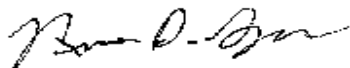


City of Calistoga

Staff Report

TO: Honorable Mayor and City Council Members
FROM: Richard Spitler, City Manager
DATE: August 5, 2014
SUBJECT: Consideration of a Resolution rejecting the Claims of Nora Khishba, Manana Sutidze and David Sutidze

APPROVAL FOR FORWARDING:



Richard D. Spitler, City Manager

ISSUE:

Consideration of a Resolution rejecting the Claims of Nora Khishba, Manana Sutidze and David Sutidze for an undetermined amount.

RECOMMENDATION:

Reject damages claim and forward to the City's liability insurance carrier.

BACKGROUND / DISCUSSION:

On June 13, 2014 the following claimants filed claims against the City of Calistoga related to alleged damage to the mobile home located at 11 Camellia Drive, Calistoga from construction activities associated with the Indian Springs resort expansion (see Attachment 2).

Nora Khishba

Manana Sutidze

David Sutidze

They are represented by attorney Victor Peter Obninsky. They each claim damages in excess of \$10,000. The claims state that the City of Calistoga has

22 responsibility because the damage is a public nuisance and the City issued a use
23 permit to allow the construction.

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26 As stated in the claims the alleged damage to the mobile home occurred as a
27 result of the Indian Spring resort expansion. Whenever the City staff received a
28 complaint about this development project, the manager of the project was
29 contacted to address the situation. The alleged damage was not caused by the
30 City as we have no participation in the actual construction of the project. This is a
31 matter between two private parties and not the City. Further, the City has no
32 knowledge of the status of the subject mobile home either before or during
33 construction so we do not know if damages actually occurred. The inside of
34 mobile homes are regulated and inspected by HCD and not the city of Calistoga.
35 We do not have the expertise or authority to assess this mobile home. In addition
36 the development agreement with the owners of Indian Springs Resort provides
37 that the resort owners have assumed all risks of claims arising out of the
38 agreement and is required to indemnify, protect, defend and hold harmless the
39 City in the above-referenced action.

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41 On July 18, 2014 the City was served with a lawsuit from these same individuals
42 in Superior Court regarding the same issue related to a public nuisance assertion
43 and seeking damages in excess of \$40,000. This matter has been referred to the
44 City Attorney and our insurance provider.

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47 **ATTACHMENTS:**

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49

1. Resolution

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2. Claim for Damages: Nora Khishba, Manana Sutidze, David Sutidze

