



# Santa Clara Valley Water District

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**File No.:** 19-0842

**Agenda Date:** 10/8/2019

**Item No.:** 3.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Claim of Diamond Creek Apartments.

### **RECOMMENDATION:**

Deny the claim.

### **SUMMARY:**

The District received a claim for damages on April 18, 2019 from Denise Cocio, Community Director for Diamond Creek Apartments located at 15655 Venice Lane in Morgan Hill, California. The reported date of loss was February 14, 2019. According to the claimant, during stormy weather, a tree fell onto Diamond Creek property and damaged a portion of the iron fence. The claimant, on behalf of Diamond Creek Apartments is seeking unspecified monetary relief for these damages, thus the amount of the claim is unknown.

Risk Management has investigated this matter. Risk Manager conducted a site visit 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.

Staff has determined that 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

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potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

Attachment 1: Claim

**UNCLASSIFIED MANAGER:**

Stan Yamamoto, 408-630-2755