



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Denial of Petition to File Late Tort Claim Against the City of Lodi

MEETING DATE: September 17, 2003

SUBMITTED BY: Human Resources Director

RECOMMENDED ACTION: To approve by motion action, denial of the following petition to file a late tort claim against the City of Lodi:

A) Peggy Ann Marquart,
Don R. Kouns,
The Estate of Leo Neveu, and
The Estate of Elise Neveu

DOL: 9/04/02

BACKGROUND INFORMATION: Following review of the petition to file a late tort claim, the City Attorney's Office, Human Resources staff and the City's contract claims administrator, recommend the City deny the petition. Denial of the tort claim per se should not take place. A tort claim does not actually exist if a petition to file it late is denied.

FUNDING: None required.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kirk Evans".

Kirk Evans, Risk Manager

cc: City Attorney

APPROVED: _____

A handwritten signature in black ink, appearing to read "H. Dixon Flynn".
H. Dixon Flynn -- City Manager

FILE

1 PEGGY ANN MARQUART, DON R. KOUNS,
2 the ESTATE OF LEO NEVEU and ELISE
3 NEVEU

4 Claimant(s),

5 vs.

6 CITY OF LODI

7 Public Entity

NOTICE OF ACTION ON APPLICATION
FOR LATE CLAIM RELIEF (GOVT CODE
§911.4)

8
9 TO: Peggy Ann Marquart, Don R. Kouns and their attorney:

10 NOTICE IS HEREBY GIVEN that your application, which you presented on September 3,
11 2003, for leave to present a claim after expiration of the time allowed by law for doing so was denied
12 on September 17th, 2003.

13
14 If you wish to file a court action in this matter, you must first petition the appropriate court
15 for an order relieving you from the provisions of Government Code §945.4 (the claims-presentation
16 requirement). See Government Code §946.6. Your petition must be filed with the court within 6
17 months after the date, set forth above, on which your application for leave to present a late claim was
18 denied.

19
20 You may seek the advice of an attorney of your choice in connection with this matter. If you
21 wish to consult an attorney, you should do so immediately.

22 CITY OF LODI, a municipal corporation

23 DATED: September 18, 2003

24 By: Susan J. Blackston
25 SUSAN BLACKSTON
26 City Clerk

27 1

28 **NOTICE OF ACTION ON APPLICATION
FOR LATE CLAIM RELIEF**

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DECLARATION OF SERVICE BY MAIL
(CCP 1013a, 2015.5)

I am a citizen of the United States, over the age of 18 years, and not a party to or interested in this action. I am an employee of the City of Lodi and my business address is 221 West Pine Street, Lodi, California 95241-1910. On this date, I served the following document:

NOTICE OF ACTION ON APPLICATION FOR LATE CLAIM RELIEF (GOVT CODE §911.4)

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail at Lodi, California, addressed as set forth below.

by personally delivering, or causing to be delivered a true copy thereof to the person and the address set forth below.

by causing a true copy thereof to be delivered to the party or parties at then address(es) listed below, by and/or through the services of:

- Federal Express
- Express Mail
- FAX (Followed by First Class Mail)

Gregory A. Silva, Esq.
Law Offices of Stonehouse and Silva
512 Westline Drive, Suite 300
Alameda, CA 94501

I declare under penalty of perjury that the foregoing is true and correct and this declaration was executed at Lodi, California on _____.

Peggy Nicolini

**NOTICE OF ACTION ON APPLICATION
FOR LATE CLAIM RELIEF**

F LODI

21 W. PINE ST.
OX 3006
INIA 95241-1910

- Restricted Delivery
- Registered Mail
- Signature Required
- Signature Restricted
- Insured Mail
- Registered Mail



DB Claims
8700 Grizzly Flat Road
Somerset, CA 95684
Attn: Jerry Mahaffey

N

RECEIVED

SEP 26 2003

City Clerk
City of Lodi

95241/1910



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Gregory A. Silva, Esq.
Law Offices of Stonehouse + Silva
512 Westline Drive, Suite 300
Alameda, CA 94501

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
Franklin

B. Received by (Printed Name) *Traci Kim*
 C. Date of Delivery

D. Is delivery address different from item 1? Yes
 if YES, enter delivery address below: No

3. Service Type *Return Receipt Requested*
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
 (Transfer from service label)

7003 1010 0000 1575 7852