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Rick Callender
Chief Executive Officer
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3686

Via Personal Service

Claim Against Santa Clara Valley Water District for Damages Per California Government Code §§910 *et seq.*

Dear Mr. Callender:

Please be advised that our firm is counsel of record for First Community Housing, a California nonprofit corporation (“FCH”), and Betty Anne Gardens, L.P., a California limited partnership (“the LP”) (FCH and the LP being, collectively, the “Claimants”). Pursuant to California Government Code §§910 *et seq.*, by and through this duly and timely submitted claim, Claimants respectfully submit the following claims and information relating to damages to real property, personal property, and persons, proximately caused by the Santa Clara Valley Water District’s (“District”) tortious acts and omissions.

A. Subject Incident

The Betty Ann Gardens residential community (the “Community”) is located at 945 Lundy Avenue in the City of San Jose, on an approximately 3.87-acre site along the banks of Penitencia Creek. The Community is managed and operated by FCH for affordable housing purposes and owned by the LP.

On or about February 13, 2025, Penitencia Creek experienced a severe flooding event (the “Flood”) which lasted for several hours. The Flood caused very significant damage to the Community, devastating many residential units and common areas, destroying personal property, and causing related personal injuries.

The Flood was so severe and the damages so extensive that the disaster was covered broadly in the news. Please find three exemplar news stories highlighting the Flood and associated damages here:

<https://www.youtube.com/watch?v=edTdRE1hE7o>

<https://www.youtube.com/watch?v=cXvJ6dleIKE>

<https://www.youtube.com/watch?v=9NhG4B2GY1U>

B. Description of Damages

The Flood caused extensive damage to many residential units and common areas within the Community. Due to the extensive nature and scope of damages, Claimants have not yet completed their investigation and calculation of damages incurred and hereby reserve the right to amend and update their claim as further damage assessments become available. To date, the incurred and projected damages associated with the Flood include, but are not limited to the costs of:

1. Mitigation, emergency response, and cleanup efforts;
2. Structural, property, and landscaping repairs;
3. Interior damage repairs;
4. Mechanical and utility system repairs;
5. Environmental and health hazard avoidance and abatement;
6. Temporary and permanent resident displacement and relocation;
7. Claims for damages to resident property;
8. Associated resident claims against Claimants;
9. Business interruption and financial losses;
10. Lost rental revenue and opportunity costs;
11. Increased operating and management expenses;
12. Insurance deductibles and exclusions;
13. Fees for attorneys, consultants, and vendors;
14. Reduced property values;
15. Higher insurance premiums; and,
16. Long term reputational and market impacts.

Current estimates indicate that damages have already exceeded \$1,000,000 and are expected to reach upwards of \$3,000,000. These damages and adverse impacts are substantial and require immediate redress. Both FCH and the LP incurred these damages and seek recovery through this claim both on behalf of themselves and on behalf of their residents who incurred a subset of these losses in personal property and personal injury damages.

While Claimants' investigation is ongoing and they reserve the right to provide additional evidence of damages as it becomes available, we provide the following evidence related to this claim at this time: Remediation Assessment Reports; and, invoices, receipts, and spreadsheets documenting flooded units, relocation expenses incurred, and amounts due and paid to Titan Environmental Solutions, Inc., Northwest Restoration, D Squared Construction, and Diamond Cleaning. These materials are available at the following link: <https://strategylaw.sharefile.com/public/share/web-s01a8924055164aa78f9c651949b5217e>

C. Causation

Investigations subsequent to the Flood indicate that the Flood was caused by a massive accumulation of debris upriver from the Community (the "Debris Jam") which obstructed the natural flow of Penitencia Creek. The obstruction caused by this Debris Jam materially reduced the creek's carrying capacity, resulting in upstream impoundment and a hazardous elevation of water levels. The eventual sudden overtopping and/or breach of the obstruction caused a rapid downstream discharge of creek water, directly resulting in the Flood which inundated the Community.

The Debris Jam and the resulting Flood and damages suffered by Claimants were proximately caused by the negligent acts and omissions of the District. Specifically, the District failed to properly design, construct, maintain, inspect, and/or operate municipal stormwater drainage systems (including Penitencia Creek), culverts, and other water control infrastructure in the affected area. As a result of this negligence, creek water, rainwater, and storm runoff were not adequately managed or diverted, leading to the accumulation and overflow of floodwaters directly onto Claimants' property and the Community.

The District was on notice of the defective and inadequate drainage systems and the potentiality for and occurrence of the Debris Jam and resulting flooding and failed to take timely or appropriate corrective measures and failed to conduct the due diligence and prudent management necessary to avoid precisely this type of avoidable disaster. This breach of duty resulted in severe property loss and disruption of use and enjoyment including Claimants' damages.

Photographs of the Debris Jam and a timeline of the Penitencia Creek water levels and inadequate debris removal efforts on the date in question are available at the following link:
<https://strategylaw.sharefile.com/public/share/web-s5e8dcff7380b4f8e96d4d37bc8ff0ff3>

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Thank you for your time and attention to this important matter. Given the scope of damages and the adverse impacts on the Community and its residents, immediate redress is appropriate and necessary.

All notices regarding this matter and/or any other communications with Claimants should be directed to and through my office. Please do not hesitate to contact me with any questions.

Very truly yours,

STRATEGY LAW, LLP



Joshua Safran, Esq.

cc: District Counsel, Santa Clara Valley Water District (by email)