



Santa Clara Valley Water District

File No.: 19-0964

Agenda Date: 11/12/2019

Item No.: 3.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Denial of Claim of Robert Middleton.

RECOMMENDATION:

Deny the claim.

SUMMARY:

The District received a claim for damages on September 11, 2019 from Cupertino resident, Robert Middleton. Mr. Middleton resides at 22044 Creekside Court (District 5). The reported date of loss was April 26, 2019. According to the claimant, a fallen oak tree crushed 16 (sixteen) feet of new fencing and caused minor damage to two trees. The claimant is seeking to recover \$1,044.00 for costs associated with the repair of the fence.

Risk Management has investigated this matter, including a site visit to discuss this matter with the claimant and to assess the claim's validity.

The California Government Tort Claims Act and the California Claims Act (collectively, "Act") states that a public entity is not liable for an injury except as otherwise provided by statute. (Cal. Gov. Code Section 815, subdivision (a)). Generally, there is no liability for damage caused by a tree on public land, even if the damage occurs on private land, unless the entity had actual knowledge that the tree was not healthy, or the entity acted in such a manner as to cause the tree to cause damage.

Through inspection of the tree, staff has determined that the tree showed no evidence of rot, disease or other distress. Staff had no knowledge that the tree might fall and therefore, there is no negligence on the part of the District. Therefore, there is no liability on the part of the District, and staff recommends that the claim be denied.

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: Letter from Mr. Middleton

UNCLASSIFIED MANAGER:

Stan Yamamoto, 408-630-2755