



Santa Clara Valley Water District

File No.: 24-0629

Agenda Date: 7/9/2024

Item No.: 4.2.

BOARD AGENDA MEMORANDUM

Government Code § 84308 Applies: Yes ☐ No ☒
(If "YES" Complete Attachment A - Gov. Code § 84308)

SUBJECT:

Grant the Application for Leave to File Late Claim for Claim of Hortense Vasquez on Behalf of Michael Baughman and Deny the Claim on the Merits.
(Continued From June 25, 2024.)

RECOMMENDATION:

- A. Grant the application to file a late claim of Hortense Vasquez on behalf of Michael Baughman;
and
- B. Deny the claim on the merits.

SUMMARY:

Santa Clara Valley Water District (Valley Water) received a claim from Ms. Hortense Vasquez on behalf of Michael Baughman on April 16, 2024. The claim was for fire damage to carports at the Waterbury Apartments located at 3673 Waterbury Court in San Jose. The fire was allegedly caused by unhoused individuals. The date of loss according to the claim form was "around October 2023." Staff researched the date of loss using Valley Water records from the October 2023 time period and it was determined to be on or about October 5, 2023. Based on the date of loss and receipt of claim, the claim was eleven days late.

On April 17, 2024, staff informed Ms. Vasquez that her claim was being returned without action as it was not presented within six months after the loss event or occurrence as required by law. Ms. Vasquez was also informed that she could apply to the Board of Directors to present a late claim. Shortly thereafter on April 21, 2024, Ms. Vasquez emailed the Board of Directors stating that the only defense for the late claim was that she was not aware of the six-month statute of limitations.

Government Code Section 911.2 states that a claim relating to . . . injury or to personal property . . . shall be presented . . . not later than six months after the accrual of the cause of action. Government Code Section 911.4-911.6 states that, when a claim is not presented within the six-month window, the claimant can apply to the Board and that the board shall grant an application for a late claim where 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. Reasonable diligence by claimant is

required to make such a showing. See *Tsingaris v. State of California* (1979) 91 Cal. App. 3d 312.

One of the main purposes of the claim submission deadline is to ensure public entities can timely investigate and attempt to resolve claims. *City of San José v. Sup. Ct.*, 12 Cal.3d 447, 455 (1974). Even if a claimant presents a valid excuse for their untimeliness, the application may still be denied if the delay prevents the public entity from being able to adequately investigate the claim.

Here, while the lack of knowledge of legal deadlines is generally not excusable neglect, here there is no prejudice to Valley Water because it was already aware of the circumstances giving rise to the claim dating back to October. Therefore, staff is not opposed to the granting of the application to file a late claim.

However, even if the claim had been timely submitted, the claim would have been substantively defective because Valley Water is not responsible for the acts of independent third parties, particularly when there are allegations of potentially criminal behavior. Staff therefore recommends that the claim be denied on the merits.

ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:

There are no Environmental Justice Impacts associated with this item.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Claim

Attachment 2: Application for Leave to File Late Claim

UNCLASSIFIED MANAGER:

J. Carlos Orellana, 408-630-2755