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July 6, 2004

HONORABLE CITY COUNCIL/REDEVELOPMENT AGENCY
Oakland, California

President De La Fuente and Members of the City Council/Redevelopment Agency:

**Subject: J.W. and Barbara Silveria & Charles and Pamela Weber
v. City of Oakland; Oakland Redevelopment Agency
Alameda County Superior Court Case Nos. RG03118525,
RG03114104 and RG03115787
Our File Nos. X02018, X02050 & X02028 (CEDA)**

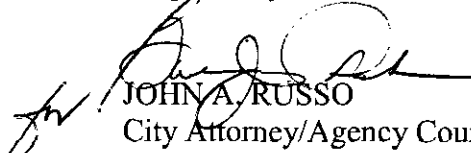
Pursuant to Section 401 of the Charter, the City Attorney/Agency Counsel have prepared City and Agency resolutions authorizing settlement of the above-captioned matters according to the terms set forth in the proposed Stipulation for Judgment and Judgment Pursuant to Stipulation Validating the Redevelopment Plan (enclosed).

These three actions arose from plaintiffs' challenges of the City Council's adoption of the Central City East Redevelopment Plan. Plaintiffs allege that the plan violates the California Environmental Quality Act ("CEQA") and redevelopment law.

This matter was discussed in Closed Session on June 15, February 3, and January 20, 2004, and December 16, November 4, July 29, and July 15, 2003. The City Council tentatively approved the terms of the settlement at Closed Session on June 15, 2004 by a unanimous vote.

The proposed settlement provides for removal of property, commonly known as 499 Embarcadero or 1 Fifth Avenue, Oakland, from the Central City East Redevelopment Project Area pursuant to a Court order and a stipulated judgment validating the Redevelopment Plan.

Respectfully submitted,


JOHN A. RUSSO
City Attorney/Agency Counsel

Attorneys Assigned:
Mark P. Wald
Daniel Rossi

10.6CC
ORA/COUNCIL
JUL 6 2004

By: Mark P. Wald
City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASES OF J.W. AND BARBARA SILVEIRA v. CITY OF OAKLAND AND OAKLAND REDEVELOPMENT AGENCY, AND CHARLES AND PAMELA WEBER v. CITY OF OAKLAND AND OAKLAND REDEVELOPMENT AGENCY, ALAMEDA COUNTY SUPERIOR COURT CASE NOS. RG03118525, RG03114104 AND RG03115787, WHICH CHALLENGED THE CITY'S ADOPTION OF THE CENTRAL CITY EAST REDEVELOPMENT PLAN (CEDA)

WHEREAS, on July 29, 2003, the City of Oakland adopted Ordinance No. 12528 C.M.S., approving and adopting the Central City East Redevelopment Plan; and

WHEREAS, thereafter plaintiffs' Silveira and Weber brought three separate legal challenges to the adoption of the Central City East Redevelopment Plan, alleging violations of the California Environmental Quality Act and redevelopment law, against the City of Oakland and the Redevelopment Agency ("Lawsuits"); and

WHEREAS, the parties wish to settle the Lawsuits; now, therefore, be it

RESOLVED: that the City Attorney is authorized and directed to compromise and settle the Lawsuits by removing the property, commonly known 499 Embarcadero or 1 Fifth Avenue, Oakland, from the Central City East Redevelopment Project Area by means of a Court order as part of a stipulated judgment validating the Redevelopment Plan; 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, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

CEDA FLOYD

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

10.6-1 CC
ORACOUNCIL
JUL 6 2004

By: Mark P. Wald
Agency Counsel

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING AGENCY COUNSEL TO COMPROMISE AND SETTLE THE CASES OF J.W. AND BARBARA SILVEIRA v. CITY OF OAKLAND AND OAKLAND REDEVELOPMENT AGENCY, AND CHARLES AND PAMELA WEBER v. CITY OF OAKLAND AND OAKLAND REDEVELOPMENT AGENCY, ALAMEDA COUNTY SUPERIOR COURT CASE NOS. RG03118525, RG03114104 AND RG03115787, WHICH CHALLENGED THE CITY'S ADOPTION OF THE CENTRAL CITY EAST REDEVELOPMENT PLAN (CEDA)

WHEREAS, on July 29, 2003, the City of Oakland adopted Ordinance No. 12528 C.M.S., approving and adopting the Central City East Redevelopment Plan; and

WHEREAS, thereafter plaintiffs' Silveira and Weber brought three separate legal challenges to the adoption of the Central City East Redevelopment Plan, alleging violations of the California Environmental Quality Act and redevelopment law, against the City of Oakland and the Redevelopment Agency ("Lawsuits"); and

WHEREAS, the parties wish to settle the Lawsuits; and

WHEREAS, the settlement requiring that the property commonly referred to as 499 Embarcadero or 1 Fifth Avenue, Oakland be removed from the Central City East Redevelopment Plan; now, therefore, be it

RESOLVED: that Agency Counsel is authorized and directed to compromise and settle the Lawsuits by removing the property, commonly known 499 Embarcadero or 1 Fifth Avenue, Oakland, from the Central City East Redevelopment Project Area by means of a court order as part of a stipulated judgment validating the Redevelopment Plan; and be it

FURTHER RESOLVED: that Agency Counsel is further authorized and directed to take whatever steps that may be necessary to effect said settlement.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND CHAIRPERSON DE LA FUENTE

NOES-
ABSENT-
ABSTENTION-

10.6-2CC
ORA/COUNCIL

JUL 6 2004

ATTEST: _____
CEDA FLOYD
Secretary of the Redevelopment Agency of the City of Oakland, California

Exempt from Filing Fees per
Gov. Code Section 6103

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DRAFT

11 Attorneys for Defendants City of Oakland,
Redevelopment Agency of the City of Oakland and
12 City Council of the City of Oakland

13
14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 IN AND FOR THE COUNTY OF ALAMEDA
16

17 J.W. AND BARBARA SILVEIRA,)
individually and as Trustees of the)
18 J.W. and Barbara Silveira Revocable)
Trust)

Case No. RG03118525

19 Plaintiffs,)
20)

STIPULATION FOR JUDGMENT

21 v.)

Dept.: 512

22 All Persons Interested in the)
Redevelopment Plan for the Central)
23 City East Redevelopment Project)
Purportedly Adopted by the City)
24 Council of the City of Oakland by)
Ordinance No. 12528 on July 29,)
25 2003; CITY OF OAKLAND, a)
municipal corporation;)
26 REDEVELOPMENT AGENCY OF THE)
CITY OF OAKLAND, a public body;)
27 CITY COUNCIL OF THE CITY OF)
OAKLAND: and DOES 1 through 25,)
28 inclusive)

Judge: Hon. Bonnie Sabraw

10.6CC
ORACOUNCIL
JUL 6 2004

1 Defendants

2
3 The parties to this action—Plaintiffs J. W. & Barbara Silveira, acting individually and as
4 trustees of the J.W. & Barbara O. Silveira Revocable Trust, (collectively, "Plaintiff Silveira"),
5 Defendants Charles Weber and Pamela J. Weber (collectively, "Defendant Weber"), and Defendants
6 City of Oakland, Redevelopment Agency of the City of Oakland and City Council of the City of
7 Oakland (collectively, "Defendant City")—by and through counsel hereby stipulate as follows:

8 1. The following facts are true and correct:

9 a. On July 29, 2003, Defendant City of Oakland adopted Ordinance No.
10 12528, approving and adopting a Redevelopment Plan (the "Redevelopment Plan") for the Central
11 City East Redevelopment Project (the "Project").

12 b. Plaintiff Silveira holds fee title to certain real property commonly
13 known as 499 Embarcadero or 1 Fifth Avenue, Oakland, California, which Plaintiff Silveira
14 represents and warrants is more particularly described in Exhibit A attached hereto (the "Subject
15 Property"), and which is located within the Project area.

16 c. Defendant Weber leases a portion of the Subject Property from
17 Plaintiff Silveira.

18 d. On September 25, 2003, Plaintiff Silveira filed in the Superior Court
19 for Alameda County a Complaint to Determine Validity of Redevelopment Plan and Proceedings,
20 and for Declaratory and Injunctive Relief (the "Complaint"), challenging the validity of the adoption
21 of the Redevelopment Plan pursuant to Health and Safety Code section 33501 and Code of Civil
22 Procedure section 860 et seq. (the "Action").

23 e. On November 14, 2003, Defendant City timely filed and served its
24 answer to the Complaint.

25 f. On or about November 14, Defendant Weber served and attempted to
26 file an answer.

27 g. On or about November 22, 2003, Defendant Weber filed and served an
28 "Amended Answer" to the Complaint.

1 h. On or about December 8, 2003, Defendant City filed a motion to strike
2 Defendant Weber's answer. Pursuant to the agreement of the parties and order of this Court, said
3 motion to strike was taken off calendar.

4 i. No other interested persons or entities answered or otherwise
5 responded to the Complaint.

6 j. Two other lawsuits related to the Action and the adoption
7 Redevelopment Plan have been filed in Alameda Superior Court: (1) *J.W. and Barbara Silveira v.*
8 *City of Oakland, et al.*, Case No. RG03114104, filed by Plaintiff Silveira herein (the "Silveira CEQA
9 Action"), and (2) *Weber v. City of Oakland*, Case No. RG03115787, filed by Defendant Weber
10 herein (the "Weber CEQA Action"). The Silveira CEQA Action and the Weber CEQA Action are
11 collectively referred to herein as the "Related Actions."

12 m. The parties to this Action and to the Related Actions desire to settle
13 this Action and the Related Actions by, inter alia, the removal of the Subject Property from the
14 Project area, and the validation of the Redevelopment Plan.

15 n. The parties to this Action and the Related Actions are proceeding
16 through a Stipulation For Judgment and Judgment Pursuant to Stipulation rather than a formal
17 amendment to the Redevelopment Plan for the sole reason of expeditiously and cost effectively
18 settling this matter.

19 2. The parties shall jointly request this Court to enter a Judgment Pursuant to
20 Stipulation, in substantially the same form as Exhibit B attached hereto.

21 3. Plaintiff Silveira agrees to execute, file and serve a request for dismissal with
22 prejudice of the Silveira CEQA Action immediately upon entry of the Judgment Pursuant to
23 Stipulation in this Action and not to move or otherwise seek to recover from Defendant City
24 attorneys' fees and/or costs in this Action or in the Related Actions.

25 4. Defendant Weber agrees to execute, file and serve a request for dismissal with
26 prejudice of the Weber CEQA Action immediately upon entry of the Judgment Pursuant to
27 Stipulation in this action and not to move or otherwise seek to recover from Defendant City
28 attorneys' fees and/or costs incurred in this Action or in the Related Actions.

1 5. Upon the entry by the Court of the Judgment Pursuant to Stipulation in this
2 Action and judgments dismissing with prejudice the Related Actions, Plaintiff Silveira, Defendant
3 Weber and Defendant City do hereby release and forever discharge each other, together with their
4 agents, representatives, trustees, employees, officers, directors, partners, stockholders, attorneys,
5 successors, assigns, heirs, personal representatives and executors, and all persons, firms,
6 associations, co-partners, co-venturers, insurers, contractors, engineers, subcontractors, subsidiaries,
7 parents, affiliates, or corporations connected therewith, and each of them from any and all claims,
8 debts, liabilities, demands, obligations, costs, expenses, attorneys' fees, actions, and causes of actions
9 of every nature, character, and description whether known or unknown, directly or indirectly arising
10 out of any matter, fact, and/or allegation contained in or otherwise related to the adoption of the
11 Redevelopment Plan and the certification of the related Environmental Impact Report and the
12 allegations and/or defenses which are stated or could have been stated in the pleadings in this Action
13 and in the Related Actions, whether by complaint, petition, answer or otherwise.

14 6. The parties hereby acknowledge that they are aware of the provisions of
15 Section 1542 the Civil Code, which provides as follows:

16 A general release does not extend to claims which the creditor does not
17 know or suspect to exist in his favor at the time of executing the
18 release, which if known by him must have materially affected his
settlement with the debtor.

19 Having been so informed, the parties to the above-stated release hereby elect to and do waive
20 the provisions and benefits of Civil Code section 1542, effective upon entry of the Judgment
21 Pursuant to Stipulation in this Action and judgments dismissing the Related Actions with prejudice.

22 7. Each and every party hereto waives any right of (1) appeal, whether direct,
23 indirect or by collateral attack, which may arise from the Action or Related Actions; (2) any
24 compensation, including any claim for attorney's fees and costs; and (3) notice of entry of judgment.

25 8. As to the matters set forth herein, this Stipulation for Judgment is the entire,
26 integrated agreement and understanding of the parties and supercedes any and all previous oral or
27 written understandings and/or agreements.

28

1 9. Each party represents that the individual signing this Stipulation for Judgment
2 is authorized to bind the party on whose behalf he or she signs.

3 10. If any term or provision of this Stipulation for Judgment, or the application of
4 any term or provision of this Stipulation for Judgment to a particular situation, shall be finally found
5 to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then
6 notwithstanding such determination, such term or provision shall remain in force and effect to the
7 extent allowed by such ruling and all other terms and provisions of this Stipulation for Judgment or
8 the application of this Stipulation for Judgment to other situations shall remain in full force and
9 effect to the extent allowed by such ruling. Notwithstanding the foregoing, if any material term or
10 provision of this Stipulation for Judgment or the application of such material term or condition to a
11 particular situation is finally found to be void, invalid, illegal or unenforceable by a court of
12 competent jurisdiction, then the Parties to this Stipulation for Judgment agree to work in good faith
13 and fully cooperate with each other to amend this Stipulation for Judgment to carry out its intent.

14 11. The drafting and the negotiation of this Stipulation for Judgment have been
15 participated in by each of the parties or their counsel and, for all purposes, this Stipulation for
16 Judgment shall be deemed to have been drafted jointly by all parties.

17 12. This Stipulation for Judgment shall be binding on and shall inure to the
18 benefit of the successors and assigns of each party.

19 13. Each party declares that prior to the execution of this Stipulation for
20 Judgment, it and/or its duly authorized representatives have apprised themselves of sufficient
21 relevant data, either through attorneys, experts or other sources of their own selection, in order to
22 intelligently exercise their judgment in deciding whether to execute, and in deciding the contents of,
23 this Stipulation for Judgment. Each party states that this Stipulation for Judgment is entered into
24 freely and voluntarily, upon the advice and with the approval of its counsel.

25 14. This Stipulation for Judgment shall be interpreted in accordance with
26 California law.

27 15. This Stipulation for Judgment may be executed in counterparts, and fax copies
28 shall constitute good evidence of such execution.

1 16. This Stipulation for Judgment is the result of a compromise and is not and
2 shall not be considered as an admission of the truth of the allegations, claims or contentions of the
3 parties hereto against any other party hereto. Each of the parties to this Stipulation for Judgment
4 denies all such allegations, liabilities and responsibilities.

5 17. Upon entry of the Judgment Pursuant to Stipulation in substantially the same
6 form as Exhibit B attached hereto: (a) pursuant to Health and Safety Code Section 33373, Defendant
7 City of Oakland shall promptly record with the County Recorder of the County of Alameda a revised
8 description of the Project area and statement that proceedings for the redevelopment of the Project
9 area have been instituted; and (b) pursuant to Health and Safety Code Section 33375, Defendant City
10 of Oakland shall transmit a copy of said revised description and statement, a copy of Ordinance
11 No. 12528 C.M.S., a map indicating the boundaries of the Project area and a copy of this judgment
12 to the auditor and tax assessor for the County of Alameda, to the officer or officers performing the
13 functions of auditor or assessor for any taxing agencies which, in levying or collecting its taxes, do
14 not use the County assessment roll or do not collect taxes through the County of Alameda, to the
15 governing body of each taxing agency which levies taxes upon any property in the Project area and
16 to the State Board of Equalization.

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_____, 2004

McDONOUGH HOLLAND & ALLEN PC
Attorneys at Law

By

T. BRENT HAWKINS,
Attorneys for City of Oakland,
Redevelopment Agency of the
City of Oakland and City Council
of the City of Oakland

_____, 2004

SHAPIRO BUCHMAN PROVINE & PATTON
LLP

By:

ROBERT W. SHAPIRO
Attorneys for Plaintiffs J.W.
Silveira
and Barbara Silveira,
individually and
as Trustees of the J.W. and
Barbara Silveira Revocable Trust

_____, 2004

By:

JOHN THORPE
Attorneys for Charles and
Pamela Weber

_____, 2004

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EXHIBIT A

LEGAL DESCRIPTION OF SUBJECT PROPERTY

All that real property situated in the City of Oakland, County of Alameda, State of California, described as follows:

Beginning at the intersection of the southwestern line of Embarcadero, as said line was established by the Deed to the city of Oakland, dated July 24, 1947, recorded November 26, 1948, in book 5664 of Official Records, page 114, Alameda County Records, with a line drawn parallel with the direct production southwesterly of the northwestern line of 6th Avenue, and distant at right angles 1.70 feet southeasterly therefrom; running thence along said line of said Embarcadero north 62° 48' 44" west 233.27 feet to the northwestern line of the parcel of land described in the deed from Hurley Marine Works, Inc., a corporation, to Jack Hurley, Jr., et al, dated August 31, 1946, recorded November 6, 1946, in Book 5028 of Official Records of Alameda County, at page 167; thence along the last mentioned line and along the southwestern line of such parcel, the four following courses and distances: south 48° 07' 41" west 662.55 feet; south 41° 52' 19" east 23.60 feet; south 48° 07' 41" west 343.45 feet; and south 47° 37' 19" east 195.25 feet to said parallel line; thence along the last mentioned line north 48° 07' 41" east 1069.81 feet to the point of beginning.

EXHIBIT B

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Exempt from Filing Fees per
Gov. Code Section 6103

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11 Attorneys for Defendants City of Oakland,
Redevelopment Agency of the City of Oakland and
12 City Council of the City of Oakland

13
14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 IN AND FOR THE COUNTY OF ALAMEDA
16

17 J.W. AND BARBARA SILVEIRA,)
individually and as Trustees of the)
18 J.W. and Barbara Silveira Revocable)
Trust)

19 Plaintiffs,)
20)

21 v.)

22 All Persons Interested in the)
Redevelopment Plan for the Central)
23 City East Redevelopment Project)
Purportedly Adopted by the City)
24 Council of the City of Oakland by)
Ordinance No. 12528 on July 29,)
2003; CITY OF OAKLAND, a)
25 municipal corporation;)
REDEVELOPMENT AGENCY OF THE)
26 CITY OF OAKLAND, a public body;)
CITY COUNCIL OF THE CITY OF)
27 OAKLAND; and DOES 1 through 25,)
inclusive)

28 Defendants

Case No. RG03118525

JUDGMENT PURSUANT TO
STIPULATION VALIDATING
REDEVELOPMENT PLAN
(CCP §870)

Dept.: 512

Judge: Hon. Bonnie Sabraw



1 The parties to this action—Plaintiffs J. W. & Barbara Silveira, acting individually and as
2 trustees of the J.W. & Barbara O. Silveira Revocable Trust, (collectively, "Plaintiff Silveira"),
3 Defendants Charles Weber and Pamela J. Weber (collectively, "Defendant Weber"), and Defendants
4 City of Oakland, Redevelopment Agency of the City of Oakland and City Council of the City of
5 Oakland (collectively, "Defendant City")—having stipulated to the entry of judgment as hereinafter
6 provided, the Court having accepted the stipulation and good cause appearing therefore, IT IS
7 HEREBY ORDERED, ADJUDGED AND DECREED as follows:

8 1. Ordinance No. 12528 C.M.S. of Defendant City of Oakland approving and adopting
9 the Redevelopment Plan (the "Redevelopment Plan") for the Central City East Redevelopment
10 Project ("Project"), as modified pursuant to paragraph 3, hereof, including, without limitation, all
11 proceedings and related actions heretofore taken for or in any way connected with the adoption of
12 the Ordinance No. 12528 C.M.S., including without limitation certification of the Environmental
13 Impact Report, is hereby found and declared to be adequate, sufficient, legal and valid in all respects.

14 2. The Redevelopment Plan, as modified pursuant to paragraph 3, hereof, including,
15 without limitation, all proceedings and related actions heretofore taken for or in any way connected
16 with the adoption of the Redevelopment Plan, including without limitation the certification of the
17 Environmental Impact Report, is hereby found and declared to be adequate, sufficient, legal and
18 valid in a all respects.

19 3. That certain real property commonly known as 499 Embarcadero or 1 Fifth Avenue,
20 Oakland, California, which Plaintiff Silveira warrants and represents is more particularly described
21 in Exhibit A, attached hereto and incorporated herein by this reference (the "Subject Property"),
22 owned by Plaintiff Silveira and on part of which Defendant Weber is a tenant, is hereby removed
23 from the Project area and the Redevelopment Plan and Ordinance No. 12528 C.M.S. are hereby
24 modified to exclude the Subject Property from the Project area.

25 4. Upon entry of this Judgment Pursuant to Stipulation: (a) pursuant to Health and
26 Safety Code Section 33373, Defendant City of Oakland shall promptly record with the County
27 Recorder of the County of Alameda a revised description of the Project area and statement that
28 proceedings for the redevelopment of the Project area have been instituted; and (b) pursuant to Health

1 and Safety Code Section 33375, Defendant City of Oakland shall transmit a copy of said revised
2 description and statement, a copy of Ordinance No. 12528 C.M.S., a map indicating the boundaries
3 of the Project area and a copy of this judgment to the auditor and tax assessor for the County of
4 Alameda, to the officer or officers performing the functions of auditor or assessor for any taxing
5 agencies which, in levying or collecting its taxes, do not use the County assessment roll or do not
6 collect taxes through the County of Alameda, to the governing body of each taxing agency which
7 levies taxes upon any property in the Project area and to the State Board of Equalization.

8 5. Concurrently herewith, judgments of dismissal with prejudice shall be entered in the
9 following related actions: (1) *J.W and Barbara Silveira v. City of Oakland et al.*, Case No.
10 RG03114104; and (2) *Weber v. City of Oakland et al.*, Case No. RG03115787 (collectively, the
11 "Related Cases").

12 6. Neither Plaintiff Silveira nor Defendant Weber shall be entitled to recover attorneys'
13 fees or costs from Defendant City.

14 7. Pursuant to Code of Civil Procedure Section 870(a), this Judgment shall be forever
15 binding and conclusive, as to all matters herein adjudicated or which at this time could have been
16 adjudicated against Defendant City of Oakland. Plaintiff Silveira, Defendant Weber and all other
17 persons are hereby permanently enjoined from instituting any action or proceeding raising any issue
18 as to which this judgment is binding and conclusive.

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall comply
20 with all provisions of the Stipulation for Judgment in this action.

21
22 _____, 2004 By: _____
23 Honorable Bonnie Sabraw

24
25 10.6 CC
26 CBA COUNCIL

27 JUL 6 2004
28