



MEMORANDUM

TO: HONORABLE MAYOR & CITY COUNCIL MEMBERS
FROM: GARY GYVES, SENIOR ADMINISTRATIVE ANALYST 
DATE: NOVEMBER 17, 2009
SUBJECT: CLAIM AGAINST THE CITY BY PHIL FRIEDL
REVIEWED: CAROLYN LEHR, CITY MANAGER 

RECOMMENDATION

Reject the claim and direct staff to notify the claimant.

BACKGROUND

The claimant allegedly struck a separation in the roadway asphalt while riding his bicycle and was ejected from his bicycle sustaining injuries. The alleged incident occurred on Palos Verdes Drive South near Sea Cove Drive on May 30, 2009 and the claim was filed on September 11, 2009.

The City's Claims Administrator, Carl Warren and Company, has reviewed the claim and advised the City to reject the claim.

Attachment:
1) Claim

RECEIVED
CITY OF RANCHO PALOS VERDES

SEP 11 2009

MICHAEL R. RHAMES & ASSOCIATES, PC CITY CLERK'S OFFICE
ATTORNEYS AT LAW

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RPV09-08

Of Counsel:
Hugh J. Grant, Esq.
William M. Holbrook, Esq.
David E. Bower, Esq.

September 3, 2009

CLAIM AGAINST GOVERNMENTAL ENTITY
PER GOVERNMENT CODE §905, ET SEQ.

**TO: THE CITY OF RANCHO PALOS VERDES, COUNTY OF LOS ANGELES,
STATE OF CALIFORNIA and all of their subdivisions and departments,
Respondents herein.**

**RE: PERSONAL INJURY CLAIM OF PHIL FRIEDL,
CLAIMANT HEREIN.**

Date of Loss: MAY 30, 2009

To All Respondents:

Please be advised that this lawfirm has been retained by PHIL FRIEDL for the purpose of representing said Claimants with regard to personal injuries which each sustained on or about MAY 30, 2009, as a result of a bicycle accident, incident or occurrence in which PHIL FRIEDL was involved on that date, suffering bodily injuries and other damages. The following information is submitted in compliance with Governmental Code §905, et seq.:

CLAIMANT(s) PHIL FRIEDL does hereby make the following claim against THE CITY OF RANCHO PALOS VERDES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, and all of their subdivisions and departments, pursuant to Government Code Section 905, et seq. Claimant PHIL FRIEDL does hereby supply the following information pursuant to code:

1. **NAME AND ADDRESS OF CLAIMANTS:**

PHIL FRIEDL.

2. **ADDRESS TO WHICH NOTICES ARE TO BE SENT:**

MICHAEL R. RHAMES & ASSOCIATES, PC
600 Corporate Pointe, Suite 1170
Culver City, California 90230
Attention: Michael R. Rhames, Esq.
(310) 216-2500 Fax: (310) 216-7308

3. **DATE, PLACE AND CIRCUMSTANCES OF OCCURRENCE:**

Date, Time and Place:

On May 30, 2009, in and on the roadway surface on Palos Verdes Drive South, at or near Sea Cove Drive Road, in the City of Rancho Palos Verdes.

Circumstances:

At said time, date and location Claimant PHIL FRIEDL was riding his bicycle on Palos Verdes Drive South. Said roadway had undergone construction a substantial period of time prior to the incident/occurrence stated herein which involved a "saw cut" in the roadway surface that was then negligently "patched" with asphalt or similar material, and thereafter the area of the incident in question was negligently monitored, inspected, repaired and/or modified, thereby creating a dangerous condition of which there was no warning.

As a result of the negligent, careless and reckless construction, maintenance and inspection of the construction site in question, the "patch" to the "saw cut" was left, or became, depressed below the roadway surface, and was allowed to separate from the edges of the "saw cut" creating "gaps" between the edge of the "saw cut" and the "patch material, thereby creating a dangerous condition. As a direct result of the negligence and carelessness of Respondents, the wheel of Claimant PHIL FRIEDL's bicycle became lodged in a "gap" as described herein, thereby suddenly and forcefully stopping the forward motion of Claimant's bicycle, throwing Claimant off the bicycle at a high rate of speed, causing his body to crash onto the roadway surface causing serious and permanent injuries.

At and before the time, and at the location, of the incident in question, as alleged herein, THE CITY OF RANCHO PALOS VERDES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, and all of their subdivisions and departments, were governmental agencies charged with the duty and responsibility of designing, constructing, building, maintaining, repairing,

inspecting, supervising and operating the public roadways at and along Palos Verdes Drive South at and near the location of the incident as described herein including, specifically, the roadway where the incident in question occurred. Said governmental agencies knew that the roadway where the incident occurred was used extensively by bicyclists and that many bicycle riders, including Claimant PHIL FRIEDL, would come into contact with the dangerous condition at the location of the negligently patched "saw cut" where the incident in question occurred.

Said governmental agencies did negligently and carelessly design, build, operate, maintain, repair, supervise and inspect said location where PHIL FRIEDL was injured such that said location was caused to be unsafe and dangerous which was the legal and direct cause of PHIL FRIEDL's injuries and damages.

Said governmental agencies are liable to PHIL FRIEDL for the following reasons, among others:

- a) Failure to design, construct, build, supervise, inspect, repair and maintain said roadway in a manner that would allow the safe use of the roadway by bicyclists, or which otherwise would provide means by which bicyclists, including PHIL FRIEDL, could safely travel upon said roadway;
- b) Failure to monitor, inspect and repair the condition of said "saw cut" so as to allow for, and/or compensate, and/or repair the subject "saw cut" and "patch" to avoid subsidence and displacement of the type and extent as alleged herein and thereby allow bicyclists, including PHIL FRIEDL, to travel safely on said roadway;
- c) Failure to provide appropriate warnings at and near the "saw cut" on the roadway where the incident occurred so as to warn bicyclists, including PHIL FRIEDL, of the hazardous conditions caused by the degraded "saw cut" fill material used in the "patch", thereby preventing pedestrians, including PHIL FRIEDL, from traveling safely on the roadway on bicycles.

4. PUBLIC EMPLOYEES OR OTHERS CAUSING THE INJURY:

Unknown employees of THE CITY OF RANCHO PALOS VERDES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, and all of their subdivisions and departments, whose duty it was to design, construct, build and maintain, and to provide adequate warning of, the roadway in question in order to enable the safe use of the roadway by bicyclists using said roadway at the location described herein. It is also claimed that the negligence of other persons and entities may be involved in causing Claimants' injuries and damages whose identities are not now known.

5. **AMOUNT CLAIMED:**

The exact amount claimed is unknown at this time as Claimant is still receiving medical treatment and is continuing to suffer loss of earnings, but said amount is expected to exceed \$750,000. The amount claimed is of a sufficient amount to place this claim within the jurisdiction of the Superior Court of the State of California.

Please process this claim in the normal fashion and advise the undersigned immediately of your response to this claim. If any further information is required please feel free to contact me. Thank you for your cooperation in this matter.

Very truly yours,
MICHAEL R. RHAMES & ASSOCIATES, PC


Michael R. Rhames, Esq.