APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

# OAKLAND CITY COUNCIL

## RESOLUTION NO. _____ C.M.S.

**RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CITY OF OAKLAND'S CLAIMS AGAINST DEFENDANTS THUAN DUONG (AS AN INDIVIDUAL AND AS A TRUSTEE OF DUONG-NGUYEN FAMILY TRUST) AND KHANH NGUYEN (AS AN INDIVIDUAL AND AS A TRUSTEE OF DUONG-NGUYEN FAMILY TRUST) BY PAYMENT TO THE CITY IN THE AMOUNT OF ONE HUNDRED SIX THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS ($106,500.00) AND DEFENDANT ELVECIO MACHADO BY PAYMENT TO THE CITY IN THE AMOUNT OF SEVEN THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS ($7,500.00) IN THE MATTER PEOPLE OF THE STATE OF CALIFORNIA AND THE CITY OF OAKLAND V. ANGELIQUE AUSTIN, TERRELL BAILEY, T & A INDEPENDENT ROOM AND BOARD, ANDY KIM, LAI C. SAELEE, ELVECIO MACHADO, ALEXANDRE MACHADO, THUAN DUONG (AS AN INDIVIDUAL AND AS A TRUSTEE OF DUONG-NGUYEN FAMILY TRUST), KHANH NGUYEN (AS AN INDIVIDUAL AND AS A TRUSTEE OF DUONG-NGUYEN FAMILY TRUST), RUBIN TAMRA, and DOES 1-25, SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ALAMEDA, CASE NO. 23CV035004, CITY ATTORNEY FILE NO. CE05461 (OFFICE OF THE CITY ATTORNEY – PUBLIC NUISANCE AND TENANT HARASSMENT)**

**WHEREAS**, Elvecio Machado is the owner of record for the property located at 3142 Martin Luther King Jr. Way, Oakland, CA, with Assessor Parcel Number 9-715-29; and

**WHEREAS**, Thuan Duong and Khanh Nguyen as trustees of the Duong-Nguyen Family Trust, are owners of record for the properties located at 3325 Georgia, Oakland, CA, with Assessor Parcel Number 28-946-11 and 3502 Gray Street, Oakland, CA, with Assessor Parcel Number 32-2111-1-2; and

**WHEREAS**, Duong, Nguyen, and Machado leased their respective properties to Angelique Austin and/or Terrell Bailey, who operated an independent living facility at the properties; and

**WHEREAS**, tenants at the independent living facility suffered physical and verbal abuse and were subjected to unlawful self-help evictions; and

**WHEREAS**, on June 2, 2023, the City of Oakland filed a complaint assigned Case No. 23CV035004 (the "Action") in the Superior Court of the State of California, County of Alameda and on August 11, 2023 filed an amended complaint against the One Rose of Unity LLC, Angelique Austin, Terrell Bailey, T&A Independent Room and Board, Alexandre Machado, Elvecio Machado, Thuan Duong (as an individual and as a trustee of Duong-Nguyen Family Trust), Khanh Nguyen (as an individual and as a trustee of Duong-Nguyen Family Trust), Andy Kim, Lai C. Saelee, Tamra Rubin, and Does 1-25;

**WHEREAS**, the City's Complaint alleges that the Defendants Duong, Nguyen, and Machado violated Oakland's Tenant Protection Ordinance (Oakland Municipal Code ("OMC"), § 8.22.600 *et seq*.), Oakland's Just Cause for Eviction Ordinance (OMC, § 8.22.300 *et seq*.), and state and local public nuisance laws (OMC, § 1.08; Cal. Civ. Code, §§ 3479, 3480) through their actions as owner of the Property;

**WHEREAS**, the City has considered all of the evidence and defendants' assets, and determined that it is in the City's best interest to settle its claims against Defendants Duong, Nguyen, and Machado, in the interest of avoiding further litigation; now, therefore, be it

**RESOLVED:** That the City Attorney is authorized and directed to compromise and settle the City of Oakland's claims against defendants Thuan Duong (as an individual and as a trustee of Duong-Nguyen Family Trust) and Khanh Nguyen (as an individual and as a trustee of Duong-Nguyen Family Trust) by payment to the City in the amount of One Hundred Six Thousand Five Hundred Dollars and Zero Cents ($106,500.00) and defendant Elvecio Machado by payment to the City in the amount of Seven Thousand Five Hundred Dollars ad Zero Cents ($7,500.00) in the matter *People Of The State Of California And The City Of Oakland V. Angelique Austin, Terrell Bailey, T & A Independent Room And Board, Andy Kim, Lai C. Saelee, Elvecio Machado, Alexandre Machado, Thuan Duong (as an individual and as a trustee of Duong-Nguyen Family Trust), Khanh Nguyen (as an individual and as a trustee of Duong-Nguyen Family Trust), Rubin Tamra, And Does 1-25*, Superior Court of the State of California, County of Alameda, Case No. 23cv035004, City Attorney File No. CE05461; and be it

**FURTHER RESOLVED:** That the City Attorney is authorized and directed to take whatever steps may be necessary to effect said settlement.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG AND PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST:_____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

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