



CITY COUNCIL STAFF REPORT

MEETING DATE: March 27, 2023
ITEM TITLE: Deny Claim of Thelma Ruiz.

RECOMMENDATION:

Staff recommends that the City Council deny the claim of Thelma Ruiz as recommended by the Sedgwick representative.

FISCAL IMPLICATIONS:

None for this action.

BACKGROUND:

This item is coming before the Council to act on the claim submitted by Thelma Ruiz. Staff recommends that the City Council deny the claim based on Sedgwick's guidance.

The Tort Claims Act. California Government Code Sections 900, seq., mandates that all claims for money or damages against a public entity must be presented in writing to the public entity prior to filing suit. Generally, claims concerning personal injury, wrongful death, damage to personal property, or damage to crops must be presented to the public within six (6) months of the accrual of the claim. All other claims, principally claims on contracts and damage to real property, are subject to a one-year statute of limitations for presentation of the tort claim. Once a tort claim is received by the public entity, the entity has forty-five (45) days to act on the claim. A claim can be settled or rejected. If no action is taken within 45 days, the claim is deemed rejected by operation of law on the last day.

Claims Processing in San Carlos. When the City receives a claim, the claim is immediately forwarded to claims examiners at Sedgwick for investigation. After Sedgwick investigates the claim, Sedgwick provides a recommendation to the City on the handling of the claim.

About Sedgwick. Sedgwick is a leading global provider of technology-enabled risk, benefits and integrated business solutions. In July 2019, Sedgwick acquired York Risk Services Group ("York"). York was originally hired through the Pooled Liability Assurance Network Joint Powers Authority ("PLAN JPA"), and Sedgwick will continue claims administration services to provide claims administration services to the City. The City Council approved the City's participation in the PLAN JPA (previously known as the Association of Bay Area Government Pooled Liability Assurance Network or "ABAG PLAN") on November 27, 2017 and designated the Administrative Services Director and Senior Management Analyst as primary and alternate PLAN JPA Board members.

ANALYSIS:

Thelma Ruiz filed a claim against the City for a trip and fall incident. The claimant alleged that on July 1, 2022, she was walking from Burton Park towards her parked car and tripped over the walkway pavement that has a three to four inch deep indentation/crack. The claimant fell and allegedly sustained severe injury/laceration on her left eye and laceration/abrasion on both knees. The claimant is seeking compensation for pain and suffering, broken glasses, injury, vacation cancellation, etc.

According to the pictures of the loss location, the displacement appears to be an open and obvious condition. The claimant has a duty to exercise due care while walking. In addition, the City did not have other reported falls and/or complaints about the condition of the sidewalk. There is no actual and/or constructive notice of the alleged defect. Therefore, immunities apply as there was no known prior notice to the City of a "dangerous condition". For these reasons, Sedgwick recommends formal rejection of Thelma Ruiz' claim.

The Council's rejection of this claim does not prevent City staff nor the staff of Sedgwick from continuing to work with the claimant to resolve the dispute.

ALTERNATIVES:

The alternatives available to the City Council include:

1. Deny the claim of Thelma Ruiz; or
2. Do not deny claim of Thelma Ruiz; or
3. Provide staff with alternative direction.

Respectfully submitted by:

Rebecca Mendenhall, Administrative Services Director

Approved for submission by:



Jeff Maltbie, City Manager

ATTACHMENT(S):

1. Ruiz Claim