



OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

August 20, 2001

3:04-CV-1506-H

Foremost Insurance Group
Brent Craven/ Subrogation Dept.
P.O. Box 2739
Grand Rapids, MI 49501-2739

Re: Your Claim No.: 6818099
Your insured: Tibor Balogh
Date of loss: March 4, 2001

Dear Mr. Craven:

I have received your subrogation claim regarding property damage allegedly incurred on or about March 4, 2001. I am the attorney representing the Texas Department of Public Safety in this matter. All tort claims against state agencies are handled by the Attorney General's office, pursuant to the provisions of the Texas Tort Claims Act, Tex. Civ. Prac. & Rem. Code §§101.001-101.109 (Vernon 1997 & Supp. 1999). The Texas Tort Claims Act provides:

§ 101.021. Governmental Liability

A governmental unit in the state is liable for:

- (1) property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an employee acting within his scope of employment if:
 - (A) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment; and
 - (B) the employee would be personally liable to the claimant according to Texas law; and
- (2) personal injury and death so caused by a condition or use of tangible personal or real property if the governmental unit would, were it a private person, be liable to the claimant according to Texas law.

After reviewing this file and consulting with my client, I regret to inform you that your claim has been denied. Under the applicable provisions of the act, we have determined that my client is not liable for this incident. The state is not liable for property damage unless it is caused by an employee's use or operation of a motor-driven vehicle or motor-driven equipment. It appears that your allegation of property damage arises from the use of canines, which are obviously not motor-driven. This letter should not be construed as the provision of legal advice to you. If you disagree with the denial of your claim, you should seek legal counsel.

Very truly yours,

Laura L. Messina
Assistant Attorney General
Chief, Claims Section
Tort Litigation Division
(512) 463-2197
(512) 463-2224 (Fax)

LLM:tph

cc: Jeff Lopez@DPS

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