



SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
STAFF REPORT

Item No.
9

Meeting Date: **FEBRUARY 14, 2013**

Subject:

Authorize the Approval of the Application for Leave to Present a Late Claim of Karen Babeshoff

Recommendation:

Adopt Resolution No. 2013-0013, authorizing the approval of the "Application for Leave to Present a Late Claim" of Karen Babeshoff.

Background/Justification:

On November 6, 2012, Karen Babeshoff ("Babeshoff") filed a claim with the Authority alleging that on May 4, 2012, she sustained injuries to her toe as a result of falling in Terminal Two at San Diego International Airport. Babeshoff claimed damages in the amount of \$9,111.45 to cover the cost of medical treatment and orthopedic devices. Babeshoff's claim was returned without action on November 26, 2012, because it was not presented within the time limit required by California Government Code Section 911.2, which is not later than six months after the accrual of the cause of action.

California Government Code Section 911.4 allows a person who failed to file a timely claim to present an application for leave to present that claim. The application must be presented within a reasonable time not to exceed one year after the accrual of the cause of action and must contain the reason for delay.

On January 3, 2013, Babeshoff submitted evidence in the form of postal receipts and email exchanges with the U.S. Postal Service indicating that she purchased overnight delivery service on November 1, 2012 when submitting her claim (Attachment A). Though the cause of the delay in delivery is unknown, it appears that she reasonably relied on her postal carrier's ability to deliver the claim on or before November 4, 2012.

For the reasons set forth above, the Office of General Counsel recommends the Approval of the Application for Leave to Present a Late Claim of Karen Babeshoff.

Fiscal Impact:

Not applicable.

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Authority Strategies:

This item supports one or more of the Authority Strategies, as follows:

- Community Strategy Customer Strategy Employee Strategy Financial Strategy Operations Strategy

Environmental Review:

- A. California Environmental Quality Act: This Board action is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act (CEQA), as amended. 14 Cal. Code Regs. §15378. The Board action is not a "project" subject to CEQA. Cal. Pub. Res. Code §21065.
- B. California Coastal Act: This Board action is not a "development" as defined by the California Coastal Act. Cal. Pub. Res. Code §30106.

Equal Opportunity Program:

Not applicable.

Prepared by:

SUZIE JOHNSON
PARALEGAL

ATTN: 3rd Floor

Amy S Gonzalez

Or

Suzie Johnson

San Diego County Regional Airport Authority
3225 N. Harbor Dr.
San Diego, CA 92101

Re: **Doc # CL-181**

Greetings,

Please find enclosed documented evidence from the United States Postal Service that the packet with my claim was lost by USPS. **E107 0188 798U S.**

History

11-01-12

Claim was mailed from Sonoma CA on Nov 1st overnight express (24.95\$) to assure its receipt at your office on 11-02-12. I had a tracking number and was to receive 'proof of delivery' as well as be able to track the steps it took to arrive at your office.

The mail packet went missing and was not delivered overnight.

As far as USPS service records they never did find any data or records to track since arrival in Oakland CA on Nov2nd! (1 hrs drive from Sonoma, CA).

Feeling/intuition indicated that something was 'wrong' when USPS stated they could not find the package.

I placed a call and spoke with Suzie Johnson who confirmed it did arrive but not on Nov 2nd as USPS claimed it would. Who knows what happened from the time I mailed it – they do not have complete records.

Thank you for your efforts to correct this situation. I value your work.

Regards,



Karen Babeshoff
707 888 2835
153 Theodor Lane
Sonoma CA 95476

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RESOLUTION NO. 2013-0013

A RESOLUTION OF THE BOARD OF THE
SAN DIEGO COUNTY REGIONAL AIRPORT
AUTHORITY AUTHORIZING THE APPROVAL OF
THE APPLICATION FOR LEAVE TO PRESENT A
LATE CLAIM OF KAREN BABESHOFF

WHEREAS, on November 6, 2012, Karen Babeshoff filed a Claim with the San Diego County Regional Airport Authority for injuries she sustained as the result of a fall in Terminal Two at San Diego International Airport on May 4, 2012; and

WHEREAS, California Government Code Section 911.2 requires claims filed with government entities to be presented not later than six months of the date of occurrence; and

WHEREAS, on November 26, 2012, the San Diego County Regional Airport Authority sent a NOTICE OF LATE CLAIM to Karen Babeshoff; and

WHEREAS, on January 3, 2013, Karen Babeshoff filed an Application for Leave to Present a Late Claim with the San Diego County Regional Airport Authority; and

WHEREAS, under Government Code Section 915.2, a claim is deemed presented and received on the date it is deposited in the mail; and

WHEREAS, Babeshoff presented evidence indicating that she deposited her claim in the mail on November 1, 2012; and

WHEREAS, at its regular meeting on February 14, 2013, the Board considered the Application for Leave to Present a Late Claim by Karen Babeshoff and found that the application should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby authorizes the approval of the Application for Leave to Present a Late Claim of Karen Babeshoff.

BE IT FURTHER RESOLVED that this Board DETERMINES this action is not a "project" as defined by the California Environmental Quality Act (CEQA), Cal. Pub. Res. Code §21065; nor is it a "development" as defined by the California Coastal Act, Cal. Pub. Res. Code §30106.

PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a special meeting this 14th day of February, 2013, by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

TONY R. RUSSELL
DIRECTOR, CORPORATE SERVICES/
AUTHORITY CLERK

APPROVED AS TO FORM:

BRETON K. LOBNER
GENERAL COUNSEL