

MONTEREY COUNTY

RISK MANAGEMENT

168 W. ALISAL STREET 3RD FLOOR
SALINAS, CA 93901-2680
(831) 755-5458
FAX (831) 751-9597
www.co.monterey.ca.us



July 10, 2012

**NOTICE OF REJECTION OF CLAIM AS GOVERNMENT TORT CLAIM
NOTICE OF PROCESSING CLAIM AS ADMINISTRATIVE APPEAL OF IMPOSITION OF
TOT LATE PENALTIES**

Pebble Beach Company
C/O Mark Stilwell
P.O. Box 1767
Pebble Beach, CA 93953

RECEIVED
MONTEREY COUNTY
2012 JUL 10 PM 4:08
CLERK OF THE BOARD
DEPUTY

Dear Mr. Stilwell:

NOTICE IS HEREBY GIVEN that the notice of Government Tort Claim form you presented to the Board of Supervisors of the County of Monterey on May 30, 2012, has been rejected as a Government Tort Claim.

WARNING

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this Government Tort Claim. See Government Code Section 945.6. The six-month time limit referred to in this notice applies only to claims or causes of action which are governed by the California Government Claims Act; the Government Claims Act contains certain exceptions.

NOTICE IS HEREBY GIVEN THAT, pursuant to Monterey County Code Section 5.40.130, notwithstanding its rejection as a Government Tort Claim, your document will be processed as a timely appeal of the penalty assessed for late payment of your applicable Transient Occupancy Tax (TOT). The appeal of the administrative decision of the Monterey County Tax Collector rejecting your request for waiver of the TOT late payment penalty will be set for an appeal hearing to be heard by the Board of Supervisors. You will be notified of a hearing date shortly by the Clerk to the Board. In the interim, should you have any questions concerning the procedures for the appeal please contact Mary Zeeb, Monterey County Tax Collector.

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.

Very truly yours,

Lydia Schumaker
Risk & Benefit Analyst

Cc: Clerk of the Board
County Counsel

MEMORANDUM

OFFICE OF THE CLERK OF THE BOARD OF SUPERVISORS
County of Monterey



DATE: May 30, 2012
TO: Lydia Schumaker, Lucy Raney, Risk Management
FROM: Office of the Clerk of the Board of Supervisors
SUBJECT: **NOTICE OF CLAIM AGAINST THE COUNTY: *PEBBLE BEACH CO./MARK STILLWELL***

The attached correspondence was received by the Clerk of the Board on Wednesday, May 30, 2012, at 1:00 p.m. and was hand delivered.

This is being referred to you for processing. If you have any questions, please call our office at 755-5066.

Thank you,

A handwritten signature in cursive script, appearing to read "A. Boyd".

Office of the Clerk of the Board of Supervisors
County Of Monterey

cc: County Counsel

CLAIM AGAINST
COUNTY OF MONTEREY

RECEIVED
MONTEREY COUNTY
2012 MAY 30 PM 1
CLERK OF THE BOARD



Date: May 23, 2012
TO: THE CLERK OF THE BOARD
County of Monterey, State of California
P.O. Box 1728
Salinas, CA 93902
(831) 755-5066

PH DEPUTY

HAND DELIVERED

Pursuant to the provisions of the Sections 905 and 910 of the Government Code of the State of California, demand is hereby made against the treasury of the County of Monterey, State of California, in the amount of \$130,287.67 (if the amount of the claim totals less than \$25,000). Jurisdiction over that amount rests in the Superior Court.

In support of said claim the following information is submitted.

1. Name of claimant: Pebble Beach Company, c/o Mark Stilwell
First Middle Last

2. Address of claimant: 4005 Sunridge Rd., Pebble Beach, CA 93953 831-625-8449
Street City Zip Area Code & Telephone No.

3. Address to which claimant desires notice to be mailed (If different from item 2):
P.O. Box 1767, Pebble Beach, CA 93953 same
Street City Zip Area Code & Telephone No.

4. Name of legal owner of damaged property upon which claim is based:
n/a
First Middle Last

5. Name of registered owner of damaged property or loss upon which claim is based:
Pebble Beach Company
First Middle Last

6. Name of injured party(s):
n/a
First Middle Last

7. Date alleged damage occurred: April 30 2012
Month Day Year

8. Place where alleged damage occurred: n/a
Provide Street Number or Nearest Cross Streets

9. Time of day or night damage occurred: n/a

10. Public officers or employees alleged to have knowledge:
Mary Zeeb


11. Name, address and telephone number of other witnesses if possible: n/a

12. Manner in which damages occurred and nature, extent and amount of injury or damage claimed, together with basis of computation thereof (set out in detail as per NOTE, shown below). If possible, please provide pictures, estimates, and any other documentation that would substantiate your claim and amount of loss.

See attached.

The undersigned states: That the above claim and the items as therein set out are true and correct; that no part thereof has been heretofore paid, and that the amount therein is justly due this claimant, and that the claim is presented within 180 days from the date that the cause of action occurred.

Dated: 5/30/12



claimant

NOTE: In presenting any claim not founded upon contract, full details as to the nature of the claim, the time and place when and where it arose, the public property and officers or employees alleged to be at fault, the nature, extent and amount of the injury or damage claimed, and all other details necessary to a full consideration of the merit and legality of such claim shall be stated in writing, signed by the claimant or someone authorized by him. (For further particulars regarding filing of the Claim, see Section 900 et seq. of the Government Code of the State of California.)

PEBBLE BEACH COMPANY REQUEST FOR WAIVER OF PENALTY

Pebble Beach Company's quarterly transient occupancy tax ("TOT") assessment was due on April 30, 2012. Due to extenuating circumstances, the payment was not made in a timely manner, although the payment was wired to the tax collector's office less than 24 hours after the omission was discovered by the company. Pebble Beach Company respectfully requests a waiver of the penalty of \$130,287.67 assessed in this matter.

Pebble Beach Company's TOT assessment for quarter ending March 31, 2012, equaled \$1,302,876.63. Due to the magnitude of this quarterly payment, the payment is personally handled by the company's Accounts Payable Manager, Carmie Jacobsen, who has ensured that each and every payment was accurately and timely received by the tax collector for many years.

Ms. Jacobsen was injured in a car accident and began intensive treatment for her injuries on April 25, 2012, requiring her to be out of the office for extended periods several days of the week. Ms. Jacobsen was pregnant, and despite the treatment, continued to feel very ill. On April 30, she suffered a miscarriage that required surgery; she returned to the office full time on May 14, 2012.

The Accounting department was short-staffed prior to Ms. Jacobsen's illness, and during Ms. Jacobsen's unexpected absence, another member of the Accounting department team was selected for jury duty. This critical staffing level contributed to a delay in sorting and handling Ms. Jacobsen's workload.

On May 7, 2012, the fact that Ms. Jacobsen had not been able to make the April TOT payment, which was due on the same day she suffered her miscarriage, was discovered. The entire payment of \$1,302,876.63 was wired to the tax collector's office the following morning, May 8, 2012. The payment was followed by a letter from Pebble Beach Company's Controller, Robert Lapso, apologizing for the late payment and requesting a waiver of the penalty (see attached). Mr. Lapso's letter noted the fact that prior to Ms. Jacobsen's accident, miscarriage, and surgery, Pebble Beach Company had never been late in paying the TOT assessment. Mary Zeeb responded to that letter and advised that the penalty would have to be paid, but that Pebble Beach Company could file this appeal due to the extenuating circumstances of the case.

The penalty of \$130,287.67 was paid in full and delivered to Ms. Zeeb on May 24 (receipt attached).

For the reasons set forth above, Pebble Beach Company respectfully requests a waiver of the late payment penalty in the amount of \$130,287.67.