COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

May 2, 2005

MEMBERS OF THE BOARD

Maria M. Oms
Auditor-Controller
John F. Krattli
Office of the County Counsel
Rocky Armfield
Chief Administrative Office

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Gun Jae Cho, et al. v. County of Los Angeles**
Los Angeles Superior Court Case No. KC 035 568

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of $360,000.00.

2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Department of Public Works - Road.

Enclosed is the settlement request and a summary of the facts of the case.

Also enclosed for your information is the Corrective Action Report submitted by the Department of Public Works.

Return the executed, adopted copy to Georgene Salisbury, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-9910.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO:gs

Enclosures

MEMORANDUM

April 21, 2005

TO:	THE LOS ANGELES COUNTY CLAIMS BOARD
FROM:	JOHN COLLINS, ESQ. Collins, Collins, Muir, and Stewart TIGHE F. HUDSON Principal Deputy County Counsel General Litigation Division
RE:	**Gun Jae Cho, et al. v. County of Los Angeles, et al.** **Los Angeles Superior Court No. KC 035568**
DATE OF INCIDENT:	April 19, 2000
AUTHORITY REQUESTED:	$360,000
COUNTY DEPARTMENT:	Department of Public Works

CLAIMS BOARD ACTION:

☐ Approve ☐ Disapprove ☐ Recommend to Board of Supervisors for Approval

_____, Chief Administrative Office
ROCKY A. ARMFIELD

_____, County Counsel
JOHN F. KRATTLI

_____, Auditor-Controller
MARIA M. OMS

on _____, 2005

HOA.290633.5

SUMMARY

This is a recommendation to settle for $360,000, the dangerous condition lawsuit originally brought by Gun Jae Cho and his spouse Yang Sun Nam, now a wrongful death and representative action by spouse Nam and by Edward and Meerae Cho (children), for the personal injuries and subsequent death of Gun Jae Cho on December 19, 2003.

LEGAL PRINCIPLES

The County may be held liable for damages caused or contributed to by a dangerous condition of public property.

SUMMARY OF FACTS

This action arises out of a vehicle accident which occurred on April 19, 2000, involving a westbound motor vehicle on Colima Road and a golf cart at the Royal Vista Golf Course in Rowland Heights.

Colima Road is a four (4) lane County roadway. The Royal Vista Golf Course is situated on both the north and south sides of Colima Road. Marked crosswalks across Colima Road existed at designated locations for golf patrons.

Gun Jae Cho, a 50-year-old business owner, was seated in a golf cart preparing to cross Colima Road at a designated crossing area, waiting for traffic to stop, when a rear end collision occurred on Colima Road. The collision involved a vehicle, which had stopped at the crosswalk and another vehicle driven by Gary Gouxi Li. The Li vehicle veered off the roadway and struck the golf cart. Mr. Cho sustained serious and disabling personal injuries in the accident. He was hospitalized, and remained in a comatose state, which required full-time skilled nursing care for three (3) years. Mr. Cho died on December 19, 2003.

Additional parties sued in the civil action include, Gary Gouxi Li (the driver of the vehicle, which struck Mr. Cho), High Ten Partners, Inc. (the employer of Gary Gouxi Li), and individually named partners of High Ten Partners, Inc., as well as Royal Vista Golf Courses, Inc. Mr. Li and his employer are sued upon allegations of negligence. Royal Vista Golf Courses, Inc., is sued upon allegations of negligence and dangerous condition of private property. The County is sued upon allegations of dangerous condition of public property.

The action was originally brought on behalf of Mr. Cho for the personal injuries he sustained in the accident, and his spouse, Yang Sun Nam, for loss of consortium. Subsequent to the death of Mr. Cho, his surviving heirs presented government claims to the County for their wrongful death damages. The Court permitted Yang Sun Nam (the surviving spouse) and Edward and

Meerae Cho (their surviving children) to substitute as plaintiffs in the pending action in place of Gun Jae Cho, and pursue their own claims for wrongful death damages against the County and others.

Traffic controls at the incident location included an overhead flashing yellow light, signs warning of a pedestrian crossing, a pedestrian warning painted on the pavement, traffic limit lines adjacent to the crosswalk, and a painted crosswalk. The regulatory speed limit posted on Colima Road was 50 mph. Plaintiffs allege that these traffic controls were insufficient and that the crosswalk for golf patrons at the incident location presented an unsafe and substantial risk of injury to golf course patrons seeking to cross Colima Road.

DAMAGES

If the matter proceeds to trial the claimants will likely seek the following:

Yang Sun Nam for loss of care, comfort, companionship, services, and conjugal fellowship	$2,500,000
Estate of Gun Jae Cho for costs of medical expenses incurred for treatment of Gun Jae Cho to date of death, loss of earnings to date of death	$2,000,000
Edward Cho for loss of care, comfort, and companionship	$ 500,000
Meerae Cho for loss of care, comfort, and companionship	$ 500,000
TOTAL	$5,500,000

STATUS OF CASE

On March 23, 2005, a Mandatory Settlement Conference was conducted by the Court resulting in a proposed global settlement in the total amount of $2,020,000, which is allocated as follows:

Mr. Li	$ 100,000
High Ten Partners, Inc.	$1,000,000
Royal Vista Golf Courses, Inc.	$ 560,000
County of Los Angeles	$ 360,000
	$2,020,000

The Court approved the settlement between plaintiffs and High Ten Partners in the amount of $1,000,000. Mr. Li's insurance carrier had previously paid the $100,000 policy limit on behalf of Mr. Li.

The trial date has been vacated pending the approval of this recommended settlement.

Expenses incurred by the County in defense of this matter are attorney fees in amount of $359,300 and costs in the amount of $50,557. The litigation, which represents a significant liability exposure to the County, required extensive preparation. The case was complicated by the numerous parties and the cross-actions between the defendants. In addition, up until the time of the Mandatory Settlement Conference, the settlement demand of the plaintiffs' attorney remained at $21 million dollars for all of the defendants to settle the case. Due to the inability of the parties to reach a reasonable settlement until shortly before the date of trial, it was necessary for the County to complete its pretrial preparation, including all pretrial motions, opposition to motions, and witness preparation.

The total cost to the County of Los Angeles, as a result of the proposed settlement, is as follows:

Settlement Amount		$ 360,000
County attorney fees and costs		$ 409,857
	TOTAL	$ 769,857

EVALUATION

Although we believe that the traffic controls at the incident location were reasonable and appropriate, a jury could find that additional measures under the control of the County were needed to safeguard golf patrons using the crosswalk across Colima Road.

A settlement will avoid further litigation expenses and a potential jury verdict in excess of the settlement amount. We believe this disposition is in the best interests of the County.

We join with our private counsel, Collins, Collins, Muir & Stewart, and our claims administrator, Carl Warren and Company, in recommending settlement in the amount of $360,000.

The Department of Public Works concurs in this settlement.

APPROVED:

GARY N. MILLER
Assistant County Counsel
General Litigation Division

TFH:pec

DEPARTMENT OF PUBLIC WORKS
CORRECTIVE ACTION PLAN

Lawsuit Of: Gun Jae Cho
County Of Los Angeles
LASC Case No. KC035568

Incident date: April 19, 2000

Incident Location: Private property of Royal Vista Golf Course at crosswalk of Colima Road, 338 feet east of Lake Canyon Drive

Risk Issues
A public entity can be held liable for damages caused by a dangerous condition of public property. Under the law of joint and several liability, a public entity can be held responsible for its proportionate share of liability in addition to the entire economic damages suffered by the plaintiff.

Investigative Review
On April 19, 2000, Mr. Cho was seated on a golf cart on Royal Vista Golf Course property, waiting to cross Colima Road, east of Lake Canyon Drive, in the unincorporated Diamond Bar area. The golf course is divided by Colima Road and utilizes crosswalks to connect the course. In addition to this location, there were two other road crossings included in the golf course, one west of Lake Canyon Drive and the other west of Calbourne Drive.

The Colima Road mid-block marked crosswalk, which connects the north and south nines of Royal Vista Golf Course at this location, has uninterrupted visibility. Traffic controls include an overhead-mast mounted flashing yellow light, yellow signage showing a pedestrian traveling between two lines, traffic limit lines adjacent to the crosswalk, and a painted crosswalk. For the golf cart traffic crossing Colima Road, there was a stop sign on golf course property along with an advisory sign prior to entry on the sidewalk and crosswalk that states "use caution 4-lane road". The chronology of actions that led to the traffic control can be found in Attachment A.

The Cho accident occurred April 19, 2000. Mr. Cho was operating a golf cart on the north golf course property when he drew near the crosswalk intending to cross Colima Road in a southerly direction. He had not yet, however, left the golf course property, crossed the sidewalk, or entered the crosswalk. While he was parked on the cart path waiting for traffic to clear, a vehicle traveling westbound approached the crosswalk, but failed to stay clear of a forward vehicle which had slowed in observance of Mr. Cho. The result was a collision in which the impacting vehicle went out of control and struck Mr. Cho's golf cart, causing him to be ejected and suffer severe head trauma, ultimately leading to his death some two-and-a half years later.

DEPARTMENT OF PUBLIC WORKS
CORRECTIVE ACTION PLAN

Policy
At the time of this accident, the Department followed the standards specified by CalTrans' Traffic Manual and the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD) relating to pedestrian crosswalks and traffic control. The MUTCD is recognized as the national standard for traffic control devices used on all public roads. The crosswalk and flashing yellow light on Colima Road met the guidelines under these manualsat the time of the accident.

Corrective Action
In November 2000, the Department completed a review of the California Highway Patrol's Traffic Collission report, which included a field review. All signals, signs, and striping appeared to be sufficient, and no recommendations were made for modifications.

Mr. Cho's contentions of defect in design had to be evaluated during litigation. While the design including crosswalk, devices, and speed met the standards established at the time, the Department also recognized the risks of liability and financial exposure presented by this incident. As such, the Department does not oppose the business decision to settle this matter in the indicated amount.

In light of changed conditions and accident history, the Department, in conjunction with the Royal Vista Golf Course, agreed to the installation of a signalized intersection and crosswalks at the intersection of Colima Road and Lake Canyon Road. The installation of the signal included elimination of the two crosswalks on Colima Road, east and west of Lake Canyon Road. In October 2004, the Department installed the signal and crosswalks and removed the other crosswalks. The golf course modified their cart paths to utilize the signalized crosswalk location on Colima Road at Lake Canyon Road.

DEPARTMENT OF PUBLIC WORKS
CORRECTIVE ACTION PLAN

Attachment A
Chronology

1963	Golf course began operations.
May 1973	State of California relinquished jurisdiction of Colima Road to the County of Los Angeles.
November 1992	The BOS approved Conditional Use Permit 91-276 and the Zone Change for the Los Angeles Royal Vista Golf Course. In 1993, the Department of Public Works administered the installation of four amber flasher devices and appropriate warning signs on Colima Road as required by Condition 14 of the permit. The flashing beacons and warning signs provided advance warning to motorists of the crosswalks.
May 1995	BOS accepted road widening project for Colima Road Cash Contract 6493.
March 1998	A traffic engineering study was conducted and determined that this location was compliant with applicable guidelines.
July 2003	Board adoption of a radar enforced a speed limit of 45 mph for Colima Road.
October 2004	The Department installed the traffic signal at the intersection of Colima Road and Lake Canyon Drive and removed the two crosswalks east and west of Lake Canyon Drive. Modifications by the golf course required all golfers to utilize the one signalized crosswalk location.