



REPORT TO CITY COUNCIL

To: Honorable Mayor and Members of the City Council

From: Grant Yates, City Manager

**Prepared by: Shannon Buckley, Finance Manager
Jason Simpson, Assistant City Manager**

Date: October 24, 2017

Subject: Rejection of Claim by Terry Mohr

Recommendation

That the City Council direct the City Clerk to notify claimant Terry Mohr that his claim submitted to the City Clerk's Department on August 15, 2017, is rejected.

Background

On August 15, 2017, the City Clerk's Department received a claim for damages from Terry Mohr, the owner of the property (APN 378-234-004-7) on Pierce Street, Lake Elsinore. Mr. Mohr alleges damages in the amount of \$18,300.

Mr. Mohr applied to the Planning Commission seeking approval for the installation of a 1,512-square foot manufactured home (the "project") with a 480-square foot detached garage and related improvements on an approximately 12,196 square foot lot that he owns on Pierce Street.

The project was originally considered by the Planning Commission on June 6, 2017. At the hearing, the Planning Commission expressed concern about the architectural design and quality of the project and continued the matter to the June 20th meeting so that Mr. Mohr could provide revised documents demonstrating further architectural enhancements to the manufactured home. At the June 20th hearing, the matter was continued once again, this time to the July 18th meeting, to allow Mr. Mohr additional time to submit the requested items.

Prior to the July 20th meeting, Mr. Mohr committed to providing certain architectural enhancements to the project. Consequently, a new condition of approval was added to the project that required Mr. Mohr to submit plans, for review and approval by the Community Development Director or his designee, depicting these additional features prior to the issuance of a building permit. The project was approved at the July 20th meeting with this additional condition.

On August 15th, Mr. Mohr filed his claim. In the claim he states that he was under the assumption that he could start building the project without submitting a revised site plan. Mr. Mohr complains about the number of times he has had to submit plans and the number of architectural enhancements required. He claims he cannot risk building the project because he

believes his submittal of plans could be rejected again. He also claims that there is no legal requirement for the enhancements.

Ms. Mohr's claim was initially referred to the City's carrier, the California Joint Powers Insurance Authority through its claims administrator, Carl Warren & Company. On September 5, 2017, the City Attorney's office was notified by Carl Warren that the claim was not covered under the City's policy.

Accordingly, the City Attorney's office has reviewed the claim in order to advise the City Council.

Discussion

In his claim, Mr. Mohr notes that he seeks reimbursement "for costs incurred" that totals \$18,300, itemized as follows: Lot purchase, \$1,370; Grading and Site plan, \$4,500; Percolation report, \$1,300; Lot merger plan, \$1,800; Design review cost, \$3,910; Parcel merger cost, \$550; Garage structure plan, \$1,500; Site assessment cost, \$250; Tree cut/lot clean up, \$3,100.

Therefore, Mr. Mohr claims he should be reimbursed for all of the costs he incurred in seeking Planning Commission approval of his project, as well as the purchase price of one of the lots on which the project would be built.

There is nothing improper or illegal in the conditions of approval for the project. Further, if Mr. Mohr believes the conditions are onerous, he had the right to appeal the Planning Commission decision to the City Council. Lake Elsinore Municipal Code section 17.180.020 provides that any person may file a written appeal to the City Council within 15 calendar days from the date of the Planning Commission's decision. By not appealing the decision to the Council, Mr. Mohr has failed to exhaust his administrative remedies. Such failure can constitute a legal bar to any claim he would bring.

The City Attorney's office recommends that the City Council reject the claim tendered by Ms. Mohr and direct the City Clerk to notify Mr. Mohr of the rejection as required under the Tort Claims Act.

Following notification of the City's rejection, the claimant has six (6) months to file a lawsuit should he choose to go forward with an action against the City.

Fiscal Impact

None.

Exhibits:

A. Claim