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CITY OF OAKLAND



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February 17, 2004

**City Council President Ignacio De La Fuente and
Members of the Oakland City Council
Oakland, California**

**Subject: RESOLUTION APPROPRIATING \$358,000 FOR THE NUISANCE
ENFORCEMENT UNIT IN THE OFFICE OF THE CITY MANAGER,
INCLUDING ADDITIONAL CITY ATTORNEY SERVICES TO
SUPPORT NUISANCE ENFORCEMENT**

Dear President De La Fuente and Members of the City Council:

The City Council is increasing the City's efforts to address nuisances caused by blight and illegal activity. The Council has already passed the Public Nuisance Ordinance ("PNO") that enhances blight and nuisance enforcement. The Public Safety Committee is considering the Nuisance Eviction Ordinance ("NEO") that requires landlords to evict tenants involved in illegal activities and authorizes the City Attorney to evict tenants on the landlord's behalf. The Council needs to assure that City Administration and the City Attorney's Office have sufficient resources to implement these ordinances and the consequent increases in the nuisance enforcement effort. Without the addition of a full time attorney to the City Attorney's Office, this Office will not have the resources to support the increased nuisance enforcement.

For this reason, the City Attorney's Office proposes an alternative resolution for the nuisance enforcement appropriation that provides sufficient funds for a full time attorney position—appropriating \$358,000 instead of the City Manager's \$300,000. The City Attorney's proposed resolution is materially the same as the City Manager's except for the increased appropriation. The City Manager's revenue projections from nuisance enforcement are more than sufficient to cover the \$358,000 appropriation.

When the Council passed the PNO, the City Manager did not project what the increase in nuisance enforcement activity would be; thus the City Attorney's Office was not then in a position to determine what additional attorney services would be required.

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Although the City Manager has yet to formally present to the Council her proposed budget for the nuisance enforcement activities, the City Manager believes that the increased nuisance enforcement is so substantial that her proposed budget for nuisance enforcement requires *two new full time City Manager's staff*. The City Manager is already hiring her new staff positions. For the enforcement efforts to proceed expeditiously, the City Council must also now authorize sufficient funds for the City Attorney to hire a full-time attorney.

The City Manager's unsubmitted budget for nuisance enforcement currently provides only one-half of an attorney to address the enhanced nuisance enforcement, including the eviction activities under NEO. This is insufficient. The projected increased blight, nuisance, and eviction enforcement will require at a minimum one full time attorney. The allowance for one-half an attorney is, at best, barely enough to handle the increased general blight and nuisance enforcement, and certainly not enough to address increased City Attorney responsibilities under NEO. Therefore, if only an additional one-half attorney is budgeted, the City Attorney's Office will only have resources to assist with the added blight and nuisance workload--which involves the same types of nuisance enforcement that we currently perform. This Office will not be able to provide assistance with the new eviction activities.

The City Attorney's Office has already taken more than its fair share of recent staff reductions. Not only have we lost six full time attorneys, but the reduced attorney staff has absorbed a considerable amount of work that previously went to outside counsel. We simply do not have the capacity to add more work and new programs to the existing attorney staff.

Given our current workload, if the Council directs that the City Attorney's Office provide services for evaluating and handling tenant evictions, the only resource available to provide the services is the outside counsel budget; and we will make a specific line item in the outside counsel budget for eviction related activities. If the City Attorney's Office must go with outside counsel, costs to the City and landlords will be significantly greater. Outside attorneys bill at twice or more the hourly rate of the City Attorney's Office, and the City Attorney's Office will have to spend additional resources monitoring outside counsel.

In evaluating the need for attorney services for the increased nuisance enforcement, please consider the following:

- The City Manager anticipates increasing the general blight and nuisance activity under the PNO by fifty percent over the existing nuisance efforts, *excluding* new

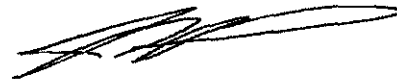
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eviction activity under NEO. That increase in activity alone equals more than one attorney.

- The City Manager's estimate of revenue from fees and penalties from nuisance enforcement is more than sufficient to cover the cost of a full time attorney.
- A considerable portion of the fees for nuisance enforcement are generated from reimbursement for attorney time or will not be generated without attorney support. If sufficient attorney time is not available, the projected revenues will be substantially less.
- Increased nuisance enforcement can generate more litigation and liability to the City. Adequate advice from the City Attorney's Office can reduce this potential.
- The anticipated attorney time includes: evaluating and advising on potential nuisance actions; handling nuisance administrative hearings; nuisance litigation; responding to constituent inquiries; responding to Councilmembers; attending community and Council meetings.

We in the City Attorney's Office agree that nuisance enforcement is one of the most important functions of city government. The entire purpose of PNO and NEO is to increase nuisance enforcement. The Council should not shortchange its nuisance enforcement by allocating insufficient attorney resources. The City Attorney's Office respectfully requests that the City Council appropriate the \$358,000 necessary for a full-time City Attorney.

Respectfully submitted,



JOHN A. RUSSO
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Attorney assigned: Richard Illgen

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