

# Annual Report

## FY2012-13

## Oakland City Attorney's Office

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**PURPOSE**

As mandated by the City Charter, we serve as legal counsel to the Mayor, City Council and City departments, boards and commissions, in their official capacities; render advice and opinions in the City's interests; represent the City in legal proceedings and settlement negotiations; draft and approve for form and legality legislation, contracts and other legal documents, and; defend the City's policies and laws, uphold the City's and its residents' rights, and initiate legal action to protect the community's health, welfare, quality of life and economic interests.

**MISSION**

Our mission is to provide the highest quality legal services, promote open government and accountability to the residents of Oakland in accordance with the letter and spirit of the law and apply the law in an innovative and community-oriented manner to improve the quality of life in Oakland. We accomplish this mission by constantly pursuing excellence, professionalism and a workforce that values and reflects the diversity of the Oakland community.

## Year in Review

### Purpose & Mission

The City Attorney's Office plays an integral and often behind-the-scenes role in City government by drafting legislation and laws, providing top-notch legal advice and counsel to the Mayor, City Council, City Auditor, City Administrator and City departments, boards and commissions in their official capacities. The Office drafts, reviews and negotiates agreements and legislation and helps to shape Oakland's policies. The Office also aggressively defends Oakland's interests and resources in court and initiates legal action to protect the rights and enhance the quality of life of all Oakland.

The City Attorney has published an Annual Report every year since Fiscal Year ("FY") 2000-01 to enhance transparency by highlighting for residents, businesses and taxpayers the services we provide on their behalf.

The Annual Report for FY2012-13 details financial results, litigation trends, advisory work and special initiatives that the Office undertook during the fiscal year beginning on July 1, 2012 and ending June 30, 2013.

### Top Priorities

- Continue to provide the highest quality of legal services to City officials, departments, boards and commissions by negotiating, drafting and reviewing agreements, legislation, regulations, policies and procedures and helping to shape viable, legally sound policies, programs and services for the City.
- Aggressively defend Oakland's interests and resources in court and in administrative proceedings and initiate legal action and other initiatives to protect the rights and interests and enhance the quality of life of our community.
- Promote open and honest government by making sure that everyone knows and plays by the same rules and that the public has access to and knows what the government is doing through our public legal opinions and advice on legal matters, the City Charter, open meeting laws, public records, elections, conflicts of interest and constitutional guarantees.
- Pursue equal opportunity, diversity, justice and a level playing field.

- Continue to explore and identify ways to provide expert, professional legal services in the most efficient and cost-effective manner possible.
- Restore and maintain a staff of highly-qualified and dedicated attorneys and support staff with extensive knowledge of the City of Oakland and the municipal law, making it possible to meet demands more efficiently and effectively.

## Financial Highlights

The City Attorney's budget for staff and operating costs was **\$11.56 million** in FY2012-13, on par with the City Attorney's budget in recent years after a decline from a high of \$15.41 million in FY2007-08. In the last ten years, the City Attorney's Office lost more than a third of its staff (19 attorneys and 14 support staff positions) to budget reductions. The Office lost 16 of those positions (nine attorneys and seven support staff) between 2009 and 2011.

The cost of outside counsel increased to **\$6.83 million** after declining by 28% the previous fiscal year. Previous annual reports advised that the cost of outside counsel likely would increase given the insufficient in-house staff resources the Council budgeted for the City Attorney's Office.

The amount the City pays to resolve claims and lawsuits, including settlements and judgments, varies from year to year depending on the types of cases filed against the City. In FY2012-13, the City paid **\$9 million** to claimants and plaintiffs primarily due to several high liability cases. This is 32% more than payments made during the previous fiscal year, FY2011-12, when the City paid \$6.05 million to claimants and plaintiffs. However, the FY2012-13 amount is 30% less than the FY2010-11 amount, when payments spiked to \$12.8 million, the highest amount in the City's history.

## Litigation Highlights

The number of claims filed against the City grew slightly this year but remained below the five year average. There was no change in the number of lawsuits filed against the City. The City Attorney's Office aggressively manages liability at the claims stage to limit expensive lawsuits. This year, only **2.8%** of all claims evolved into lawsuits, underscoring the effectiveness of this strategy. We successfully resolved more than two-thirds (**67%**) of lawsuits with no payment of money.

The City Attorney continued work on high profile litigation matters including the Negotiated Settlement Agreement (NSA), the resolution of a federal civil rights lawsuit alleging that four police officers called the "Riders" fabricated evidence and abused arrestees. The NSA was

designed to assure constitutional policing and increase accountability for the Oakland Police Department.

### Advisory Highlights

In addition to providing critical day-to-day legal advice to the City Council, City officials, departments, boards and commissions, the City Attorney's Office was a critical partner in a number of major projects and initiatives in FY2012-13, including the City's response to the dissolution of Redevelopment Agencies across the state and the historic deal to develop the former Oakland Army Base.

### Looking Forward

The City Charter requires that the City Attorney's Office defend lawsuits, comply with court deadlines and provide timely advice to the City Council, City officials, departments, boards and commissions. Over the last decade, the Office has lost 33 staff positions, including 19 attorneys, however, the demand for legal services has remained constant or increased, forcing the City to contract out legal services and hire outside attorneys for work that in-house attorneys could perform more efficiently and effectively and at a lower cost.

Accordingly, it is no surprise that the cost of outside counsel has increased in recent years. While the City Council restored two attorney positions and one support position to the City Attorney's Office in the FY2013-14 budget, authorizing funding to fill these positions on July 1, 2013 (after the time period covered by this report), the cost of outside counsel likely will remain high without further restoration of in-house staff. This is a problematic trend for Oakland taxpayers – one that can be addressed with a more strategic allocation of legal resources (please see the *Outside Counsel* section of this report).

Although the FY2013-14 budget restored three staff positions, it also cut the City Attorney's general purpose fund budget by 5%.

In all that we do, including providing the **City Attorney's Annual Report** and performing the work that it details, we are driven by our commitments to serve all Oakland residents and to fiscal responsibility, accountability, justice, equal opportunity, a level playing field and fair, honest and open practices at all levels of our government.

Please don't hesitate to contact me directly to provide input or ask questions about any aspect of our mission. Your contributions are vital to our success.

Very truly yours,



**REFLECTING  
OAKLAND'S  
DIVERSITY**

With a staff of about 70% women and 62% people of color, the Oakland City Attorney's Office continues to be one of the most diverse legal teams in the country.

## Office Profile

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The City Attorney's Office has four major functional teams: Executive Team, Advisory Division, Litigation Division and Operations Group.

### Advisory Division

The Advisory Division provides legal services that address the full spectrum of municipal affairs. Examples include drafting legislation and contracts, providing advice on housing and economic development projects, providing advice on labor and employment matters, negotiating real estate transactions and providing advice about finance, bonds, retirement, benefits, elections, ethics and conflicts of interest. The Advisory Division also includes the Neighborhood Law Corps, which initiates legal proceedings to address public nuisance/quality of life issues in Oakland's neighborhoods.

### Litigation Division

The Litigation Division advocates for the City's interests in claims and lawsuits filed against or on behalf of the City, its officers, employees and agencies. Lawsuits are litigated in the state and federal court systems. Examples include high value personal injury cases, complex civil rights actions, personnel disputes, eminent domain actions, breach of contract, challenges to constitutionality of Oakland's laws, policies and procedures and inverse condemnation cases. Litigators take an aggressive and strategic approach to manage liability and limit the City's financial exposure.

### Operations Group

The Operations Group manages the budget, personnel and support services of the City Attorney's Office. The group includes administrative and information technology staff, legal secretaries, paralegals and the Open Government Coordinator.

### Executive Team

The Executive Team includes the City Attorney, the Chief Assistant City Attorney (Advice), the Chief Assistant City Attorney (Litigation), the Legal Administrative Services Manager (Operations) and the Chief of Staff (Policy, Open Government & Communications).

**BY  
THE  
NUMBERS**

- City Attorney's Office total budget: \$11.56M
- Litigation Expenses: \$1.81M
- Total cost of outside counsel: \$6.86M
- Total payouts for claims & lawsuits: \$9M
- Total payouts for police matters: \$7.01M
- Total payouts infrastructure matters: \$1.2M
- Funds recovered by the City Attorney's Office: **\$1.87M**

## Financial Summary

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The budget for the City Attorney's Office covers staff, operations and maintenance expenses. For the Fiscal Year 2012-13, the budget was **\$11.56 million**, approximately the same as recent fiscal years. If staffing remained constant, this number would have increased over the years due to higher overhead costs (e.g. increasing medical and retirement costs) and operating expenses. However, the budget remained relatively constant in recent years due to staff cuts.

The City paid **\$9 million** to resolve claims, settle lawsuits and satisfy judgments, up from \$6.05 million in the previous fiscal year. The City Council authorizes settlements of all claims and lawsuits that exceed \$5,000.

Litigation expenses (court fees, expert consultation, testimony, preparation, reports and investigations, deposition costs and transcripts, court-ordered mediation costs, arbitrator fees and arbitration expenses, etc.) totaled **\$1.81 million**, slightly less than the prior fiscal year.

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## Outside Counsel

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### Protocol

Like other cities and counties, Oakland hires outside counsel to handle specialized legal work (1) when outside expertise is needed, (2) when the City, a City board or commission, an employee, the City Attorney or another City official has a conflict of interest, (3) when a particular matter requires dedication of resources that are not available in-house, such as a major class action suit that demands full time work of one or more attorneys, or (4) when the Office lacks in-house capacity to handle legal work.

Since FY 2011-12, the City Attorney's Office has used a Request for Qualifications (RFQ) process to make the hiring of outside counsel more competitive, open and transparent. Law firms and attorneys who are interested in working for the City submit a response to the RFQ, which can be found on the City Attorney's Web site: <http://www.oaklandcityattorney.org/>.

The main purposes of the RFQ process are to save taxpayer dollars by increasing competition, increase transparency and open up the hiring process to more local, diverse and small firms. The City Attorney's protocol is consistent with practices in other jurisdictions and with the City's policy to encourage and work with local and diverse businesses. A firm's diversity and whether it is local are significant factors in selection of outside counsel.

### Cost Analysis

In FY2012-13, the cost of outside counsel was **\$6.83 million**, up 53% from the previous fiscal year. The total for FY2011-12 (\$4.46 million) was a decrease of almost 30% from the prior year. The FY2010-11 total (\$6.18 million) was an increase of 54% from the prior year.

***Note:** The total numbers in this Annual Report include final tallies from the City's accounting office that were not available when the previous year's Annual Report was published.*

As we have advised in previous Annual Reports, the demand for outside counsel varies dramatically based on the level of in-house staff resources available to the City Attorney's Office, as well as the volume and complexity of legal matters that the City is addressing. Events such as the dissolution of the City's Redevelopment Agency and major projects and cases may necessitate significant outside counsel expenses in any given year.

The increase this year was due in part to a particularly high demand for specialized and other legal services in FY 2012-13. For example, the Oakland Army Base redevelopment project required highly specialized work by a number of firms at a cost of more than **\$1.5 million** in



this fiscal year. It should be noted that the cost of outside counsel on this project was included in the budget for the project and paid out of the project funds, not by the City's Self Insurance Liability fund, which covers most outside counsel costs.

However, by far the greatest reason for the increase in outside counsel costs in FY2012-13 is the loss of in-house staff to budget cuts.

**For example:** A significant portion of the work done by outside counsel on the Army Base project in FY2012-13 could have been done by in-house attorneys, at a lower cost to taxpayers, if the City Attorney's Office had more than one in-house attorney performing this work. All employment litigation, almost all arbitrations and a number of police civil rights cases also had to be farmed out to outside counsel this year. At the beginning of this century, the City Attorney's Office performed almost all of this work in house at a much lower cost to taxpayers.

In FY2002-03, the City Council approved staffing for the Office at 91 FTEs to provide adequate resources, reduce spending on outside counsel and fulfill its long term cost savings strategy. Over the last decade, the Office has lost more than a third of its staff – 19 attorneys and 14 support staff – to budget reductions. The City Attorney's Office currently has 62 authorized positions.

Despite this reduction, the demand for legal services has increased, meaning the City has been forced to contract out legal services and hire more expensive outside attorneys for work that would have been much cheaper to do in-house.

**\*NOTES ON OUTSIDE COUNSEL TIMELINE:**

**FY2012-13** total of \$6.83M includes \$1.5M paid from the project fund for redevelopment of the Oakland Army Base. Most outside counsel bills are paid from the City's Self Insurance Liability Fund.

**Costs for FY2005-06** spiked due to one case (Pacific Renaissance).

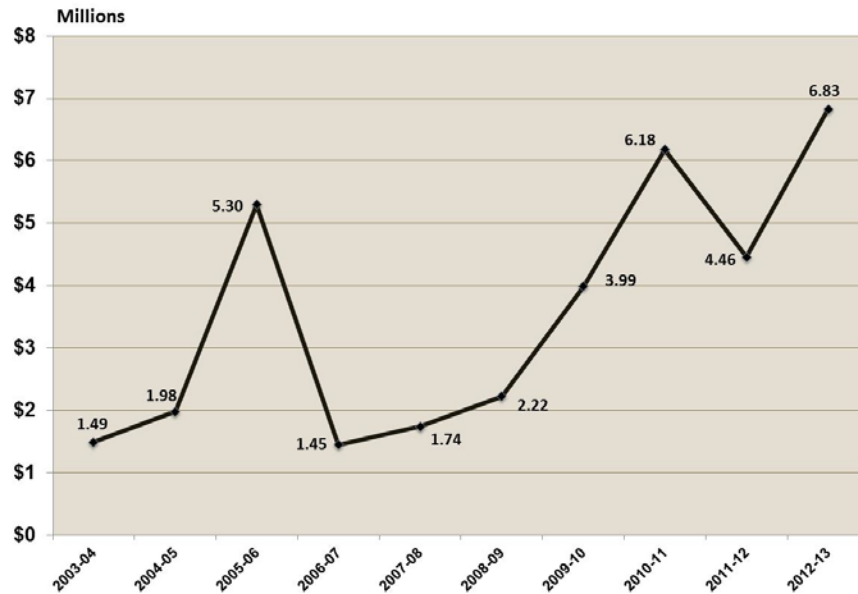


Figure 1: Outside Counsel Timeline\*

As documented in numerous reports to the City Council including every Annual Report since FY2008-09, cutting in-house staff in the City Attorney's Office may reduce the City Attorney's budgeted operating costs, but it invariably increases the need for more expensive outside counsel, thereby increasing costs to the overall budget and reducing funds available for other important services and programs.

*From the **FY2008-09** Annual Report: "With additional budget cuts resulting in the loss of three in-house attorneys in 2009/10, staffing in the City Attorney's Office has reached a critical level at which further reductions will be counter-productive – Oakland will spend more on outside counsel than it saves by cutting in-house attorneys."*

As cost trends over the last decade show, the City Council's policy decision to cut in-house legal staff and contract out legal services does not save money. In fact, these staff cuts consistently have increased the City's budget deficit by requiring greater reliance on more expensive outside attorneys, resulting in additional cuts to City programs and services, as well as the employees who provide those services.

**For example:** Cutting the City Attorney's staff reduced the Office's budget by about \$3 million between FY2007-08 and FY2010-11. At the same time, the cost of outside counsel skyrocketed from \$1.74 million to \$6.38 million, an increase of \$4.64 million. In other words, Oakland spent significantly more on outside counsel than it has saved by cutting in-house legal staff.

Of course, the impact goes beyond cost. Contracting out legal services also makes it harder for the Office to develop and preserve essential in-house expertise and institutional knowledge. In-house attorneys must spend valuable time educating, assisting and supervising outside attorneys, taking time away from other work. This is not the most effective model for building and maintaining the expertise and capacity of the City's legal department – nor does it result in savings of taxpayer dollars.

**Note:** In the City budget for the next two years, FY2013-15, the City Council has budget two new staff attorney positions and one support staff person each year. These positions will help contain outside counsel costs in upcoming fiscal years. However, the cost of outside counsel likely will remain high compared to earlier years without further restoration of the City Attorney's staff and in-house capacity.

Retaining and increasing the number of staff attorneys will help the City maintain and build legal expertise and save dollars that can be used for other critical services and programs. It also will enable the City Attorney's Office to provide more efficient and cost-effective services to our clients.

## Revenue Recovered

### Funds recovered by the City Attorney's Office

The Oakland City Attorney's Office seeks to recover the highest possible amount of revenues to fund City services. We seek to join class action lawsuits or other litigation when Oakland's interests are harmed, and we pursue affirmative litigation to protect the economic interests and quality of life of the community. Recovered revenues include attorney's fees and costs, civil penalties, payments for damages, settlement payments and other payments made to the City. For example, the City Attorney's Office successfully sued a problem landlord to clean up inhumane conditions at several Oakland apartment buildings. The court ordered the landlord to pay almost \$80,000 in costs and fees to the City.

In FY2012-13, the City Attorney's Office brought in **\$1.86 million** in revenue to the City. Most of that amount was due to recovery of legal fees and costs related to the Pacific Renaissance case.

#### Revenues Recovered During FY2012-13

Case Name	Matter Description	Outcome	Collected to Date	Paid During FY2012-13
AIG Financial Products Corp., et al  US District Court C08--02116 MEJ C11-03651 MEJ	Violation of the Sherman Act and the Cartwright Act.  Lawsuit filed by Oakland and other cities against some of the nation's largest and most powerful financial firms, including AIG Financial Products, Bank of America, Bear Stearns, JPMorgan Chase, Wachovia Bank and others. The financial companies and brokers brazenly agreed among themselves to present cities artificially low bids for Guaranteed Investment Contracts, which cities use to earn interest on municipal bond funds. By conspiring to avoid competitive bidding, the financial companies gave Oakland and other cities abnormally low interest rates, thereby cheating residents and taxpayers out of a legitimate rate of return on their money.	Ongoing. Oakland recently secured \$200,000 settlement from Wachovia Bank, and an additional \$41,875 settlement with one defendant that was a smaller player in the scheme.	\$241,875	\$41,875

American Legal Services  Alameda County Superior Court / RG10496098	Complaint against American Legal Services (ALS), a group of fraudulent immigration consultants that preyed on immigrant families in Oakland.	Oakland ultimately won a record \$15.1 million judgment, the largest judgment in City history and likely the largest ever under the CA Immigration Consultants Act. Court also shut down the businesses associated with ALS. Dollars collected to date will cover victims' losses.	\$199,500	\$60,000
Avalon Properties, LLC  Alameda County Superior Court / RG09455940	Complaint against a pair of notorious landlords for violations of the Oakland Building Codes and the California Health & Safety Codes. Tenants at four apartment buildings owned by the landlords complained for years about inhumane housing conditions including infestations of cockroaches and mold, water and power shut-offs, broken windows, missing fire extinguishers and broken security gates.	Court ordered defendants to turn over the four rental properties to a receiver, stay away from the properties and refrain from owning or operating multi-unit rental properties in Oakland. The City also recovered money for attorney fees and other expenses.	\$76,747	\$76,747
Bay Area Diablo Petroleum Company  Alameda County Superior Court / RG10495801	Collection of delinquent business taxes.	Judgment for the City.	\$103,755	\$103,755
Bowling, Neil  Napa County Superior Court / 26-56534	Automobile accident involving OPD vehicle.	Paid to the City for property damage.	\$6,244	\$6,244
Estate of Dorothi R. Powell  Alameda County Superior Court / RP08387136	Collection of delinquent taxes and fees.	City was paid out of the estate sale.	\$8,142	\$8,142
Friends of Knowland Park & CA Native Plant Society  Alameda County Superior Court / RG11586554	The California Native Plant Society and Friends of Knowland Park sued the City and the Oakland Zoo in July 2011 alleging violations of the CA Environmental Quality Act in planned development at the Zoo.	Paid to the City for attorney's fees and costs.	\$120,607	\$120,607

Mestas, Fred  Alameda County Superior Court / RG10506701	Plaintiff sued alleging employment discrimination.	City won, court awarded costs to the City.	\$16,664	\$16,664
Pacific Renaissance Associates II  Alameda County Superior Court / RG03111924 and RG03108416	Breach of contract. The City entered into a development agreement for affordable housing units with Pacific Renaissance Associates. The City alleged the owners of project overcharged the residents and thereby were out of compliance with the contract.	Reimbursement of legal fees and costs to the City.	\$2,580,117	\$1,214,160
Balsara, Kalpesh (Sage Motel)  Alameda County Superior Court / RG10552472	Prostitution abatement. City sued three hotels, including Sage Motel, to stop prostitution activity in December 2010. The Sage Motel agreed to strict operating conditions and settled with the City. The City went to trial against the other two hotels – the Economy Inn and the National Lodge. The court ordered both hotels to close for a year, the maximum amount of time under the statute.	Court ordered civil penalties paid to the City.	\$12,500	\$5,000
The Bond (The 311 Company LLC)  Alameda County Superior Court / RG13666311	Collection of delinquent business taxes.	Settled. City collected from debtor.	\$37,941	\$37,941
Brown, James Ellis dba Quantum General Contractors  Alameda County Superior Court / RG09455950	Breach of contract and loss wages by contractor.	Case is On-going. Sanctions paid to the City.	\$660	\$660
Class Action Antitrust Lawsuits Against Microsoft  US District Court for the District of Maryland / Docket No. 1332	In 2004, Oakland, San Francisco, Los Angeles and other cities and counties filed a class action lawsuit accusing Microsoft of illegally charging inflated prices for software due to monopolistic control of the marketplace. In exchange for dismissal of the lawsuit, Microsoft agreed to pay \$70 million to California government agencies.	Under the terms of the settlement, government agencies were entitled to an amount of money based on the number of Microsoft products they bought during a specified time period. Oakland secured a total of \$201,691 under the terms of the settlement.	\$207,585	\$5,894

In re: Mehserle Verdict Litigation  Alameda County Superior Court / RG10544005	Lawsuit against individuals who participated in looting and vandalism in Oakland following the announcement of the Mehserle verdict.	City prevailed, defendants ordered to pay money to cover property damage.	\$960	\$420
2012 City of Oakland General Obligation Refunding Bonds  Legal Advice & Analysis	This bond issue will refund the City's outstanding Measure DD and Measure G General Obligation bonds.	Payment of City Attorney's fees for legal services.	\$7,500	\$7,500
2012-2013 TRAN (Tax and Revenue Anticipation Notes)  Legal Advice & Analysis	The Tax and Revenue Anticipation Notes (TRANs) are short term obligations that are issued at the beginning of the fiscal year in anticipation of revenue that will be received throughout the year.	Payment of City Attorney's fees for legal services related to TRAN.	\$12,000	\$12,000
<b>Totals:</b>			<b>\$3,632,797</b>	<b>\$1,717,609</b>

**BY  
THE  
NUMBERS**

- Claims filed against the City: 572
- Claims resolved with no payment of money: 77%
- Claims resolved for more than \$25,000: less than 1%
- Claims that evolved into lawsuits: 2.8%
- Lawsuits filed against the City: 153
- Lawsuits resolved with no payment of money: 67%
- Lawsuits resulting in payouts of more than \$100,000: 5.9%
- Funds recovered for the City through litigation: \$1.87M

## Litigation Division

Litigation Division advocates for the City's interests in claims and lawsuits filed against or on behalf of the City, its officers, employees and agencies. Lawsuits are litigated in the state or federal court systems. Examples include high value personal injury cases, complex civil rights actions, personnel disputes, eminent domain actions and inverse condemnation cases.

Litigators take an aggressive and strategic approach to limit the City's financial exposure and to managing liability at the claims stage to limit expensive lawsuits.

For a list of litigation highlights and major cases, please see **Attachment A**.

### Claims Filed

Claims fall into four categories: municipal infrastructure (streets, sewers and sidewalks), police matters (conduct, towing, jail and property damage), city vehicle accidents and "other."

The number of claims filed against the City increased marginally from 540 to **572** this year. This number remains below the five year average of 595.

The number of claims filed has dropped steadily every year since FY2007-08, when the City received 668 claims.

**Table 1: Types of Claims Received**

Category	2008-09	2009-10	2010-11	2011-12	2012-13	5-year average
Municipal Infrastructure	325	367	358	351	384	357
Police Matters	150	110	93	101	86	108
City Vehicle Accidents	109	79	64	45	69	73
Other	76	67	67	43	33	57
<b>Total Claims/Year</b>	<b>660</b>	<b>623</b>	<b>582</b>	<b>540</b>	<b>572</b>	<b>595</b>

### Claims Results

In FY2012-13, the large majority of claims were resolved with no payment of money. Of the 648 claims resolved this year, **77%** were resolved with no payout whatsoever. Less than 1% of claims resolved this year resulted in a payout of more than \$25,000.

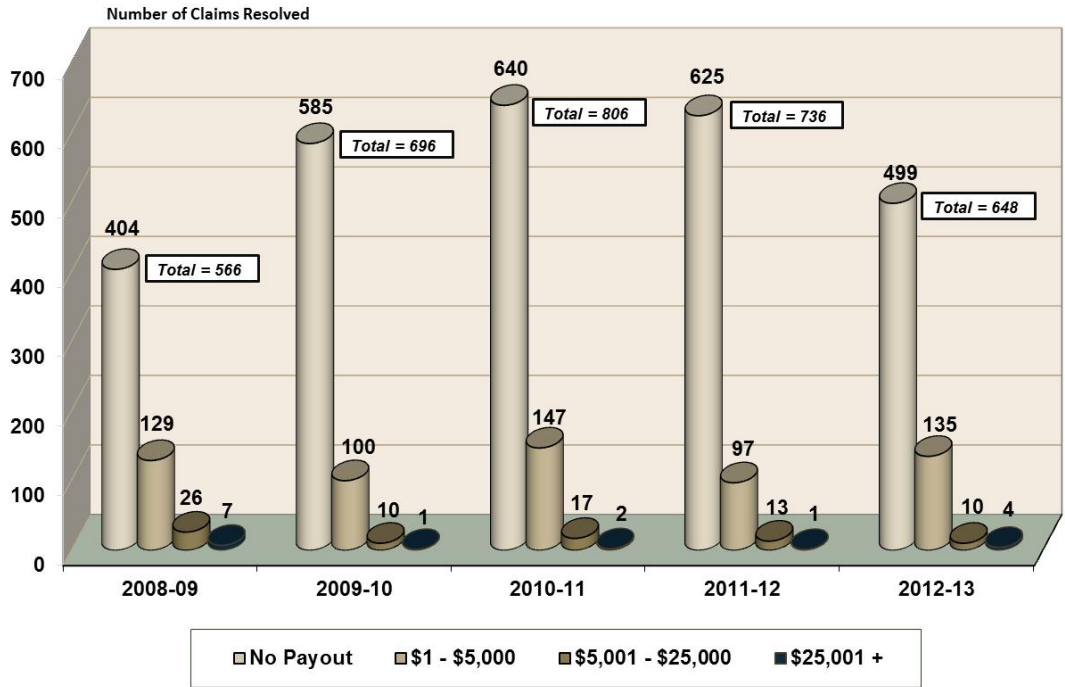


Figure 2: Claims Resolved Over 5 Years



### Claims that Evolve into Lawsuits

The City Attorney’s Office aggressively manages liability at the claims stage to limit expensive lawsuits. When liability is clear, we seek to settle claims early to avoid the higher cost of litigation.

The vast majority of claims never evolve into lawsuits, underscoring the effectiveness of this strategy. This year, only **2.8%** of claims turned into lawsuits.

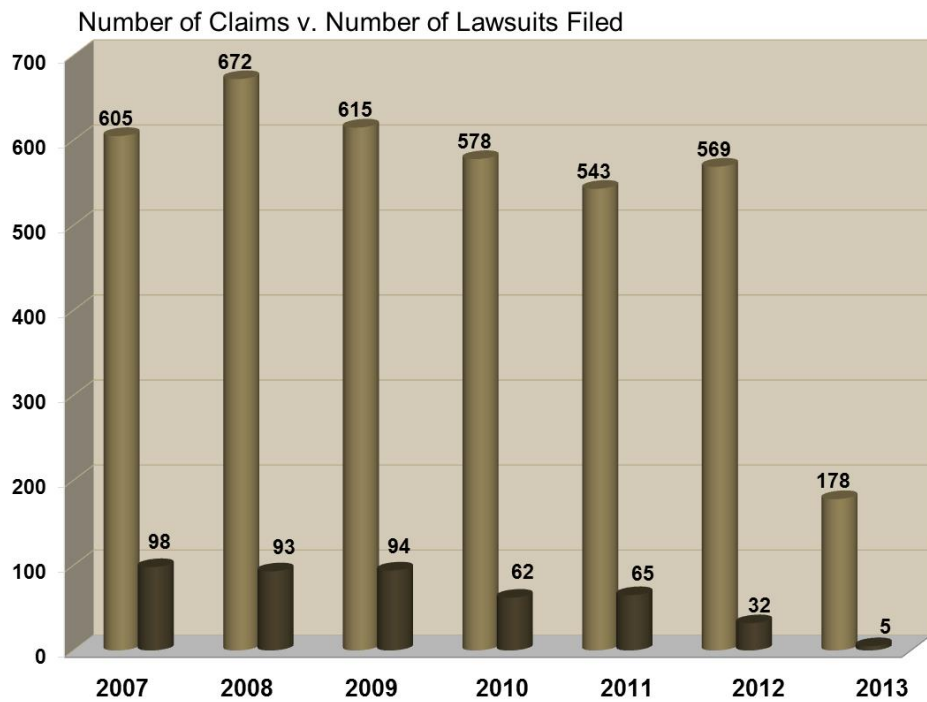


Figure 3: Claims that Evolved Into Lawsuits by Year of Incident

\* Through June 30, 2013

## Lawsuits Filed

Lawsuits primarily arise in the following categories: municipal infrastructure, police matters, City vehicle accidents, personnel/labor, complex contracts and “other.”

**Table 2: Types of Lawsuits Received**

Category	2008-09	2009-10	2010-11	2011-12	2012-13	5-year average
Municipal Infrastructure	33	34	53	45	40	41
Police Conduct Matters	34	31	14	27	27	27
Personnel/Labor (non-lawsuits and lawsuits)	32	43	63	45	59	48
City Vehicle Accidents	8	9	6	8	6	7
Other	46	55	43	28	21	39
<b>Total Lawsuits/Year</b>	<b>153</b>	<b>172</b>	<b>179</b>	<b>153</b>	<b>153</b>	<b>162</b>

In FY2012-13, **153** lawsuits were filed against the City of Oakland – the same number as the previous year. This is below the 5-year average of 162.

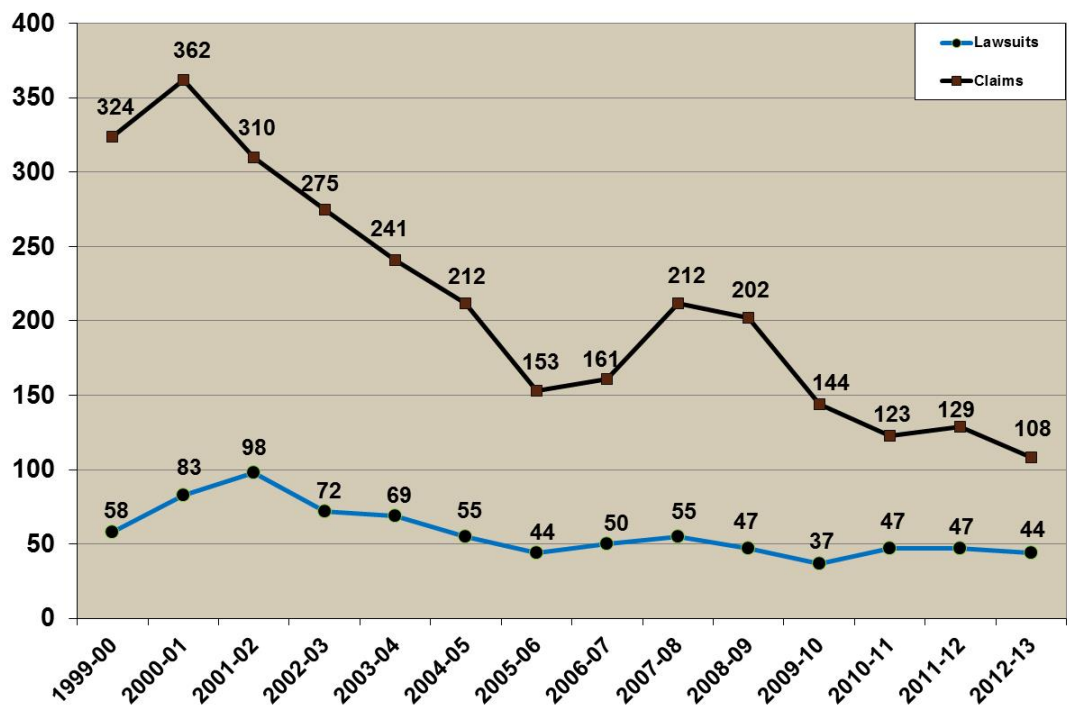
The number of lawsuits filed against the City dropped in every category this year, except in the category of Police Conduct, which remained constant, and in the category of Personnel/Labor, which increased by 31%.

In this table, “Police Conduct Matters” do not include police-related vehicle accidents or personnel/labor matters.

### Claims & Lawsuits Filed (Police Matters)

The overall number of claims and lawsuits involving police matters – counting vehicle accidents and personnel/labor matters – fell this year.

Excluding vehicle accidents and personnel/labor matters, the number of police-related claims fell significantly, and the number of lawsuits remained constant (see **Table 2**).



**Figure 4: Trend of Police Claims and Lawsuits Filed**

*Note: This chart includes claims and lawsuits for police-related vehicle accidents and personnel/labor matters.*

### Lawsuits Results

When lawsuits are filed, our litigators work aggressively and strategically to protect taxpayer resources, reduce litigation costs and limit potential exposure by filing motions to dismiss defendants and causes of action, thereby narrowing the scope of defense. When liability is clear, we seek to resolve the matter early to limit the cost to taxpayers.

In FY2012-13, our Office resolved more than two thirds of lawsuits (67%) with no payment of money whatsoever. Less than 6% of all lawsuits resolved this year resulted in a payout of more than \$100,000.

High liability lawsuits that resulted in payouts of more than \$100,000 included a complaint alleging unconstitutional police strip searches of 39 plaintiffs.

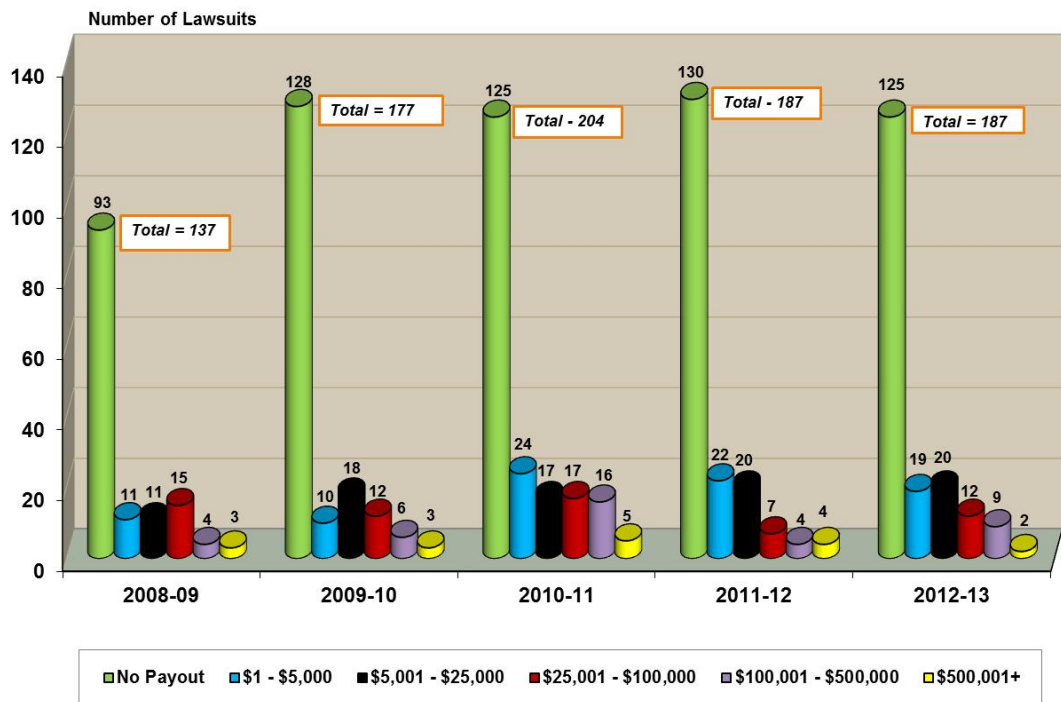


Figure 5: Lawsuits Resolved Over 5 Years

**NOTE:**

Payouts vary from year to year depending on many factors, including the types and complexity of claims and lawsuits filed against the City.

The City Attorney’s Office provides legal advice and analysis of all cases to the City Council, and the City Council approves all settlements exceeding \$5,000.

## Payouts

Payouts include settlements of claims, settlements of lawsuits and judgments against the City.

The City Attorney’s Office works strategically and aggressively to limit financial exposure. Where liability is clear, we seek to settle early to limit the cost to taxpayers in both the short and long terms. The total amount of settlements and judgments in a given year depend on the type of cases filed against the City and the level of the City’s liability.

Payouts increased this year from a low point last year of \$6.05 million. However, the total amount of payouts was still well below the high point of \$12.8 million in FY 2010-11.

Total payouts increased by about 32% to **\$9 million** in FY 2012-13 due primarily to two high liability civil rights cases: *Taylor v. City of Oakland* (\$4.74 million) and *Campbell v. City of Oakland* (\$1.17 million). Without these two major payouts, the total payouts this year would have been at an all-time low of \$3.08 million.

*Taylor* was a settlement of 39 plaintiffs’ complaints that police conducted unconstitutional strip searches over a 5-year period. *Campbell* was a complaint alleging that police used excessive force against 12 plaintiffs during an October 25, 2011 “Occupy Oakland” protest.

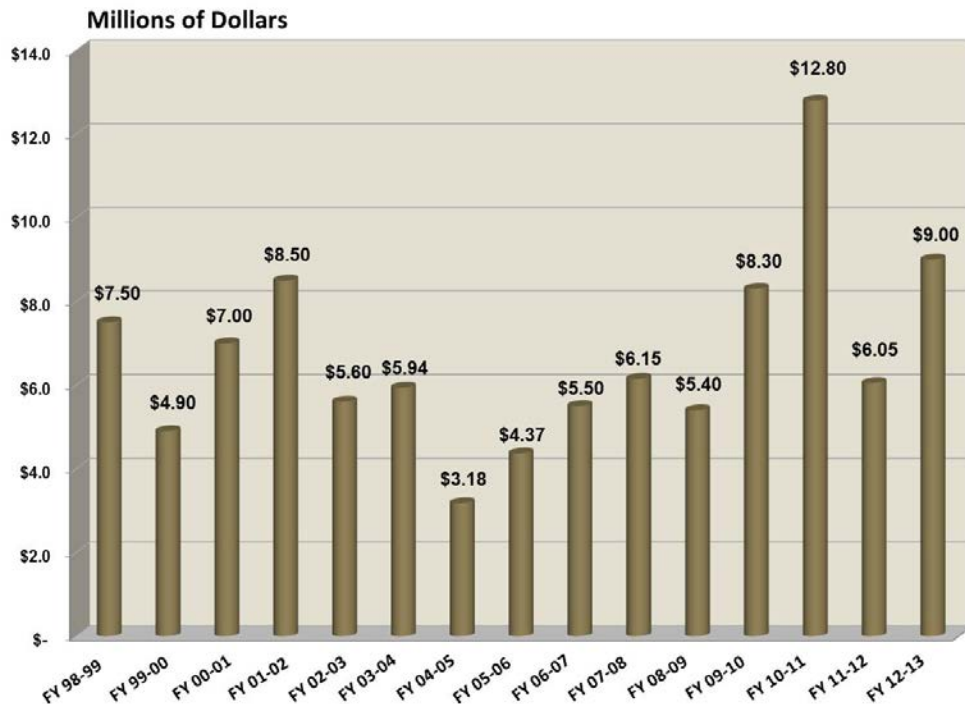


Figure 6: Total Payouts Over the Last 15 Years

As shown in **Table 3**, two high liability police civil rights matters – *Taylor v. City of Oakland* and *Campbell v. City of Oakland* – were the primary reasons payouts increased this year.

<b>Case</b>	<b>Type</b>	<b>Payment</b>
<i>James Taylor, et.al. v. City of Oakland</i>	Police Conduct, Strip Searches	\$4,746,760
<i>Timothy Campbell v. City of Oakland</i>	Police Conduct, Excessive Force - 12 plaintiffs alleged excessive force during "Occupy" demonstration	\$1,170,000
<i>Delphine Allen, et.al. v. City of Oakland</i>	Police Conduct , "Riders" Litigation - Negotiated Settlement Agreement (NSA)	\$681,628
<i>Walter Hoyer v. City of Oakland</i>	Court upheld constitutionality of ordinance, but plaintiff prevailed in challenge to City's application of reproductive services clinic "Bubble Ordinance," entitled to attorney's fees	\$361,269
<i>Robert DeGuzman v. City of Oakland</i>	Dangerous Condition, Inverse Condemnation - Alleged failure of City drainage infrastructure caused slide damage	\$228,720
<i>Frank Jones, et.al. v. City of Oakland</i>	Police Conduct, Wrongful Death - City settled with parents of Derrick Jones, who was killed by Oakland police officers in 2010	\$225,000
<i>John Alderson v. City of Oakland</i>	Labor/Employment - Alleged wrongful termination of and discrimination against probationary employee	\$100,000
<i>Dennis Abbott v. City of Oakland</i>	Dangerous Condition, Sidewalk Trip and Fall	\$100,000

The *Taylor* settlement involved multiple complaints by 39 plaintiffs who alleged that Oakland police officers illegally strip searched them in the field without proper cause. The complaint named 41 officers as defendants and alleged almost 50 incidents of illegal strip searches between 2002 and 2007. The City Attorney's Office went to trial in three plaintiffs' cases.

The court ruled for the City against two plaintiffs and for the plaintiff in one. In that one case, the federal court awarded a judgment of \$2.1 million plus \$30,000 in punitive damages against one of the officers. Based on the court's rulings in those three cases, the decision to settle with the remainder of the plaintiffs avoided costly, prolonged litigation with uncertain outcomes and extraordinary liability exposure.

Litigating these cases through trial easily would have cost the City in excess of \$10 million. The City would have had to try each of the 39 remaining cases in separate trials and potentially retain conflict counsel for the officers due to punitive damage exposure. This settlement, while a significant amount of money, saved millions of taxpayer dollars.

In the *Campbell* complaint, 12 plaintiffs alleged excess force by Oakland police officers during “Occupy Oakland” demonstrations. In this case, the cost of outside counsel necessary to litigate the case because of the number of plaintiffs and our skeletal in-house litigation staff would have been more than the settlement amount. In addition to the cost of outside counsel, damages may have been significant, and the City would have been liable for attorney’s fees for any plaintiff who prevailed.

The City paid \$681,628 this year to plaintiffs’ attorneys in another federal civil rights case: *Delphine Allen v. City of Oakland*, also known as the “Riders” case.

In 2003, the City settled this lawsuit, which alleged that four police officers known as the “Riders” fabricated evidence and abused arrestees. The City and plaintiffs entered into a Negotiated Settlement Agreement (NSA) designed to improve accountability for the Oakland Police Department and ensure constitutional policing in Oakland. The NSA and succeeding MOUs include a list of specific police reforms. The City has completed many of these reforms, although some remain outstanding.

The payment this year covered costs related to plaintiffs’ attorneys’ motion to appoint a receiver to oversee the City Administration’s compliance with the NSA. The amount includes approximately \$100,000 for administrative costs that plaintiffs’ attorneys were entitled to bill the City for ongoing work on issues related to compliance. The motion to appoint a receiver was resolved by a court order that established a Compliance Director to oversee compliance with outstanding reforms.

In the *Hoye* case, the Court upheld the constitutionality of the City’s “Bubble Ordinance,” which protects patient access to reproductive health clinics, but ruled in plaintiff’s favor that the City’s enforcement of the ordinance was not neutral. The Court ordered that the City pay plaintiff’s attorney’s fees related to the challenge to the City’s application of the ordinance as required by applicable law. The City Attorney secured outside pro bono (free of charge) legal counsel to litigate this matter, saving the City hundreds of thousands of dollars.

With the exception of the *Hoye* case, all payouts in **Table 3** are settlements approved by the City Council.

### Payouts by Category

Payouts in cases involving City vehicle accidents were slightly higher than in the previous fiscal year. Payouts for cases involving municipal infrastructure (streets, sewers and sidewalks) fell by **41%**, and payouts for personnel/labor cases fell by **almost 80%**.

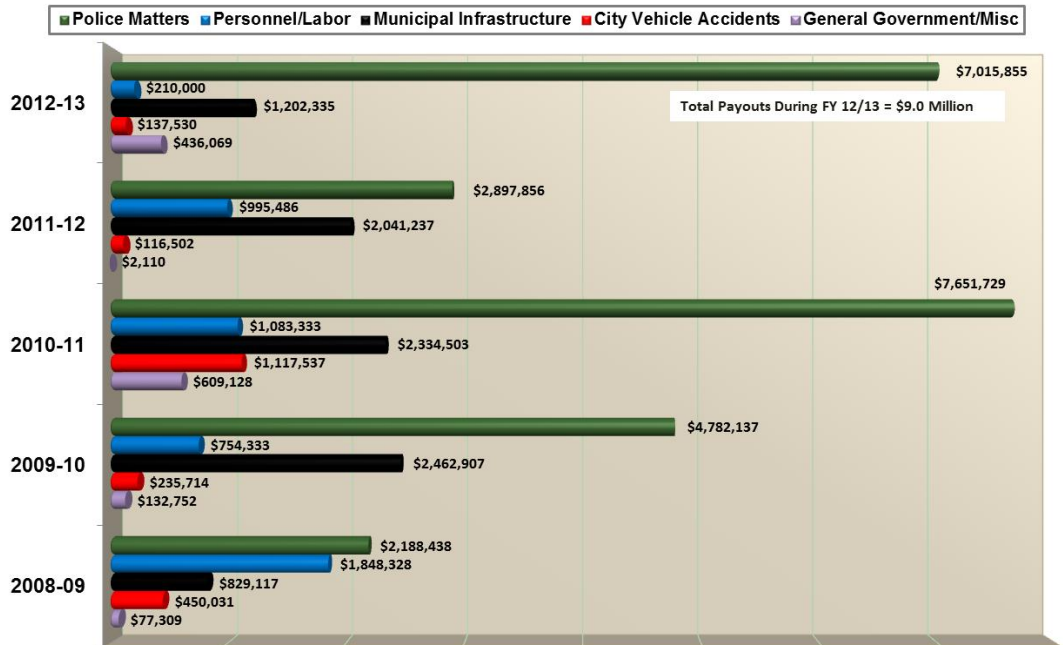


Figure 7: Total Payouts of Claims and Lawsuits by Category\*

\*In this figure, payouts for police matters do not include police vehicle accidents or personnel/labor matters.



Tables 4 through 7 break down each category of payouts into subcategories, and include a 5-year timeline for each subcategory.

**Table 4: Payouts of Claims & Lawsuits – Police Matters**

Category	2008-09	2009-10	2010-11	2011-12	2012-13	5-year average
Conduct: Suspect Chase	\$975,926	\$1,200,000	\$3,582	\$7,500	\$0	\$437,401
Alleged Use of Force	\$1,211,000	\$1,354,035	\$2,963,472	\$96,350	\$1,864,928	\$1,497,957
Conduct: Non-force	\$0	\$35,850	\$4,149,266	\$2,750	\$0	\$837,573
Conduct: Strip Search	\$0	\$0	\$0	\$1,037,754	\$4,819,970	\$1,171,545
Alleged Wrongful Death	\$0	\$2,150,000	\$500,000	\$1,740,000	\$275,000	\$933,000
Vehicle Accidents	\$276,432	\$181,422	\$857,692	\$33,435	\$88,907	\$287,578
Property Loss/Miscellaneous	\$250	\$5,173	\$30,580	\$13,347	\$55,330	\$20,936
Towing	\$1,262	\$37,080	\$4,830	\$155	\$0	\$8,665
Personnel/Labor	\$1,290,828	\$673,333	\$583,333	\$583,333	\$0	\$626,165
Other / Admin Hearings	\$0	\$0	\$0	\$0	\$73,800	\$14,760
<b>Total Paid/Year</b>	<b>\$3,755,698</b>	<b>\$5,636,893</b>	<b>\$9,092,755</b>	<b>\$3,514,624</b>	<b>\$7,177,935</b>	<b>\$5,835,581</b>

Table 5: Payouts of Claims &amp; Lawsuits – Infrastructure

Category	2008-09	2009-10	2010-11	2011-12	2013-13	5-year average
Building & Park Maintenance	\$16,087	\$8,886	\$14,040	\$8,237	\$68,623	\$23,175
Sewers/Storm Drains	\$383,994	\$250,504	\$1,078,558	\$228,979	\$200,974	\$428,602
Sidewalks	\$209,522	\$432,005	\$1,011,615	\$643,322	\$278,271	\$514,947
Streets	\$188,433	\$1,745,614	\$171,659	\$1,030,402	\$125,767	\$652,375
Inverse Condemnation	\$0	\$0	\$0	\$0	\$421,252	\$84,250
Trees	\$31,081	\$25,897	\$58,632	\$132,797	\$107,022	\$71,086
<b>Total Paid/Year</b>	<b>\$829,117</b>	<b>\$2,462,906</b>	<b>\$2,334,504</b>	<b>\$2,043,737</b>	<b>\$1,201,909</b>	<b>\$1,774,435</b>

Table 6: Payouts of Claims &amp; Lawsuits – City Vehicle Accidents

Category	2008-09	2009-10	2010-11	2011-12	2012-13	5-year average
Police	\$276,432	\$181,422	\$857,692	\$33,435	\$88,907	\$287,578
Public Works	\$87,197	\$21,232	\$48,059	\$50,982	\$28,731	\$47,240
Parks & Recreation	\$0	\$0	\$16,173	\$8,979	\$6,616	\$6,354
Fire	\$17,312	\$15,486	\$181,115	\$21,661	\$9,262	\$48,967
Other Departments	\$69,091	\$17,574	\$14,497	\$1,445	\$4,014	\$21,324
<b>Total Paid/Year</b>	<b>\$450,032</b>	<b>\$235,714</b>	<b>\$1,117,536</b>	<b>\$116,502</b>	<b>\$137,530</b>	<b>\$411,463</b>

Table 7: Payouts of Claims &amp; Lawsuits – Personnel/Labor

Category	2008-09	2009-10	2010-11	2011-12	2012-13	5-year average
Police	\$1,290,828	\$673,333	\$583,333	\$583,333	\$0	\$626,165
Parks & Recreation	\$0	\$40,000	\$0	\$0	\$0	\$8,000
General Government/Other	\$228,000	\$0	\$55,000	\$409,753	\$95,000	\$157,551
Public Works	\$4,500	\$41,000	\$250,000	\$2,400	\$115,000	\$82,580
Fire Services	\$325,000	\$0	\$195,000	\$0	\$0	\$104,000
<b>Total Paid/Year</b>	<b>\$1,848,328</b>	<b>\$754,333</b>	<b>\$1,083,333</b>	<b>\$995,486</b>	<b>\$210,000</b>	<b>\$978,296</b>

## Advisory Division

The Advisory Division provides legal services that address the full spectrum of municipal affairs. Examples include drafting legislation and contracts; negotiating complex contracts in matters including information technology, energy systems, garbage and cable franchises; providing advice on housing and economic development projects; providing advice on labor and employment matters and union negotiations; representing and defending the City in arbitrations challenging disciplinary actions against City employees and interpretations of labor agreements; negotiating real estate transactions; issuing municipal bonds; providing advice about finance, bonds, retirement, benefits, elections, ethics and conflicts of interest; providing advice on police, fire and emergency services policies, procedures and practices; defending the City's ordinances against challenges in court; and initiating legal proceedings to address public nuisance/quality of life issues in Oakland neighborhoods.

The Advisory Division is comprised of four main units. Examples of practice areas and responsibilities of each unit are included in **Tables 8-11**.

<b>Table 8: General Government &amp; Finance Unit</b>	
<b>Practice Areas &amp; Responsibilities</b>	
• City Clerk including Elections	• Finance Agency including Controller
• Government Ethics/Conflicts of Interest	• Ethics Commission
• Libraries	• Finance & Management Committee
• Oakland Zoo	• Public Works Committee
• Public Works Agency	• Life Enrichment Committee
• Streets, Sewers & Infrastructure	• Municipal Finance
• Garbage, Waste & Recycling Contracts	• Taxes & Revenue
• Cable Franchise	• Parks & Recreation Department
• Utility & Energy Franchises	• Purchasing & Grants
• Information Technology Department	• Health and Human Services
• Assessment Districts (LLAD, BIDs, Wildfire Prev)	• Measure Y
• Arts Agreements and Grants	• Retirement Systems
• Innovation	

**Table 9: Code Enforcement & Neighborhood Law Corps Unit**

<b>Practice Areas &amp; Responsibilities</b>	
• Code Enforcement & Building Services	• Neighborhood Law Corps Program
• OPD Alcoholic Beverage Action Team (ABAT)	• Public Nuisance Abatement
• Problem Liquor Stores/Bars/Cabaret Enforcement	• Community Engagement
• Rent Board	• Quality of Life Issues
• Housing, Foreclosure & Eviction Issues	• Blight & Zoning Issues
• Affirmative Litigation & Legislation	• Prostitution Abatement (Hotels)

**Table 10: Public Safety & Risk Management Unit**

<b>Practice Areas &amp; Responsibilities</b>	
• Police & Fire Department General Advice	• OES Emergency Services
• Police & Fire Department Personnel	• Use of Force & Vehicle Pursuit Boards
• Police Development, Training & Investigations	• Public Safety Legislation & Initiatives
• Negotiated Settlement Agreement	• Community Policing Advisory Board
• Police Department Reform Measures	• Public Safety Committee

**Table 11: Real Estate, Land Use & Development Unit**

<b>Practice Areas &amp; Responsibilities</b>	
• Community & Economic Development Committee	• Planning & Building
• Real Estate & Land Use	• Environmental Remediation
• Redevelopment Successor Agency	• Environmental Laws (CEQA/NEPA)
• Oakland Army Base Project	• Port of Oakland
• Oakland Base Reuse Authority (OBRA)	• Eminent Domain
• Economic & Workforce Development	• Zoning
• Building Services	• Natural resources/creeks/species
• Neighborhood Preservation	• Innovation

Highlights for the Advisory Division are included as **Attachment B**.

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## Special Programs & Initiatives

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### Neighborhood Law Corps

Oakland's Neighborhood Law Corps (NLC) is a unit of newly licensed lawyers in the City Attorney's Office working to improve the quality of life in Oakland neighborhoods. The program is often described as "Legal Aid meets the Peace Corps," and has been recognized with awards including the *Gold Medal for Municipal Excellence* from the National League of Cities and the *Making Democracy Work Award* from the League of Women Voters Oakland.

Neighborhood Law Corps attorneys are hired for a 2-year term at a salary commensurate to that of a first year teacher. Working closely with the community, police and other agencies, the program focuses on protecting Oakland consumers, abating public nuisances and removing sources of crime in Oakland neighborhoods.

#### Neighborhood Law Corps Highlights:

##### Prostitution hotels

In August 2012, the Neighborhood Law Corps won final judgments in the City's legal battle against two hotels that were centers of prostitution and child sex trafficking in Oakland.

Courts typically are loathe to shut down businesses until they have been given a chance to reform their behavior by accepting stiff restrictions. Recognizing the seriousness of the problem at these hotels, Superior Court Judge Brenda Harbin-Forte ordered the National Lodge and the Economy Inn to remain closed for a period of one year, the maximum penalty allowed by state law.

In May 2013, the court granted the City Attorney's petition to force a sale of the National Lodge. The property ultimately was sold to a new owner who intends to develop office and retail space.

The Economy Inn has reopened under the control of a receiver and continuing jurisdiction of the court. The court's order authorizing the reopening imposes new security measures to prevent prostitution and prohibits the owners from operating the hotel. The City Attorney has the right to immediately ask the court to shut down the hotel if any further incidents of prostitution occur, without having to file another lawsuit or going through a new trial.

##### Fighting Neighborhood Nuisances

In October 2012, the Neighborhood Law Corps filed a lawsuit against the owners and operators of an unlicensed, illegal car repair business that has seriously impacted the quality of life in a West Oakland residential neighborhood.

The business was operating out of a residential property at 819 Brockhurst Street – across the street from Hoover Elementary School. Neighbors complained that the business operated at all hours of the night, often using a loud gas generator for power and light. Visitors routinely littered and blocked the sidewalk and neighboring driveways with vehicles. Neighbors also complained about oil spills and other environmental hazards.

The City Attorney's Office filed suit on October 4th against nine individual operators of the business, as well as the Bank of New York Mellon, which owns the property, and Bank of America, the property manager.

The business ceased operating shortly after the lawsuit was filed.

### **Graffiti Ordinance**

This year the Neighborhood Law Corps also crafted an ordinance to enhance penalties for graffiti vandalism and help businesses that are repeatedly targets of graffiti. In January 2013, the City Council adopted the ordinance. The law (1) increases financial penalties for graffiti citations, (2) makes graffiti a misdemeanor under Oakland law, rather than just an infraction, (3) holds parents liable for graffiti by a minor, (4) authorizes the City Council to set up a fund to help property owners who are repeat victims of graffiti, and (5) allows for restorative justice instead of penalties for some violators.

The law does not apply to murals or public art – only to graffiti done without consent of the property owner.

### **Open Government Program**

The City Attorney's Open Government Program enforces transparency and accountability in City government. The program provides technical and legal assistance to City departments regarding public records requests. It also oversees compliance and provides trainings about the California Public Records Act, Sunshine Ordinance and Brown Act. The Open Government Coordinator addresses constituent issues and helps facilitate responses to requestors seeking public records and documents. In FY2011-12, the Open Government Coordinator reviewed, responded to and facilitated more than 1,000 public records requests involving thousands of pages of documents.

### **Legislative Initiatives**

#### **Supporting Economic Development in Oakland**

In May 2013, the City Attorney sponsored legislation to support local entrepreneurs and promote economic development in Oakland by partnering with global microlending organization Kiva.org.

The City Council approved the legislation, making Oakland the first U.S. city to partner with Kiva.org through the nonprofit's Kiva Zip program, which will provide zero-interest loans to local small businesses. The City will serve as a "trustee" by endorsing three local businesses to receive loans of up to \$10,000 each.

The program already has helped some Oakland businesses including the Mandela Foods Cooperative, which received a \$5,000 loan to improve marketing and buy reusable and recycled bags.

### **Transparency in Elections**

In March, the City Council unanimously approved an ordinance co-authored by Councilmember Libby Schaaf, City Attorney Barbara Parker, and City Clerk LaTonda Simmons requiring electronic filing of campaign finance reports for Oakland political candidates, Political Action Committees (PACs) and ballot measures.

Prior to the passage of the ordinance, when a campaign committee filed a paper version of a campaign finance document, it could take days for City staff to review it and ultimately post it on the City's website for public viewing. With the new electronic filing requirements, those reports now will appear online immediately after filing. Contributions will be in a format that enables the public to easily search, compile, and analyze the information for the first time.

The ordinance also makes late fees mandatory for committees that do not file their reports by state deadlines, and the ordinance empowers the Public Ethics Commission to fine violators who improperly report campaign funding information up to three times the amount that was improperly reported (or \$2,000, whichever is greater).

### **Supporting Legislation to Deal with Gun Violence**

During its first meeting in 2013, the City Council passed a City Attorney-sponsored resolution calling on the U.S. Congress and the California legislature to immediately enact regulations including universal background checks for gun sales and renew of the federal Assault Weapons Ban.

The City Attorney also sponsored resolutions to support a number of gun-related bills in the 2013 session of the state legislature, including bills to tax and track sales of ammunition in California, to ban use of lead bullets for hunting and a bill to give Oakland the power to adopt local firearms licensing and registration laws tailored to address Oakland's specific needs.



### **Cleaning up Oakland's Municipal Code**

The City Council voted Tuesday, July 17 to repeal a 1930 law banning dance marathons and other "endurance contests." Although it seems bizarre today, in 1930 many viewed dance marathons and so-called endurance contests as somewhat sordid affairs and detrimental to public health and morals.

Introduced by then Mayor John L. Davie and adopted by the Council in November 1930, the anti-marathon ordinance made it a misdemeanor to promote or engage in the Roaring 20s craze of dance marathons, roller skating marathons and other such contests. A conviction was punishable by up to six months in jail. The law has remained on the books in Oakland, but has not been enforced in modern history.

City Attorney Barbara Parker and City Councilmember Rebecca Kaplan proposed repealing the law as part of an ongoing effort to modernize and clean up outdated sections of the Oakland Municipal Code.

## **Affirmative Litigation**

### **Medical Cannabis Litigation**

In 2012, the City Attorney filed a lawsuit against the U.S. Attorney General and the U.S. Attorney for the Northern District of California to prevent the government from seizing a building used by a City-permitted medical cannabis dispensary in Oakland.

The City Attorney secured pro bono (free of charge) outside counsel to prosecute the litigation. The City has advised the Court that the government's action is barred by the applicable statute of limitations and that equitable principles prohibit the government from seizing the building because the City relied on numerous assurances by federal officials, including statements by President Obama and the U.S. Department of Justice, that dispensaries operating in compliance with state law would be allowed to operate.

Based on those statements, Oakland has operated a regulatory system for medical cannabis dispensaries that includes annual auditing of dispensaries' financial statements, employee background checks, issuance of permits and other measures to ensure compliance with state and local law. The government's action would effectively shut down Oakland's medical cannabis program, endangering health and lives of patients who would be forced to purchase this medicine on the streets, increasing public safety problems, diverting precious police resources to address these public safety issues and eliminating tax revenue that these dispensaries pay to the City.

Oakland filed an appeal after the U.S. District Court dismissed the City's lawsuit, ruling that Oakland has no standing to sue the federal government – despite the unique and serious harm to legitimate medical patients, Oakland taxpayers and the City's regulatory rights that would result from the federal government's action.

Notwithstanding the U.S. District Court's decision, the Court granted the City's motion to stay the government's lawsuit to seize the building in which the medical cannabis dispensary operates until the Court of Appeals rules on our appeal.

### **Protecting Taxpayer Resources**

In October 2012, the City Attorney filed a lawsuit against a local businessman who was convicted of defrauding the City.

Evidence supporting the City's lawsuit shows that businessman Dhar Mann and the other defendants in the City's lawsuit submitted about two dozen bogus claims for redevelopment grant money. Mann and the other defendants received at least six grant contracts to pay for development plans, façade renovation and other work at five Oakland properties, including the headquarters of the Friendly Cab taxi company owned by Mann's family. The evidence shows that the defendants participated in a scheme to overbill the City for work on the properties, and in some cases, submitted claims for thousands of dollars of work that apparently was never done.

As of the date of this report, the lawsuit is ongoing.

### **Holding Major Financial Institutions Accountable for Illegal Price Fixing**

In May 2013, the City Attorney filed an objection in US District Court of Eastern New York challenging the proposed settlement of a multi-billion dollar class action lawsuit against Visa and MasterCard, companies that illegally colluded to fleece millions of dollars from Oakland residents, taxpayers and businesses in recent years.

The lawsuit against Visa, MasterCard and major banks was filed in 2005 on behalf of about seven million merchants across the country, including cities such as Oakland and businesses such as Safeway. Plaintiffs accused the companies of engaging in illegal price fixing to charge unreasonably high fees for processing payments made with credit and debit cards.

For more litigation highlights and major cases, please see **Attachment A**.

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## Conclusion

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I am honored and proud to serve a City Attorney for our enlightened, progressive and innovative City, a City where the law often is a powerful tool to improve, empower and protect the interests of our community. I and my dedicated team of attorneys and support staff are dedicated to vigorously and astutely defending Oakland's policies and laws in court, initiating legal action and other initiatives to uphold the City's and its residents' rights, and to protecting the community's health, welfare, quality of life and economic interests. And we are committed to continue to fight to secure equal opportunity, justice and a level playing field for all Oaklanders. Our faithfulness to accountability, fiscal responsibility and fair, honest and open City practices continues to be the framework for our mission.



### About Barbara Parker

Barbara Parker is the City Attorney for Oakland, California. An Oakland resident for more than three decades, Parker is an advocate for civil rights, justice, women's empowerment and children's issues.

In January 2013, Parker began a 4-year term as Oakland's elected City Attorney. She first took office in July 2011, when a majority of the City Council appointed her to serve the remainder of the term ending in January 2013. Parker is the first African American woman elected to citywide office in the City of Oakland.

In an award-winning legal career spanning almost four decades, Parker has developed extensive expertise as an attorney at all levels of government – federal, state and local – including more than five years as an Assistant United States Attorney for the Northern District of California, more than 10 years as Chief Assistant City Attorney (second in command in the Oakland City Attorney's Office) Parker also has worked in the private sector for several major law firms and corporations. In 2005 she was appointed to the prestigious State Judicial Council, chaired by the Chief Justice of the California Supreme Court, which oversees the California court system and is responsible for ensuring the consistent, independent, impartial and accessible administration of justice.

Parker and her three siblings are the first generation in their family history to attend college. Parker was born and raised in Seattle, Washington, where her parents migrated to escape the brutalities of legalized oppression and sharecropping in the rural, segregated South. She graduated from Harvard Law School in 1975 determined to use the law as a tool to help underrepresented communities.

Parker resides in Oakland's Haddon Hill neighborhood near Lake Merritt. She is the proud parent of Savannah Parker, a 2012 graduate of Spelman College, and the proud grandparent of two-year old Samuel Koda Clement.

## Contact Information

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### Attachment A: Litigation Highlights

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- **Neil Bowling v. City of Oakland, et al.** Motor vehicle accident case in Napa County where City vehicle driven by a City employee was involved in a serious auto accident. City prevailed on motion for summary judgment on grounds that employee was not driving vehicle in the course and scope of her employment and therefore the City could not be liable. City prevailed on cross-complaint against employee and recovered for the value of the destroyed city vehicle involved in the accident.
- **Olga Zamora, Et Al v. City of Oakland, et al.** Excess force case resulting from a search warrant executed by the San Francisco Police Department. Plaintiffs, a family, voluntarily dismissed the City of Oakland as a defendant after the city demonstrated through discovery that the Oakland Police Department were not part of the entry team and therefore could not be liable.
- **Gwilym Martin v. Solitei, et al.** Taxpayer challenge to overhead calculation used in setting City fees and use of the fees related to the Development Services Fund. If successful, result could have been the setting aside of millions of dollars in City fees. City prevailed on Demurrer. Case presently on appeal.
- **Arnold Fields, Et Al v. City of Oakland** Companion case to Gwilym Martin case above. Taxpayer challenge to overhead calculation used in setting City fees and use of the fees related to the Development Services Fund. If successful, result could have been the setting aside of millions of dollars in City fees. In addition Plaintiff challenged imposition of fees against his properties. City prevailed on Motion for Judgment on the Pleadings. No appeal taken from that judgment.
- **Susan Kramer v. City of Oakland, et al.** Dangerous condition case that occurred near the Embarcadero on abandoned railroad tracks. Plaintiff drove her bike over the tracks, resulting in a crash in which Plaintiff sustained serious injuries. City settled for \$4,500.00 after demonstrating that the condition was caused and made worse by co-defendants (contractors for the State) that were performing work related to the 880 freeway widening project. The bulk of the settlement was paid by the co-defendants.
- **Carlos Carter v. City of Oakland, et al.** Excess force and false arrest case where Plaintiff claims he was subjected to excessive force and wrongly arrested following a high speed chase of a fleeing felony suspect (not Plaintiff) who crashed his car into Plaintiff's vehicle. Case settled for \$5,000.00 at a judicial settlement conference.
- **Lawrence Wilson v. City of Oakland, et al.** Trip and fall case on 8<sup>th</sup> Street. Plaintiff voluntarily dismissed the City as a defendant after the City demonstrated that co-defendant property owner was responsible for the sidewalk defect that caused his fall.

## Annual Report FY2012-13 Attachments

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- **Ditra Ellis, Et Al v. City of Oakland, et al.** Police vehicle accident case where Plaintiffs injured in a vehicle collision with an OPD vehicle. Plaintiffs voluntarily dismissed the action after City demonstrated that accident was not the fault of the police officer driving the City vehicle.
- **Donna Davis v. City of Oakland, et al.** Trip and fall case. Plaintiff voluntarily dismissed the City after the City demonstrated that the alleged dangerous condition was not the responsibility of the City but rather the co-defendant.
- **Bruce Thrupp v. City of Oakland** Inverse condemnation case resulting from the failure of a City storm drain that caused water run-off damage to Plaintiff's property. City liability was clear. Plaintiff originally demanded \$185,000.00. City-retained experts demonstrated that damage not as severe as claimed by Plaintiff. Case settled for \$57,700.
- **Look Trust v. City of Oakland** Writ and complaint challenging the City's failure to issue a sewer connection permit for property. Matter was resolved through negotiations and matter dismissed when permit issued.
- **Qiana Brown, Et Al. v. City of Oakland, et al.** Wrongful death case stemming from a fire at a senior housing facility. City dismissed from action after demonstrating City had no ownership or management responsibility for facility.
- **Sharon Milligan v. City of Oakland, et al.** Dangerous condition case where Plaintiff seriously injured when struck by a vehicle while she was crossing the street. Claim was that inadequate lighting and street markings led to the accident. Matter settled for \$3,500.00 when City demonstrated that comparative fault of the Plaintiff was primarily responsible for the accident.
- **Gardner and Potts v. City of Oakland** Wrongful detention and excessive force case settled for \$5,000.00. Plaintiffs claimed an officer wrongfully detained them and pointed his gun at them in an unnecessary show of force at a Subway sandwich shop. We demonstrated through video surveillance that he did not remove his gun from the holster. Plaintiffs' settlement demand was \$225,000.
- **Taylor, et al. v. City of Oakland, et al.** Strip Search Cases – 39 plaintiffs settled their claims against the City and 40 officers for \$4.6 million. The settlement likely saved taxpayers at least \$10 million – the cost the City would have incurred if cases had gone to trial.
- **Carr v. City of Oakland, et al.** Persuaded plaintiff to dismiss the City from this lawsuit filed against the City and the Oakland Housing Authority. Oakland police had provided a perimeter and backup following a call that an automatic rifle was thrown from one of the apartments.

## Annual Report FY2012-13 Attachments

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- **Arsalai, et al. v. City of Oakland** The City prevailed in plaintiffs' motion to compel release of confidential information regarding a retired officer and on a number of other objections asserted in response to plaintiffs' discovery requests.
- **Crump v. City of Oakland** Plaintiff sued police after his arrest for violation of a domestic violence protective order. The City prevailed in a motion to dismiss on the grounds one cannot claim unlawful arrest on a theory that contravenes a related criminal conviction.
- **Efstathiou v. City Oakland** Plaintiff sued defendants for damages after Plaintiff, a food delivery agent, allegedly fell down a poorly lit stairwell of a homeless shelter for which the City is a landlord. Litigation is ongoing.
- **Fletcher v. City of Oakland** Plaintiff sued to recover damages for injuries sustained in a trip and fall accident on a City sidewalk involving a street tree planted after the Oakland Hills Fire. The parties settled in mediation with the insurer for the adjacent homeowner agreeing to take the lion's share of the settlement, specifically \$150,000 of the \$175,000 total settlement. The City contributed \$25,000.
- **Framer v. County of Alameda, et al.** Plaintiffs alleged police misconduct in the removal of an abused child from her mother by OPD and Child Protective Services. Judgment granted to the City and County on the grounds that defendants' conduct was not actionable.
- **Henry v. Dekors Custom Shutters, et al.** In a trip and fall involving a sidewalk defect on Grand Avenue, Plaintiff voluntarily dismissed the City in lieu of responding to City's motion for summary judgment.
- **Martinez v. BART** In suit alleging Plaintiff tripped and fell on City sidewalk, Plaintiff attempted to reverse an earlier dismissal of the City without giving City notice or opportunity to oppose the motion. After the City prevailed on a motion for reconsideration, reversing the dismissal, Plaintiff filed a Doe Amendment adding the City as a purportedly new party. The City's subsequent Motion to Strike was granted and the City was effectively dismissed.
- **Mabry v. City of Oakland** Plaintiff sought damages related to a trip and fall involving several alleged sidewalk defects on Lakeshore Avenue. The case settled for \$28,500 in a judicial settlement conference.
- **Mathews v. City of Oakland, et al.** Plaintiffs, family of a man shot and killed after a vehicle pursuit and shoot out, seek damages on the grounds that officers used excessive force. The City's Motion for Summary Judgment is pending.
- **O'Hara v. City of Oakland** The City won summary judgment in a case involving a half-inch sidewalk defect on the grounds that such trivial sidewalk defects are not actionable as a matter of law.

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- **Ortiz v. City of Oakland** City won summary judgment in workers compensation case on the grounds that the employee's grievance was properly alleged only as to employee that injured him.
- **Phelps v. City of Oakland** Plaintiff sued several defendants for damages sustained in a trip and fall on a sidewalk under construction. After a year of investigation and discovery, contractor DeSilva Gates accepted the City's tender of defense. Litigation is pending.
- **Robinson v. City of Oakland** City prevailed in opposing a Petition to File a Late Claim for damages resulting from injuries sustained in trip and fall accident in 2010.
- **Simpson v. DMS Builders Assoc., et al.** In case involving dispute between a homeowner and construction company regarding quality of construction and timely payment, Plaintiff voluntarily dismissed City upon filing of demurrer on the grounds that City's low income loan to the homeowner for improvements did not provide a basis for liability.
- **Toste v. City of Oakland** In trip and fall matter, City uncovered evidence of misrepresentation regarding the date and location of plaintiff's fall and the source of her injuries. The court ultimately dismissed the action against the City.
- **Fakraei v. City of Oakland, et al.** Oakland Fire Department inspector ran a red light at 11<sup>th</sup> and Clay streets and was struck by plaintiff's vehicle. Mr. Fakraei suffered extensive back injuries. The case settled for \$550,000.
- **Davis v. Strutynsky; Strutynsky v. City of Oakland** Dr. Davis was running in the Oakmore neighborhood after dark and tripped over a section of upheaved sidewalk in front of the Strutynsky residence caused by a tree on the Strutynsky property. Dr. Davis suffered a fractured hip which was complicated by the additional injury of the ball joint of her leg being impaled on the hip surface. The case settled for \$800,000, with the homeowner paying \$600,000 and the City of Oakland, \$200,000.
- **Baker v. City of Oakland, et al.** This was a civil rights and excess force case against the Oakland Police Department. The case was dismissed by the District Court because the statute of limitations had run on the civil rights claims and the federal court had no jurisdiction over the state law-based claims. Ms. Baker has appealed the dismissal.
- **Wong, et al v. City of Oakland, et al.** This was a wrongful death case. An elderly couple was struck by a privately owned plumbing truck while crossing an intersection in Oakland on foot. The City of Oakland was dismissed from the suit with no payout at the end of mediation.



# Attachment B: Advisory Division Highlights

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## General Government & Finance

- Supervised City's litigation against municipal bond Guaranteed Investment Contract brokers and issuers for bid-rigging.
- Supervised City's litigation against municipal bond insurers.
- Advised the City Administrator regarding various issues regarding to the Police and Fire Retirement System.
- Advised the City's Tax Administrator regarding Oakland's taxes ordinances, including the business tax, parking tax, transient occupancy tax, real property transfer tax and utility users tax.
- Advised the City Administrator and various City departments regarding the uses of monies including grants proceeds, tax-exempt bond proceeds, special tax revenues and other restricted funds.
- Advised the Office of City Auditor regarding the interpretation and application of City Charter provisions and ordinances.
- Advised the Office of the City Auditor regarding the issuance of subpoenas.
- Clarified the City Charter's mandate for the City Auditor's budget and independence.
- Defended the City Clerk in a challenge against the issuance of the sample ballot for the November 6, 2012 election.
- Advised the public and the City Council on legal requirements for decennial City Council and School District redistricting.
- Resolved dispute with Oakland Unified School District in dispute over assessments for Wildfire Prevention Assessment District resulting in payment of \$102,232.64 to the wildfire district.
- Assisted the public in resolving contested parking citations and guided citizens in the appeals process.
- Answered public records questions from the public and City staff.
- Drafted agreement between Friends of Oakland Parks and Recreation and the City for continued fundraising to support Oakland's parks.
- Initiated the establishment of a new Wildfire Prevention District.
- Reviewed hundreds of contracts, grant agreements, staff reports, ordinances and resolutions including Kids First grant agreements and numerous services contracts and grant agreements for programs for children & families, Head Start, youth and adults & seniors.

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- Provided regular verbal and written advice to over 30 departments, commissions, divisions and agencies.
- Provided legal assistance to establish the new Jack London Improvement District.
- Assisted the City Administrator in extending contract to provide security services in the downtown area.
- Advised the City Council on legal requirements for censure.
- Drafted grant agreement for funding of Chabot Space and Science Center.
- Defending in the Court of Appeal the Superior Court order imposing injunction against the Norteños street gang.
- Drafted management agreement between the City and the East Bay Zoological Society for management of the zoo.
- Drafted ordinance banning tools of violence and vandalism from street protests.
- Prosecuted lawsuit on behalf of City and Successor Agency seeking an award of Civil Penalties and damages arising out of false documentation submitted with reimbursement requests in multiple façade improvement and In-Fill projects grants.
- Advised the City Council on legal procedures for debarment of contractors.
- Supervised City's litigation against municipal bond guaranteed investment contract brokers and issuers for bid-rigging.
- Drafted revision to OMC clarifying parking codes to require motor vehicles to move at least one block after expiration of posted parking time limits.
- Filed False Claims Act lawsuit against grantee for submitting false and altered documents to the City.
- Drafted ordinance to repeal prohibition on endurance contests such as the Oakland Marathon.
- Drafted resolution directing that no City funds will be invested in firearms manufacturers.
- Assisted in drafting and negotiating agreements with two universities to implement a tuition discount program for City employees.
- Advised Community & Economic Development Agency on use of Measure WW funds for improvements at Chabot Space & Science Center.
- Drafted resolutions to support state legislation to control or limit guns and ammunition (AB 711 Lead Hunting Bullets, AB 180 Special Power for Oakland regarding Licensing and Registration of Firearms, AB 187 Ammunition Tax)
- Defended the City Clerk in a challenge against the issuance of the sample ballot for the November 6, 2012 election.
- Issued a formal public opinion and gave public presentations on the law regarding Mayoral recall elections.

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- Issued formal public opinion on the applicability of ranked choice voting to Mayoral election after recall.
- Drafted updated City of Oakland Conflict of Interest Code covering key City decision makers.
- Reviewed First Amendment issues arising out of leafleting at private shopping areas.
- Issued City-wide advisory on City Council interference prohibitions of City Charter Section 218.
- Reviewed Port of Oakland's Conflict of Interest Code for City Council approval.
- Assisted the Parks and Recreation Department in establishing fixed park hours.
- Provided regular verbal and written advice to over 30 departments, commissions, divisions and agencies.

### Public Works & Contracting

- Continued to advise Public Works with respect to a preliminary settlement to litigation by the U.S. Environmental Protection Agency ("EPA")/ California State/Regional Water Board ("Water Board") and Environmental Groups (Our Children's Earth, San Francisco Bay Keeper) involving Oakland's aging sewer collection system; also continued to advise with respect to negotiations with plaintiffs of a Final Consent Decree.
- Advised the City Council on the adoption of sewer lateral ordinance, which will help resolve infiltration and flow problems related to residential, commercial and industrial sewer pipes.
- Advised the City Council and the City Administrator on contract issues with respect to the implementation of a new Municipal Identification system.
- Advised Public Works staff on a negotiated settlement of take-over by project contractor's surety, and project completion and close-out of the 81<sup>st</sup> Street Library, due to contractor bankruptcy and default.
- Advised the City Administrator, Department of Information Technology and the Oakland Police Department with respect to police radio communications problems and contract issues resulting from the P25 Radio Upgrade Project and threat of litigation against City by Oakland Police Officers Association.
- Negotiated and mediated to try to resolve AT&T cellular tower sites' interference with police radios and worked with FCC with respect to possible recourse and remedies.
- Advised Public Works and negotiated new SeeClickFix smart phone application for reporting by the public of illegal dumping, street potholes, fallen trees and other City infrastructure related issues.

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- Advised Public Works Department on procurement process involving a Request for Proposals and the negotiation of three new Franchise Agreements for solid waste/organics collection, recycling and landfill disposal, which represents the largest franchise contracting in the City's history (over \$80 Million).
- Advised and trained new Public Works Contracting Division with respect to processing professional services contracts and construction contracts and related bonds, insurance, and City contracting requirements.
- Reviewed multiple contracts for new Public Works Contracting Division.
- Advised Department of Contracting and Compliance with respect to professional services contracts and construction contracts.
- Advised Oakland Fire Department and reviewed professional services contracts including Domain Awareness Center contract.
- Advised Department of Information Technology with respect to City broadband fiber optic communications study and non-exclusive City conduit dark fiber system.
- Advised Office of Information Technology with respect to various IT software and maintenance agreements including Server Virtualization contract which converted many of the City's servers to a virtual server system.
- Reviewed and advised on numerous public records requests.
- Advised OPD on police monitors professional services contracts with respect to Riders settlement and the "Occupy Oakland" events.
- Advised the Department of Information Technology and CEDA and negotiated an agreement with Sierra Systems for a new Police Officer Tracking software system for the City for compliance with Federal Consent Decree.
- Advised Public Works on major tree appeal (*Bishops v. Hanes*) which was the subject of a front page *San Francisco Chronicle* article.
- Advised on Oakland Army Base Design-Build Agreement, Owner Controlled Insurance Program, maintenance of public improvements, permitting and plans/specification sign-offs, and role and structure of Public Works staff involvement.
- Advised Councilmembers with respect to Caltrans property illegal dumping matters, including review of existing maintenance agreements and Caltrans/City Letter of Understanding.

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- Advised Public Works with respect to Conditions of Approval and City/AC Transit Cooperative Agreement for proposed AC Transit Bus Rapid Transit system in City's right of way, a multi-million dollar transit project.
- Advised Public Works with respect to LED lighting conversion project, RFP procurement and contract negotiation and execution.
- Advised staff on solar power purchasing agreements/procurement program with County of Alameda including applying City community benefit programs.
- Advised Public Works and Building Department on amendments to Oakland Complete Streets policy and ordinance.
- Advised Public Works staff on Piedmont Pines Undergrounding project.
- Advised Public Works staff with respect to Third Amendment to the City's Non-Disposal Facility Element (a recycling planning document required by the State of California), which describes and identifies solid waste, recycling, and processing facilities that city residents, businesses and members of the public use to reduce materials sent to landfills, to add a new facility at the East Bay Municipal Utility District's Main Waste Water Treatment Plant.

### Code Enforcement & Neighborhood Law Corps

- The Neighborhood Law Corps (NLC) embarked on a program of citing illegal dumpers based on evidence submitted by the public; citations average \$3,000 to \$4,000 and also seek recovery of the City's cost in abating the dumping.
- The Neighborhood Law Corps worked with neighbors and businesses around the Hegenberger Road Wal-Mart to increase security in the Wal-Mart parking area; significant robberies and car break-ins were substantially reduced following Wal-Mart's increased security.
- Successfully defended in the California Court of Appeal a challenge to Rent Board regulation regarding evictions of tenants from illegal units.
- Drafted new Investor Ordinance requiring registration and clean-up of newly acquired properties involved in foreclosure.
- Advised and supported implementation of foreclosed housing programs, including under OMC 8.54.
- Advised code enforcement on blighted and nuisance properties.

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- Attended Rent Board meetings.
- Drafted proposed Rent Adjustment Ordinance Regulations regarding debt service and capital improvement rent increases.
- Drafted Rent Adjustment Regulations clarifying citation procedures.
- Conducted forum for hotel and liquor store owners regarding nuisance activity.
- Conducted training for Code Enforcement inspectors regarding subpoenas and property inspections.
- Closed a cabaret/nightclub at which shooting incidents had occurred (Maxwell's).
- Closed an illegal cabaret on MacArthur Boulevard in East Oakland – landlord agreed to evict the tenant.
- Worked with owner of a West Oakland business to abate a public nuisance – owner agreed to fire an employee who was selling drugs at the location.
- Attended meetings with Oakland Police ABAT officers to monitor the progress of businesses in complying with operating conditions and to update ABAT officers on the progress of cases handled by the City Attorney's Office and City Administrator's Office.
- Researched a variety of issues including cabaret expansion issues, shelving issues, liquor disposal, and an ordinance for the Oakland Coliseum.
- Participated in a SMART inspection of the Macarthur corridor.
- Wrote Penal Code § 11200 letters to inform property owners and business owners that alcoholic beverages were sold to minors on their premises.
- Ensured that business and property owners maintained agreements with the City.
- Assisted with site investigations with Oakland Police, State Department of Alcoholic Beverage Control, Oakland Fire and other law enforcement agencies.
- Educated business owners regarding alcohol laws and issues at an anti-nuisance workshop.
- Met with property owners to terminate illegal rave activity on their premises.
- Reviewed H&S Code § 11570 letters for nuisance properties.
- Prepared evidence and testimony for administrative hearings.
- Negotiated fines and settlements with tobacco retailers and attorneys.

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- Extended a settlement agreement with liquor store regarding security issues.
- Recovered \$23,000 in Tobacco Retailer License fees.
- Collaborated with Public Works and Building Services to abate storm water contamination emanating from an Oakland business.
- Attending Neighborhood Crime Prevention Council meetings to work with the community on neighborhood issues and priorities.

## Public Safety

- Reviewed, approved, provided advice and negotiated a multitude of contracts and MOUs for Oakland Fire Department, Oakland Police Department and the Office of Emergency Services.
- Provided extensive legal services to Oakland Fire Department, Oakland Police Department and the Office of Emergency Services on responses to critical incidents.
- Advised on legal matters such as declaring a local emergency, crowd control legal standards, unity of command, medical aid, local resolutions, street closures, declaring unlawful assembly, issuing dispersal orders, use of force, mass arrests, citing versus arresting, etc.
- Developed City Attorney Critical Thinking course for Oakland Police Department for POST accreditation to train OPD supervisors (and eventually all patrol).
- Participated in CA League of Cities legal panel on public protests, the right of free speech and appropriate time, place and manner restrictions.
- Worked on gun control legislation, preemption, and possible local actions allowable under state law.
- Advised Mayor, City Administrator and City Departments re: public events such as First Fridays and July 2012 Presidential Visit on matters related to permits, security, vehicle tows, notices, public safety, use of private security guards, police responses, etc.
- Worked with OPD Traffic Unit to improve nuisance vehicle abatement tow procedures.
- Worked with Animal Services Unit to improve notices for animal seizure actions by City to ensure compliance with due process and California standards.

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- Attended numerous Force Review Boards to analyze patrol officers' use of force and recommend training points.
- Advised City, Police Department and Fire Department on numerous public records act requests, including requests for the Mayor's and City Administrator's private emails correspondence conducting City business.
- Analyzed and advised on overhaul of Taxi Ordinance creating administrative procedures for dealing with unpermitted cabs.
- Advised on renewal of Red Light Camera contract including unaccounted revenue from Alameda County in relation to this program.
- Researched whether private corporations could contribute towards policing fees for increased patrols in certain areas.
- Attended negotiations and mediations on Compliance Director's benefits package.
- Advised local Neighborhood Crime Prevention Councils on filling vacancies and adopting by-laws.
- Advised Oakland Police Department in revising policies and forms relating to interaction with mentally ill citizens under CA Welfare & Institutions Code section 5150.
- Assisted in drafting MOUs for extra policing assistance from the California Highway Patrol and Alameda County Sheriff's Department.
- Helped create training materials and presentation on CA Public Records Act for OPD.
- Conducted training on Skelly hearings.
- Provided labor and employment legal advice to Police and Fire on an ongoing basis.
- Attended grievance meetings with Fire Chief and advised Chief regarding grievance responses.
- Provided advice to Fire Chief at biweekly personnel meetings.
- Advised Police, Fire and the Department of Human Resources Management regarding various contract interpretation (MOU) issues.
- Provided guidance and direction to outside counsel handling OPD arbitration cases.
- Provided legal advice to facilitate timely and appropriate responses to public records requests.
- Conducted training classes for OPD command staff regarding how to conduct "Skelly" due process hearings for officers facing discipline.



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- Attended Skelly due process hearings on behalf of the City in cases involving serious employee misconduct and advised Skelly officers regarding their recommendations.
- Negotiated settlements on behalf of Police and Fire in discipline cases and drafted settlement agreements.
- Attended “meet and confer” bargaining sessions with the Police and Fire Unions on behalf of the City and drafted agreements resulting from those meetings.
- Reviewed, edited and approved numerous contracts for professional services.
- Provided advice to Police and Fire on administrative investigations and employee discipline.
- Reviewed, researched and edited Internal Affairs investigative reports.
- Attended weekly Internal Affairs meetings with the Police Chief and advised on discipline cases presented.
- Advised regarding Oakland Police Officers Association grievances.
- Reviewed staff reports and resolutions related to personnel issues.
- Drafted numerous legal memos addressing various personnel issues in response to inquiries from Departments.
- Worked with legal team and with members of Mayor, City Administrator and Police Chief in successfully opposing receivership motion in *Allen v. City of Oakland, et al.*
- Worked with city team in evaluating and recommending selection of the Compliance Director and filing appropriate pleadings and papers with the court.
- Conducted extensive research, attended closed sessions and worked with legal team on matters related to authority of Monitoring Team, Compliance Director, and the Court in connection with City authorities and compliance requirements in *Allen v. City of Oakland, et al.*
- Attended various Executive Force Review Boards and advised OPD on investigations and legal standards for police conduct in shooting incidents, etc.
- Regularly attending Public Safety Committee meetings.
- Prepared protocol and worked with legal team in drafting memo re: handling of disruptions at Council meetings and appropriate role of Council President and police.
- Regularly reviewed and advised on Compliance Director Remedial Action Plan, Benchmarks, Monthly Reports, Monitor’s Quarterly Reports and other audits.

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- Directly handled or worked with outside counsel or other attorneys in responding to subpoenas and handling dangerous animal court hearings, by filing motions to quash, objections, or appearing in state or federal court for motions/hearings.
- Prepared protocol for attorney review of Internal Affairs/Personnel cases.
- Reviewed and advised on a multitude of Internal Affairs investigations and complaints re: police misconduct.
- Advised Police and Fire on personnel matters, Fair Labor Standards Act, overtime, etc.
- Reviewed and advised on compliance matters re: police radios.

### Land Use, Development & Real Estate

- Advised on the preparation of master land use plans for five major planning areas of the City: Central Estuary, Broadway-Valdez, Lake Merritt BART Station, Coliseum area and West Oakland.
- Advised on the environmental review for redevelopment plan amendments to the Central District Urban Renewal Plan and the Broadway/MacArthur San Pablo Redevelopment Plan.
- Advised staff in the City's implementation of the Measure DD-funded public open space improvements, including updated design for Snow Park.
- Advised on legal issues regarding potential new baseball stadium for Oakland A's.
- Advised on legal issues regarding City's proposal to locate Lawrence Berkeley Laboratory facility in Oakland.
- Advised staff, and City Council on legal requirements for various activities at the former Oakland Army Base, including on California Environmental Quality Act ("CEQA") environmental review related to the Master Developer, resulting in City Council approval of the Base Reuse Plan and Lease Disposition and Development Agreement.
- Advised staff, Planning Commission and City Council in numerous ongoing development project applications, including St. Johns Sanctuary (construction of new church); 222 19<sup>th</sup> Street development (42 story residential tower); two new Foods Co. grocery store locations; two Safeway locations in North Oakland; redevelopment of 1800 San Pablo Avenue; the AMG Senior Housing project (115 units); various

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hillside residential subdivision projects (including Pali Court, Felton Acres, Skyway Lane and Skyline Ridge).

- Advised on the environmental review and approval of redevelopment of Safeway shopping center at intersection of College and Claremont Avenues.
- Advised on the implementation of the approved redevelopment of the Foothill Square Shopping Center, including a new Foods Co. supermarket.
- Continuing to advise on the approved Oakland Zoo expansion and assisted in successfully defending legal challenges to the approvals.
- Continuing to advise on implementation of 3100 unit Oak to Ninth redevelopment project.
- Continuing to advise on proposed development of a dog play area in Lake Merritt area.
- Continuing to advise on code compliance and land use issues associated with operation of Head Royce School.
- Advised staff and City Council on developer transfers under the Jack London Square development agreement to facilitate refinancing of the project.
- Continuing to advise on CEQA and environmental issues related to clean up of a former General Electric factory at 5441 International Boulevard.
- Advised on the environmental review and approval of a Local Hazard Mitigation Plan, which is incorporated into the City's General Plan Safety Element.
- Advised on the environmental review and approval of federally-funded 100 unit affordable housing project located at 2100 Martin Luther King Jr. Way (Cathedral Gardens), 16<sup>th</sup> and Jefferson affordable housing project, Erna P. Harris affordable housing project and numerous other federally-funded projects requiring review under the National Environmental Policy Act (NEPA) and National Historic Preservation Act Section 106 review.
- Advised staff and Planning Commission in letter preventing resumption of alcohol sales in locations that had discontinued operations ("Loss of Deemed Approved Status" letters).
- Advised staff in the environmental review and adoption of the City's Draft Energy Climate Action Plan, as well as compliance with state climate change legislation (including SB 375) and the Air District's new Air Quality regulations, including Greenhouse Gases.

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- Assisted staff in efforts to retain an Oakland-based Metropolitan Transportation Commission headquarters rather than a proposed relocation to San Francisco.
- Continuing to advise on the approved Bentley School (increase student enrollment to 360) and ongoing monitoring/enforcement.
- Assisted staff in preparation of various City protocols implementing the California Environmental Quality Act, including revised Thresholds of Significance and Standard Conditions of Approval.
- Advised staff in updating and streamlining provisions of the Oakland Planning Code.
- Continuing to advise staff in implementing the City's approved Housing Element.
- Advised staff on land use and environmental issues relating to the International Boulevard Transit Oriented Development plan.
- Continuing to advise staff, Planning Commission and City Council on federal, state and local telecommunications law, including establishment of design standards for projects located within the public right of way and applicability of Section 6409 of the Middle Class Tax Relief Act.
- Advised on draft regulations regarding laundromats.
- Advised on draft temporary conditional use permit regulations.
- Continuing to advise on interim regulations regarding mobile food vending.
- Staffed all City Planning Commission meetings and provide ongoing legal advice to Commissioners, and planning staff.
- Continuing to advise on the award of Mills Act contracts, which provides historic preservation tax incentives.
- Advised on various activities related to the MacArthur BART Transit Village, including the Phase 1 Final Development Plan and Final Subdivision Map.
- Assisted in implementation of vacant properties registration ordinance to monitor vacant foreclosed properties.
- Assisted in reviewing large-scale medical cannabis cultivation ordinance.
- Negotiated on behalf of City regarding potential CEQA litigation concerning Piedmont's Moraga Canyon Sports Field Complex and environmental impacts on City of Oakland.

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- Advised on condominium conversion issues.
- Assisted in drafting amendments to Oakland's condominium conversion ordinance.
- Advised the Landmarks Preservation Advisory Board and attended Board meetings.
- Advised on municipal ID program and negotiated final vendor contract.
- Advised on a variety of Subdivision Map Act issues relating to stalled developments.
- Advised on a variety of Building Services matters, including fee refunds and liens on foreclosed properties.
- Advised on CEQA and NEPA compliance for FEMA and State pre-disaster mitigation funding relating to the Wildfire Assessment District area located in the Oakland hills.
- Reviewed legislation regarding regulation of cottage food operations.
- Advised staff on developing policy guidance on when secondary access roads are required.
- Advised staff on further implementing the City's billboard amortization program, which removes certain billboards in residential neighborhoods at no cost to the City over a period of time.
- Advised on development of donation box regulations.
- Advised staff on development of urban agriculture regulations.
- Advised staff on pre-application submittals for the Children's Hospital seismic expansion and the East Oakland International Distribution Center (180,000 sq. ft. cold storage facility) at San Leandro Street and 98<sup>th</sup> Street.
- Advised staff on the environmental review of various tree removal actions, including the Chabot Space and Science Center.
- Advised staff on the environmental review of a proposed driving range at the Chabot Golf course.
- Advised on street vacation issues pertaining to Arcadia Park subdivision.
- Advised on City's Parklets program and assisted in drafting related documents (application, encroachment permit, etc.)
- Advised on right of entry agreements.

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- Advised City staff regarding existing and prospective agreements with outdoor advertising companies to construct or relocate new signs in return for demolition of numerous billboards throughout the City and for substantial monetary contributions to the City's General Fund.
- Advised staff and City Council on numerous complex issues arising from state legislation eliminating redevelopment agencies, including follow-up legislation.
- Reviewed and advised on the California Supreme Court decision upholding dissolution of Redevelopment Agencies.
- Drafted legislation transitioning functions and assets from the Redevelopment Agency to the successor agency and housing successor, and assisted staff in the transition.
- Advised on employment and budget issues raised by Redevelopment Agency dissolution.
- Drafted and reviewed documents for predissolution transfer of assets to City. Reviewed drafts and advised on Recognized Obligation Payment Schedules ("ROPS") I and II, and advised on numerous issues raised during review by the California Department of Finance ("DOF") of the ROPS, including several successful challenges to DOF rejection of ROPS funding items.
- Assisted in drafting housing asset inventory.
- Advised on payment of "true-up payment."
- Advised on "clawback" issues involving the State Controller, and assisted in preparation of the report on asset transfers to the Controller.
- Drafted legislation creating and establishing the Oakland Redevelopment Successor Agency ("ORSA").
- Assisted in establishing the Oakland Oversight Board, drafted rules of procedure for the Board, and helped recruit legal counsel for the Board.
- Attended Oakland Oversight Board meetings, made presentations on a variety of dissolution issues, and represented the City's and ORSA's interests before the Board.
- Monitored state legislative proposals to enact new economic development programs.
- Advised staff and negotiated with developer and lender attorneys on the transfer of several affordable housing projects owned by defunct Oakland Community Housing, Inc. ("OCHI") to new ownership.
- Advised on foreclosure sales on several former-OCHI properties.

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- Successfully completed the transition of all former OCHI properties to new ownership in 2012.
- Closed affordable housing development loans on several projects, including construction of Cathedral Gardens in North Oakland, rehabilitation of the California Hotel in West Oakland, rehabilitation of James Lee Court in downtown Oakland, rehabilitation of Effie's Housing, rehabilitation of Eldridge Gonaway Apartments, construction of MacArthur Apartments in East Oakland, rehabilitation of Madison Park Apartments in downtown Oakland, construction of the Brookfield Court homeownership project in East Oakland, and refinancing of the affordable housing portfolio of East Bay Asian Local Development Corporation.
- Reviewed legislation expanding the use of the Affordable Housing Trust Fund.
- Provided ongoing legal advice to Project Area Committees for Central City East, West Oakland, and Broadway/MacArthur/San Pablo redevelopment project areas, including advice on dissolution issues.
- Provided ongoing legal services to Oakland Workforce Investment Board (WIB), and advised WIB and staff on transition of workforce investment system to City.
- Drafted and negotiated numerous funding contracts with providers of workforce development services to adults and youth.
- Provided legal advice and services on successful passage of major redevelopment plan amendment extending time limits and fiscal limits for Central District Redevelopment Project Area.
- Provided legal advice and services on major redevelopment plan amendment expanding Broadway/MacArthur/San Pablo Redevelopment Project Area, later abandoned.
- Continued negotiation on affordable housing agreements and other implementation of the Owner Participation Agreement for MacArthur BART Transit Village.
- Drafted and negotiated agreements with AC transit and funding agencies for the Broadway Shuttle service.
- Negotiated an Exclusive Negotiating Agreement for the Coliseum City project.
- Negotiated extensions to an Owner Participation Agreement, as well as a parking agreement, for the 1100 Broadway project.
- Negotiated revisions to an Affordable Housing Agreement implementing the settlement of the Pacific Renaissance lawsuit.

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- Reviewed funding agreements for the Broadway Basement Backfill program to assist downtown business owners/tenants.
- Drafted and negotiated grant agreements for dozens of community projects under Neighborhood Projects Initiative programs in Coliseum, West Oakland, Broadway/MacArthur/San Pablo, and Central City East redevelopment areas.
- Negotiated and finalized complex Lease Disposition and Development Agreement and related documents (e.g., Property Management Agreement, Community Jobs Agreement, etc.) with the Master Developer for an estimated half-billion dollar development on the City-owned Gateway portion of the former Oakland Army Base.
- Advise staff in ongoing negotiations and related issues regarding Army Base Gateway development matters, such as the design-build contract for the City's public improvements and a Project Labor Agreement.
- Advised staff on proposed conveyance of Army Base North Gateway properties to relocate recyclers from West Oakland residential neighborhoods.
- Continued to advise on legal issues arising from a negotiated Cost Sharing Agreement with the Port of Oakland for coordinated development of the former Oakland Army Base.
- Continued to advise City staff and reviewed contracts for services at the Army Base.
- Advised City staff on the supervision of the City's new Army Base property manager of the Army Base Leasing Program.
- Continued to represent the City and the former Redevelopment Agency in litigation over environmental matters concerning a tenant at the former Oakland Army Base.
- Continued complex negotiations with the Army, Department of Toxic Substances Control and the Regional Water Quality Control Board over funding of environmental remediation oversight costs at the former Oakland Army Base.
- Continued to pursue additional phase of the tidelands trust exchange at the former Oakland Army Base, which will allow certain portions of the base to be developed free of trust restrictions.
- Staffed, as needed, the City-Port meetings on behalf of the City Attorney's Office.
- Assisted City Collection staff in dealing with persons who owe money to the City who file bankruptcy.



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- Assisted staff in negotiating an agreement with BART for a 19<sup>th</sup> St. Bike Station.
- Advised City staff on negotiating and managing City-owned parking facilities.
- Provided legal counsel to the Oakland Rent Board.
- Successfully defended Rent Board regulation on illegal unit evictions.
- Continued to advise staff on issues related to contracts and loans for the Fox Theater.
- Addressed Fox Theatre development audit issues.
- Handled administrative writs contesting Rent Board decisions.
- Negotiated lease with Awaken Cafe.
- Negotiated, revised and executed a number of leases/licenses and amendments.
- Negotiated, drafted/revised, and executed leases for a number of Head Start programs.
- Negotiated, drafted, and executed many rights of entry to facilitate beneficial use of City properties.
- Negotiated several leases with the Port of Oakland.
- Continue to provide advice on real property acquisitions for 42<sup>nd</sup> and High Street project.
- Advised on issues regarding amounts due to City from the Port for provided services.
- Advised on issues pertaining to the Warriors practice facility and office on Scotlan Convention Center.
- Advised on title and subdivision issues pertaining to the Kaiser Convention Center and Oakland Museum.
- Advised and negotiated termination of Tully's lease.
- Advised on refinancing of the Rotunda Building.
- Advised on One Toyota agreement under City's business incentive program.
- Advised on Caltrans Purchase & Sale Agreement related to Army Base.
- Advised on lease documents for temporary use of commercial spaces at 150 Frank Ogawa Plaza.
- Advised on leases with telecommunication companies on City property.

## Annual Report FY2012-13 Attachments

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- Staffed regular and special meetings of the Community and Economic Development Committee, and attended City Council meetings on numerous real estate and redevelopment matters.
- Advised staff on issues related to the proposed development of a multiuse complex in the Coliseum area that includes the Oakland A's Baseball team stadium.