



# STAFF REPORT

## CITY of YORBA LINDA

### ADMINISTRATION DEPARTMENT

**DATE:** DECEMBER 7, 2021

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** MARK A. PULONE, CITY MANAGER  
**PREPARED BY:** MARK K. AALDERS, ASSISTANT TO THE CITY MANAGER

**SUBJECT:** DENIAL OF CLAIMS FOR DAMAGES

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### **RECOMMENDATION**

It is recommended that the City Council of the City of Yorba Linda deny the claims for damages by Sharon Anderson, Maria Gingras, Claire Rafan Kwee and Elaine Reyes.

### **BACKGROUND**

Claims for damages filed against the City are reviewed and investigated by City staff and a third-party claims administrator with the George Hills Company. George Hills Company specializes in claims management and risk management services. These services are provided through the City's contract membership in the California Insurance Pool Authority. Staff makes recommendations to the Council for settlement or denial based on the investigatory findings. A claimant's failure to provide evidence of and/or supporting documents to substantiate the claim for damages will also result in a recommendation for denial of the claim.

### **DISCUSSION**

The following claims for damages have been recommended for denial based on the investigations by City staff and the third-party claims administrator. Further details for each claim are available upon request.

#### **Sharon Anderson**

The claimant was heading westbound on Yorba Linda Boulevard near Imperial Highway when their wheel and tire were damaged by a pipe laying in the roadway. Neither the claimant, nor staff could make a determination based on the evidence as to the pipe's origin. Therefore, City staff recommend denying the claim.

#### **Maria Gingras**

The claimant alleges that her block wall was cracked due to root intrusion from an adjacent

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City Aleppo tree. Staff trenched along the outer edge of the claimant's block wall and found no evidence of invasive roots. In addition, the claimant's wall footing directly behind the tree stump had a 20" root barrier strip which had effectively diverted any root intrusion. The crack in the block wall appears to be from settling and is consistent with natural aging of stucco block walls. Therefore, the third-party claims administrator and City staff recommend denying the claim.

### **Claire Rafan Kwee**

The claimant fell and was injured while walking on the Carbon Canyon Regional Park/Chino Hills State Park trail system. There is no evidence that the fall occurred on the City's trailhead to access the forementioned trail system and thereby the fall did not occur within the City's jurisdiction. Therefore, the third-party claims administrator and City staff recommend denying the claim.

### **Elaine Reyes**

The claimant alleges that a City or contractor's vehicle damaged their concrete block wall along a City easement access road behind their property. Staff performed a site check and the block wall's older appearance is consistent with natural aging (oxidation) and rust is evident on the rebar in the exposed portion of the wall possibly causing the concrete mortar and joints to fall apart. Staff and the contractor also dispute any damages to the concrete block wall from their own vehicle(s). In addition, the claimant's filing for damages is also "late and untimely" as the alleged incident may have occurred on September 19, 2020. The claimant has failed to provide any definitive evidence that the City and/or contractor caused the damage on said date or any past date. Therefore, the third-party claims administrator and City staff recommend denying the claim.

## **FISCAL IMPACT**

None

## **ALTERNATIVES**

As an alternative to staff's recommendations for the claims, the City Council has the following options:

1. Accept liability for the claims and pay the amount specified in the claim forms.
  2. Grant settlement authority up to a certain amount and direct the claims adjuster to enter into settlement negotiations with the claimants.
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