

OFFICE OF THE  
COUNTY COUNSEL



COUNTY OF SANTA CRUZ

GOVERNMENT CENTER  
(408)454-2040  
FAX(408)454-2115

701 OCEAN STREET, ROOM 505, SANTA CRUZ, CALIFORNIA 95060-4068

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GOVERNMENT TORT CLAIM  
RECOMMENDED ACTION

Agenda June 23, 1998

ASSISTANTS

To: The Board of Supervisors

Re: Claim of Robert & Lisa Martone, No. 798-152A

Original Document and associated materials are on file at the Clerk to the Board of Supervisors.

In regard to the above-referenced claim, this is to recommend that the Board take the following action:

1. x Qeny the claim of Robert & Lisa Martone, No. 798-152A and refer to County Counsel.

Deny the applicacron to file a late claim on behalf of \_\_\_\_\_ and refer to County Counsel.

Grant the application to file a lace claim on behalf of \_\_\_\_\_ and refer to County Counsel.

4. Approve the claim of \_\_\_\_\_ in the amount of \_\_\_\_\_ and reject it as to the balance, if any, and refer to County Counsel.

5. Reject the claim of \_\_\_\_\_ as insufficiently filed and refer to County Counsel.

RISK MANAGEMENT

By Janet McKinley

COUNTY COUNSEL

By [Signature]

cc: John Fantham, Director  
Department of Public Works

LTR9.WPT

PER 5107 Feb 4, 97

CLAIM AGAINST THE COUNTY OF SANTA CRUZ  
(Pursuant to Section 910 et. Seq., Con. Code)

798-152A  
5-26-98

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TO: BOARD OF SUPERVISORS  
COUNTY OF SANTA CRUZ  
ATTN: Clerk of the Board  
Governmental Center  
701 Ocean Street, Santa Cruz, CA 95060



1. Claimant's Name: Robert & Lisa Martone  
Address: 2256 Harper St.  
Santa Cruz 95062  
Phone No: 476-6243

P.O. Box to which notices are to be sent: \_\_\_\_\_

2. Occurrence: Fallen tree  
Date: 1-21-98 Place: 2256 Harper St & 2314 Harper St  
Circumstances of occurrence or transaction giving rise to claim: See memo

4. General description of indebtedness, obligation, injury, damage or loss incurred so far as is now known:  
Possible loss to property or injury due to possibly unsafe trees.

5. Name(s) of public employee(s) causing injury, damage or loss, if known: \_\_\_\_\_

6. Amount claimed now . . . . . \$ \_\_\_\_\_

Estimated amount of future loss, if known . . . . . \$ \_\_\_\_\_

TOTAL \$ Pending

7. Basis for above computations: Cost to evaluate, maintain or remove trees

8. If the amount claimed is over \$ 10,000, indicate the court of jurisdiction:

Unincorporated Municipal Court \_\_\_\_\_ Superior Court

CLAIMANT'S SIGNATURE: [Signature] [Signature]

Note: Claim must be presented to Clerk, Board of Supervisors, within SIX (6) months after the act which occasioned the injury.

Americans with Disabilities Act questions or requests for accommodations may be directed to the ADA Coordinator at 454-2962 (TDD 454-2123).

The County of Santa Cruz  
Risk Management  
701 Ocean St.  
Santa Cruz, Ca. 95060

May 26, 1998

To whom it may concern:

Our home was built in the early 1960's. Sometime prior to that the former homeowners to our immediate east put in a row of cypress trees to mark a property line. The county had claimed a prescriptive easement for rainwater runoff between these two parcels. The water ran in this ditch growing wider and deeper over the years causing bank and root erosion. When the Martones' purchased the property in February of 1988 it became apparent to us that the water course had not been maintained on a regular basis.

I made inquiries to the drainage department at the Brommer yard and there, developed a rapport with then foreman Vance Wagner and his crew. Downstream from our property ( south ) the ditch was clogged with vines , limbs and debris. Over the next several years the drainage crews attempted to maintain and improve this drainage course with regular maintenance and several improvements.

In or around the Fall of 1988 I filed a claim through the County of Santa Cruz Risk Management Agency for the removal of three of these cypress that were threatening our home. The base of these trees were directly in the flow of the water and were leaning over our house making their' fall to the ground from erosion a straight line through our bedrooms. The county paid and the trees were removed by a private contractor.( county records )

In March of 1989 I went before the planning department to have this prescriptive easement more clearly defined. It was evident that after two winters I could see what was going to happen eventually. I had lost a fence and was beginning to see my deck fall victim to this ever widening drainage ditch. I felt that with development in the immediate future( Capitola Rd. Woodrose Estates) this drainage course would be significantly effected by an increase of water volume and velocity. The greatest impact being on the trees and our property.

The county drainage crew spent a week installing a concrete lined rip-rap to protect the sides and halt the erosion, but they promised to look at a more permanent solution for the future. All during this time the erosion had caused more exposure of the tree roots and undermining of their base.

In October of 1992 as a result of an off site requirement by a Capitola Rd. development ( Woodrose ) a thirty six inch pipe was installed in the ditch . This along with the Chanticleer Ave. improvements greatly reduced the flow of water through this site. However, during construction a backhoe was used to create fall in this course and then the base of the trees were covered up to four feet deep with dirt.( see diagram )

On January 21, 1998 during a storm, the tree that we figured to be the sturdiest was uprooted and blown over into our neighbors yard where it lies today. Upon inspection by a hired tree service owner (Kevin Johnson) he pointed out significant damage from termites and rot at the base of these trees. I hired Mr. Johnson in April to thin out and remove dead branches to significantly lighten the trees. This is when we

decided that the problem was more serious than we originally thought.

In April of this year I began a telephone search through the county system to try to find a person or department who would help us with this problem. I have spoken with Russ Albrecht, Don Hill. Supervisor Beault's office, John Swinson, Terry Reynolds Suzanne Smith, and finally Janet McKinley with risk management.

In summary, We collectively have a potential problem with the trees along our property, the adjacent Olier property, and in a dedicated County easement. There may be an issue as to how the trees were buried during the pipe installation (see culvert design document). There was a precedence set in 1989 when a past claim was paid for these trees (see county records). The cypress may prove to be salvageable however, both property owners would agree to replant this strip with safer and less problematic trees to mitigate the loss of the cypress should a certified arborist deem these trees unsafe. We do live outside of the coastal zone which would eliminate the need for a significant tree removal permit ( Suzanne Smith ).

The first step would be to acknowledge this problem with all parties through a meeting here. A certified arborist should be hired to give a complete report on the health and liability of these Monterey Cypress.



Robert Martone  
2256 Harper St.  
Santa Cruz, Ca 95062  
476-6243

Johnson's Tree Service  
1-888-691 -1257