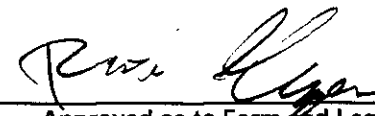


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OFFICE OF THE CITY CLERK  
OAKLAND  
2004 DEC 22 PM 4:58

  
Approved as to Form and Legality

# Oakland City Council

RESOLUTION No. 79000 = C.M.S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

**Resolution Authorizing the City Attorney to File (1) a Letter in Support of a Petition for Review in the California Supreme Court, (2) a Request to Depublish (not publish), and/or (3) an Amicus (Friend of the Court) Brief in Support of the City of Santa Monica in *Action Apartment v. Santa Monica* in which the California Court of Appeal Held that State Law Preempts a Provision of Santa Monica's Ordinance that Provides Tenants Remedies for Landlords' False or Misleading Allegations in Eviction Notices**

**WHEREAS**, in *Action Apartment v. Santa Monica* 123 Cal.App.4th 47 (2004) the California Court of Appeal ruled that certain tenant remedies in the City of San Monica's Tenant Harassment Ordinance were preempted by California Civil Code 47(b) (the litigation privilege);

**WHEREAS**, *Action Apartment* may have an adverse impact on the authority of cities to legislate without state law preemption;

**WHEREAS**, *Action Apartment* also may have an adverse impact on cities' ability to create enforcement mechanisms for their laws;

**WHEREAS**, the City of Santa Monica requests other cities assist with its efforts to depublish or appeal *Action Apartment* to the State Supreme Court; therefore be it

**RESOLVED:** that the City Attorney, on behalf of the City of Oakland, is authorized to do the following (1) request the Court of Appeal or Supreme Court decision depublish the *Action Apartment* decision so that it cannot be cited as legal authority or precedent, (2) file a letter supporting Santa Monica's petition for review before the California Supreme Court and/or (3) file an amicus (friend of the court) brief supporting Santa Monica's appeal in *Action Apartment*.

IN COUNCIL, OAKLAND, CALIFORNIA, JAN 4 2005

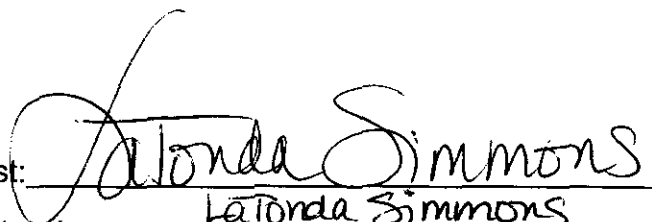
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND PRESIDENT DE LA FUENTE — 8

NOTES-

ABSENT-

ABSTENTION-

Attest:   
Latonda Simmons  
Interim City Clerk and Clerk of the Council  
of the City of Oakland, California