

**GOVERNMENT CLAIM**  
**(Government Code Section 910 et seq.)**

RECEIVED

NOV 17 2016

ALBANY CITY CLERK

**The Claimant:**

Lions Club of Albany, California  
c/o Richard M. Stellina, Treasurer  
2019 Mira Vista Dr.  
El Cerrito, California 94530

**The Address for Notices to be Sent**

The post office address to which Claimants wish notices, correspondence and other communications regarding this claim be sent is as follows:

Robert E. Nichols  
Attorney at Law  
3060 El Cerrito Plaza # 316  
El Cerrito, California 94530

**Statement of the Claim**

The Lions Club of Albany, California is the owner of electrically illuminated steel cross located on Albany Hill above Taft Street in the City of Albany. The cross was constructed in 1971; and for more than 45 years, since its construction, has been electrically lighted by means of an electrical utility cable extending from a utility pole on Taft Street to the Cross. On or about August 17, 1973, the Lions Club of Albany was granted an easement for ingress, egress and maintenance of the cross by the property owner. On or about August 21, 1973, the real property upon which the cross is located, and subject to this easement, was granted to, and accepted by, the City of Albany.

***Taking, Damaging, Obstructing, Hampering and Interfering With Easement***

On September 1, 2016, the City of Albany unlawfully caused the electrical service to the cross to be disconnected thereby taking, obstructing, hampering and interfering with the Lions Club's property rights granted under the easement for ingress and egress of electrical power as well as preventing the use, maintenance and enjoyment of the electrically lighted cross. The Lions Club and its members did not consent to this taking and strongly objected to the City's actions. The electrical service continues to be interrupted and the City refused and continues to refuse to allow the electrical utilities to be restored.

***Taking Property without Compensation in Violation of Article 1 § 19 of the California Constitution***

The Lions Club of Albany, California has not received any compensation from the City of Albany for the taking, obstructing, hampering and interfering with its real property rights under the property easement. Despite repeated demands the City of Albany has failed and refused to reinstate the electrical service to the cross. The disconnection of utility service was a property right enjoyed by the Lions Club and its members prior to the City's acquisition of the property and continuing for the past 45 years; that right has now been terminated without compensation.

***Denial of Due Process and Equal Protection in Violation of Article 1 § 7 of the California Constitution***

The City of Albany unilaterally, without notice, hearing or due process of any type, caused the electrical utility service to the cross to be disconnected thereby taking, obstructing, hampering and interfering with the Lions Club's property rights granted under the 1973 easement. The City's actions are improper and unlawful. The City has failed refused and denied the Lions Club any opportunity to contest the City's wrongful taking and interference with the easement. The Lions Club has repeatedly demanded the City of Albany provide a due process hearing or other proceeding and justify the City's actions but the City has failed and refused to provide any hearing or proceeding whatsoever.

***Interference with the Free Exercise and Enjoyment of Religion without Discrimination or Preference, in violation of Article 1 § 4 of the California Constitution***

The City of Albany has caused disconnection of electrical utility service to the cross on Albany Hill thereby taking, obstructing, hampering and interfering with the Lions Club's easement. The City's actions were intended to take away, prevent, hamper, and interfere with the lighting of the cross during the observance of religious holidays and special events. The City Council has expressed its dislike of and its dissatisfaction with the cross on the basis that it is a religious symbol. Prior to the disconnecting the electrical utility service to the cross, the Albany City Council requested the Lions Club voluntarily remove the cross. Only after the Lions Club took no action on the City's request did the City take action disconnecting the electrical utilities thereby taking, obstructing, hampering and interfering with the easement and preventing the cross from being lighted. The City's actions are an interference with the free exercise and enjoyment of religion and discriminate against the Lions Club and its members and their regular exercise of this right through the regular lighting of the cross.

***Unlawful Restraint of Free Speech in violation of Article 1 § 2 of the California Constitution***

The City of Albany's disconnection of utility electrical service to the cross on Albany Hill and the taking, obstructing, hampering and interfering with the Lion's easement were intended to prevent and interfere with the regular lighting of the cross and thereby obstruct, hamper and prevent the exercise of freedom of speech during religious seasons and at appropriate times throughout the year.

## **Employees Responsible for Injury and Loss**

The below listed persons, individually and in conjunction with each other, acting under color of law, instructed, directed, and undertook the actions of taking, obstructing, hampering and interfering with the Lions Club's easement which have directly resulted in the above described violations of law which caused injury to the Lions Club of Albany and its members. The employees are:

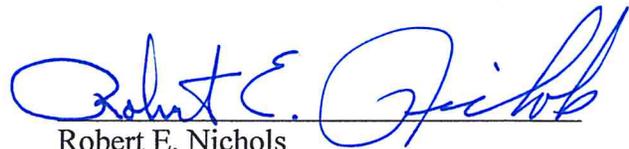
- Lance Calkins, Fire Chief, City of Albany
- Jeff Bond, Community Development Director, City of Albany
- Penelope Leach Crumpley, City Manager, City of Albany
- Peter Maas, Mayor, City of Albany
- Rochelle Nason, City Councilmember, City of Albany

## **Description of Loss**

The injury suffered by the Lions Club of Albany, California, and its members including the estimated amount of injury, damage, and loss, cannot be ascertained with reasonable certainty as of the date of presentation of this claim, but, based on the foregoing, Claimant estimates the total amount of such damages, including attorney fees and punitive damages, to be within the unlimited jurisdiction of the Superior Court of California.

Equitable relief is also necessary to preclude irreparable harm from the City's obstruction, interference and taking of the Lions Club's property rights granted by easement.

Dated: November 16, 2016



Robert E. Nichols  
Attorney for Claimant,  
The Lions Club of Albany, California.