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OAKLAND

21 SEP 23 PM 4:16

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 88841 C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF SEGULA INVESTMENTS, INC., A CALIFORNIA CORPORATION V. CITY OF OAKLAND, A CALIFORNIA MUNICIPAL CORPORATION, OAKLAND DEPARTMENT OF PLANNING AND BUILDING, WILLIAM GILCHRIST IN HIS OFFICIAL CAPACITY, AND DOES 1-10, INCLUSIVE, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG21089614, CITY ATTORNEY'S FILE NO. 34281, IN THE AMOUNT OF FOUR HUNDRED SIXTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$465,000.00) (PLANNING AND BUILDING DEPARTMENT - PERMITTING FEES DISPUTE)

WHEREAS, Plaintiff filed a building permit application with the City of Oakland on June 8, 2018 for the 2305 Webster Street Project and subsequently paid \$624,307.75 in permitting fees;

WHEREAS, Plaintiff withdrew the project, filed a refund request dated January 23, 2020, and the City informed Plaintiff on April 23, 2020 that the City would retain and not refund Plaintiff \$446,326.49 of the \$624,307.75 total fees Plaintiff paid;

WHEREAS, Plaintiff filed a lawsuit in Superior Court of the State of California, County of Alameda, Case No. RG20056965, against the City of Oakland, its Planning and Building Department, and Planning and Building Director William Gilchrist in his official capacity, alleging conversion, unjust enrichment, and violations of the United States and California constitutions, and petitioning for a writ of mandate;

WHEREAS, Plaintiffs allege that the City wrongfully determined that the City could retain and not refund Plaintiff \$446,326.49 of the \$624,307.75 in permitting fees Plaintiff paid because the City did not perform a level of work and incur costs sufficient to justify the fees the City sought to retain; and

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

WHEREAS, the City, its Planning and Building Department, and Director Gilchrist deny any wrongdoing or liability and do not admit any of Plaintiff's allegations; now, therefore, be it

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of Segula Investments, Inc., a California Corporation v. City of Oakland, a California municipal corporation, Oakland Department of Planning and Building, William Gilchrist in his official capacity, and DOES 1-10, inclusive, Alameda County Superior Court Case No. RG21089614, City Attorney's File No. 34281, for the sum of Four Hundred Sixty-Five Thousand Dollars and Zero Cents (\$465,000.00), payable to Zacks, Freedman & Patterson A Prof Corp Interest On Lawyers Trust Acct/Iolta; 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,

OCT 05 2021

PASSED BY THE FOLLOWING VOTE:

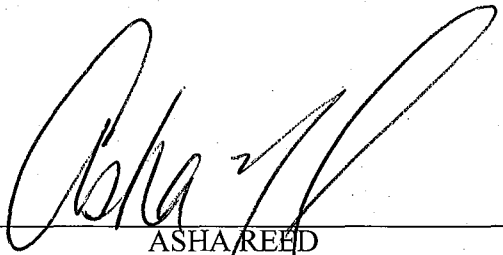
AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT FORTUNATO BAS - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:


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