


APPROVED AS TO FORM AND LEGALITY

2023 MAY -4 PM 4: 59

FILED
OFFICE OF THE CITY CLERK
OAKLAND



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89732 C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF 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 CASE NO. 14-CV-01626-JSC, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT CASE NO. 23-15062, CITY ATTORNEY FILE NO. X05164, 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) (CITY COUNCIL – LAND USE)

WHEREAS, plaintiffs allege that on June 16, 2020, the City Council wrongfully and in violation of their civil rights, upheld the appeal of Unite Here Local 2850, thereby denying plaintiffs' application to build a hotel at 0 Mandela Parkway; and

WHEREAS, the City Council upheld the appeal 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); and

WHEREAS, Plaintiff filed suit in the United States District Court for the Northern District of California, Case No. 14-cv-01626-JSC against the City of Oakland 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; and

WHEREAS, 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. However, 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.; and

WHEREAS, the City has considered all the evidence, litigation costs, and litigation risks in this case and 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; and

WHEREAS, the City admits no wrongdoing or liability; and

WHEREAS, the parties and their legal counsel have negotiated a fair and reasonable settlement of these claims; now, therefore, be it

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of *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 Northern District of California Case No. 14-cv-01626-JSC, United States Court of Appeals for the Ninth Circuit Case No. 23-15062, City Attorney File No. X05164, 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; 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,

MAY 16 2023

PASSED BY THE FOLLOWING VOTE:


AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID AND
PRESIDENT FORTUNATO BAS **-8**

NOES - **0**

ABSENT - **0**

ABSTENTION - **0**

ATTEST:



ASHA REED

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