

First Supplement to Memorandum 83-25

Subject: Study G-100 - Late Claim Against Public Entity

Attached is a letter containing a suggestion for the form of notice to be given when a claim is returned because it was not presented within the time allowed by law. In response to this letter, the staff suggests the following notice be substituted in place of the notice set out in subdivision (a) of proposed Section 911.3 attached to Memorandum 83-25.

"The claim you presented to the (insert title of board or officer) on (indicate date) is being returned herewith because it was not presented within 100 days after the event or occurrence as required by law. See Government Code Sections 901 and 911.2. Because the claim was not presented within the time allowed by law, no action was taken on the claim.

Your only recourse at this time is to apply without delay to (name of public entity) for leave to present a late claim. See Government Code Sections 911.4 to 912.2 and 946.6. Under some circumstances, leave to present a late claim will be granted. See Government Code Section 911.6.

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."

Respectfully submitted,

John H. DeMouilly
Executive Secretary



California Cities
Work Together

League of California Cities

Sacramento, CA 95814
March 2, 1983

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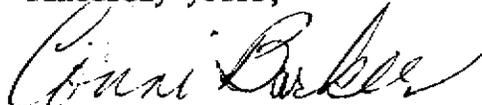
John DeMouilly
Executive Secretary
4000 Middlefield Road, Suite D2
Palo Alto, CA 94306

Dear John,

I am enclosing with this letter a copy of a letter I received from the City of Cerritos regarding their handling of late claims. It appears to be very good approach and a very good notice, and I would like you to give it your consideration as a possible alternative notice to the one put in AB 30.

If you would like to discuss this any further, please call me.

Sincerely yours,

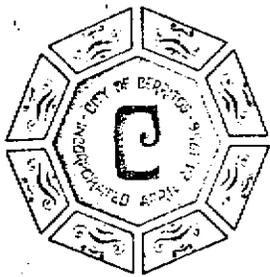


Constance H. Barker
Attorney

CHB:lln

cc: **Jim Prosser**, Minority Counsel
Don Knabe, Mayor, Cerritos

Enclosure



CITY OF CERRITOS

CIVIC CENTER • BLOOMFIELD AVENUE at 183rd STREET

P.O. BOX 306 • CERRITOS, CALIFORNIA 90701 • PHONE: (213) 860-0311

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February 16, 1983

FROM THE OFFICE
OF THE MAYOR

League of California Cities
1400 K Street
Sacramento, CA. 95814

Dear Colleague:

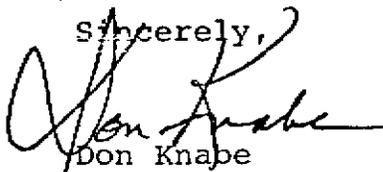
In your Legislative Bulletin dated February 4, 1983, you requested comment on AB 30 (McAlister), the bill which proposes changes to the process by which late liability claims may be filed against public agencies.

The City of Cerritos has been a member of the Southern California Joint Powers Insurance Authority since 1978. Our Insurance Authority coordinates a self insurance program for more than 40 member agencies. Due to the volume of liability claims that our agencies receive, we found it useful to develop several model letters or notices to handle much of the routine correspondence the program requires. One of those letters is in response to claimants who have filed claims in excess of 100 days of the incident. I have attached a copy for your review.

We initiated this system to ensure full disclosure to our residents of the process by which liability claims are handled. Our correspondence indicates what the claimants recourse is, and directs them to appropriate sections of the Government Code. Our intention was not to encourage claims against public agencies and, based on our experience, it does not seem to have had that effect. Our intent was simply to inform them of the status of their claim and to advise them of their rights to pursue the matter if they chose to do so.

The text of AB 30 (McAlister) mandates the same practices that we have followed successfully for the past five years. Consequently, we would not anticipate major difficulties for cities if AB/30 was approved in its current form.

Sincerely,


Don Knabe
Mayor
City of Cerritos

Kevin

Form Letter #4

CITY LETTERHEAD

Date: _____

RESPONSE TO A CLAIM FILED BEYOND 100 DAYS (AND WITHIN 1 YEAR OF THE OCCURRENCE DATE) BUT WITHOUT ANY APPLICATION FOR LEAVE TO PRESENT A LATE CLAIM

The claim (or material) which you presented to the ~~City~~ of ~~the~~ City of _____ (City) on _____ (date) _____ is being returned to you herewith, without any action having been taken by the City Council of the City of _____.

The claim (or material) is being returned because it was not presented within 100 days after the event or occurrence as required by law. See Government Code Sections 911.4 to 912.2 and 946.6.

Your only recourse at this time is to file a written "Application for Leave to Present a Late Claim" with the City Council of the City of _____ (city) _____ and enclose a copy of the claim as required by the Government Code.

Due to time considerations, in certain sections of the Government Code, this should be done without delay. To determine if you have further remedy, or whether further procedures are open to you, you may wish to consult with an attorney of your choice. If you desire to consult with an attorney, you should do so immediately.

City Clerk