

DANA McRAE, COUNTY COUNSEL

**CHIEF ASSISTANT RAHN GARCIA** 

# **County of Santa Cruz**

### OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 950604068 (831) 454-2040 FAX: (831) 454-2115

**Assistants** 

Deborah Steen Harry A. Oberhelman III Kim Elizabeth Baskett Margaret M. Burks Marie Costa Jane M. Scott Tamyra Rice

Pamela Fyfe Julia Hill Dwight L. Herr Shannon Sullivan

**Sharon Carey-Stronck** David **Kendig** Miriam L. Stombler Ligi Coleen Yee

## **GOVERNMENT TORT CLAIM**

### RECOMMENDED ACTION

	Agenda February 26, 2002
To: Board of	Supervisors
Re: Claim of	Michael Shaw, Joanne Shaw, JN and MC Shaw Management Corp. dba
Original docu	JM Management Company, No. 102-097 ment and associated materials are on file at the Clerk to the Board of Supervisors.
In regard to th	ne above-referenced claim, this is to recommend that the Board take the following action:  Michael Shaw, Joanne Shaw, JN and MC Management Corp.
1.	Reject the claim ofdba JM Management, Claim No. 102-097 and refer to County Counsel.
2.	Deny the application to file a late claim on behalf of and refer to County Counsel.
3.	Grant the application to file a late claim on behalf of and refer to County Counsel.
4.	Approve the claim of in the amount of and reject the balance, if any, and refer to County Counsel.
5.	Reject the claim of as insufficiently filed and refer to County Counsel.
cc: Alvin	James, Planning Director RISK MANAGEMENT
of Pul	By Janet McKinley, Risk Manager
	DANA McRAE, COUNTY COUNSEL
	By Kim Elizabeth Roskett Kim Elizabeth Baskett, Assistant County Counsel

## ORIGINAL 102-097 0042 1 RONALD A. ZUMBRUN, SBN 32684 MARK E. TEH, SBN 216756 2 THE ZUMBRUN LAW FIRM 3800 Watt Avenue, Suite 101 3 Sacramento, CA, 95821 Telephone: (916) 486-5900 4 (916) 486-5959 Facsimile: 5 Attorneys for Claimants 6 7 8 COUNTY OF SANTA CRUZ 9 10 11 Claim of MICHAEL SHAW, JOANNE SHAW, JN AND MC SHAW A Professional Corporation 3200 Watt Avenue. Suite 101 Sacramento, California 95821 (916) 486-5900 FAX (916) 486-595 12 CLAIM FOR DAMAGES MANAGEMENT CORP. dba JM MANAGEMENT COMPANY, (**GOV**'T CO**DE** § **910**) 13 14 V. 15 COUNTY OF SANTA CRUZ, a local public agency; ALVIN JAMES, an individual, 16 SLENDA HILL, an individual, KIM TSCHANTZ, an individual, and THOMAS L. 17 BOLICH, an individual. 18 15 20 TO THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ, ALVIN JAMES, GLENDA HILL, KIM TSCHANTZ, AND THOMAS L. BOLICH: 21 22 You are hereby notified that claimants Michael Shaw, Joanne Shaw, JN 2:3 and MC Shaw Management Corp. dba JM MANAGEMENT COMPANY claim 24 damages from the County of Santa Cruz, Alvin James, Glenda Hill, Kim Tschantz, 25 and Thomas L. Bolich as follows:

/// 27

28

26

-1-

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

- 1. Claimants' address is c/o Ronald Zumbrun. The Zumbrun Law Firm. 3800 Watt Avenue, Suite 101, Sacramento, CA 95821.
- 2. The amount of damages at date of claim exceeds \$10,000 and jurisdiction over this claim rests in superior court.
- 3. The property which is the subject of this action is Liberty Garden acquired by claimants in 1985. It is a 74-acce coastal landscape located on Byers Lane in La Selva Beach (APN 45-031-05), Santa Cruz County. Liberty Garden is claimants' expression and demonstration that individual liberty and ecological health are inseparable. The Liberty Garden project has been a highly successful ecological-habitat restoration and native plants management program. Claimants intend to use water and electrical power to further the Liberty Garden project and its message. Liberty Garden has been highly complemented by state and federal ecological agencies. Liberty Garden has also received and returned federal and state grants to study the project.
- 4. Unfortunately, some government agencies have collectively interfered with the development of Liberty Garden.
- 5. Agents for the County of Santa Cruz routinely temporarily dump street cleanings adjacent to claimants' property. The result of this dumping is that foreign seed is introduced into Liberty Garden resulting in the proliferation of bermuda grass and other undesirable weeds. The dumping of street cleanings has occurred regularly since before 1997, despite regular complaints by claimants.
- 6. In addition to the dumping of street cleanings on claimants' property, the County of Santa Cruz will not allow claimants to connect the electric power to the well at Liberty Garden thus preventing watering and fire protection. This refusal to allow connection of electric power to the well occurred after claimants received a well permit and approval by the County of Santa Cruz Health Department for the

///

connection and, based on that approval, spent over \$50,000 to facilitate connecting power to the well.

- 7, The County of Santa Cruz (County) is, and at all times mentioned herein was, a public agency organized and existing under the laws of the State of California. Through County's agents, the Planning Department and the Department of Public Works, it has caused the damages alleged herein to claimants and Liberty Garden.
- 8. Alvin James is an individual as well as an employee of County.

  Alvin James is one of the persons most responsible for causing the damages alleged herein to claimants and Liberty Garden.
- 9. Glenda Hill is an individual as well as an employee of County. Glenda Hill is one of the persons most responsible for causing the damages alleged herein to claimants and Liberty Garden.
- 10. Kim Tschantz is a individual as well as an employee of County.

  Kim Tschantz is one of the persons most responsible for causing the damages alleged herein to claimants and Liberty Garden.
- 11. Thomas L. Bolich is a individual as well as an employee of County. Thomas L. Bolich is one of the persons most responsible for causing the damages alleged herein to claimants and Liberty Garden.
- 12. Said continuous conduct by County, Alvin James, Glenda Hill, Kim Tschantz, and Thomas L. Bolich was intentional, negligent, was contrary to their duties, constituted trespass and nuisance and has proximately caused injuries to claimants and to claimants' property including but not limited to temporary and permanent loss of value, costs of installing power, purchase and use of a generator, and maintenance costs including weed abatement.

-3-

THE ZUMBRUN LAW FIRM

0046





CT. al

THE ZUMBRUN LAW FIRM A Professional Corporation Bally or many 227 3

February 2, 2002

Clerk of the Board County of Santa Cruz 701 Ocean Street, Room 500 Santa Cruz, CA 95060

Dear Clerk:

Re: Claim of Michael Shaw, Joanne Shaw, JN and MC Shaw Management Corp. dba JM Management Company Claim for Damages (Gov't Code § 910)

Please find enclosed an original and one Zumbrun Law Finn copy of Claim for Damages (Gov't Code § 910) submitted on behalf of Michael Shaw, Joanne Shaw, JN and MC Shaw Management Corp. dba JM Management Company. Please file the original claim and return the conformed copy to our offices in the envelope provided.

Thank you for your assistance in this regard. Please call our offices if you have any questions.

Sincerely,

RONALD A. ZUMBRUN

Ronard G. Zumb

Managing Attorney

**Enclosure** 



3800 Watt Avenue Suite 101 Sacramento, CA 95821 Tel 916-486-5900 Fax 916-486-5959