



CLAIM AGAINST THE CITY OF SPARKS

The following information is necessary to fairly evaluate and consider your claim. Please provide complete information. If you need more space, attach a separate sheet of paper. You may submit additional evidence, such as photographs, police report, etc., if you wish. However, such additional evidence will not be returned. PLEASE PRINT OR TYPE.

CLAIM IN THE AMOUNT OF \$ _____ is hereby made against the City of Sparks, based upon the following facts:

1. Your full NAME: MRS. MARIA A. HUERTA

Date of Birth (Required): 01-10-1930 Gender (Required): Male Female

Medicare/Medicaid/SCHIP Recipient (Required): Yes No

Tax I.D. Number (if applicable) _____

Name of injured person/owner if different: _____

ADDRESS: 1110 XMAN WAY

CITY/STATE/ZIP SPARKS, NV 89431

DAYTIME TELEPHONE NUMBER 775-331-0848 or 775-762-1067 ROWENA HARRISON, DAUGHTER

2. Date and time damage or injury occurred: JANUARY 2, 2012 APPROXIMATELY 6:30 P.M.

3. Exact location where damage or injury occurred: PARKING LOT ON VICTORIAN SQUARE PLAZA BETWEEN AVENUE OF THE OAKS & "C" STREET PARKING LOT BY DOTTYS CASINO

4. Did you report the damage or injury? YES When? JANUARY 17, 2012

To Whom? MS. JULIA RATTI (SEE ATTACHED LETTER

5. Describe how damage or injury occurred (Give full details): MARIA FELL BECAUSE OF POTHOLE IN THE PARKING LOT AT VICTORIAN SQUARE PLAZA AND BROKE HER RIGHT HIP, PELVIS, FEMUR. (SEE COPY OF XRAY & MEDICAL REPORT)

6. What did the City of Sparks employee(s) do to cause the damage or injury? N/A

7. What is the name and job title or description of the City of Sparks employee(s) who caused the damage or injury? N/A

RECEIVED
NOV 26 2012

MANNOS & ASSOCIATES

Adjusters, Inc.

904 W. Seventh St., Suite 201
P.O. Box 2537 (Mail)
Reno, NV 89505
775-322-4077
775-322-35678 (Fax)
mannosadj@prodigy.net

RECEIVED
JAN 02 2013
City of Sparks, Nev. Management

Tom Mannos, President

December 28, 2012

Confidential, Attorney Work Product

City of Sparks
P.O. Box 857
Sparks, NV 89432-0857
Attn: Chet Adams, Sparks City Attorney
Steve Driscoll, Risk Manager

RE:	Insured:	City of Sparks
	Claimant:	Maria A. Huerta
	Claim #:	unk
	D/L:	January 2, 2012

Dear Chet & Steve:

ENCLOSURES:

Recorded statement resume/summary from Maria A. Huerta
Recorded statement resume/summary from Irene Coffey
Recorded statement resume/summary from Juanita Meraz
Photographs of Ms. Huerta, injury and footwear
Photographs from accident scene
Google satellite photos of subject parking lot
City Ownership of Parking Lot plot map
File memo dated December 21, 2012
Sketch diagram of fall area completed by Ms. Huerta
Response email from Neil Krutz, Deputy City Manager to Ms. Meraz January 23, 2012
Signed Medicare Eligibility Form
Signed Medical Authorizations from Ms. Huerta
Index Reporting Form for Ms. Huerta
Citation references "Eggers v. Harrah's, 86 Nev.782 (1970); Rickard v. City of Reno, 71 Nev. 269 (1955).
Copies of numbered photos taken by Juanita Meraz June 2012
City of Sparks email January 19, 2012 from Julia Ratti to Juanita Meraz

INSURED:

This loss involves a public parking lot owned by City of Sparks, which is self-insured. The lot in questions rests south of the Sparks Cinema Movie Complex and north of a concrete paved alley running east and west and north of Victorian Avenue and is identified as owned by the City of Sparks via the provided City plot map as parcel #9. The alley is bordered on the south by Dotty's Casino and on the north by the beginning edge of this asphalt covered parking lot. The lot is within the confines of Victorian Plaza Circle. A City of Sparks sign is displayed on a light standard in this parking lot advising that large vehicle overnight parking is not allowed.

COVERAGE:

City of Sparks is self-insured for this tort claim subject to your current SIR, which we understand to be \$100,000.00 for the date of loss of January 2, 2012. Additionally, the State of Nevada Statutory cap at a limit of \$100,000.00 has relevance for the City as a political subdivision of the State.

OTHER INSURANCE:

Claimant Maria A. Huerta, current age 83, enjoys the benefit of Medicare insurance and also has a Medicare supplement through Tri-Care. To date, Ms. Huerta has not reported any known out-of-pocket medical expenses related to this accident.

COVERAGE QUESTION:

We were able to confirm through discussion with Dave Vill, the Real Property Consultant for City of Sparks, that the subject parking lot is owned by City of Sparks.

PREMISES IDENTIFICATION:

The subject parking lot is pictured in photographs we procured at the scene and also from photographs June 2012 by Juanita Meraz, the daughter of Ms. Huerta. We're also providing Google satellite photos showing the lot's location/layout. Parcel #9 is shown on the plot map from the City as provided by Mr. Vill.

This lot is typical in its design as an asphalt covered ground surface with painted white lines designating individual parking stalls for passenger size vehicles. Four twenty foot tall light standards run the length of the parking lot in an east/west direction and are comprised of four individual light fixtures each. We confirmed in conversation with Ron Korman the City's Fleet and Facilities Manager that the four light standards

situated on this parking lot were installed approximately fifteen years ago and are comprised of four high intensity bulbs that activate via photo cells. Mr. Korman is unaware of any notices to his department requiring maintenance for these lights prior to January 2, 2012 and says each bulb has a life expectancy of 10,000 hours. We conclude that these overhead lights were in fact on January 2, 2012 at approximately 6:30 p.m.

The south row of painted parking stalls rest on a gradual slope of this lot, sloping south along the entire south end of the lot. This slope is necessitated due to the parking lot surface height being slightly above the level of the concrete alley on its south border line. Reference is drawn to our scene diagram. From information developed, we have confirmed that the subject accident did not happen on this sloped section of the lot.

The general condition of the east half of the lot's surface was found to be of poor quality. There are numerous patches of what appear to be fresh asphalt of varying sizes as also weather and wear cracks in the asphalt surface, primarily on the east end. The asphalt on the west side of the lot appears to be newer and much better condition than the east side. Please refer to scene photos. There's evidence of deterioration of some surface areas of the lot, probably due to conditions of weather over time. A new patch of asphalt runs the length of the parking lot east to west along the center of where light standards are positioned. This is consistent with Mr. Vill's confirmation that the lights were installed years ago and after the original paving of the parking lot.

OWNERSHIP AND CONTROL:

We confirmed through contact with Mr. David Vill that City of Sparks is the owner of the subject parking lot. We're unaware of the City farming out responsibilities for maintenance and upkeep to include servicing the overhead lights and paving patches. We have asked Dan Hamlin, City of Sparks Operations and Maintenance Manager to check his maintenance records to determine when patching or other maintenance work was done in the months prior to or following the instant accident. His response has not arrived as this report is being prepared.

DATE, TIME & PLACE OF ACCIDENT:

This accident happened January 2, 2012 at approximately 6:30 p.m. in the described parking lot in Sparks, NV. The weather at the time has been described by Ms. Huerta as clear and dry. While, according to the "Local Climatological Data NOAA, National Climatic Data Center summary, sun set on January 2 is generally around 4:46 p.m. in the Reno/Sparks area, both Ms. Huerta and her daughter Irene Coffey describe good lighting in the accident area and not overly dark conditions when this accident happened at 6:30 p.m. or approximately 1 hour and forty-four minutes after sunset. Weather was not a factor according to Mr. Huerta and her daughter.

EVENTS PRECEEDING ACCIDENT:

Around 5:00 p.m. on the date of loss, Ms. Huerta's daughter Irene Coffey drove to her mother's address of 1110 Xman for the purpose of driving her mother's new vehicle so they could travel to Rosie's Cafe inside the Nugget for dinner. She drove to the described parking lot, parked between two other vehicles on a flat level section of the lot north and slightly east of the north side of Dotty's Casino. The two then uneventfully walked away from their car and then along the east side of Dotty's, across Victorian Ave. and into the Nugget. We've estimated the walking distance to the interior of the Nugget as approximately 100 yards. They stayed forty-five minutes-to-one-hour then began walking back to the parking lot only this time walking along the west side past Dotty's. They then crossed the concrete alley, walked up the sloped section of first parking stalls and were approximately two-to-three car lengths away from Ms. Huerta's north facing parked car when this accident happened. Both walking from the car to the Nugget and again on the return, Ms. Huerta was being supported as she walked by Ms. Coffey who walked to her left holding her mother's left arm. Ms. Huerta denies consumption of any alcoholic beverage during dinner. We estimate the total distance walked for both directions at 200 yards. We confirmed that Ms. Huerta **did not** have a handicap parking sticker for her vehicles prior to this accident.

FACTS OF ACCIDENT:

This is a stumble and fall accident that happened in the described parking lot. We have confirmed through recorded statements from Ms. Huerta and Ms. Coffey that neither person visually detected any defect on the parking lot surface on the accident evening that could have been construed as the specific cause of Ms. Huerta's fall. Rather, in her recorded statement, Ms. Huerta asserts that she stepped in a "hole" and while admitting she never visually saw the alleged hole, she asserts that she "felt" it with her right foot. She describes a circumstance where the ground surface under her right foot seemed "lower" than the expected surface and that this caused her to topple over to her right side. She denies pain prior to impacting the asphalt surface.

Ms. Coffey confirms attempting to break her mother's fall by virtue of having been holding her by her left arm, and states the movement of her mother's fall pulled her down with her. Ms. Coffey then also landed on the asphalt surface on her elbow. Ms. Huerta called out in pain she felt in her right leg and right hip. She admonished Ms. Coffey not to attempt to help her up and laid there until fire department and ambulance personnel arrived. She was then transported to Renown Health where she remained for about five days and later was transferred to Renown's Physical Therapy Center for rehab and remained there for about five weeks. At the time of the fall, Ms. Huerta was wearing lace type typical athletic style tennis shoes, slacks, does not wear glasses and denies carrying anything in her hands. Neither of her shoes came off in the fall.

INSURED'S VERSION:

N/A

CLAIMANT'S VERSION:

Ms. Huerta's version of this accident is outlined in her recorded statement summary. We consider it paramount that she has admitted to never having seen the "hole" she asserts caused her to fall. The statement Resume/Summary is self-explanatory.

DISPUTED FACTS:

Due to a lack of any first hand observation of an alleged "hole" being the cause of Ms. Huerta's fall, we believe the accident facts can be disputed.

WITNESSES:

Juanita Meraz, (562) 695-6968/Email: fammeraz@verison.net, 9117 Bartley Ave., Santa Fe Springs, CA 90670 is the daughter of Ms. Huerta. She assisted her mother by preparing a letter directed to Julia Ratti, Council Member Ward 1 in care of City of Sparks dated January 17, 2012. In this letter, Ms. Meraz mentions her mother's accident, describes the general area and asserts that her mother fell due to a "pothole" in the subject parking lot. Her letter is not couched in a demand for consideration of a claim for damages but rather in the vain of wanting to know what the City of Sparks intended to do "to repair and resurface the parking lot mentioned above so that there will be no more future falls". She mentions that her mother has been a Sparks resident since 1954-55 and has lived in her home on Xman Ave. since 1958-59. She volunteers that her father "Martin J. Huerta worked many years for the City of Sparks" and that she graduated from Sparks HS 1966 and attended UNR 1966-68.

A recorded statement was procured from Ms. Meraz December 27, 2012. She resided in Santa Fe Springs when this accident happened and traveled to Sparks to assist her mother. She first arrived around January 12, 2012 or ten days after the accident. While her mother was still confined to Renown Health, Ms. Meraz visited the accident scene with her sister Irene Coffey but never took any photos of the scene. She did inspect the lot with Irene and noticed "several potholes" but none that were definitively determined to be the cause of this fall.

June 16 – 28th, Ms. Meraz returned to Sparks and on this occasion she took several photos to document deteriorated areas where the asphalt appeared crumbling and worn. She also photographed an "electric" concrete utility cover that she felt demonstrated a hazardous condition on the lot. We confirmed in her recorded statement that she did not single out any one particular area or location as the location of her mother's fall. She did

not place any markings on the photos but dated them on the back of each. Ms. Huerta accompanied Ms. Meraz on the June 2012 visit to the parking lot but was unable to pinpoint the exact fall location.

In her statement, Ms. Coffey asserts that she and Ms. Meraz located the general area of Ms. Huerta's fall by following the path she and her mother took returning from the Nugget to the parking lot. As they walked this alleged same path in January 2012, she asserts they located a "hole" in the asphalt she estimates was "one-half inch to one inch deep and four-to-five inches wide" but cannot attest to it being the cause of this fall.

The provided photos from Ms. Meraz are perhaps as important for what the **do not** show as for what the photographer intended **to** show. None of the areas in photos depicts anything more than what can be construed as "trivial defects". There are no shown gaping holes, trenches with missing asphalt, high or low spots etc., etc. Ms. Huerta can be seen standing in the parking lot with her walker, which is new to her accident. We're providing you with copies of provided photos with added number 11, 12, 13 & 15. These are the only photos showing anything resembling a hole and again were taken by Ms. Meraz June 18 – 26, 2012. These were reviewed by Ms. Huerta while her statement was procured, but she was of no help pointing out any problem area she associated with her fall. She wasn't sure when the photos were taken and seemed surprised that she was pictured using her walker in one or more.

This we believe is important because conditions on the parking lot surface could very likely have changed in the six months from accident date to the photo session in June 2012.

DIAGRAM:

We're providing a City diagramed plot map showing the accident parking lot and Google satellite photos.

PHOTOGRAPHS:

Copies of photos originally sent by Ms. Meraz and others we procured showing Ms. Huerta, **her footwear and** walker and others from the accident scene taken December 21, 2012 are enclosed.

BODILY INJRY/CLAIMANT:

Maria A. Huerta, age 83, DOB: 1/10/1930 is a widowed Hispanic female born in Arizona. She has resided in Sparks since 1954 as outlined above. She's 4'11", weighs about 150 lbs., has **dark hair and can best be described as a non-athletic, small framed** person appearing close to her admitted age of 83. She speaks with a thick Hispanic accent. In

1961, she relays having falling through or from a roof, which caused some sort of fracture to her left knee. It was surgically repaired, deteriorated over time and four years ago she underwent a complete left knee replacement performed in Reno. She denies any ambulating problems due to the knee replacement and says she was told the new knee would last "ten years". She denies any other prior fractures or any problems with either of her hips before the instant accident. On the date of loss, she was residing alone in her small home in Sparks. After the accident, her 62 year old widowed daughter Irene Coffey moved in with her, and they have resided together since.

As a consequence of disabilities resulting from this accident, Ms. Huerta's family elected to have renovations done to her home to include a driveway expansion, modifications to the interior of the home including bath/shower handicap access and also handicap alterations to other bathroom fixtures. The family has provided receipts and a listing of costs associated with necessary renovations totaling \$3,740.00. Additionally, the family made claim for in-home health care provided by Irene Coffey totaling \$31,840.00 including \$240.00 for "transportation". This care continues with Ms. Coffey now living permanently with Ms. Huerta.

We have requested medical records, which will be provided once in hand. We have also asked family members to work to confirm the amount of incurred medical expenses. Considering the hospital stay of five days, surgery to replace the upper left femur and hip joint plus extended inpatient physical therapy, we conservatively estimate med specials between \$40,000.00 & \$50,000.00. Total potentially compensable specials would then be approximately \$85,580.00.

INJURIES:

We have prepared a separate "File Memo" dated December 21, 2012, which address the known injuries sustained by Ms. Huerta. We will not re-state these here and recommend the file memo be reviewed. Reference is drawn to the issue of a possible "spontaneous fracture".

INDEX:

An Index System Reporting form is a part of this report.

CURRENT ACTIVITY:

We await receipt of previously requested medical records and a complete list of medical specials for Ms. Huerta. We've asked Mr. Hamlin to make copies of his maintenance records for the subject lot as a means of documenting maintenance activities prior to and following this accident.

LIABILITY:

We assess liability as questionable based on data available to date. Specifically, it is certain that neither Ms. Huerta nor any family member can definitively associate her fall with a specific hole or other condition causing her to fall. We refer you to the following case law that essentially supports that a plaintiff's inability to state precisely what caused the fall, and the lack of other direct evidence, may allow the defendant to obtain summary judgment:

- 1> **Eggers v. Harrah's, 86 Nev. 782 (1970)**
- 2> **Rickard v. City of Reno, 71 Nev. 269 (1955)**

We believe it can be shown that the City of Sparks owed a duty of reasonable care to Ms. Huerta and not an elevated degree of care one might owe for say a "business invitee". Parking in the accident area is offered free by the City, and there is no direct financial benefit to the City by Ms. Huerta choosing to use the City's lot. Whether or not the City met the standard of ordinary care could very well be a jury question. But data outlined above as gathered from our activities or that of Mr. Huerta's family members would support that while the parking lot is hardly new or pristine, no outrageous or grossly neglected areas of needed maintenance were found. Its evident numerous patching has taken place over time thus supporting that the lot has been maintained rather than forgotten or left uncared for. Lighting was obviously added about fifteen years ago in further support of meeting standards of care.

If it can be shown that City of Sparks did not breach a duty owed Ms. Huerta, the likelihood of a defense verdict in a civil trial appears quite good. This coupled with the potential for summary judgment based on stated past case law causes us to opine that liability is questionable.

We believe that a complete assessment of liability should take into consideration the sympathy aspect of this claim. In our opinion, Ms. Huerta will enjoy the benefit of a very high degree of sympathy from a judge or jury. She's a very pleasant, low-keyed, non-demanding elderly person and long, long time Sparks resident. She has a loving family that is supporting her. Her life literally has been changed by this accident. She's no longer self-sufficient, relying on her daughter Irene Coffey to help her with most daily chores. She had purchased a new vehicle less than a month before this accident and now can no longer drive. Her recovery is progressing very slowly, quite likely due to her advanced age. She now has a handicap parking sticker for her vehicle, but according to her daughter Rowena Harrison, she did not have one prior to this accident. She cannot now ambulate without use of a four-wheeled walker. A visual picture of her slowly moving into a court room speaks volumes on the issue of sympathy from a judge or jury.

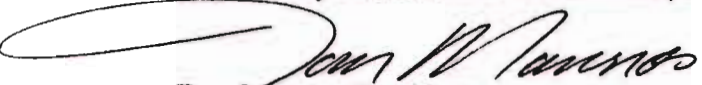
At this juncture, the family is only making claim for items of damage totaling \$35,780.00. No claim has been made for General Damages or Medical Expenses. If this claim is lost to a plaintiff's attorney, the City can expect a statutory limit demand in short order. Costs of defense should also be considered.

FURTHER PROCEDURES AND RECOMMENDATIONS:

We suggest this claim be reviewed during the next City of Sparks Risk Management Committee Meeting and that voting and support members provide their input and opinions concerning a response to this now nascent claim. This discussion should include issues of potential liability, likelihood of successful defense of a lawsuit as well as damages including the outlined costs for Irene Coffey's in-house care for her mother and whether the amount claimed would be realistic assuming she enjoyed elimination of living expenses by virtue of moving in with her mother, ostensibly rent/utilities free.

We believe that a timely response is paramount given the family's current decision to not engage counsel. We feel safe in speculating that if a reasonable compromise settlement is not arranged, the family will move to retain counsel and that a lawsuit will follow. The statute expires for this claim January 2, 2014.

Respectfully submitted as "Confidential, Attorney Work Product",



Tom Mannos, President

MANNOS & ASSOC. ADJUSTERS, INC.

TM/tm

**Recorded Statement
Resume/Summary**

Maria A. Huerta

STATEMENT RESUME

Insured:	City of Sparks
Claimant:	Maria A. Huerta
Statement of:	Maria A. Huerta
Address:	1110 Xman Sparks, NV 89431
Age:	83
Occupation:	None
Description:	5'2", 140 lbs. Dr Brown hair, brown eyes
Social:	455-58-5584
Witness Appraisal:	Friendly, cooperative Latino female, small in stature, does not wear glasses, speaks with Hispanic accent, born in U.S., has difficulty verbalizing accident events, poor recollection of specifics as to cause of fall, generally provokes sympathy
Injury:	Fractured R femur Intertrochanteric region, rod & screw fixation
Date taken:	December 20, 2012

Summary:

Ms. Huerta confirms being a widow and having driven from her home in Sparks along with her daughter Irene Coffee on January 2, 2011 arriving at a parking lot behind Doty's Casino where she parked. They arrived around 5:00 p.m. She recalls good weather without rain or snow and ground surfaces being dry. They exited her vehicle and had an uneventful walk from the parking lot, across an alley between the lot and running parallel to Doty's Casino and then on to a restaurant inside the Nugget. She estimates they stayed less than one hour then left to walk back to her car. She describes walking after daylight but says it wasn't particularly dark outside. Once passed the alley and up onto the parking lot and with Irene walking to her left, she says she fell to her right and landed on the parking lot surface. She recalls falling on her right shoulder and thinks she struck her right hip. She landed on her right shoulder and right side. She was wearing a pair of athletic style tennis shoes, slacks and wasn't carrying anything in her hands. She does not wear glasses. She denies damaging any of her clothing and believes she might have sustained some bruising to her right hip area. She wasn't able to get up and eventually was transported from the scene by ambulance persons and taken to Renown Health where she stayed for about five days. They then went to a therapy center for about three weeks. She currently uses a walker to ambulate and is unable to continue to drive. She denies any prior injury to her hips but admits to a "broken knee", the result of falling from a roof sometime around 1961. The knee became worse over time and about four years ago, she had a

complete left knee replacement done in Reno done by Dr. Parlaska. She says she was fine afterward, did not walk with a limp and was told the new knee would last her ten years. She admits that at the scene of her parking lot fall, she did not see the specific cause of her fall but rather says she "felt" like she had stepped in a "hole". She admits to never examining the "hole" or ever going back to see the hole before it had been patched. She's unable to give a clear description of the hole. She does say that her other daughter Jaunita Meraz went to the parking lot along with Irene Coffee sometime after the fall and took some pictures of the general area. When shown these pictures during the statement taking process, she was unable to point out any specific condition or location to pin point where she recalls falling. She was able to draw a very rough diagram of the general area showing the Nugget, Dotty's Casino and the parking areas. She did not recall being close to her car when she fell. She denies consuming any alcoholic beverage during dinner at the Nugget. She knows that two persons from a car nearby came to help but does not know them by name. She's unaware of any other witnesses to her fall. She denies a history of brittle bones or past slip or trip falls. After her fall, she says her daughter Irene who is also a widow moved in with her for needed help and still lives with her. Irene also works for Digestive Health Center in Reno. She says all of her medical bills have been paid by Medicare and her private supplement Tri-Care.

Tom Mannos

MANNOS & ASSOCIATES ADJUSTERS

TM/tm

**Recorded Statement
Resume/Summary**

Irene Coffey

STATEMENT RESUME

Insured:	City of Sparks
Claimant:	Maria Huerta
Statement of:	Iren Coffey
Address:	1110 Xman Sparks, NV 89431
Age:	64
Marital Status:	Widow
Occupation:	Unemployed
Witness Appraisal:	Friendly, cooperative manner, clear expression, good recollection of accident evening events, generally provokes belief
Date taken:	December 24, 2012

Summary:

Ms. Coffey is the daughter to Maria Huerta and confirms being with her on the early evening of January 2, 2012 when they had decided to drive from Ms. Huerta's home on Xman Ave. to the Sparks Nugget for dinner at Rosie's Café. She can't recall the exact time they left the home but recalls that it was still "light" outside. The weather was clear and dry. Irene drove the car, which was new to Ms. Huerta just a couple weeks before. She recalls parking a short distance east of Dotty's Casino on a flat section of the asphalt parking lot with the car facing north and other parked cars on either side of theirs. They both wore light jackets and she recalls her mother wearing tennis shoes. On the walk from the lot to the Nugget, they passed by the left or east side of Dotty's. On the return after dinner and about forty-five minutes to one hour after they first parked, they walked a different path approaching the lot from the west side of Dotty's. As they walked, she was to her mother's left and was holding her arm, which she says is her usual practice "because my mother is elderly". When they were about one or two car lengths from the car, she says her mother fell to her right as if the area to her right was lower than her left side. She says she did not call out or say anything before she fell and that after the fall she was in a lot of pain and asked Irene not to try to help her up. Irene then used her cell phone to call an ambulance. Sparks Fire Dept. persons first arrived and shortly after an ambulance. Irene followed the ambulance to Renown. After the fall and during the wait for help, Irene denies making any effort to determine the cause of her mother's fall. She says her sole concern was for her mother's well-being and that she did not look for a cause. She never returned to the area until her sister Juanita Marez came to town about two or three weeks later. Juanita wanted to see where her mother had fallen and used a camera to take photographs. During this visit, Irene says that by following the general path she and her

mother walked when they walked back from the Nugget to their car, they located a "pot hole" that she describes as a worn area of asphalt "about ½" -1" deep and about "four-to-five inches across". She says there were other similar holes in the general area and when asked how she concluded that this particular worn area was the location of her mother's fall, she says because of the path they were walking. She never saw this hole before this time and did not associate it with her mother's fall on the date of the accident. She recalls that Juanita came back into town around June and that other picture might have been taken at that time. When reminded that her mother appears using her walker in pictures provided, she cannot recall who took these or when. She is not certain about overhead lights in this parking lot but says that the fall area wasn't dark due to lights from the "Plaza" and nearby movie theatres. She mentions shadows from other parked cars and can't recall if their car was still parked between two others when her mother fell. Her sense was that her mother had "stepped into something deep" and when she did, she pulled Irene down with her. Irene landed on her elbow and recalls her mother landing on her right side. She complained of pain in her right leg and hip. Irene says her mother was able to walk fine before the fall and that she wasn't having any problems with her left knee replacement before the fall. She moved in with her mother January 2012 and has been living with her ever since.

Tom Mannos

MANNOS & ASSOCIATES ADJUSTERS

TM/tm

**Recorded Statement
Resume/Summary**

Juanita Meraz

STATEMENT RESUME

Insured:	City of Sparks
Claimant:	Maria A. Huerta
Statement of:	Juanita Meraz
Address:	9117 Bentley Ave. Santa Fe Springs, CA 90670
Age:	66
Occupation:	Retired/Divorced
Witness Appraisal:	Friendly, cooperative manner, answers with consistency and conviction, generally provokes trust and belief

Date taken: December 27, 2012

Summary:

Ms. Marez is the daughter of Maria A. Huerta. She confirms returning to Sparks in January 2012 after hearing about an accident her mother had in a City of Sparks parking lot while walking with Juanita's sister Irene Coffey. She recalls that her mother was still in the hospital due to her fall when she arrived. She visited the subject parking lot with Irene on this occasion but did not take any photographs. She was curious as to where and how the accident happened. She confirms that Irene was not able to pin-point the exact accident area and that together they noticed "several potholes" in different locations on the lot. At one point, Irene said something to the effect that a pothole in the area seemed like it could have been near where their mother fell but that she wasn't absolutely certain. After this inspection, she sent a letter to council person Ratti complaining about hazardous conditions including "potholes" in this lot. She received a response from a Sparks City person Neil C. Krutz who said that the problem areas mentioned by Ms. Meraz would be corrected. June 18 - 26th 2012, Ms. Meraz again visited Sparks and on this occasion, drove with her mother to the same parking lot. On this visit, Juanita used her color digital camera to take several pictures of the parking lot. She explains that her purpose was to document that the potholes she saw in January and that Mr. Krutz promised would be corrected had not been repaired. She admits that she did not take any pictures of any specific pothole that might have been the cause of her mother's fall. She simply took general pictures of the lot including an electrical cover that she considered a hazard because the surrounding surface was higher than the cover thereby a potential trip hazard for persons walking. She confirms that this electrical cover was not where her mother fell. She says she does not feel comfortable attempting to describe the different potholes she saw as to their depth but estimates that they varied in diameter from 6"- 7" up to 12" - 24" but says: "I might be exaggerating". She recalled that her mother can be seen in a couple of the photos she took but confirms that she does not know if her mother was ever able to point out a specific area

on the lot where she fell. She never attempted to measure any of the “several” potholes she saw in this lot and cannot estimate their depths. She did consider them a hazard to persons walking in the lot while volunteering that she’s a “walker”, walking about four miles every day. Her mother was unable to give a clear or concise description of her fall other than to simply tell her she was walking and “just fell”. Her sister Irene was not with them on the return to the lot in June 2012.

Tom Mannos

MANNOS & ASSOCIATES ADJUSTERS

TM/tm

File Memo December 21, 2012

FILE MEMO:

December 21, 2012

RE: Insured: City of Sparks
Claimant: Maria Huerta
D/L: January 2, 2012

From a recorded statement procured from Ms. Huerta December 20, 2012, it became apparent that she would not be able to give a clear description of the alleged "hole" that caused her fall in a City of Sparks parking lot. Furthermore, she admitted to never actually seeing the hole either before or immediately after her fall. She did return to the scene in the company of her daughter Irene Coffee and Juanita Marez over the 2012 Thanksgiving Holiday. She can be seen in photos standing with her walker in photos taken June 2012 by her daughter Juanita Marez.. Ms. Huerta also mentioned that Ms. Marez came to Reno sometime after she was in the hospital and on that occasion when to the accident scene with Ms. Huerta's other daughter Irene Coffee. On this visit, no pictures were taken of problem areas on the parking lot surface. June 2012 pictures were made available to Ms. Huerta when her statement was taken, but she was unable to pinpoint and specific condition or area where she fell.

File material supplied by the City included a letter dated January 17, 2011 from Juanita Marez. In this letter she states the following:

I had been visiting her since Wed., 1/11-1/16/2012. Before, I left Sparks to my home in Santa Fe Springs, California, my sister, Irene, took me to the parking lot where my mother, Maria, fell and I saw many potholes that need to be repaired to prevent others from falling. I also noticed that only half of the parking lot was paved and the other half was not. The parking lot seems uneven and also where the SPPCO Electric area is and can cause falls.

Ms. Marez was not specific in this letter about actually locating the exact area of this fall and/or photographing the specific location. Her statement as well of a statement from Irene Coffee will be required to further explore whether or not anyone can attest to the presence and condition of any alleged "hole" that might have been the cause of this accident.

From a single medical report contained in the file copies provided to us, the "Diagnosis Codes" list Ms. Huerta's injury as "**FRACTURE FEMUR INTERTROCHANTERIC REGION**". "Intertrochanteric" refers to the femurs two trochanters.

"Trochanter" is any of the two bony processes below the neck of the femur.

X-ray copies in this file show an open reduction at the fracture site and rod and pin fixation with what appears to be new rod extension of the femur and new metal joint into the right hip. This "pelvis" fracture could have been to the head of the femur where it

angles into the pelvis and forms the joint or "acetabulum". This is one of the most important joints in the body. Through the acetabulum, the weight of the body is supported by the femur and plays a major roll in a person's ability to walk. Healing of the femur is slow due in part to the size of the bone. The period of temporary disability for a person the age of Ms. Huerta can easily be twelve months and will likely result in permanent disability due to a slight or moderate loss of hip motion and possible thigh atrophy.

In older persons with more brittle bones, we rely on medical records and a claimant's history to determine whether or not there's evidence of a "spontaneous fracture" at the acetabulum. "Spontaneous" refers to a fracture at the acetabulum, which happens before a person falls thus causing them to fall rather than the fall precipitating the fracture. Medical records have been requested and will have to be reviewed in order to determine if there's any evidence of a spontaneous fracture. This would impact a finding of legal liability and potentially discount any notion that a hazardous condition caused this fall. The inability of Ms. Huerta to precisely relate her fall to a perceived "hole" is reason to further explore this issue. This is further supported by the inability to date of anyone asserting direct evidence of seeing Mr. Huerta's foot encounter a hole prior to her fall. A worn or deteriorated condition of the parking lot surface has been mentioned by Juanita Marez but she was not present when the fall happened and did not take scene photos until almost six months after the fall.

From our inspection of the accident scene December 21, 2012, we were unable to match up photos by Ms. Marez to current conditions on the parking lot surface relative to a specific hole or hazard. Relatively new asphalt patches were found but a review of Ms. Marez's photos supports that she photographed numerous deteriorating areas as well as a depressed "Electric" utility box in the general area. The black and white photos are such that it's likely she was not attempting to photograph the exact fall area. Ms. Marez's June 2012 photos are important for what they fail to show...that being any appreciable "hole" that would constitute anything more than a "trivial defect". We conclude that any area she photographed in June 2012 would likely have changed somewhat from their condition on the accident date of January 2, 2012.

Tom Mannos, President
MANNOS & ASSOC. ADJUSTERS, INC.

Email Copy from Julia Ratti to
Juanita Meraz January 19, 2012

Subject: Fwd: Potholes at parking lot/1100 Victorian Plaza Circle/Ave of the Oats
From: Juanita Meraz (fammeraz@verizon.net)
To: mannosadj@prodigy.net;
Date: Thursday, December 27, 2012 12:44 PM

Mr. Mannos,
Here is the information that you requested regarding Maria A. Huerta's claim.

I will also send you the other one.

Thank you,
Ms. Juanita V. Meraz

Begin forwarded message:

From: "Ratti, Julia" <jratti@cityofsparks.us>
Date: January 19, 2012 7:35:15 PM PST
To: Juanita Meraz <fammeraz@verizon.net>
Subject: Re: Potholes at parking lot/1100 Victorian Plaza Circle/Ave of the Oats

Dear Ms. Meraz,

First, I was sorry to hear of your mother's injury and I send my sympathy and best wishes for her recovery.

I have asked City staff to review the situation and to be in touch with you. You should hear from someone from the City in the near future.

I agree that it is difficult to see some of the deterioration in the older part of Sparks. It is why I chose to get involved in local government and I will continue to work to improve the situation.

Again, I wish for the best possible recovery for you mother.

Sincerely,
Julia

Sent from my iPhone

On Jan 16, 2012, at 5:16 PM, "Juanita Meraz"
<fammeraz@verizon.net<mailto:fammeraz@verizon.net>> wrote:

Email From Neil Krutz to
Juanita Meraz 1/23/12

Subject: Fwd: Potholes at parking lot on Victorian Plaza Circle
From: Juanita Meraz (fammeraz@verizon.net)
To: mannosad@prodigy.net;
Date: Thursday, December 27, 2012 12:46 PM

Mr. Mannos,
Here is the other email that you requested regarding Maria A. Huerta's claim.
Thank you,
Juanita V. Meraz

Begin forwarded message:

From: "Kruz, Neil" <nkrutz@cityofsparks.us>
Date: January 23, 2012 11:10:08 AM PST
To: "fammeraz@verizon.net" <fammeraz@verizon.net>
Subject: Potholes at parking lot on Victorian Plaza Circle

Dear Ms. Meraz:

Thank you for contacting the City of Sparks about parking lot potholes. I am sorry to learn that your mother was injured in a fall. I hope her recovery progresses quickly. Since your email to Council member Ratti, City crews have filled the pot holes using a temporary patching material. We will make more permanent repairs in the spring once paving construction has started again.

Please let me know if you have any questions or additional concerns.

Sincerely,

Neil

Neil C. Krutz, P.E.
Deputy City Manager

Google Satellite Scene Photos



Google earth

feet
meters





Google earth





Google earth

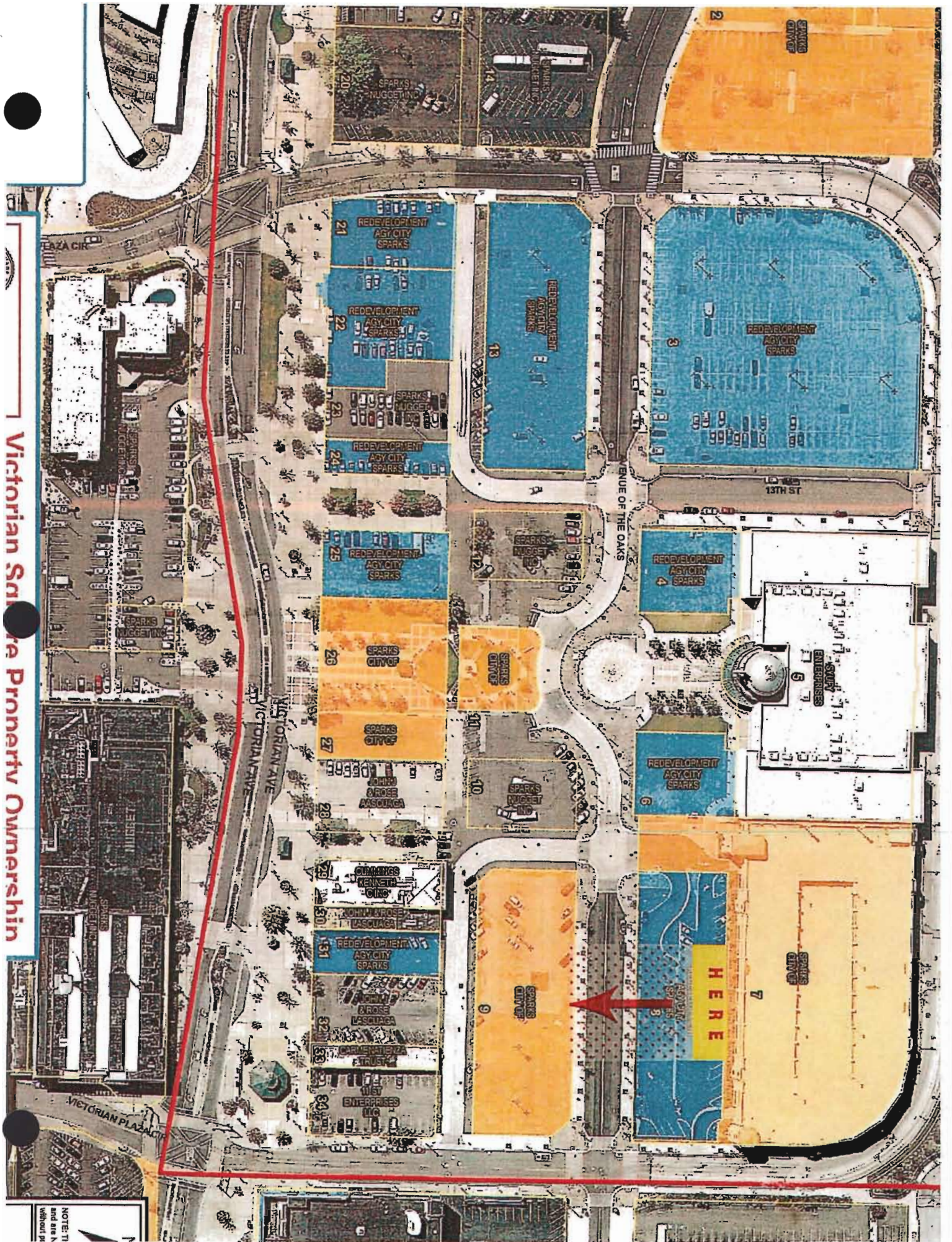
feet
meters



Google earth

City of Sparks Plot Map
Showing Lot #9 Owned by City

Victorian Square Property Ownership



Photographs From Accident Scene



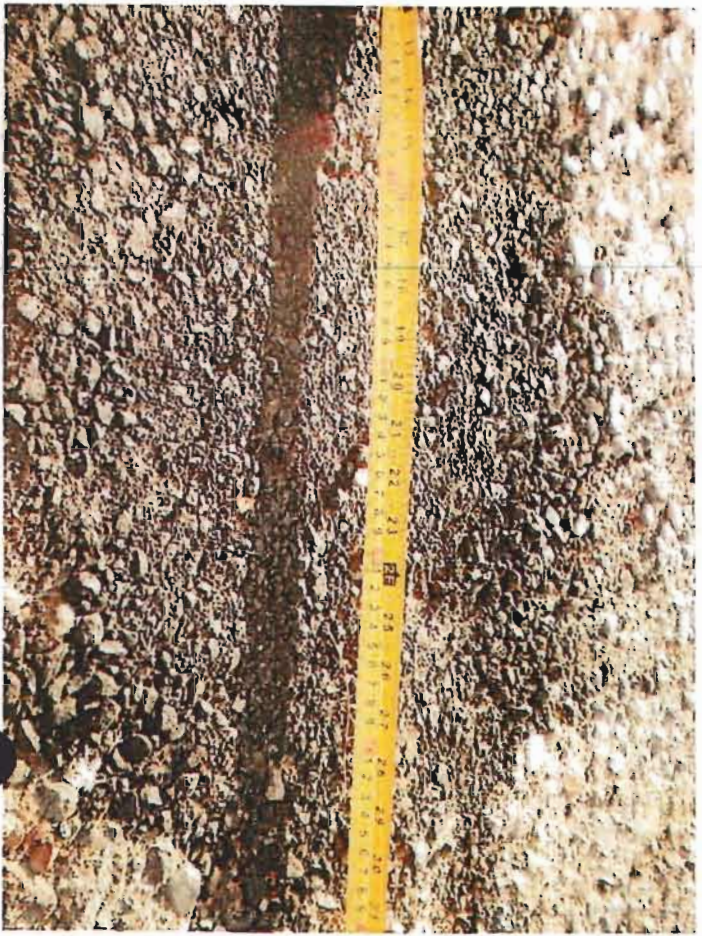
Camera faces west on City parking lot w/Dotty's Casino in background & new asphalt patch in



Same spot looking south toward Nugget



Same spot looking east

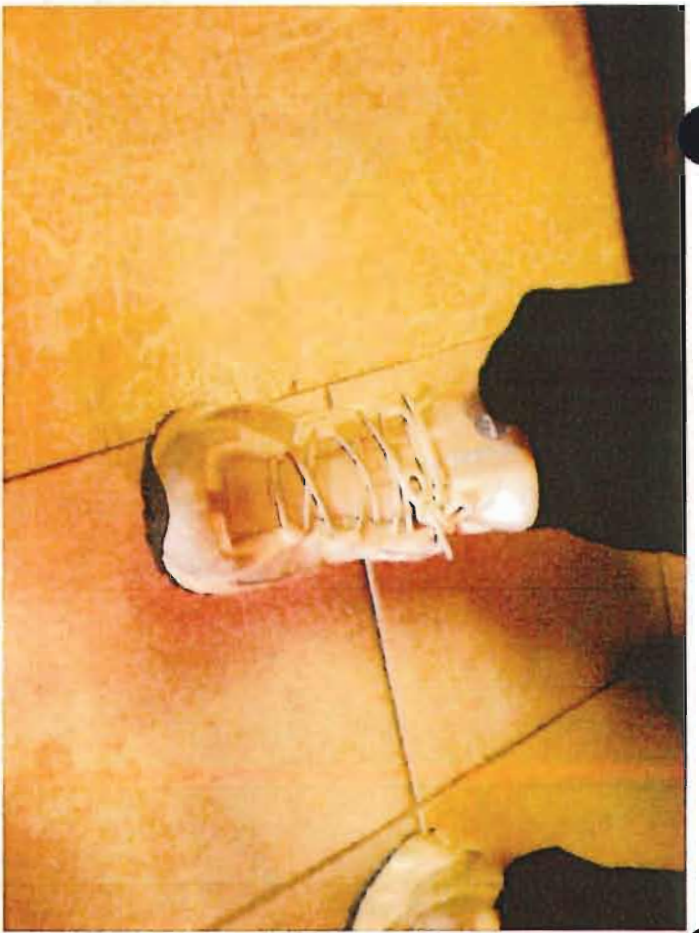


Fresh asphalt patch measure 2' X 1'



Fresh asphalt patch 2'X1" in parking lot as shown December 20, 2012. Also, Ms. Huerta and the type of shoes she was wearing at time of fall.

Photographs of Maria A. Huerta
With Accident Footwear



Maria Huerta & shoes she had on at time of fall
January 2, 2011. Photos taken 12/20/12 by:
Tom Mannos



Maria Huerta at her home.
December 20, 2012
Photos by : Tom Mannos



Signed Medical Authorizations by
Maria A. Huerta



Washoe Medical Center

Authorization for Release / Disclosure of Protected Health Information:
May be used for continuity of care, TPO and release of PHI which is not required by law.
Copy to the individual when covered entity initiates the authorization for non-TPO reasons.

Health Information Management Dept.
77 Pringle Way, Reno, NV 89502
PHONE: (775) 982-5661
FAX: (775) 982-5372

Notice to the individual making this authorization:

- 1. After your medical records (PHI) are released by your authorization, the possibility exists that your PHI will no longer be subject to the protection of federal privacy regulations and may be redisclosed by the recipient.
2. You may revoke this authorization at any time in writing. Your written revocation will become effective upon receipt, but will not apply to any PHI released prior to that date or to the extent that this facility has taken action in reliance upon this authorization.
3. This facility will not condition treatment on whether or not you sign this form.

THIS AUTHORIZATION WILL EXPIRE WHEN THE REQUESTED RELEASE OF INFORMATION HAS TAKEN PLACE OR SIX MONTHS FROM DATE OF SIGNATURE.

Patient Name: MARIA A. HUERTA, Date of Birth: 1-10-30, Social Security Number: 455-58-5581, Address: 1110 XIMAN WAY, City, State Zip: Sparks, NV 89431, Phone: 331-0848

I authorize the provider listed below to release/disclose my protected health information/medical records to WMC.

X I authorize Washoe Medical Center to release/disclose my protected health information/medical records to:

Name: City of Sparks, Markos Adjusters, Inc, Address: P.O. Box 2537, City, State, Zip: Reno, NV 89505, Phone: 322-4077, Fax: 322-3561

Description of information to be released for the following dates of treatment/service: Jan 2, 2012 - Jan 7, 2012. Includes checkboxes for Physician generated data, Discharge Instructions, Diagnostic data, H&P, ER documents, Labs, Operative report/s, Diagnostic imaging, Consultation report/s, Other, Discharge summary, and Medication records.

Psychotherapy notes (initial) NOTE: You must initial for psychotherapy notes. A check mark is insufficient.

Reason for this request: Continuity of Care, Legal, Patient request, Other (describe): Insurance claim

I understand that my PHI/medical records may contain information about: Drug and/or alcohol abuse history, diagnosis, treatment; Psychiatric history, diagnosis, treatment; AIDS/HIV, sexually transmitted diseases, hepatitis and/or other infectious disease history, diagnosis, treatment. By signing below, I authorize the release/disclosure of my PHI even if it contains information regarding the above-listed types of information within the PHI/medical records requested.

Signature of patient or personal representative: Maria A. Huerta, Date: 12-20-12, Print name of Representative's authority

MEDICAL AUTHORIZATION

TO WHOM IT MAY CONCERN:

YOU ARE HEREBY AUTHORIZED TO GIVE TO CITY OF SPARKS,
OR ANY OF IT'S REPRESENTATIVES, ANY AND ALL INFORMATION, FACTS AND
PARTICULARS, WHICH MAY BE REQUESTED REGARDING THE PHYSICAL CONDITION OF,
OR TREATMENT RENDERED TO MARIA A. HUERTA
AND TO PERMIT THEM OR ANY PERSON APPOINTED BY THEM TO EXAMINE ALL
X-RAYS OR RECORDS REGARDING THE PHYSICAL CONDITION OR TREATMENT.

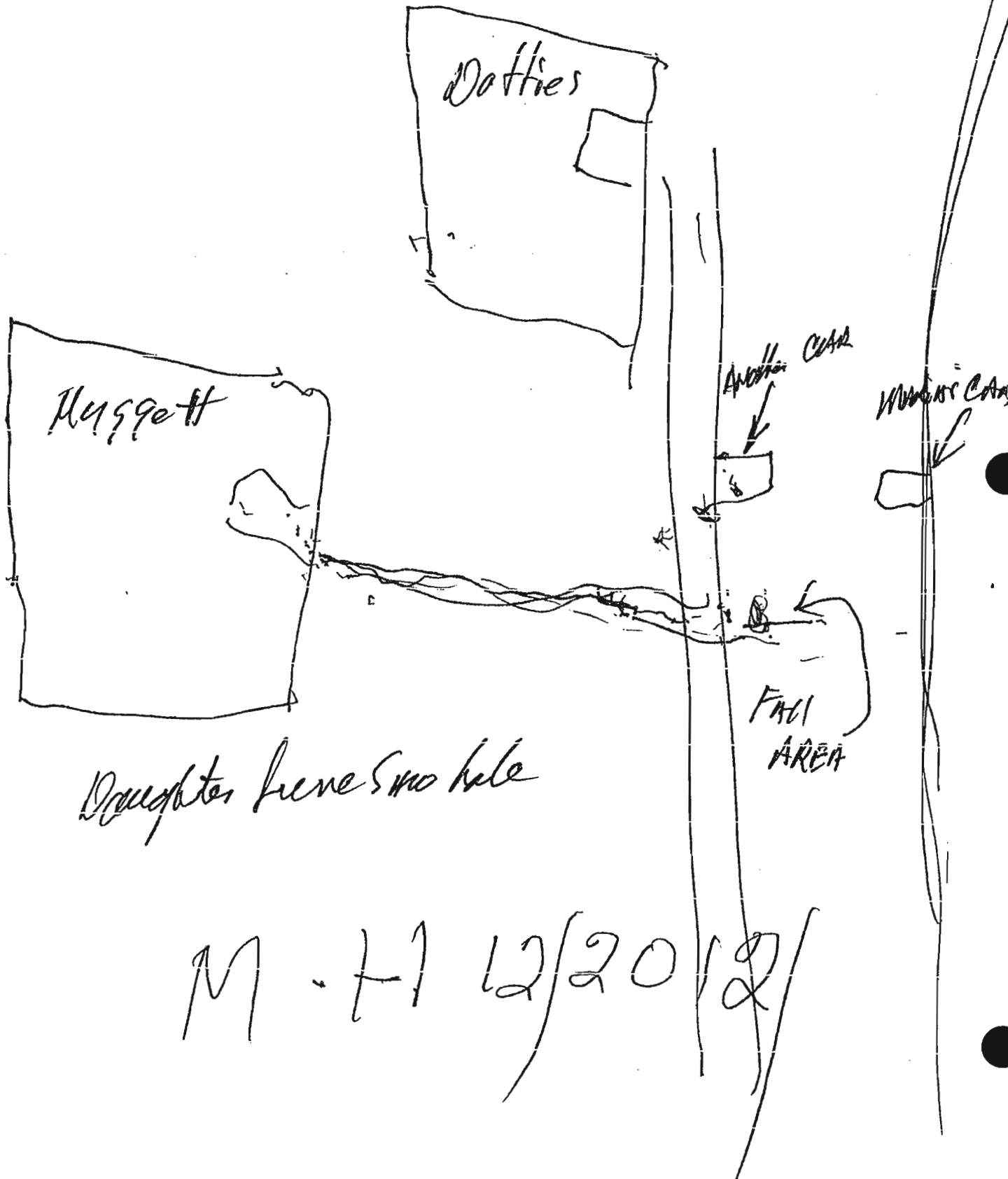
A COPY OF THIS FORM SHALL HAVE THE SAME EFFECT AS THE ORIGINAL.

Maria A. Huerta

SIGNATURE

DATE: 12-20-12

Sketch Diagram of Accident
Location Drawn by:
Maria A. Huerta 12/20/12



Daughters here saw hole

M-F 12/20/21

Signed Medicare Eligibility Form by
Maria A. Huerta

Medicare Eligibility Form – Signature Required

Insured: City of Sparks

Company File Number: _____

The Medicare, Medicaid and SHIP Extension Act of 2007 Section 111 establishes the requirement of insurers to report the payment of claims involving a Medicare eligible claimant to the federal government. City of Sparks is responsible for checking with the federal government the Medicare eligibility of each party making an injury claim. Collection of social security numbers (SSN) for the purposes of coordinating benefits with Medicare is a required, legitimate and necessary use of the SSN under Federal Law.

In order to determine who is currently Medicare eligible or who will become eligible during the life of their injury claim, we need identifying information which includes the legal name, date of birth, gender and social security number.

We are asking that the questions below be answered so that we may comply with the law.

Section I

Full Name: MARIA A. Huerta
(Please print you legal name or as it appears on your SSN or Medicare card if available)

Medicare Claim Number: _____

Date of Birth: 1-10-30

Sex: F

Social Security Number: 455-58-5581
(If Medicare Claim Number is Unavailable)

Section II

I understand that the information requested is to assist City of Sparks in accurately coordinating benefits with Medicare and to meet mandatory reporting obligations under Federal Law.

MARIA A. Huerta
Name of Person Providing this Information (Please Print)

Maria A. Huerta 12-11-12
Signature Date

If you have completed Sections I- II above, stop here. If you are refusing to provide the information requested in Sections I-II, proceed with Section III.

Section III

For the reason(s) listed below, I have not provided the information requested. I understand that if I am a Medicare beneficiary and I do not provide the requested information, I may be violating obligations as a beneficiary to assist Medicare in coordinating benefits to pay my claims correctly and promptly.

Reason(s) for Refusal to Provide Requested Information: _____

Name of Person Providing this Information (Please Print)

Signature

Date

Index Reporting Form for:
Maria A. Huerta

INDEX INFORMATION SHEET

CLAIMANT'S

LAST NAME	FIRST MIDDLE	PARENTS, HUSBAND/WIFE, ALIAS
Huerta,	Maria A.	

RESIDENCE (ADDRESS IN FULL)

1110 Xman Way, Sparks, NV 89431

FORMER RESIDENCE

BIRTHPLACE	DATE OF BIRTH (AGE)	SEX	RACE	MARITAL STATUS
Arizona	1/10/1930 83	F	W	Widow

HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR	OCCUPATION
4'11"	155 lbs.	Died Blk	Brown	Widow/retired

SCARS OR DEFORMITIES	SOCIAL SECURITY NUMBER
Complete L knee replacement 2008	455-58-5581

DATE OF ACCIDENT	PLACE OF ACCIDENT
January 2, 2012	Sparks, NV

INJURIES

Broken Right Hip, Pelvis, Femur/ "Fractured Femur Intertrochanteric Region"

DOCTOR (Full name and address)
Renown Health, Timothy J. O'Mara, Reno, Orthopaedic Center

ATTORNEY (Full name and address)
Nil

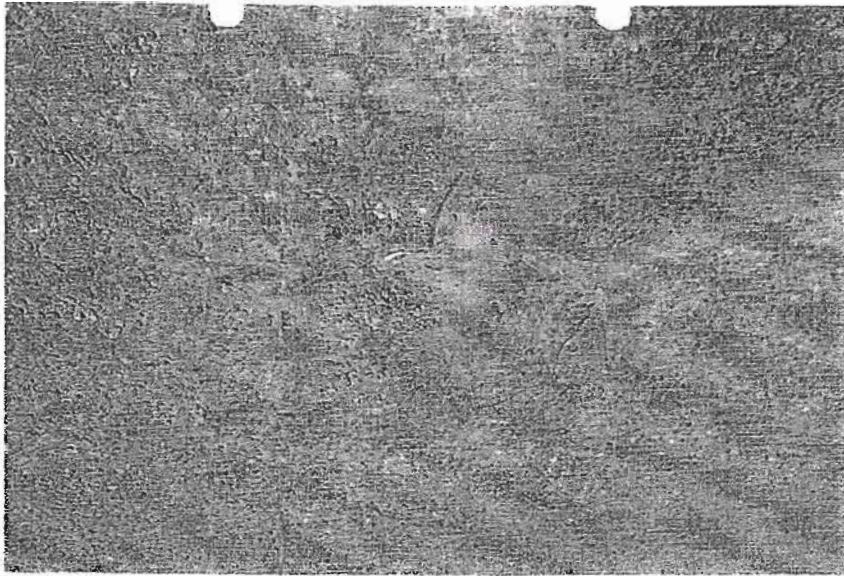
INSURED
City of Sparks

REPORTING OFFICE CODE NUMBER	TYPE OF CLAIM	CASE/FILE NO:

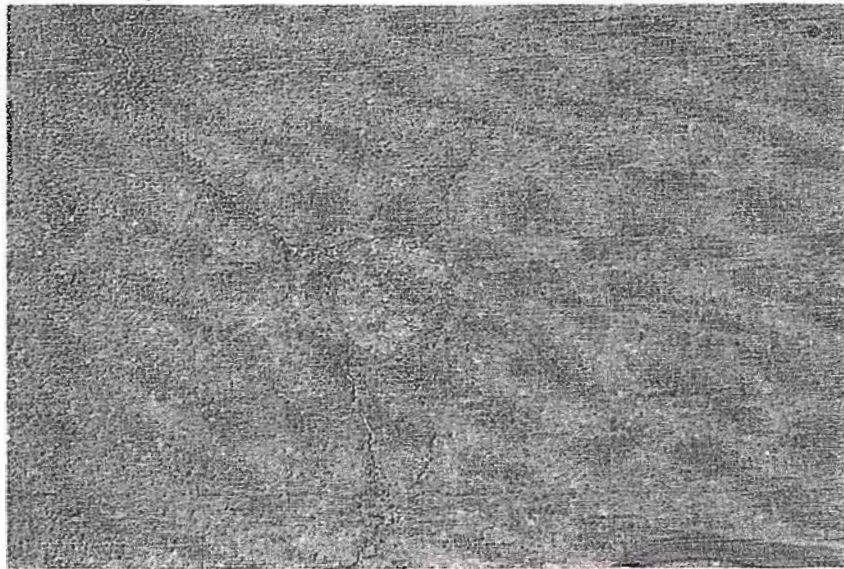
REMARKS

Copies of Numbered Photos taken by:
Juanita Meraz June 2012

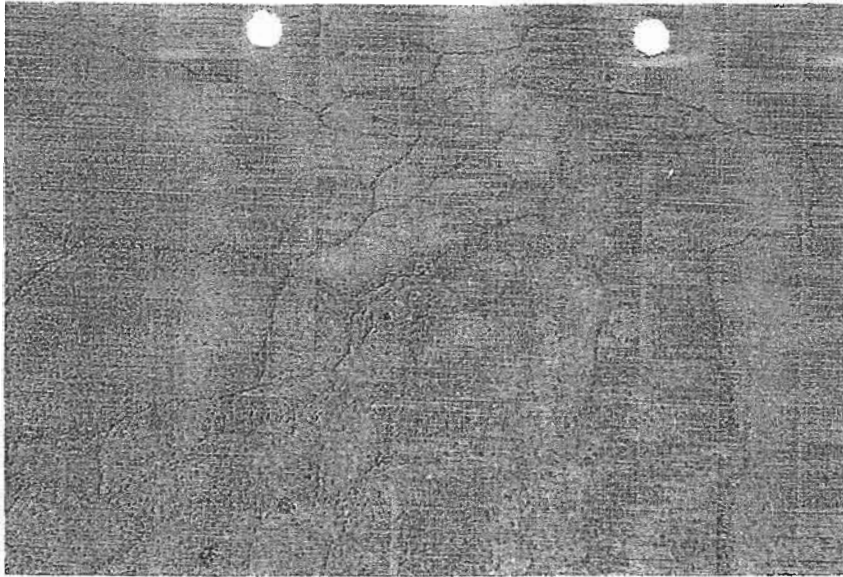
(11)



(12)



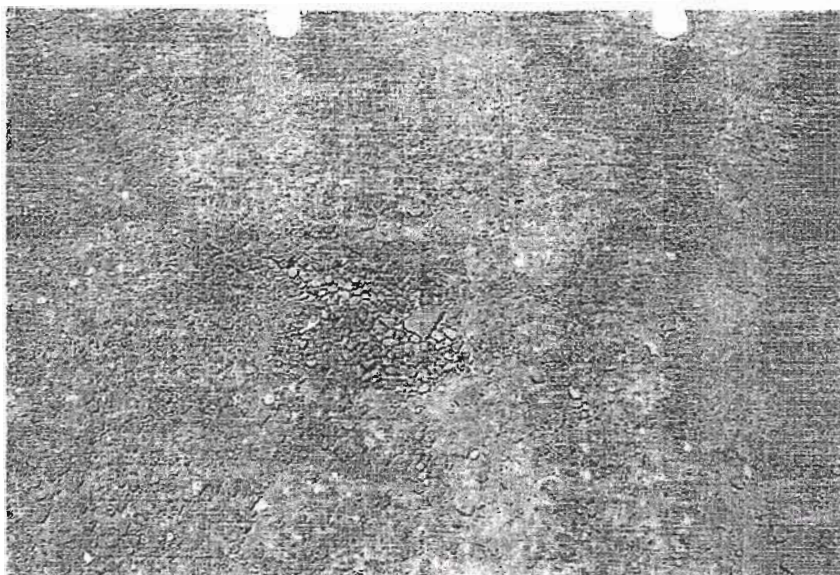
(13)



(14)



(15)



Maria Huerta
1110 Xman Way
Sparks, NV 89431

VICTORIO PLAZA PARKING LOT
AVENUE OF THE CARS

Munson, Nancy

From: Marran, Dan
Sent: Wednesday, January 02, 2013 8:24 AM
To: Munson, Nancy
Subject: FW: Vict Sq map
Attachments: VictorianSqProperty 3-16-12 CityofSparks_only.pdf

For your file on the fall behind Dotty's.

Dan Marran, CPPO, C.P.M.
Contracts and Risk Manager - City of Sparks, NV
Phone: (775) 353-2273
Fax: (775-353-2399

From: Ornelas Jr., Armando
Sent: Friday, December 28, 2012 3:50 PM
To: Marran, Dan
Cc: Vill, David
Subject: FW: Vict Sq map

Dan,
Dave Vill has been contacted by an insurance adjuster who he understands is working on behalf of the city regarding a possible fall suffered by an 82 year old woman with a broken hip. The fall is alleged to have occurred on City property (a parking lot) in the Victorian Square area.
Armando

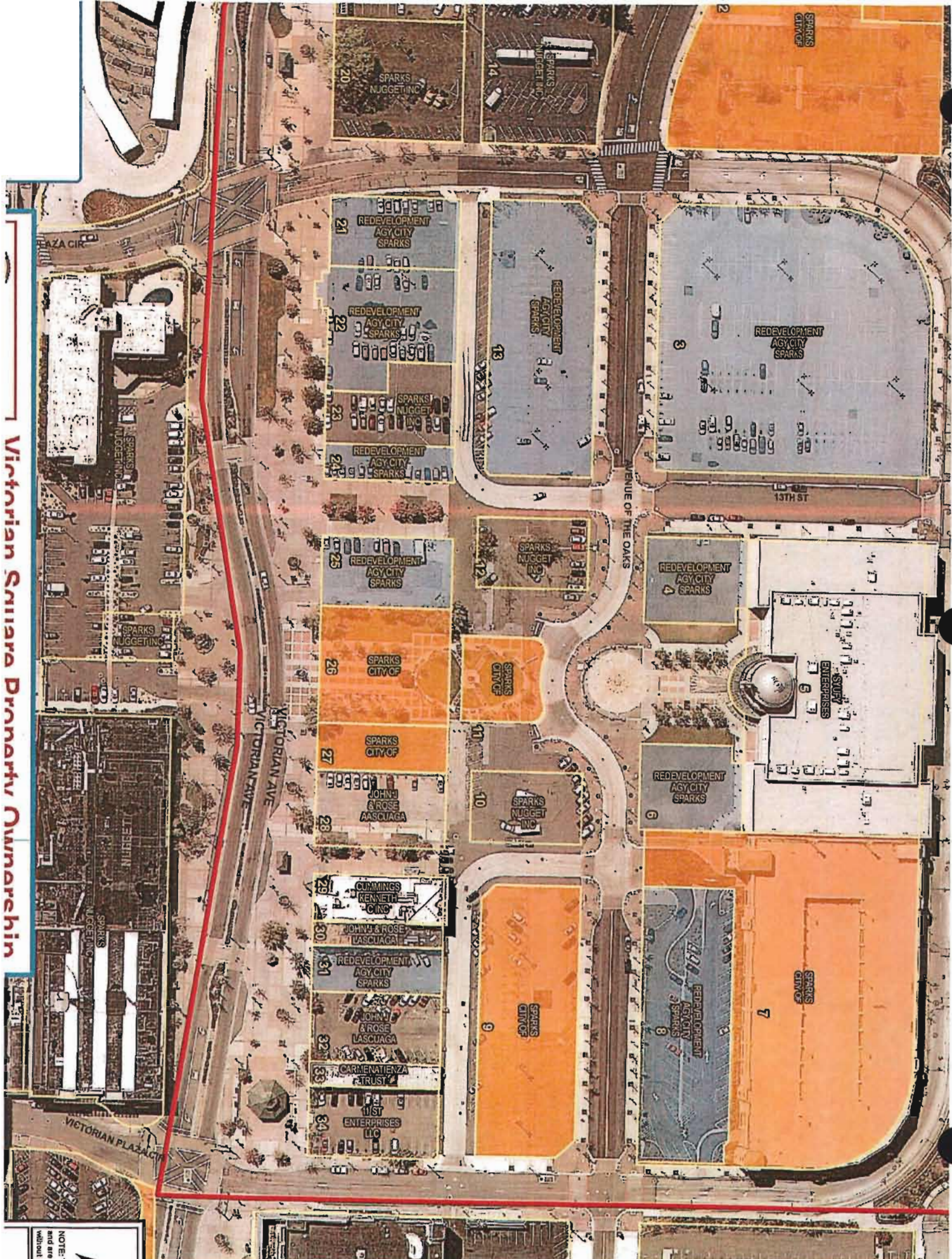
From: Vill, David
Sent: Friday, December 28, 2012 1:05 PM
To: 'Tom Mannos'
Cc: Ornelas Jr., Armando
Subject: FW: Vict Sq map

Tom,

Attached please find a Map of the Victorian Square area. Please note each Parcel of land is numbered, and is identified by the owner. From your drawings, and your description, we believe you are referring to Parcel # 9 owned by the city. Please review the Map, and confirm Parcel 9 is the subject of your investigation. Thank you for your response.

Dave

From: Ornelas Jr., Armando
Sent: Friday, December 28, 2012 12:55 PM
To: Vill, David
Subject: Vict Sq map



Victorian Saalara Prnary Ownarhin

NOTE: 1 and are without #

Munson, Nancy

From: Tom Mannos <mannosadj@prodigy.net>
Sent: Thursday, January 03, 2013 10:29 AM
To: Munson, Nancy
Subject: City of Sparks, Clm't: Maria Huerta, D/L: January 2, 2012
Attachments: Parking Lot.pdf

Nancy:

This "forward" is from Dan Hamlin as he provides maintenance records I requested for "Victorian Square" but are not specific as to work being done in the exact area where Ms. Huerta fell. Please include these with my caption report. The records support "pothole patch" January 19, 2012, seventeen days after this accident and additional work beginning November 2012.

Thanks,

Tom Mannos

----- Forwarded Message -----

From: "Hamlin, Danny" <dhamlin@cityofsparks.us>
To: "mannosadj@prodigy.net" <mannosadj@prodigy.net>
Sent: Thursday, January 3, 2013 9:30 AM
Subject: Parking lot

Dan Hamlin
Maintenance & Operations Manager
PH 775-353-2271
Cell 775-691-9604
Fax 775-353-2390
dhamlin@cityofsparks.us

WORK REPORT DETAIL

From 01/01/12 to 12/31/12 Mgmt Unit = 000013 Activity = 306 Location = cb59

ACTIVITY	DATE	LOCATION	Resources	Pay Type	Lab/Hr	Equip/Hr	Mat	Contr	Misc	WkQty	W/O#	COSTS
000013 - Street Maintenance												
306 - SKIN PATCH	11/28/12	CB59 VICTORIAN SQUARE/LI 541 SMALL DUMP TRUCK	0		5:00							\$32.80
306 - SKIN PATCH	11/28/12	CB59 VICTORIAN SQUARE/LI 615 TRAILER DOUBLE AXLE	0		5:00							\$30.85
306 - SKIN PATCH	11/28/12	CB59 VICTORIAN SQUARE/LI 614 ROLLER	0		5:00							\$63.15
306 - SKIN PATCH	11/28/12	CB59 VICTORIAN SQUARE/LI 506 SMALL DUMP	0		5:00							\$32.80
306 - SKIN PATCH	11/28/12	CB59 VICTORIAN SQUARE/LI 2958 TURNER, DARLENE	R	5:00								\$256.95
306 - SKIN PATCH	11/28/12	CB59 VICTORIAN SQUARE/LI 7186 DIAZ, NICK	R	5:00								\$256.95
306 - SKIN PATCH	11/28/12	CB59 VICTORIAN SQUARE/LI 2436 TRUSSELL, MIKE	R	5:00								\$269.62
306 - SKIN PATCH	11/28/12	CB59 VICTORIAN SQUARE/LI R018 COLD MIX	0			2.6						\$90.95
306 - SKIN PATCH	11/28/12	CB59 VICTORIAN SQUARE/LI SF	0							287.0		\$0.00
				15:00	20:00	2.6	0.0	0.0	0.0	287.0		\$1,034.07
Grand Total												\$1,034.07

WORK REPORT DETAIL

From 01/01/12 to 12/31/12 Mgmt Unit = 000013 Activity = 302 Location = c659

ACTIVITY	DATE	LOCATION	Resources	Pay Type	Lab/Hr	Equip/Hr	Mat	Contr	Misc	WkQty	W/O#	COSTS
000013 - Street Maintenance												
302 - POTHOLE PATCH	01/19/12	CB59 VICTORIAN SQUARE/LI 2958	TURNER, DARLENE	R	1:30						30 - Pavement	\$77.08
302 - POTHOLE PATCH	01/19/12	CB59 VICTORIAN SQUARE/LI 6315	WRIGHT, JEFF	R	1:30							\$80.88
302 - POTHOLE PATCH	01/19/12	CB59 VICTORIAN SQUARE/LI 446	PICKUP TRUCK	0	1:30							\$7.97
302 - POTHOLE PATCH	01/19/12	CB59 VICTORIAN SQUARE/LI R006	HYDROPATCH	0		85.0						\$5.10
					3:00	1:30	85.0	0.0	0.0	0.0	0.0	\$171.03
					3:00	1:30	85.0	0.0	0.0	0.0	0.0	\$171.03
			<u>Grand Total</u>									

