



SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
STAFF REPORT

Item No.
5

Meeting Date: **MAY 2, 2013**

Subject:

Authorize the Rejection of the Claim Of Randy Ricks And Audrey Ricks

Recommendation:

Adopt Resolution No. 2013-0040, authorizing the Rejection of the Claim of Randy Ricks and Audrey Ricks.

Background/Justification:

On March 18, 2013, Randy Ricks and Audrey Ricks ("The Rickses") filed a claim (Attachment A) with the Authority alleging that at some period within the last six to nine months they noticed rotting and decaying windows in their home which had undergone sound attenuation work as part of the Quieter Home Program ("QHP") of the San Diego County Regional Airport Authority. The Rickses claim damages for replacement and repair of windows and framing in an amount exceeding \$25,000.00.

The Rickses allege in their claim that the window frames of their home have been damaged by the improper and defective installation of windows by the QHP. The claim further alleges that the majority of windows were defective and the lack of flashing installation caused damage to the frame of the home. According to the claim, all will need replacement.

The Rickses' claim should be denied. An investigation into the incident revealed the home underwent window replacement and other treatment as part of the QHP in 2002 with the work being completed more than ten years ago. The Rickses did not own the home at the time the work was done and were not a party to the QHP Participation Agreement. The Rickses subsequently bought the home 'as is' in 2005. As a courtesy to the Rickses, an inspection of the home and its windows was conducted by the QHP Construction Manager and another construction professional. It revealed the rotting was present in only 2 of the 26 windows installed. Those two windows face the south, are exposed to direct sunlight and the damage appears to be due to general disrepair and lack of maintenance. The inspection further revealed the presence of termite activity and termite damage as well as pet damage. The trim, which had the most extensive damage, was not a part of the QHP scope of work and was not part of the renovations performed under the Participation Agreement.

000034

Fiscal Impact:

Not applicable.

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. CEQA: This Board action, as an administrative 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. This Board action is not a "project" subject to CEQA. Cal. Pub. Res. Code §21065.
- B. California Coastal Act Review: 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



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March 14, 2013

VIA US MAIL AND CERTIFIED MAIL

San Diego County Regional Airport Authority
 P.O. Box 82776
 San Diego, California 92138-2776

RECEIVED
 MAR 14 2013
 General Counsel

Re: **Amended Claim Against San Diego County Regional Airport Authority
 California Government Code Section 910 et seq.
 Property: 3017 Goldsmith Street, San Diego, California 92106**

Dear Sir/Madam:

This law firm represents Richard Ricks and Audrey Ricks, owners of the single-family residence located at 3017 Goldsmith Street, San Diego, California 92106 (the "Residence"). Please consider this a formal claim by our clients pursuant to Government Code § 910 et seq.

Randy Ricks and Audrey Ricks reside at 3017 Goldsmith Street, San Diego, California 92106.

The following facts give rise to our clients' claim:

As part of its Quieter Home Program (the "Program"), the San Diego County Regional Airport Authority ("Airport Authority") contracted with a third party, believed to be Jim Webber & Associates ("Contractor") to remove and replace all of the windows in the Residence. In doing so the Contractor did not properly install the new windows (omitting, for example, the required flashing) and installed new windows that were defective, with the result that the majority of the windows have prematurely rotted, decayed and allowed water to enter and damage the framing of the Residence. It is anticipated that the majority of the new windows will need to be removed, framing members will need to be repaired or replaced, and new flashing and windows will need to be installed.

Claimants are unaware of the date or dates on which the Airport Authority's contractor removed and replaced the windows in the Residence. Claimants became aware of the improper installation of the windows and the resulting damage to the windows, framing and other portions of the Residence, within six (6) to nine (9) months preceding the date of this letter.

The names of the Airport Authority's employees and contracted representatives believed to have knowledge of the facts and events giving rising to this claim include Jim Webber & Associates, and those Airport Authority employees assigned to administer the Program in the neighborhood where our clients reside.

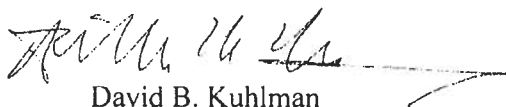
San Diego County Regional Airport Authority
March 14, 2013
Page 2

Based on the amount of the claim, not including interest, jurisdiction will lie with the Superior Court as an unlimited civil action.

Our clients desire notices concerning this claim to be sent to David B. Kuhlman at the law firm of Procopio, Cory, Hargreaves & Savitch LLP, 525 B Street, Suite 2200, San Diego, California 92101. Pursuant to the applicable provisions of the California Government Code, you are requested to address and settle this claim at the earliest possible date.

Finally, in order to mitigate their damages and prevent further damage to the Residence, our clients intend to have the defective windows removed and replaced within the next thirty (30) days. Should the Airport Authority desire to inspect the defective windows and defective installation before this occurs, it should promptly contact the undersigned to make arrangements for that inspection.

Very truly yours,

A handwritten signature in black ink, appearing to read "David B. Kuhlman", with a horizontal line extending to the right from the end of the signature.

David B. Kuhlman

DBK/cmg

RESOLUTION NO. 2013-0040

A RESOLUTION OF THE BOARD OF THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY, AUTHORIZING THE REJECTION OF THE CLAIM OF RANDY RICKS AND AUDREY RICKS.

WHEREAS, on March 18, 2013, Randy Ricks and Audrey Ricks filed a claim with the San Diego County Regional Airport Authority for damages they allege were the result of the Quieter Home Program sound attenuation work on their home; and

WHEREAS, at its regular meeting on May 2, 2013, the Board considered the claim filed by Randy Ricks and Audrey Ricks, the report submitted to the Board, and found that the claim should be rejected.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby authorizes the rejection of the claim of Randy Ricks and Audrey Ricks.

BE IT FURTHER RESOLVED by the Board that it finds that this Board action is not a "project" as defined by the California Environmental Quality Act ("CEQA") (California Public Resources Code §21065); and is not a "development" as defined by the California Coastal Act (California Public Resources Code §30106).

PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a regular meeting this 2nd day of May, 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

000038