

# REPORT

To the Honorable Mayor and City Council  
From the City Manager

April 13, 2009

## SUBJECT

Claim from Attorney Scott A. Brown on Behalf of Adriana Priolo

## RECOMMENDATION

Staff recommends rejection of subject claim.

## BACKGROUND

This claim is being brought to the Council because if this claim results in a monetary settlement, the settlement could exceed \$15,000. According to resolution no. 14595, if an amount to be paid for a general liability claim exceeds \$15,000, any denial, allowance, allowance in part, settlement, or compromise must be approved by Council.

On February 18, 2009 the Ms. Priolo, an employee or owner of Arrivederci & Bella, filed a claim against the City of Redwood City and the Port of Redwood City alleging severe long term water damage and fungal contamination at the premises. The claimant is asserting damages in excess of \$25,000. The Port is the owner of the land where Arrivederci & Bella is located. The building is leased to a third party, The Fivey Company, who is responsible for maintenance and repairs. The claim was presented before the Port Commission at the March 18, 2009 Board meeting and a rejection was approved.

It has been recommended by the City's claims adjustor, George Hills Company, and the City Attorney that this claim be denied.

## ALTERNATIVES

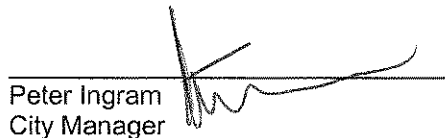
If this claim is not rejected, the statute of limitations for the claimant to file a court action on the claim is extended from six months to two years, thereby placing the City in a more fiscally vulnerable position in defending this matter.

## FISCAL IMPACT

The rejection of this claim has no direct fiscal impact. However, should the claimant elect to affect litigation to this incident, we have no basis with which to estimate the legal expenses or a settlement, should such estimates ultimately be required.



Brian Ponty  
Director of Finance



Peter Ingram  
City Manager

## ATTACHMENTS

1. Port of Redwood City Notice of Rejection of Claim – March 18, 2009

## RELATED DOCUMENTS IN CITY CLERK'S OFFICE

None

**PORT OF REDWOOD CITY**  
San Francisco Bay

675 Seaport Boulevard  
Redwood City, California 94063-5568  
650 306 4150 FAX 650 369 7636  
E-mail: portofrc@redwoodcityport.com

March 18, 2009

Scott A. Brown  
Attorney at Law  
2200 Powell St., Suite 745  
Emeryville, CA 94608

Claim No. 2009-01

**COPY**

## NOTICE OF REJECTION OF CLAIM

Dear Mr. Brown:

Notice is hereby given that the claim which you presented on behalf of Adriana Priolo to the City of Redwood City on February 18, 2009 was forwarded to the Port of Redwood City, received on February 26, 2009, and was rejected in its entirety on March 18, 2009.

### WARNING

Subject to certain exceptions, you have six (6) months from the date this notice of rejection or partial rejection was personally delivered or deposited in the mail to file a court action on this claim. (See Government Code Section 945.6.)

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

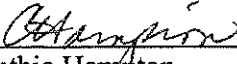
This Notice of Rejection of Claim applies only to claims under state law and shall not extend any time limits as may be imposed upon the claimant(s) for pursuit of the claimant(s) right under federal laws, statutes, or other sources of rights of recovery in favor of claimant(s).

Please also be advised that pursuant to Sections 128.5 et seq. and 1038 of the California Code of Civil Procedure, the Port of Redwood City will seek to recover all costs of defense in the event a legal action is filed on the matter and it is determined that the action was not filed in good faith and with reasonable cause, or as otherwise determined to justify the imposition of attorney's fees and costs of suit pursuant to such sections, as well as any other sections or laws enuring to the benefit of the Port of Redwood City, its officers, officials, employees, agents, or representatives.

### PROOF OF SERVICE

On March 18, 2009, I served the within NOTICE OF REJECTION OF CLAIM on the claimant by placing a true copy thereof enclosed in a sealed envelope in the outgoing mail addressed as requested by the claimant. The envelope was mailed via First Class mail, postage prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Redwood City, California, on March 18, 2009.

  
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Cynthia Hampton  
Director of Finance & Administration

Port Commissioners  
Larry R. Aikins  
Richard S. Claire  
Richard "Dick" Dodge  
Ralph A. Garcia, Jr.  
Lorianna Kastrop