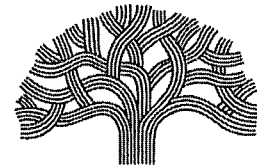


FILED
OFFICE OF THE CITY CLERK
OAKLAND

DEC 29 AM 8:48



CITY OF OAKLAND

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Date: Wednesday, December 28, 2016

To: Members of the Rules and Legislation
Committee

Cc: Sabrina Landreth, City
Administrator
LaTonda Simmons, City Clerk
Barbara Parker, City Attorney

From: Council President Lynette Gibson McElhaney and President Pro Tempore Larry Reid

Re: Requesting Alameda County Examine the Probate Court Process

Colleagues,

The Oakland City Council was recently approached by a group of African American families that feel that they have been unfairly treated by the probate court system and, as a result, have lost significant portions of their respective inherited assets.

The concerns raised by local African American families center around alleged unethical conduct by attorneys appointed by probate courts in instances when families are unable to come to an agreement on the appointment of a Special Administrator or Managing Trustee of an estate. These court-appointed attorneys accumulate fees that are assessed as a lien against the assets of the will or living trust. As a result, there may be an incentive for the court-appointed attorney to sell assets to ensure they can quickly extract their payment. The families allege that the sale of assets in these instances can often be done hastily and at below-market-value to encourage a quick sale. These sales are also often done without consideration to whether or not the heirs of the estate may have a desire to purchase the asset. As a result of these aforementioned factors, heirs are often unable to purchase the assets of the estate and are often saddled with significant costs liened against assets of the estate. When the assets are disbursed to the heirs, the costs incurred can often approach 30-50% of the estate value.

We recommend that the Oakland City Council support by resolution these community members' request that the District Attorney of Alameda County empanel a grand jury to investigate the way in which the probate court system functions to determine whether certain groups are disproportionately affected compared to others and how the system can be improved for all families.

Signed,

Council President Lynette Gibson McElhaney



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RULES & LEGISLATION CMTTE

JAN 10 2017

2016 DEC 29 PM 1:27

DRAFT

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCIL PRESIDENT LYNETTE GIBSON MCELHANEY AND
PRESIDENT PRO TEMPORE REID ON BEHALF OF MEMBERS OF THE PUBLIC

A RESOLUTION REQUESTING AN EXAMINATION OF THE WAY IN WHICH THE PROBATE COURTS IN ALAMEDA COUNTY FUNCTION AND DIRECTING THE CITY ADMINISTRATOR TO SEND COPIES OF THE RESOLUTION AND AGENDA ITEM TO THE ALAMEDA COUNTY DISTRICT ATTORNEY NANCY O'MALLEY, ALAMEDA COUNTY BOARD OF SUPERVISORS, ASSEMBLYMEMBER TONY THURMOND, AND STATE SENATOR NANCY SKINNER

WHEREAS, questions have been raised about whether certain groups are disproportionately affected by the Probate Court system in Alameda County compared to other groups; and

WHEREAS, as a result, a group of local African American families believe that perverse incentives in the probate court system are magnified for their community, including the following; and

WHEREAS, there are often differences of opinion in selecting an heir to act as the the Special Administrator or Managing Trustee of a living trust or will which then often leads a probate judge to assign a court-appointed attorney to function in this role; and

WHEREAS, court-appointed attorneys often accumulate significant fees as part of this work that are assessed as a lien against the assets of the living trust or will; and

WHEREAS, as a result, there is an incentive for the court-appointed attorney to maximize their fees and to ensure prompt payment through a sale of assets; and

WHEREAS, the sale of estate assets for the purpose of collecting attorney's fees can often be done hastily and at below-market-values, so as to encourage a quick sale; and

WHEREAS, the sale of estate assets are also often done without consideration by the court-appointed trustee or special administrator to whether or not the heirs of the estate may have a desire to purchase the asset; and

WHEREAS, total attorney's costs incurred on the estate can approach 30-50% of the total value; now, therefore, let it be

RESOLVED that the Oakland City Council requests an examination of the way in which the probate courts in Alameda County function and directs the City Administrator to send copies of the resolution and agenda item to the Alameda County District Attorney Nancy O'Malley, Alameda County Board of Supervisors, Assemblymember Tony Thurmond, and State Senator Nancy Skinner

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RULES & LEGISLATION CMTTE

JAN 10 2017

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLÉN, KALB, KAPLAN, REID AND
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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