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ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
John A. Russo
City Attorney

(510) 238-3601
FAX: (510) 238-6500
TDD: (510) 839-6451

October 5, 2010

HONORABLE CITY COUNCIL
Oakland, California

President Jane Brunner and Members of the City Council

Subject: Resolution Authorizing Settlement of
Claim of Anyika Nkululeko
File Number: C27562

Pursuant to Section 401 of the Charter, the City Attorney has prepared and recommends settlement of the above-entitled claims for the sum of Seven Thousand Six Hundred Twenty Seven Dollars and Sixty Eight Cents (\$7,627.68), payable to Anyika Nkululeko as a result of damage caused by Oakland Fire Department personnel on August 31, 2009. This was not a closed session item.

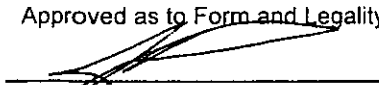
Respectfully submitted,

A handwritten signature in black ink, appearing to be 'John A. Russo'.

JOHN A. RUSSO
City Attorney

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OAKLAND

Approved as to Form and Legality


Oakland City Attorney's Office

2010 SEP 23 PM 3:46

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

JAR: AT

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CLAIM OF ANYIKA NKULULEKO, IN THE AMOUNT OF \$7,627.68, AS A RESULT OF PROPERTY DAMAGE CAUSED BY OAKLAND FIRE DEPARTMENT PERSONNEL ON AUGUST 31, 2009 (OFD)

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of Anyika Nkululeko, City Attorney file number C27562, for the sum of Seven Thousand Six Hundred Twenty-Seven Dollars and Sixty-Eight Cents (\$7,627.68), payable to Anyika Nkululeko.

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

FURTHER RESOLVED: That the sum of Seven Thousand Six Hundred Twenty-Seven Dollars and Sixty-Eight Cents (\$7,627.68), be paid to Anyika Nkululeko.

In Council, Oakland, California, _____, 19____

PASSED BY THE FOLLOWING VOTE:

AYES-

NOES-

ABSENT-

ABSTENTION-

Attest: _____

LaTonda Simmons
CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND, CALIFORNIA

CITY OF OAKLAND



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CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

October 5, 2010

HONORABLE CITY COUNCIL
Oakland, California

President Jane Brunner and Members of the City Council

Subject: Claim of Anyika Nkululeko
Our File Number C27562

The Office of the City Attorney recommends settlement of the above-referenced claim in the sum of Seven Thousand Six Hundred Twenty-Seven Dollars and Sixty-Eight Cents (\$7,627.68), payable to Anyika Nkululeko.

STATEMENT OF FACTS

On August 31, 2009, firefighters responding to a medical call forcibly entered and damaged two doors at Mr. Nkululeko's home on 14th Street. They then discovered that the City dispatcher had mistakenly directed them to respond to the 14th Street address when the medical call was for a 10th Street address.

DAMAGES

Mr. Nkululeko's two oversized antique doors were destroyed. The cost to replace the doors is \$7,627.68.

LIABILITY ANALYSIS

Liability is adverse to the City as the Fire Department personnel admit they responded to the wrong address.

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SETTLEMENT NEGOTIATIONS

The claimant agreed to settle the claim for \$7,627.68, contingent upon City Council approval.

PROS

The City has liability because firefighters responded to the wrong address and damaged the doors when they attempted to gain entry. Should the settlement not be approved, the claimant will likely retain counsel, file a lawsuit and increase his demand.

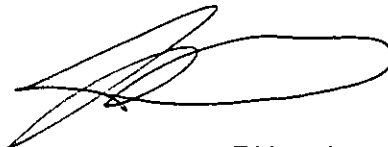
CONS

A jury could conclude that the damages sought for the value of the doors was excessive and/or that the doors were repairable. However, there is no evidence to support this conclusion.

RECOMMENDATION

For the foregoing reasons, the Office of the City Attorney recommends settlement of this matter in the amount of Seven Thousand Six Hundred Twenty Seven Dollars and Sixty Eight Cents (\$7,627.68), payable to Anyika Nkululeko. A resolution authorizing and directing settlement is attached for your consideration and approval.

Respectfully submitted,



JOHN A. RUSSO
City Attorney

Staff assigned:
Art Turner, George Hills Company

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