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Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION No. 82158 C.M.S.

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CEV:cr

**RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF BARRY CHERSKY, ET AL. v. CITY OF OAKLAND, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG07332552, CITY ATTORNEY FILE NO. 25724, IN THE AMOUNT OF \$99,014.36, PLUS THE RELEASE OF A LIEN IN THE AMOUNT OF \$2,755.00 PLUS ANY ASSOCIATED FEES, PENALTIES AND INTEREST. THIS CASE INVOLVES A CLAIM FOR DAMAGES RESULTING FROM AN ABATEMENT ACTION AT PLAINTIFFS' PROPERTY PURSUANT TO THE WILDFIRE SUPPRESSION ASSESSMENT DISTRICT ORDINANCE IN THE OAKLAND MUNICIPAL CODE (OFD)**

**WHEREAS:** The City of Oakland cleared plaintiffs' property at 6450 Buena Ventura Avenue in Oakland of numerous plants pursuant to the City's Fire Suppression Assessment District Ordinance; and

**WHEREAS:** Plaintiffs claimed that the City's clearing of the property exceeded the scope of the ordinance and amounted to a taking of plaintiffs' property; now, therefore, be it;

**RESOLVED:** That the City Attorney is authorized and directed to compromise and settle the case of Barry Chersky, et al. v. City of Oakland, Alameda County Superior Court Case No. RG07332552, City Attorney's File No. 25724, for a sum not to exceed a total amount of Ninety-Nine Thousand Fourteen Dollars and Thirty-Six Cents (\$99,014.36). The amount of Thirty-Two Thousand Five Hundred Dollars and No Cents (\$32,500.00) shall be made payable to plaintiffs Barry Chersky and Michael Baiad. The amount of Sixty-Six Thousand Five Hundred Fourteen Dollars and Thirty Six Cents (\$66,514.36) shall be made payable to plaintiffs' counsel David Stein. The lien placed on plaintiffs' property at 6450 Buena Ventura Avenue, Oakland, California in the amount of \$2,755.00 plus any related fees, penalties and interest, shall be released; and be it

**FURTHER RESOLVED:** That the sum of Sixty-Six Thousand Five Hundred Fourteen Dollars and Thirty Six Cents (\$66,514.36) shall be made payable to plaintiffs' counsel David Stein; and be it

**FURTHER RESOLVED:** That the sum of Thirty-Two Thousand Five Hundred Dollars and No Cents (\$32,500.00) be paid to plaintiffs Barry Chersky & Michael Baiad; and be it

**FURTHER RESOLVED:** That the lien placed on plaintiffs' property in the amount of \$2,755.00 shall be released from title to the property located at 6450 Buena Ventura Way, Oakland, California, including any associated fees, penalties and interest; and be it

**FURTHER RESOLVED:** That the City Attorney is further authorized and directed to take whatever steps as may be necessary to effect said settlement.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 21 2009

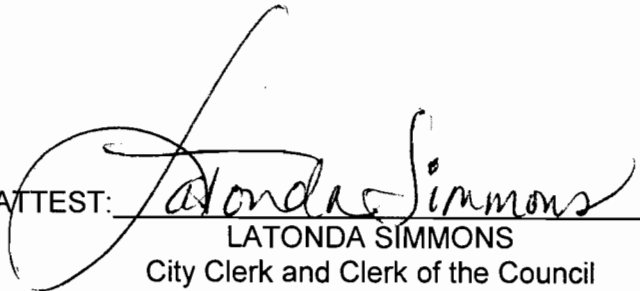
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and  
PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:   
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California