

2006 SEP 28 PM 4: 50

APPROVED AS TO FORM AND LEGALITY:


DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION No. 80120 C.M.S.

**A RESOLUTION AUTHORIZING SETTLEMENT OF LITIGATION IN THE
MATTER OF THE CITY OF OAKLAND ET AL., V. PACIFIC
RENAISSANCE ASSOCIATES II, ET AL., AND RELATED CASES**

WHEREAS, the City is a party to a lawsuit, *The City of Oakland, et al. v. Pacific Renaissance Associates II, et al.* (Alameda County Case Number RG 03111924), and related cases; and

WHEREAS, the lawsuits concern Pacific Renaissance Plaza, a mixed-use commercial and residential complex on 9th Street between Franklin and Webster; and

WHEREAS, the parties to the lawsuits have negotiated the terms of a settlement; now, therefore, be it

RESOLVED: That the City Council hereby authorizes legal counsel for the City to settle the case of *The City of Oakland, et al. v. Pacific Renaissance Associates II, et al.* (Alameda County Case Number RG 03108416) and related cases, in accordance with the following terms:

- The Redevelopment Agency, or its assignee, to have a six-month option to purchase all of International Hotelier Management Corp.'s ("IHMC's") and certain related parties' interests in Pacific Renaissance Plaza for \$40,000,000. The Agency to have the right to assign all or part of its right to purchase to a third party. The Agency, at its sole discretion, may elect not to exercise its option.
- The Agency to issue a Certificate of Compliance for the Marriott Courtyard Hotel.
- Upon closing, there will be an executed settlement agreement and dismissal with prejudice of the complaint and cross-complaint in the above-titled litigation and in the related case of *Yet Hom et al., v. International Hotelier Management Corp. et al.*, Alameda County Case Number RG 03108416 ("Hom Litigation").

- The Agency, the City, and defendants to each bear their own attorneys' fees and costs.
- The plaintiffs in the Hom Litigation and the Agency or the City to enter into a separate agreement regarding various issues related to the process and other aspects of determining the number of affordable housing units that will be preserved as affordable following purchase of these units by the Agency. In return for this "side" agreement, the plaintiffs in the Hom Litigation to release their lis pendens on the property.
- In the event that the Agency does not exercise its option or, if the Agency exercises the option and the defendants default, the City/Agency to have the right to enforce performance of the settlement agreement and/or to restore the matter to the active trial calendar.

and be it further

RESOLVED: That the Council hereby authorizes the City Administrator and City legal counsel to take whatever other actions are necessary with the respect to the settlement and the transaction consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, SEP 19 2006, 2006


PASSED BY THE FOLLOWING VOTE:

AYES- ~~Brooks~~, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, ~~Yee~~ AND PRESIDENT DE LA FUENTE, - 6

NOES- 0

ABSENT- 0

ABSTENTION- Brooks, Reid - 2

Attest: 
 LATONDA SIMMONS
 Clerk of the City of Oakland, California