

April 15, 2002

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Larry Coffman v. County of Los Angeles and Los Angeles
County Waterworks District No. 29**
Los Angeles Superior Court Case No. BC 246 067

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$1,300,000.00.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Department of Public Works - Waterworks District No. 29.

Enclosed is the settlement request and a summary of the facts of the case.

Also enclosed, for your information, is the Corrective Action Report submitted by the Department of Public Works - Waterworks District No. 29.

Return the executed, adopted copy to Frances Lunetta, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-1754.

Very truly yours,

Barbara N. Uyeda, Chairperson
Los Angeles County Claims Board

BNU/fsl

Enclosures

MEMORANDUM

April 8, 2002

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: WARREN R. WELLEN
Senior Deputy County Counsel
Public Works Division

RE: Larry Coffman v. County of Los Angeles and
Los Angeles County Waterworks District No. 29
Case No. BC 246067

DATE OF
INCIDENT: January 6, 2001

AUTHORITY
REQUESTED: \$1,300,000

COUNTY
DEPARTMENT: DEPARTMENT OF PUBLIC WORKS/WATERWORKS DIST. NO. 29

CLAIMS BOARD ACTION:

<input type="checkbox"/>	Approve	<input type="checkbox"/>	Disapprove	<input type="checkbox"/>	Recommend to Board of Supervisors for Approval
<hr/>					
BARBARA N. UYEDA			, Chief Administrative Office		

LLOYD W. PELLMAN, County Counsel

MARIA M. OMS, Auditor-Controller

on _____, 2002.

SUMMARY

This is a recommendation to settle for \$1,300,000 an inverse condemnation lawsuit for damage to real property. The lawsuit was filed by the owner of the property, Larry Coffman ("Coffman"), against the County of Los Angeles ("County"), and Los Angeles County Waterworks District No. 29 ("District") for inverse condemnation. Under the proposed settlement, the District will acquire ownership of Coffman's real property located in Malibu.

LEGAL PRINCIPLES

A public entity is liable in inverse condemnation when it substantially participates in the design, construction, or maintenance of a public work which, as designed and constructed, causes damage to private property.

SUMMARY OF FACTS

Coffman owns a single family residence in Malibu, California. The house sits at the top of a steep slope over looking Pacific Coast Highway and the ocean.

On January 6, 2001, a District water main broke at the top of a slope located on Coffman's property. It took District water workers approximately 6 hours to repair the broken main. The water escaping from the broken main washed out a significant portion of the slope on Coffman's property. As a result, portions of the foundation of Coffman's house were undermined and parts of the structure separated from the house.

Immediately following the incident, the City of Malibu ("City") declared the property unsafe for occupancy and issued a notice requiring Coffman to repair or demolish the property.

On March 7, 2002, Coffman filed a lawsuit in Los Angeles Superior Court against the County, District, and City for inverse condemnation.

DAMAGES

Coffman contends the value of the property before the incident was approximately \$1.5 million. Coffman asserts that the cost to repair the damage caused by the leak will approach or exceed the value of the property. Thus, at trial, Coffman will seek to be compensated for the full value of the property in exchange for title passing to the District and County.

Coffman also seeks compensation for consequential damages in the amount of \$7,000 per month for mortgage payments, property taxes and homeowners insurance premiums. Further, pursuant to statute, Coffman seeks pre-judgment interest as well as compensation for attorney's fees and expert witness fees.

At trial, we expect Coffman will seek the following:

Value of property	\$1,500,000 (title to pass to District and County)
Consequential damages	\$ 133,000
Attorneys and expert fees	\$ 700,000
Pre-judgment interest	<u>\$ 350,000</u>
 TOTAL	 \$2,683,000

The District and County contend the damage caused by the leak can be repaired for approximately \$200,000 to \$280,000. Thus, at trial, the District and County will argue that the cost to repair is the correct measure of compensation because it is substantially less than the value of the property.

At trial, if the Court determines that a "taking" occurred under the law of inverse condemnation, which we believe is likely, the District and County will contend that Coffman is entitled to the following damages:

Cost to Repair	\$ 280,000 (title remains with Coffman)
Consequential damages	\$ 133,000
Attorneys and expert fees	\$ 700,000
Pre-judgment interest	<u>\$ 111,300</u>
 TOTAL	 \$1,224,300

STATUS OF CASE

The parties voluntarily engaged in several mediation sessions. Initially, the parties exchanged settlement offers that did not include the District acquiring ownership in the property. The mediation resulted in the proposed settlement after Coffman agreed to transfer title to the property to the District.

A jury trial is set for July 8, 2002. To date, the County has incurred approximately \$42,000 in attorney's fees and \$64,000 in litigation costs.

EVALUATION

If this case proceeds to trial, Coffman will argue that the water main broke because it was old and needed to be replaced. Coffman will contend that the District never took any steps to determine the condition of the water main prior to the break. Coffman will contend that the District should have removed the water main from a steep slope prone to surficial creep.

Coffman will also assert that the District took too long to shut down the leak. Coffman will point out that the District took too long in part because certain valves malfunctioned and a key valve was inaccessible, having been paved over by the City.

The District and County will contend that slope movement caused the pipe to break and that Coffman is responsible for maintaining the slope. The District and County will assert that the City owns a public easement on the slope and therefore shares in responsibility for the slope movement. With respect to the length of time it took to shut down the leak, the District and County will argue that the significant damage took place within a short period of time after the leak commenced and therefore a quicker response would not have made a difference.

Notwithstanding the arguments available in defense of this lawsuit, we believe it is highly likely that the Court would find that a "taking" occurred under the law of inverse condemnation.

Given the considerable risks and costs associated with a jury trial, we recommend that this case be settled in the amount of \$1,300,000 with Coffman agreeing to transfer title in the property to the District. The Department of Public Works concurs with this recommendation. The amount of the settlement will be offset by any proceeds from the sale of the property by the District after it acquires ownership.

DEPARTMENT OF PUBLIC WORKS

CORRECTIVE ACTION PLAN

Facility: LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 29, MALIBU
RAMBLA VISTA WATER SYSTEM

Name: Coffman vs. County of Los Angeles
Case No.: BC 246067

RISK MANAGEMENT ISSUES

DATES	ISSUES
<input checked="" type="checkbox"/> Systems <input type="checkbox"/> Personnel	<p>This is an action for inverse condemnation. In 1971, the Los Angeles County Waterworks District No. 29, Malibu ("WWD") purchased the Malibu Water System in the Rambla Vista Area. This included the water main in Paseo Serra. On January 6, 2001, a break occurred in the WWD's 4-inch water main in the vicinity of the Coffman property. The District shut off the water flow after discovery and abandoned the water main.</p> <p>Coffman filed suit against the County and WWD in March 2001, claiming the flow from the break eroded the hillside next to the house causing structural damage to the house. The settlement is proposed for economic reasons.</p>

INVESTIGATIVE SUMMARY

DATE	INVESTIGATION
January 6, 2001	<p>The break at Paseo Serra was reported to the WWD at 1:30 p.m. WWD staff investigated and confirmed the break. WWD staff encountered difficulty locating the proper valves to shut off the water, due in part to the mudflow caused by the break. The water was shut off at 5:00 p.m. The water main was abandoned the next day.</p> <p>The water from the broken water main eroded the hillside next to the house causing the chimney to collapse and structural damage to the residence. The City of Malibu declared the property unsafe for occupancy.</p> <p>The District's metallurgy expert reviewed the broken pipe. He opined that, although the pipe was old, it was fit for use and most likely broke due to movement of the slope.</p>

CORRECTIVE ACTIONS (PERSONNEL)

Personnel involved	Status Time of Event	Current Status	Disciplinary Action Taken	Date Completed
			<p>No personnel action necessary. To facilitate future responses to similar incidents a review of WWD emergency response procedures was conducted and revisions made, based upon site problems encountered in this situation (see below).</p>	

CORRECTIVE ACTIONS (SYSTEMS)

System	Corrective Action	Date Completed
Rambla Vista Water System Relocate	To avoid the possibility of future land movement damaging the water main, WWD hired an emergency contractor to relocate the water main from the slope to Pacific Coast Highway.	Ongoing
	Emergency response procedures have been revised to require that a Senior Water Service Worker respond initially to emergency situations to coordinate operations and secure additional resources if needed. All WWD field staff employees have been issued a full set of copies of the District's distribution map sheets showing the location of the water mains, valves, and system facilities to assist them in shutting down the water system in the event of a water main break.	Ongoing

CHRONOLOGY OF EVENTS

DATES	EVENTS
1930's	Rambla Vista Water System facilities constructed.
January 6, 2001	Water leaking from the break in the water main eroded the hillside, causing structural damage to the residence.
March 2001	Lawsuit filed against the County and WWD by Coffman.
March 2001 to February 2002	Discovery, pleadings, and settlement negotiations between Coffman and WWD. Tentative settlement agreement reached.