



Legislation Text

File #: 18-0020, **Version:** 1

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, Acting City Manager

FROM:

Teresia Zadroga-Haase, Human Resources Director

Gregory S. Borboa, Risk Manager

Quinn M. Barrow, City Attorney

SUBJECT:

Petition to File Late Claim for Refund of Veterinary Bill Costs Associated with Claim for Damages (Human Resources Director Zadroga-Haase).

DENY REQUEST

RECOMMENDATION:

Staff recommends that the City Council deny the request for leave to file late claim.

FISCAL IMPLICATIONS:

There are no fiscal implications associated with denying the request. The amount of the claim was \$534.20.

BACKGROUND:

On November 6, 2017 the City was served with a claim from Bruce Kuch for alleged damages to property and a pet as a result of paint chips from a City water tower falling into his yard. On November 15, 2017 Mr. Kuch was provided notice that the portion of his claim related to his pet dog was filed late as it was not filed within six months of the date of the alleged loss. He was also informed that for that portion of the claim to be considered further, Mr. Kuch would need to file for Leave to Present a Late Claim. On November 21, 2017 the City was served with a "Request for Approval of Late Claim" dated November 17, 2017. All documents referred to in this section were submitted as part of the Request and are included as Attachment 1 to this Staff Report.

DISCUSSION:

State Law Governing Late Claims

Government Code Sections 911.4 to 912.2, inclusive, and 946.6, govern presentation of late claims against a public entity. Pursuant to Government Code Section 911.6(b), the governing board of a public entity shall grant the application for leave to present a late claim where one or more of the following is applicable:

1. The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the public entity was not prejudiced in its defense of the claim by the failure to present the claim within the time specified by statute.
2. The person who sustained the alleged injury, damage or loss was a minor during all of the time specified by statute for the presentation of the claim.
3. The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified by statute for the presentation of the claim and by reason of such disability failed to present a claim during such time.
4. The person who sustained the alleged injury, damage or loss died before the expiration of the time specified by statute for the presentation of the claim.

The application must be presented to the public entity within a reasonable time not to exceed one year after the accrual of the cause of action.

Application of State Law to Mr. Kuch's November 17, 2017 letter Leave to Present a Late Claim

Mr. Kuch was provided notice on November 15, 2017 that all the portion of his claim related to alleged damages to his dog were not filed in a timely manner. The claimed costs related to the dog are specific to a veterinarian visit on February 27, 2017. Mr. Kuch's correspondence dated November 17, 2017 does not state that he failed to timely file the claim "through mistake, inadvertence, surprise or excusable neglect" relative to costs associated with the claimed damages to his dog. Likewise, the other grounds for granting leave to file a late claim are not present here. There has been no analysis as to whether the City would be prejudiced in defending the claim if leave were granted.

Attachment:

1. November 21, 2017 Request for Approval of Late Claim from Bruce Kuch