

NEWS

From the County of San Bernardino
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FOR IMMEDIATE RELEASE
September 14, 2007

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District to receive \$9.5 million toward Colonies settlement

The county Flood Control District this week scored its first major success in recouping some of the funds paid out in last year's settlement with the Colonies Partners, securing an agreement from Travelers insurance to pay the district \$9.5 million from a \$10 million policy the district had with the firm to cover events such as those involved in the Colonies case.

"These funds will go directly into the district's coffers to help ensure that vital public safety flood control projects proceed as necessary," said Board of Supervisors Chairman Paul Biane, who signed the agreement with Travelers earlier this week on the district's behalf.

The district will now turn its attention toward securing payments from various insurance companies affiliated with American International Group Inc. (AIG) that have similar multi-million-dollar policies covering the district, and pursuing legal action against Caltrans, San Bernardino Associated Governments, and the City of Upland, which bear portions of the responsibility for the circumstances that led to the \$102 million Colonies settlement. A hearing in that case is scheduled for September 20.

Like the district, Caltrans, SANBAG, and Upland could rely on insurance policies, lessening if not eliminating the effect on taxpayers. Government agencies, not unlike doctors and attorneys, usually have insurance policies to cover events such as those that resulted in the Colonies case.

Referring to the agreement with Travelers, Flood Control District attorneys said it is rare to secure such a significant payment from an insurance company under these circumstances without having to resort to costly litigation, and it bodes well for the county Flood Control District's efforts to secure funding from the other responsible carriers and government agencies.

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The district ended a year's long legal battle with the Colonies developers on November 28, 2006, when the Board of Supervisors – acting as the district's board of directors – agreed to a \$102 million settlement. The district had up to that point been unsuccessful in getting Caltrans, SANBAG, and Upland, and the various insurance companies that covered the district to assume their shares of the responsibility.

The district agreed to the Colonies settlement with the intention of working vigorously to secure participation from the various insurers and other responsible government agencies.

Pursuing Travelers was the first step in this process. The district will now turn its attention to the AIG-affiliated insurers, and continue pursuing its legal action against Caltrans, SANBAG, and Upland.

The district agreed to the settlement also after determining the amount would not impair the district's ability to operate and maintain existing flood control facilities and react to emergencies throughout the county. However, there was concern the settlement could delay the completion of some planned projects.

"The agreement with Travelers and the prospect for success in the district's efforts to secure additional funding from the other responsible parties significantly alleviates the concern the county has about being reimbursed for a sizable portion of the Colonies settlement," Chairman Biane said.