a. What happened and why is the City responsible? CITY REP. MISS MARKED WHERE 6" MAIN WATER LINE WAS LOCATED. ERNIE'S PLUMBING - WAS DIGGING FOR SERVICE LINE REPLACEMENT FOR 1120 OAK ST HOUSE - WHILE DIGGING FOR SERVICE LINE - DAMAGED MAIN LINE - CAUSED FLOODING.

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

5. What damage or injury occurred? DAMAGED WATER LINE CAUSED FLOODING TO 1110 OAK ST. - UPS STAIRS - FRONT ROOM, KITCHEN + BATHROOM. 2" - mud AND WATER. DOWNSTAIRS BASEMENT 6" WATER AND DAMAGED STAIRS.

6. Claim amount (only if less than \$10,000): (UNKNOWN AS OF NOW.)
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.
UNKNOWN

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 DECEMBER 9, 2011, at MARTINEZ, CA.

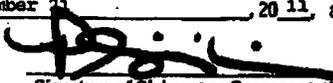

Signature of Claimant or Representative's Signature

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.

James River Insurance Company	
1. Claimant's Name: (PRINT) <u>Phil Wise, Claims Manager</u>	
Address: <u>P.O. Box 27648, Richmond, VA 23230</u>	
Day Phone: (804) 289-2107 Eve Phone: (804) 289-2107	
2. When did the damage or injury occur? Month: <u>December</u> Day: <u>7</u> Year: <u>2011</u> Time: <u>a.m./p.m. 10:00 a.m.</u> Police Report # _____	
3. At which location did the damage or injury occur? <u>1120 Oak Street, 1110 Oak Street, 1131 Palm Ave. - Martinez, CA 94553</u>	
4. a. What happened and why is the City responsible? <u>See Attachment "A"</u>	
b. Name and position of responsible City Employee(s), if known: <u>Unknown at this time. Discovery and investigation are continuing.</u>	
5. What damage or injury occurred? <u>See Attachment "A"</u>	
6. Claim amount (only if less than \$10,000): _____	
If the amount exceeds \$10,000, please check (X) the court of appropriate jurisdiction: <u>Municipal Court (claims up to \$25,000)</u> <input checked="" type="checkbox"/> <u>Superior Court (claims over \$25,000)</u>	
7. How did you arrive at the amount claimed? Please attach documentation. <u>See Attachment "A"</u>	
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 <u>December 21</u> , 20 <u>11</u> , at <u>San Diego</u> CA.	
 <i>Signature of Claimant or Representative's Signature</i>	
9. <u>Official Notices and Correspondence</u> 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) <u>Blessing & Harvey Professional Services, Inc.</u> <u>dba Ernie's Plumbing and Sewer</u>	
Address: <u>3795 Pacheco Blvd., Suite C, Martinez, CA 94553</u>	
Day Phone: (925) 228-5242 Eve Phone: (925) 228-5242	
2. When did the damage or injury occur? Month: <u>December</u> Day: <u>7</u> Year: <u>2011</u> Time: <u>a.m./p.m. 10:00 a.m.</u> Police Report # _____	
3. At which location did the damage or injury occur? <u>1120 Oak Street, 1110 Oak Street, 1131 Palm Ave. - Martinez, CA 94553</u>	
4. a. What happened and why is the City responsible? <u>See Attachment "A"</u>	
b. Name and position of responsible City Employee(s), if known: <u>Unknown at this time. Discovery and investigation are continuing.</u>	
5. What damage or injury occurred? <u>See Attachment "A"</u>	
6. Claim amount (only if less than \$10,000): _____ If the amount exceeds \$10,000, please check (X) the court of appropriate jurisdiction: <u>Municipal Court (claims up to \$25,000)</u> <input checked="" type="checkbox"/> <u>Superior Court (claims over \$25,000)</u>	
7. How did you arrive at the amount claimed? Please attach documentation. <u>See Attachment "A"</u>	
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 <u>December 21</u> , 20 <u>11</u> , at <u>San Diego</u> CA.	
 <i>Signature of Claimant or Representative's Signature</i>	
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: <u>REDEN & REDEN - Justin G. Reden, Esq. 16885 Via Del Campo Court, Suite 210</u> City, State, Zip: <u>San Diego, CA, 92127</u> Daytime Telephone: (619) <u>758-3869</u> Evening Telephone: () <u>1reden@redenandreden.com</u>	



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

Reserve for filing stamp

RECEIVED
AUG 15 2012
CITY OF MARTINEZ
CITY CLERK'S OFFICE
Addendum
(11-32)

1. Claimant's Name: (PRINT) Safeco Insurance Company of America
Address: Robert B. Javan, Katchis Harris & Yempuku, 2180
Harvard Street, Suite 460, Sacramento, CA 95815.
Day Phone: (916-649-8333, Ext.: 225) Eve Phone: ()

2. When did the damage or injury occur?
Month: December Day: 7 Year: 2011 Time: a.m./p.m. Unknown Police Report # None.

3. At which location did the damage or injury occur? 1110 and 1120 Oak Street, Martinez.

4. a. What happened and why is the City responsible? Safeco's insured, Greeley, contracted with Ernie's Plumbing to install a new sewer line. Ernie's claims that it asked the City to mark the location of the sewer main and the water line. Ernie claims that the City did not identify the location properly, causing Ernie's to strike the water line and flood three residential properties. Two were insured by Safeco.

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

5. What damage or injury occurred? Safeco is the insurer for 1110 and 1120 Oak Street and is the subrogee of its insured's claims. Safeco has paid \$54,324.33 for damage to the insured's property at 1120 Oak Street and \$26,170.36 for damage to property located at 1110 Oak Street. These amounts were for damages to real property.

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.

Please see, attached, the breakdown of damages for each property.

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 5, 2012 at Sacramento CA.

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) Robert B. Javan, Law Offices of Katchis, Harris & Yempuku, 2180 Harvard Street,

Address: _____

City, State, Zip: Sacramento, CA 95815

Daytime Telephone: (916) 649-8333, ext. 225 Evening Telephone: () _____



Reserve for filing stamp

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

RECEIVED
JUN 29 2012

CITY OF MARTINEZ
CITY CLERK'S OFFICE
Addendum
(11-32)

1. Claimant's Name: (PRINT) SHANNON GREGORY
Address: 1120 OAK ST MARTINEZ CA 94553
Day Phone: (425) 451-5952 Eve Phone: ()

2. When did the damage or injury occur?
Month: 12 Day: 7 Year: 2011 Time: a.m./p.m. ~ 10am Police Report # _____

3. At which location did the damage or injury occur?
1120 OAK ST

4. a. What happened and why is the City responsible? ERNIE'S PLUMBING CAME TO REPLACE THE SEWER LATERAL AND STRUCK THE WATER MAIN. THEY CLAIM IT IS NOT THEIR FAULT AND THAT THE CITY MARKED THE STREET INCORRECTLY.

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

CITY OF MARTINEZ WATER

5. What damage or injury occurred? THE LOWER LEVEL OF MY HOUSE, GARAGE, FRONT AND BACK YARDS WERE ALL FLOODED. MY INSURANCE COMPANY FIXED THE HOUSE, BUT ALL LOSS OF PERSONAL PROPERTY WAS DENIED

6. Claim amount (only if less than \$10,000): \$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.

SEE ATTACHED

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 29th, 2012, at MARTINEZ CA.

Shannon Gregory
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

* Please read the instructions on the back before completing.

RECEIVED (12-09)
JUN 01 2012
Reserve for filing stamp

CITY OF MARTINEZ
CITY CLERKS OFFICE

home
10 Truitt Av
MTZ, CA

1. Claimant's Name: (PRINT) Irene J Katsuleres - location of damage
Address: 1131 Palm Av, Martinez 2
Day Phone: 925 228-6216 Eve Phone: ()
Date: 6/1/2012

2. When did the damage or injury occur?
Month: 12 Day: 7 Year: 2011 Time: a.m./p.m. Police Report # _____

3. At which location did the damage or injury occur? 1131 Palm, Martinez

4. a. What happened and why is the City responsible? City of Martinez - Water Dept. mismarked the location of their water main

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

5. What damage or injury occurred? water went down hill pushing heavy pressure on fences, taking away top soil & causing damage to patio.

6. Claim amount (only if less than \$10,000): \$ 3610.86 see attached info
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.
per bids of various companies

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 1, 2012 at Martinez CA.
Irene Katsuleres
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: () _____