COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

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

February 1, 2007

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

Re: **Denise Guzman, et al. v. County of Los Angeles**
Los Angeles Superior Court Case No. YC 050 845

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of $270,000.

2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Department of Public Works/Sewer-Special District General Liability Trust Fund.

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 4-1803.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO:gs

Enclosures

HOA.417967.1

MEMORANDUM

January 10, 2007

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: GREGORY HOULE
Houle & Houle

BRIAN T. CHU
Senior Deputy County Counsel
General Litigation Division

RE: **Denise Guzman, et al. v. County of Los Angeles**
Los Angeles Superior Court No. YC050845

DATE OF INCIDENT: July 11, 2004

AUTHORITY REQUESTED: $270,000

COUNTY DEPARTMENT: Department of Public Works/Sewer
Special District General Liability Trust Fund

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 February 1, 2007

HOA.399666.1

SUMMARY

This is a recommendation to settle for $270,000 the lawsuit filed by Denise Guzman and Anthony Aloia, seeking compensation for damage to their home and personal property caused by sewer back-up into their house resulting from a sewer main line blockage on July 11, 2004.

LEGAL PRINCIPLE

The County may be held liable for inverse condemnation based on a claim for property damages caused by a sewer blockage.

SUMMARY OF FACTS

At approximately 12:00 p.m. on July 11, 2004, the County received a complaint about a sewer problem at the residence of Denise Guzman and Anthony Aloia located at 3408 Via Palomino, City of Palos Verdes Estates. A County sewer crew investigated the complaint and found that the wastewater level in the sewer main line was high. Wastewater had also backed-up into the sewer lateral line servicing the Guzman/Aloia home and entered the home through a downstairs bathroom drain. The County crew rodded the main line and relieved a stoppage created by overgrown roots. The wastewater, however, caused damage to the structures, lower level furnishings and other personal property.

Ms. Guzman and Mr. Aloia reportedly experienced two similar sewer back-up incidents in 1994 and 1997. Through its available records for the last ten years, however, the County can only confirm the 1997 incident. In that incident, the main line was also blocked with overgrown roots. Previous to this incident, the main line was inspected on February 4, 2004, as part of the Consolidated Sewer Maintenance District's ("CSMD") preventative maintenance program, and conditions were found to be normal.

DAMAGES

Ms. Guzman and Mr. Aloia will likely claim total damages categorized as follows:

Property Clean-Up & Repairs	$ 36,000
Property Value Diminution	$215,000
Loss of Use of Property	$ 45,000
Emotional Distress	$200,000
Personal Property Damage	$ 30,000
TOTAL	$526,000

If Ms. Guzman and Mr. Aloia prevail on the inverse condemnation claim, they also will be entitled to attorneys' fees and expert costs, which at this time approximate $100,000.

STATUS OF CASE

Ms. Guzman and Mr. Aloia filed suit against the County and the City of Palos Verdes Estates claiming damages for inverse condemnation, trespass, nuisance, dangerous condition of public property and negligence. Their homeowners' insurance company, State Farm Insurance Company, filed a subrogation lawsuit for payments made for the clean-up and repairs to the Guzman/Aloia home. The City filed a cross-complaint against the County for express and implied indemnity and demanded that the County defend the City. The County accepted the City's tender of defense and indemnity on September 19, 2005. The court has placed this matter on its settlement calendar.

This case was roundtabled twice with participation by Carl Warren, the Department, and private and County Counsel attorneys. It was the group's recommendation by consensus that the case be settled, but in an amount that fairly reflected the actual damages incurred. The case was mediated on May 8, 2006, at which Ms. Guzman and Mr. Aloia demanded $625,000 to settle, which included their attorneys' fees and expert costs. The case could not be settled at mediation because of the need for additional information on damages. However, further discovery and negotiations by our defense attorneys resulted in this proposed settlement.

Approximate expenses incurred by the County in defense of this matter are attorneys' fees of $47,287 and costs of $7,721. These expenses include consultation with a real estate appraiser to evaluate the value of this case, depositions of Ms. Guzman and Mr. Aloia, review and analysis of records, and attendance at roundtable meetings, mediation and court appearances.

EVALUATION

The main sewer line at this location is owned by the City of Palos Verdes Estates and included in the CSMD, which is maintained by the County. Main line inspections are performed twice each year to identify blockages and to perform as-needed cleaning. Sections of the main line with known maintenance concerns are placed on periodic cleaning schedules varying from every 30 days to 180 days, depending on the location.

It is undisputed that roots created a stoppage in the main line and that wastewater backed-up into the Guzman/Aloia residence through the lateral

line. Further, the prior sewer back-up history may support a contention that the main line should have been modified to prevent root growth to its interior.

The amounts claimed for the house clean-up and repairs and personal property damage have been reviewed and appear reasonable. A real estate appraisal confirms the diminished value of the house based on a requirement to disclose the sewer back-up history to future prospective buyers of the house. If Ms. Guzman and Mr. Aloia prevail based on inverse condemnation, they will be entitled to recover attorneys' fees and expert costs. A total award would significantly exceed the proposed settlement amount.

RECOMMENDATION

We join with our third party administrator, Carl Warren and Company, and our private counsel, Houle & Houle, in recommending a total settlement of this matter in the amount of $270,000. The Department of Public Works concurs in this settlement recommendation.

APPROVED:

RALPH L. ROSATO
Assistant County Counsel
General Litigation Division

RLR:BTC:ac

DEPARTMENT OF PUBLIC WORKS
CORRECTIVE ACTION PLAN

LAWSUIT OF: Denise Guzman and Anthony Aloia

INCIDENT DATE: July 11, 2004

INCIDENT LOCATION: 3408 Via Palomino, Palos Verdes Estates

RISK ISSUE:

The County may be liable in Inverse Condemnation if a public improvement, operating as intended is a substantial factor in causing damage to private property.

INVESTIGATIVE REVIEW:

The sewer line at this location is owned by the City of Palos Verdes Estates (City). Through the consent of the City, the City is included in the Consolidated Sewer Maintenance District (CSMD). The County of Los Angeles Department of Public Works maintains the CSMD.

A restriction within the main sewer line along Via Palomino in the City of Palos Verdes Estates caused wastewater to backup into the private residence lateral and spilled out onto the lower floor of the plaintiff's residence at 3408 Via Palomino. The backup entered the through a lower level bathroom and flooded the bathroom, hallway, bedrooms, and family room, causing extensive damage.

On July 11, 2004, at 12:00 PM Public Works received a service request regarding a plumbing problem at 3408 Via Palomino. The sewer maintenance crew was dispatched and arrived on-site at 1:30 PM. Upon arrival, the crew observed that the wastewater level in the main sewer line was high. The crew rodded the sewer line from Manhole 41 to Manhole 40 and broke down a root stoppage.

The residence had two prior sewer backups, in 1994 and 1997. A claim for the 1997 backup was settled for $15,000 and we have no information on the 1994 backup. In the 1997 backup the crew rodded the sewer line from Manhole 42 to Manhole 41 and broke down a root stoppage.

The plaintiffs Denise Guzman and her husband Anthony Aloia claim property damage and loss of value to the property as a result of the history of sewer backups.

DEPARTMENT OF PUBLIC WORKS
CORRECTIVE ACTION PLAN

POLICY ISSUES:

The Consolidated Sewer Maintenance District's maintenance program consists of regular inspection of the sewer system and appurtenances combined with periodic cleaning, repair, and related work as necessary to keep the collection system operating as designed.

CORRECTIVE ACTION:

The City of Palos Verdes Estates included this section of sewer line in their sewer rehabilitation program. The County will line the Guzman's sewer lateral with a cured-in-place plastic pipe liner when the settlement is approved. The liner will eliminate the growth of roots into the lateral line through joints, cracks or other defects."

These sections of sewer line between Manholes 40 to 41 and 41 to 42 will be placed on 60-day periodic cleaning to eliminate root growth into the main line sewer through any private sewer laterals.