



City of Oakland

Office of the City Clerk
Oakland City Hall,
1 Frank H. Ogawa Plaza,
Room 201
Oakland, California 94612

Legislation Text

File #: 003790, **Version:** 1

Subject: Bermuda Building Eminent Domain Litigation
From: Office of the City Attorney
Recommendation: Adopt an Agency Resolution authorizing payment of an amount not to exceed \$395,000.00 for the attorney's fees and costs portion of judgement in the matter of Oakland Redevelopment Agency v. Martin, et al., San Francisco Superior Court No. 301255
CITY OF OAKLAND #4 %
EJ' J-1 @" - ']' (' @ i 1-9: 2 2
ONE FRANK H. OGAWA PLAZA e 6TH FLOOR a OAKLAND, CALIFORNIA 94612
Office of the City Attorney (510) 238-3601
John A. Russo FAX: (510) 238-6500
TDD: (510) 839-6451

July 15, 2003

HONORABLE OAKLAND REDEVELOPMENT AGENCY BOARD

Oakland, California

Chairperson De La Fuente and Members of the Agency Board:

Subject: OAKLAND REDEVELOPMENT AGENCY V. MARTIN, ET AL., SAN FRANCISCO SUPERIOR COURT NO. 301255
(THE BERMUDA BUILDING EMINENT DOMAIN LITIGATION)

Pursuant to Section 401 of the Charter, the City Attorney recommends authorizing payment of that portion of the judgment allocated for the owners/defendants' attorney's fees and costs of litigation in the above-entitled matter. The Agency appealed the adverse judgment in this matter. The California Supreme Court did not accept the Agency's petition for review, thereby ending the litigation.

In order to finalize the judgment and obtain title to the Bermuda Building property, the Agency must pay the full amount of the judgment, including the attorney's fees and litigation costs. Failure to pay could jeopardize the Agency's taking title to the property. The Agency previously deposited the principal amount of the judgment, plus interest, leaving only the attorney's fees and costs of approximately \$391,000 remaining to be paid. This is the final amount to be paid on this matter absent a further claim by the owners for costs or attorney's fees relating to the appeals.

Respectfully submitted,

City Attorney

Attorney Assigned:

Richard Illgen

ORAICOUNCIL

JUL I 5 2003

REDEVELOPMENT AGENCY-
OF THE CITY OF OAKLAND

RESOLUTION No. C.M.S.
INTRODUCED BY AGENCY MEMBER

RESOLUTION AUTHORIZING PAYMENT OF AN AMOUNT NOT
TO EXCEED \$395,000 FOR THE ATTORNEY'S FEES AND
COSTS PORTION OF JUDGMENT IN THE MATTER OF
OAKLAND REDEVELOPMENT AGENCY V. MARTIN, ET AL.,
SAN FRANCISCO SUPERIOR COURT NO. 301255 (THE
BERMUDA BUILDING EMINENT DOMAIN LITIGATION)

WHEREAS, the Oakland Redevelopment Agency ("Agency") commenced
condemnation litigation against the owners of the property located at 2150
Franklin Street, Oakland (the site of the former Bermuda Building, Oakland
Redevelopment Agency v. Martin, et al., San Francisco Superior Court No.
301255);

WHEREAS, at the conclusion of trial, judgment was entered against the
Agency in the amount of \$3.5 million, plus interest, the owners' attorney's fees
and their litigation costs;

WHEREAS, the Agency appealed the judgment, but did not prevail on the
appeal;

WHEREAS, the Agency previously deposited the amount of the judgment
for the value of the property and outstanding interest into Court, the Agency must
now pay the judgment amount for the owners' attorney's fees and litigation costs
in order to finalize the litigation and satisfy the judgment; now, therefore, be it:

RESOLVED that the City Attorney is authorized and directed to pay the
owners' attorney's fees and litigation costs as set out in the judgment in San
Francisco Superior Court No. 301255 in an amount not to exceed \$395,000;

ORA/COUNCIL
JUL 15 2003

FURTHER RESOLVED that the City Attorney is authorized and directed
to take all further actions as are needed to finalize and satisfy the judgment in
San Francisco Superior Court No. 301255.

IN AGENCY, OAKLAND, CALIFORNIA, JULY 15, 2003

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND
CHAIR PERSON DE LA FUENTE
NOES-

ABSENT-

ABSTENTION-

ATTEST:

CEDA FLOYD

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

309414-1

Cb&A#C!L

JUL I 6 2003