

Subject: Study 65.70 - Claims Presentation Requirement

You will be interested in the following article concerning the claims presentation requirement in inverse condemnation actions.

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Change in Inverse Condemnation Law Opposed

From Our City Bureau

The City Council voted Monday to oppose legislation that would end the necessity to file a claim in order to maintain an action against a public entity in inverse condemnation cases.

Under existing law, such claims must be filed with the local governing body within one year after the accrual of the cause of action. If the governing body does not act upon the claim within 45 days after receiving the claim, the claim shall be deemed denied.

Assembly Bill 2380, by the late Edwin L. Z'berg, would amend the Government Code to eliminate the necessity to file such a claim in order to maintain such action.

The City Attorney's Office recommended opposition to the bill because claims are required for both personal injury matters and for contract matters; and the office sees no reason why claims to recover damages or loss of private property taken for public use should not be required.

The city attorney noted that such claims would notify the city of a complaint that the city might not otherwise know of; and this

notification would give the city the chance to settle the claims.

The city attorney added that the fees in these cases, including attorney's fees, would be kept at a minimum. Also, a person has up to one year to file a claim in an inverse condemnation case, compared to 180 days in a personal injury case.

According to the city attorney, if the requirement to file such claims is eliminated, the city would lose the opportunity to determine if the claims are valid, and thereby attempt to avert court action.

Respectfully submitted,

John H. DeMouilly
Executive Secretary