

CITY OF OAKLAND



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May 16, 2023

HONORABLE CITY COUNCIL
Oakland, California

**Subject: Tulsee Nathu, Daxa “Mina” Patel; Jayanti Nathu, Ii Ram 6801 I-40 West, Amarillo, Tx, Ltd; and 1000 Ram Inc. v. City of Oakland
United States District Court N.D. Cal. Case No. 14-cv-01626-JSC
United States Court of Appeal for the Ninth Circuit Case No. 23-15062
City Attorney File No. X05164
(City Council – Land Use)**

President Fortunato Bas and Members of the City Council:

Pursuant to Section 401 of the Charter, the City Attorney has prepared and requests your approval of a resolution authorizing compromise and settlement of the above-entitled claim for a waiver of costs to which the City is otherwise entitled in the amount of Twenty-Eight Thousand Five Hundred Seventy-Nine Dollars and Twenty-Five Cents (\$28,579.25), in exchange for a dismissal of the pending appeal and full release and settlement by all plaintiffs in this matter.

This action arises out of plaintiffs’ proposal to build a hotel at 0 Mandela Parkway. On June 16, 2020, the City Council upheld the appeal of Unite Here Local 2850, a hospitality workers union that challenged the Planning Commission’s approval of the application, on the grounds that the Planning Commission erred in making required findings for the Minor Variance for front setback reduction, and for failure to “meet with the spirit and intent” of Planning Code section 17.103.050(A)(2).

Plaintiffs filed suit in federal District Court (“District Court”) alleging multiple constitutional violations, including Equal Protection Violations under the Fourteenth Amendment, and Takings and Due Process claims under the Fifth Amendment. Plaintiffs sought an administrative writ of mandate to overturn the City Council’s decision and alleged \$48 million in damages.

The City defeated plaintiffs’ claims in a motion for summary judgment and the District Court dismissed the case. Plaintiffs subsequently appealed to the United States Court of Appeals for the Ninth Circuit and the appeal is pending. Plaintiffs have now expressed a willingness to settle the case in exchange for the City’s agreement to waive costs to which the City is otherwise entitled. The City has determined that settlement waiving costs in the amount of in the amount of \$28,579.25, without admitting liability and to avoid further litigation, is in the City’s best interest.

The City Council authorized settlement of this case in closed session on Thursday, May 4, 2023 (moved by Councilmember Carroll Fife and seconded by Councilmember Janani Ramachandran – 5 Ayes, 3 Absent – Councilmember Noel Gallo, Councilmember Kevin Jenkins and Councilmember Treva Reid).

Respectfully submitted,

A handwritten signature in blue ink that reads "Barbara J. Parker".

BARBARA J. PARKER
City Attorney

Assigned Attorney
Selia Warren

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