

Housing Authority of the



City of Riverbank

Burney Villa Homes ▪ Henrietta J. Rossi Apts. ▪ Fred W. Scheala Apts

DATE: February 26, 2018

TO: Board of Commissioners

FROM: Barbara Kauss, Executive Director

SUBJECT: Adoption of Regulations for the Presentation of Claims
Against the Housing Authority of the City of Riverbank

RECOMMENDATION:

The Housing Authority of the City of Riverbank is a California public entity. As such, all claims for damages against the Authority are governed by the California Tort Claims Act, (Government Code Section 900 et seq).

The Act requires that a party with a cause of action for money or damages against the Authority must first present a written claim with the Authority, which must then be denied or rejected before the claimant may file a lawsuit.

Government Code §905, specifically exempts the following claims from this administrative claims filing requirement:

1. Claims under Revenue and Taxation Code;
2. Claims related to mechanics, laborers, or materialman liens;
3. Claims by public employees for fees, salaries, wages, mileage, or other expenses and allowances;
4. Claims which are otherwise subject to the exclusive jurisdiction of the California worker's compensation system;
5. Claims under the Welfare and Institutions Code relating to public assistance programs, and claims for goods, services, provisions or other assistance rendered for or on behalf of any recipient of any form of public assistance;
6. Claims for money or benefits under any public retirement or pension system;
7. Claims for principal or interest upon any bonds, notes, warrants, or other evidence of debt;
8. Claims that relate to a special assessment constituting a specific lien against the property assessed and that are payable from the proceeds of the assessment;
9. Claims made by the Sate or State department or agency or by another local public entity;

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10. Claims arising under any provision of the Unemployment Insurance Code including but not limited to claims for money or benefits, or for refunds or credits of employer or worker contributions, penalties or interest, or for refunds to workers of deductions from wages in excess of the amount prescribed;
11. Claims for recovery of penalties or forfeitures made pursuant to the California Public Works law;
12. Claims governed by the California Pedestrian Mall Law (related to City or County establishment of Pedestrian Malls);
13. Claims for damages arising from childhood sexual abuse;
14. Claims against a levying officer for failure to deliver post judgment levies; and,
15. Claims made under the Education Code related to student fees.

Government Code §935, however, authorizes the Authority to establish its own policies and procedures for the presentation of those claims which are excepted by Government Code §905 thereby subjecting those claims to the general administrative claims filing requirement of the Tort Claims Act

The proposed policy implements the provisions of Government Code §935 and requires that that all claims for money or damages against the Housing Authority of the City of Riverbank be filed with the Authority and acted upon as a prerequisite to filing suit against the Authority.

The proposed policy also delegates authority to the Authority's Executive Director to approve, allow, deny, compromise or settle claims below a specified monetary amount pursuant to applicable statutory law.

The proposed policy and procedures has been reviewed and approved by General Counsel.

ATTACHMENTS

Proposed Policy and Procedure Establishing Regulations for the Presentation of Claims Against the Housing Authority of the City of Riverbank



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PROPOSED POLICY AND PROCEDURE ESTABLISHING REGULATIONS FOR THE PRESENTATION OF CLAIMS AGAINST THE HOUSING AUTHORITY OF THE CITY OF RIVERBANK

SECTION 1: POLICY

1.1 This policy and procedure is established as a prerequisite to bringing of any lawsuit, legal action, arbitration or any other proceeding against the Housing Authority of the City of Riverbank (“the Authority”) that is based on any claim for money or damages that is otherwise exempt from the claims presentation requirements under the Government Claims Act. This policy and procedure also delegates authority to Authority’s Executive Director, or designee to approve, allow, deny, compromise or settle certain Government Claims as set forth herein.

SECTION 2: DEFINITIONS

2.1 Government Claims Act: The Government Claims Act codified in California Government Code Section 810 through 960.8. The Government Claims Act sets forth administrative claim requirements that need to be satisfied before commencing most actions seeking money or damages against a public agency, like the Authority, or a public employee acting within the course and scope of his/her employment. The Government Claims Act further sets forth the requirements that need to be included in the administrative claim as well as the timing periods for filing and responding to such claims. The Government Claims Act expressly authorizes public agencies like the Authority, to establish its own claims presentation procedure to include certain types of claims for money or damages that would otherwise be exempt from the requirements of the Government Claims Act. Additionally, the Government Claims Act expressly permits a public agency to delegate authority to approve, allow, deny, compromise or settle certain Government Claims.

2.2 Government Claim: An administrative claim that is subject to the Government Claims Act and/or this policy and procedure.

SECTION 3: PROCEDURES:

3.1 Notwithstanding the exemptions set forth in Section 905 of the Government Claims Act, all claims against the Authority for money or damages, which are not otherwise governed by any other applicable statute or regulation, shall be presented and acted upon within the time limitations and in the manner prescribed by Chapter 2, commencing with Section 910 of Part 3 (Claims Against Public Entities of Division 3.6 of Title 1 of the Government Claims Act), or as these provisions may be amended from time to time.

3.2 In accordance with Government Code Section 935(b) and 945.4, before commencing, filing, or initiating any lawsuit, legal action, arbitration or any other legal proceeding against the Authority based on a claim for money or damages exempt under Section 905 of the Government Claims Act, a Government Claim must be presented and acted upon as provided in Section 3.1, above.

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3.3 Delegation to the Executive Director or his/her designee:

3.3.1 Pursuant to the authority under Government Code Section 935.4, the Executive Director, in consultation with General Counsel, is hereby authorized to allow, reject, compromise, negotiate, or settle any Government Claim for money or damages the value of which does not exceed \$50,000.00. Upon written order or authorization of the Executive Director or his/her designee, the Director of Finance or his/her designee shall cause payment to be issued in the amount for which a Government Claim has been allowed, negotiated, compromised, or settled under this Section.

3.3.2 The Executive Director or his /her designee shall promptly report to the Authority's Board of Commissioners any action taken pursuant to Section 3.3.1, above.

3.3.3 The Executive Director or his/her designee at his/her own discretion may refer the consideration of a Government Claim under this Section 3.3 to the Authority's Board of Commissioners as he/she deems appropriate.

3.3.4 Any Government Claim the value of which exceeds \$50,000.00 shall be considered and acted upon by the Authority's Board of Commissioners

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RESOLUTION NO. 721

RESOLUTION ESTABLISHING REGULATIONS FOR THE PRESENTATION OF CLAIMS AGAINST THE HOUSING AUTHORITY OF THE CITY OF RIVERBANK

WHEREAS, the Housing Authority of the City of Riverbank (“the Authority”) is a California public body corporate and politic organized and operating pursuant to the Housing Authorities Law, California Health and Safety Code Section 34200 et seq.,

WHEREAS, pursuant to Health and Safety Code §34380, all claims for money or damages against the Authority are governed by the California Tort Claims Act, Government Code §900 et seq. (“the Act”).

WHEREAS, Government Code §905 lists fifteen categories of claims that are exempt from the general requirement under the Act that a party with a cause of action for money or damages against the Authority must first present a written claim directly with the Authority, which must then be denied or rejected before the claimant may file a lawsuit;

WHEREAS, Government Code §935, empowers the Authority to establish its own policies and procedures for the presentation of those claims which are excepted by Government Code §905;

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Housing Authority of the City of Riverbank, pursuant to the provisions of Government Code §935, that the following procedures be adopted as the policy of the Authority with respect to claims excepted by Government Code §905:

SECTION 1: POLICY

1.1 This policy and procedure is established as a prerequisite to bringing of any lawsuit, legal action, arbitration or any other proceeding against the Authority that is based on any claim for money or damages that is otherwise exempt from the claims presentation requirements under the Government Claims Act. This policy and procedure also delegates authority to Authority’s Executive Director, or designee to approve, allow, deny, compromise or settle certain Government Claims as set forth herein.

SECTION 2: DEFINITIONS

2.1 Government Claims Act: The Government Claims Act codified in California Government Code Section 810 through 960.8. The Government Claims Act sets forth administrative claim requirements that need to be satisfied before commencing most actions seeking money or damages against a public agency, like the Authority, or a public employee acting within the course and scope of his/her employment. The Government Claims Act further sets forth the requirements that need to be included in the administrative claim as well as the timing periods for filing and responding to such claims. The Government Claims Act expressly

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authorizes public agencies like the Authority, to establish its own claims presentation procedure to include certain types of claims for money or damages that would otherwise be exempt from the requirements of the Government Claims Act. Additionally, the Government Claims Act expressly permits a public agency to delegate authority to approve, allow, deny, compromise or settle certain Government Claims.

2.2 Government Claim: An administrative claim that is subject to the Government Claims Act and/or this policy and procedure.

SECTION 3: PROCEDURES:

3.1 Notwithstanding the exemptions set forth in Section 905 of the Government Claims Act, all claims against the Authority for money or damages, which are not otherwise governed by any other applicable statute or regulation, shall be presented and acted upon within the time limitations and in the manner prescribed by Chapter 2, commencing with Section 910 of Part 3 (Claims Against Public Entities of Division 3.6 of Title 1 of the Government Claims Act), or as these provisions may be amended from time to time.

3.2 In accordance with Government Code Section 935(b) and 945.4, before commencing, filing, or initiating any lawsuit, legal action, arbitration or any other legal proceeding against the Authority based on a claim for money or damages exempt under Section 905 of the Government Claims Act, a Government Claim must be presented and acted upon as provided in Section 3.1, above.

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BE IT FURTHER RESOLVED by the Board of Commissioners of the Housing Authority of the City of Riverbank that this regulation shall take effect immediately

DULY AND REGULARLY ADOPTED by the Board of Commissioners of the Housing Authority of the City of Riverbank this 26th day of February 2018.

On Motion of Commissioner _____, seconded by Commissioner _____
and on the roll call vote

AYES

NAYS

ABSTAIN

ABSENT

Approved: _____
Chairman

Attest: _____
Secretary