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OAKLAND

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APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

As Amended By City Council on October 5, 2021

OAKLAND CITY COUNCIL

RESOLUTION NO. 88844 C.M.S.

A RESOLUTION UPHOLDING THE DECISION OF THE IMPACT FEE REVIEW BOARD TO DENY A FIFTY PERCENT (50%) REDUCTION OF THE JOBS/HOUSING IMPACT FEE (OAKLAND MUNICIPAL CODE CHAPTER 15.68) FOR A WAREHOUSE PROJECT AT 1300 MARITIME STREET (PERMIT NO. B1901472)

WHEREAS, on April 22, 2019, CenterPoint Properties (herein referred to as the "Applicant" or "Appellant") submitted a building permit application to the City of Oakland for a warehouse project at 1300 Maritime, and the record was filed as B1901472 (Project); and

WHEREAS, the Project is subject to the Jobs/Housing Impact Fee (Oakland Municipal Code (OMC) Chapter 15.68) based on the 463,664 square feet of new warehouse development, in an amount to be assessed at the time of permit issuance; and

WHEREAS, building permit B1901472 was issued on August 8, 2019 and the assessed amount Jobs/Housing Impact Fee for the 463,664 square foot building was \$2,583,730.96 based on the fiscal year 2019-20 adopted fee of \$5.89 per square foot; and

WHEREAS, OMC Section 15.68.070 contains provisions for reductions and exceptions of the Jobs/Housing Impact Fee; and

WHEREAS, one of the reasons stated for reductions and exceptions is the development project will not generate any need for additional affordable housing, or the increase in such need will be limited so as to justify a reduced impact fee or reduced housing production mitigation obligation; and

WHEREAS, on October 9, 2019, the Applicant filed an appeal of the City's initial assessment of Jobs/Housing Impact Fees on the basis that the Project should be subject to a reduction in the fee because the Project is subject to a 50 percent local hire requirement; and

WHEREAS, the Appellant requested a reduction of 50 percent of the Jobs/Housing Impact Fee, or a total fee of \$2.945 per square foot, or \$1,291,865.48 for the Project; and

WHEREAS, the Administrative Guidelines for the Jobs/Housing Impact Fee established an Impact Fee Review Board, comprised of the directors of Planning and Building, Housing and Community Development, and Economic and Workforce Development, to review appeals and requests for reductions of the Jobs Housing Impact Fee; and

WHEREAS, on April 13, 2021, the Impact Fee Review Board convened and reviewed the information the applicant submitted for the Project under OMC Section 15.68.070 for reduction of the Jobs/Housing Impact Fee; and

WHEREAS, the Impact Fee Review Board analyzed the request for reduction based on the nexus study analysis that was prepared in 2001 to support the creation of the Jobs/Housing Impact Fee (“Linkage Fee Analysis”), which assessed the reasonable relationship between the Jobs/Housing Impact Fee and the impacts that new non-residential development has on demand for affordable housing; and

WHEREAS, the Linkage Fee Analysis was developed to demonstrate the economic relationship between non-residential development and the need for affordable housing in Oakland; and

WHEREAS, the Linkage Fee Analysis considered situations where some workers hired to work in new developments would already be Oakland residents, and calculated the justifiable impact fee based on all new employees, even if some are local. The Linkage Fee Analysis reasoned that if local hires have relocated from other buildings, they will have vacated spaces somewhere else so that new employees in the chain would need to move to Oakland; and

WHEREAS, the 2001 Linkage Fee Analysis calculated a justifiable Jobs/Housing Impact Fee of \$12.85 per square foot of warehouse development, as the amount needed to mitigate the demand for affordable housing generated by new development, whether or not those developments hired existing Oakland residents or new Oakland residents directly; and

WHEREAS, the Impact Fee Review Board rendered a decision on the appeal and request for a reduction of Jobs/Housing Impact Fees for the Project and determined that a reduced Impact Fee does not apply to the Project and that the adopted Jobs/Housing Impact Fee in effect at the time of building permit issuance shall be used to calculate the fee; therefore, the total Jobs/Housing Impact Fee for this Project is: $[(463,664 - 25,000) = 438,664] \times \$5.89 = \$2,583,730.96$; and

WHEREAS, on May 20, 2021, written confirmation of the Impact Fee Review Board’s decision was sent to the applicant; and

WHEREAS, on May 28, 2021 the applicant filed an appeal of the Impact Fee Review Board’s determination (Appeal) in order to pursue a reduction of the fee; and

WHEREAS, after giving due notice to the Appellant, the Applicant, all interested parties and the public, the Appeal came before the City Council at a duly noticed public hearing on October 5, 2021; and

WHEREAS, the Appellant, the Applicant, supporters of the application, those opposed to the application and interested neutral parties were given ample opportunity to participate in the public hearing by submittal of oral and/or written comments; and

WHEREAS, the public hearing on the Appeal was closed by the City Council on October 5, 2021; now, therefore, be it

RESOLVED: That the recitals contained in this Resolution are true and correct and are an integral part of the City Council's decision; and be it

FURTHER RESOLVED: That the City Council has reviewed the record and hereby independently finds and determines that there is a reasonable relationship between the full Jobs/Housing Impact Fee (\$5.89 per square foot at the time of building permit issuance) and the Project's demand for new affordable housing, despite the Project's 50 percent local hire requirement; and

FURTHER RESOLVED: That, the City Council hereby independently finds and determines that the Project does not meet the requirements set forth in OMC Section 15.68.070 for reduction and exceptions of the Jobs/Housing Impact Fee, and that the fee applicable at the time of permit issuance be used to calculate Jobs/Housing Impact Fees for the project; and be it

FURTHER RESOLVED: That, the City Council, having heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the appeal application, finds that the Appellant has not shown, by reliance on evidence contained in the record before the Impact Fee Review Board that its decision was made in error, that there was an abuse of discretion by the Impact Fee Review Board or that the decision was not supported by substantial evidence in the record; and be it

FURTHER RESOLVED: That the City Council affirms and adopts the Impact Fee Review Board's determination (including without limitation the discussion, findings and conclusions, each of which is hereby separately and independently adopted by this Council in full), except where otherwise expressly stated in this Resolution, and accordingly, the appeal is denied, based on information in the record, all of which is hereby incorporated by reference as if fully set forth herein; and be it; and be it

FURTHER RESOLVED: That, the record before this Council relating to this Appeal includes, without limitation, the following:

1. the Appeal, including all accompanying papers;
2. all plans submitted by the Appellant or its representatives;
3. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation any and all related/supporting final materials, and all final notices relating to the application and attendant hearings;

4. all oral and written evidence received by the City Council during the public hearings on the appeal; and all written evidence received by relevant City Staff before and during the public hearings on the application and appeal;

5. all matters of common knowledge and all official enactments and acts of the City, including, without limitation (a) the General Plan; (b) Oakland Municipal Code (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations; and be it

FURTHER RESOLVED: That, the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Department of Planning & Building, Bureau of Planning, 250 Frank H. Ogawa Plaza, 2114, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA.

IN COUNCIL, OAKLAND, CALIFORNIA,

NOV 05 2021

PASSED BY THE FOLLOWING VOTE:

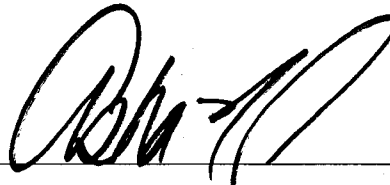
AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



ASHA REED

City Clerk and Clerk of the Council of the
City of Oakland, California