

Allen Matkins



Michael Kiely
Los Angeles Office
(213) 955-5594

[mkiely@
allenmatkins.com](mailto:mkiely@allenmatkins.com)



Michael Gonzales
Los Angeles Office
(213) 955-5578

[mgonzales@
allenmatkins.com](mailto:mgonzales@allenmatkins.com)



Tara Kamin
Los Angeles Office
(213) 955-5592

[tkamin@
allenmatkins.com](mailto:tkamin@allenmatkins.com)



Allen Matkins
#1 Real Estate Law
Firm in California
Chambers and
Partners
2002 - 2007

Land Use Alert

The City of Los Angeles Planning Department to Create Reimbursement Application Form and Process

On April 2, 2008, we sent a [Land Use E-Alert](#) informing that you may be entitled to a reimbursement for excess Park Fees (commonly known as Quimby Fees) paid to the City of Los Angeles between May 1, 2004 thru March 1, 2008. The City of Los Angeles' Planning Department has recently informed us that in collaboration with the City Attorney's Office and the Department of Recreation and Parks, a formal application form and process will be created by the end of June 2008. According to City staff, the application form must be submitted to assess if a project qualifies for reimbursement. City Staff, however, would not commit to developing either the form application or the process by the end of June. Further, recent budgetary shortfalls may result in cutbacks within the various departments tasked with the job of developing the application and reimbursement process.

So, developers have two options:

- a. Wait until the end of June (or possibly longer) for the City to create the application form and process, and proceed in accordance with that procedure; or
- b. Pursuant to LAMC Section 5.169 and the California Tort Claims Act (California Government Code Section 810 et. seq.) (the "Act"), submit a claim to the City Clerk for monetary reimbursement. According to LAMC Section 5.170, the claim must be submitted to the City Clerk within six months of the accrual of a cause of action for death or injury to person or personal property or growing crops, or within one year of the accrual of a cause of action for all other claims.

If a developer elects the latter option, the City Clerk must distribute the written claim to the department that can make the reimbursement. The City has 45 days from the date of the claim to either accept or reject the claim. If the City does not respond within 45 days, the claim is deemed rejected. Under the Act, a written rejection starts a six month statute of limitations period to file a legal challenge. Under the Act, an unwritten rejection would start a two year statute of limitations.

The Quimby fee overcharge and reimbursement right was not publicly known until the City Controller's February 21, 2008 audit report was published. Accordingly, if characterized as a cause of action for "other" claims, a claim must be filed with the City Clerk by February 21, 2009. If characterized as a cause of action for injury to personal property, a claim must be filed with the City Clerk by August 21, 2008.

Therefore, a conservative approach would be to wait until the end of June to see if the City creates an application form and reimbursement process. If the City doesn't do so by that time, a formal claim before August 21 would fall safely within potentially applicable time limits and might incentivize the City to avoid further delays in establishing a reimbursement process.

Please contact us to discuss.

Allen Matkins Land Use Attorneys

Orange County (949) 553-1313

Pamela L. Andes
Shanda M. Beltran
John C. Condas
William R. Devine
A. Kristine Floyd
Matthew R. Fogt
Thomas E. Gibbs
Steven B. Imhoof
Michael Joyce
Suzanne E. Skov

Los Angeles (213) 622-5555

Frederick L. Allen
John J. Allen
Isabel Birrueta
Patrick E. Breen
Alfred Fraijo Jr.
Michael Gonzales
Claudia Gutierrez
Mark R. Hartney
Tara Kamin
Michael J. Kiely
Kaylynn L. Kim
Patrick R. Krill
Emily Murray
Jerold B. Neuman
Anthony J. Oliva
Patrick A. Perry
Faith Pincus
Sonia J. Ransom
Michael W. Shonafelt
Phillip M. Tate
Thomas G. Wilhelm

San Francisco (415) 837-1515

James T. Burroughs
David D. Cooke
Lee Gotshall-Maxon
James L. Meeder
Sandi L. Nichols
Eileen M. Nottoli
Robert Wyatt

San Diego (619) 233-1155

Thomas B. Crosbie
Jan S. Driscoll
Kecia R. Felton
Vernon C. Gauntt
Shannon M. Keithley
Gerald C. Livingston
Robin Munro
David L. Osias
Heather S. Riley
Ellen B. Spellman

Walnut Creek (925) 943-5551

David H. Blackwell
Michael P. Durkee
Thomas P. Tunny
Derek S. van Hoften

© 2008 Allen Matkins Leck Gamble Mallory & Natsis LLP. All rights reserved.

This email is intended for general information purposes only and should not be construed as legal advice or legal opinions on any specific facts or circumstances. This email was sent by: Allen Matkins Leck Gamble Mallory & Natsis LLP, 515 S. Figueroa Street, 7th Floor, Los Angeles, California 90071. To stop receiving this publication, just reply and enter "unsubscribe" in the subject line.