

OAKLAND CITY ATTORNEY'S OFFICE



# Annual Report

FISCAL YEAR 2019 - 2020 | 8-2019



law in the service of the public  
**jus pro populo**

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## MESSAGE FROM CITY ATTORNEY BARBARA J. PARKER



I am pleased to provide our Annual Report for Fiscal Year ("FY") 2019-20 (July 1, 2019 through June 30, 2020). Every year since Fiscal Year 2000-01, the City Attorney has published an annual report to provide you, our residents, businesses and taxpayers a transparent and comprehensive accounting of the work that we perform on your behalf.

Consistent with prior annual reports, the FY 2019-2020 Annual Report details financial outcomes, litigation trends, legal advice, affirmative litigation and special initiatives that my Office undertook during this Fiscal Year.

I look forward to your questions and comments about this report and about the work we perform on your behalf.

### EXECUTIVE SUMMARY

The Office's annual budget for FY 2019-20 exceeded \$20 million and funded a staff of 80 employees who provide critical legal advice and counsel to the City Administrator, City departments, boards and commissions and the City's elected officials.

During FY 2019-2020, we continued to work to fulfill our mission to zealously protect and advance the rights and interests of all Oakland residents.

✓ **Legal Advice and Counsel:** On a daily basis, we provided expert legal advice and counsel to City elected officials, the City Administrator, City departments, boards and commissions regarding Oakland's progressive policies, laws, agreements, programs, projects, services and nuts and bolts organizational/operational matters.

✓ **Representation of the City in Litigation:** We continued to diligently and justly defend the City against claims and lawsuits. This year we justly resolved 74% (nearly three-fourths) of claims and 79% of lawsuits for zero dollars.

✓ **Payments for Settlements and Judgments:** The total amount the City paid for settlements and judgments increased by \$1.4 million. In FY 2018-2019 six settlements exceeded \$100,000. In FY 2019-20 13 settlements exceeded \$100,000.

✓ **Outside Counsel Costs:** Outside counsel fees and costs were approximately \$5 million higher than the prior Fiscal Year. The increase is primarily attributable to litigation costs associated with the tragic and catastrophic warehouse fire commonly referred to as the “Ghost Ship” warehouse. The fire resulted in the loss of 36 lives and life-long major injuries to one individual. Lawsuits against the City were filed on behalf of the victims who lost their lives, the individual who survived the fire with permanent and severe injuries, and surviving residents who claimed emotional distress and property loss. The City paid \$ 6.02 million dollars in outside counsel fees on these cases during this fiscal year.

Outside counsel costs for this Fiscal Year were in line with prior years excluding the Ghost Ship warehouse fire cases. We note that outside counsel costs also include Police Commission outside counsel costs in the amount of \$227,920. The City Attorney does not have discretion to provide the Police Commission legal services with in-house staff attorneys because the Charter mandates that the City Attorney retain outside counsel to advise the Commission. (City Charter section 604(e).) Outside counsel costs also include the fees of outside counsel who conducted personnel investigations for the Oakland Police Department; OPD has the responsibility to conduct such investigations and paid those fees; those fees total \$88,860. We report those expenses in this report to provide full disclosure of attorney’s fees.

✓ **Affirmative Litigation:** We continued to initiate and pursue cutting-edge lawsuits against some of the most powerful companies and entities in our country to hold them accountable for violating the rights of the people of Oakland. Examples:

***(1) Protecting Tenants’ Rights And Securing Housing Justice and Affordable Housing***

During the COVID-19 crisis, our Neighborhood Law Corps, working with non-profit partners successfully intervened in over a dozen cases to immediately protect tenants and allow them to stay in their homes.

- **Tenant Protection Lawsuit** – In May 2020, the City Attorney won preliminary injunction in a lawsuit against landlords who engaged in an unlawful, self-help eviction, in violation of Oakland’s Tenant Protection Ordinance (TPO) and other laws. These landlords removed tenants’ belongings, changed locks falsely claiming these actions were due to a fraudulent City notice. The court issued a preliminary injunction that stopped further abuse of tenants. (*People v. Odiwe, et. al.*)
- 
- **Tenant Protection and Civil Rights Lawsuit** - In May, the City Attorney filed a TPO and civil rights lawsuit against three landlords for tenant harassment, exploitation, and attempted evictions through illegal, discriminatory, and violent means. The landlords, who owned and managed several Oakland buildings, disregarded the most basic rules of property ownership and management - and behaved as if they were not obligated to comply with civil rights guarantees. After the end of this fiscal year, but before this Report was issued, the Court granted the City’s motion for a

preliminary injunction and appointed a receiver. (*People v. Chau, et. al.*)

- **Emergency Eviction Moratorium** - The City Attorney co-sponsored the City's Emergency Eviction Moratorium during the Covid-19 public health emergency.
- **Housing Justice Initiative** - The City Attorney recently launched a Housing Justice Initiative to help preserve Oakland residents' housing, protecting diversity in terms of race, incomes and professions. The San Francisco Foundation awarded the City Attorney's office two grants supporting this initiative.

The City Attorney fights unscrupulous landlords who commit egregious violations of tenants' rights by engaging in illegal "self-help" evictions - changing locks, removing belongings, cutting off utilities, and even threatening violence.

- **Protecting Tenants from Fraudulent "Owner Move-in"**-The City Attorney, along with non-profit partners at Centro Legal de la Raza, settled a fraudulent "owner move-in" case against landlords who tried to illegally evict tenants from a rent-controlled unit by fraudulently claiming they or a relative planned to move into the unit. This type of unlawful action sometimes used to evict rent-controlled tenants so the landlord can increase rents to skyrocketing market rates. The resolution requires that defendants pay \$300,000 to the tenants, hire professional building management, and provide notice to the City of any Rent Adjustment Program or eviction filings at any of their Oakland properties for the next five years.
- **1620 Fruitvale** – the City Attorney's Neighborhood Law Corps sued owners of 30-unit building with mostly Spanish-speaking tenants who were forced to live without heat and security measures, in rodent-infested units. We secured court orders requiring rehabilitation of the units and a \$450,000 settlement.
- **Dodg Corp** – the City Attorney sued owners of a prominent real estate and taxi empire for providing unsafe and substandard housing, endangering the lives of their tenants, many of whom are low-income and non-English speaking. Through multiple companies, the defendants own and operate numerous rental properties where tenants, including families with young children and pregnant women, have been subjected to grave risks to their health, safety and lives in flagrant violation of Oakland's Tenant Protection Ordinance. At least one family ended up temporarily homeless because of the landlords' negligence.

## ***(2) Fighting Racial Discrimination and Securing Equity***

- **Wells Fargo** – the City Attorney continues to prosecute Oakland's federal Fair Housing Act lawsuit against Wells Fargo for predatory and discriminatory mortgage lending practices against African American and Latinx borrowers. In August, the federal court of appeals upheld Oakland's right to continue to prosecute this important lawsuit, rejecting Wells Fargo's claims that the City's case should be dismissed.

- **Fair Chance Access to Housing Ordinance** – the City Attorney co-sponsored the 2020 Fair Chance Access to Housing Ordinance which prohibits asking or considering criminal records in rental housing applications, with limited exceptions
- **Repealing Proposition 209** - *Barbara* co-sponsored the Council resolution endorsing Proposition 16 on the November 2020 ballot which would have repealed Proposition 209, restoring the ability to consider race and gender in public education admissions, contracting and employment in order to redress historical de jure and de facto discrimination, ongoing systemic discrimination and achieve a level playing field and equity for Black, Latinx and other people of color and women. (The measure was defeated.)
- **Trump’s Unconstitutional Attempt to Add Citizenship Question to 2020 Census** – the City Attorney, representing Oakland, joined other cities and states suing to stop Trump’s unconstitutional plan to add a citizenship question to the 2020 Census. Experts, including the U.S. Census Bureau, agreed the question would discourage noncitizens from census participation, resulting in a significant undercount in states like California. In a major victory, the U S Supreme Court blocked Trump’s attempt to add this question - ruling that the administration’s rationale was dishonest and “contrived.
- **City Attorney Issues Guidance on Oaklanders’ Rights and Protections During COVID Pandemic** – the City Attorney released [new guidance](#) to make sure all Oaklanders are aware that local, state, and federal civil rights protections remain in full force and effect during the COVID-19 pandemic. This guidance educates Oakland individuals, businesses, and advocates regarding activities that remain illegal, details civil rights laws that remain in effect, explains behaviors considered unlawful harassing or discriminatory. The guidance walks readers through related penalties, provides help on locating resources to fight for rights, and lists additional sources of reliable COVID-19 information.

### ***(3) Fighting for Environmental Justice***

- **Cleaning up Toxic Lead Paint** – the City Attorney, with other jurisdictions, recently settled a \$305 million lawsuit against lead paint manufacturers to remove toxic lead paint from homes that is poisoning and disabling children.
- **Cleaning up Monsanto’s Contamination of Waterways** – the City Attorney, as a lead plaintiff recently settled a national class action lawsuit against chemical giant Monsanto for \$550 million for contaminating Oakland’s storm water and the Bay and waterways across our country with toxic PCBs. The settlement is awaiting judicial approval - Oakland’s share of the class settlement will be \$7,192,424. These dollars will be used to clean up water contamination.
- **Climate Change Justice** – the City Attorney filed a cutting-edge public nuisance lawsuit against five of the world’s largest fossil fuel companies to make them pay for the cost of sea walls and other infrastructure necessary to protect Oakland due to climate changes caused by their fossil fuels products. The 9<sup>th</sup> Circuit Court of

Appeal recently reinstated this lawsuit after dismissal by trial court.

- **Upholding Oakland's Coal Ban** – the City Attorney continues the fight to protect the health and safety of the people of Oakland, and address environmental racism, by keeping coal out of West Oakland's former army base.
- **Santos Engineering** – the City Attorney's Neighborhood Law Corps won an important environmental justice case against an illegal debris hauling operation that intentionally blew huge amounts of dangerous dust into West Oakland.
- **Illegal Dumping** – the City Attorney continues work to hold accountable individuals who are responsible for illegal dumping.

#### ***(4) Promoting Public Safety and Fighting Human Trafficking***

- **Human Trafficking** – in recent years, the City Attorney has shut down approximately 25 massage parlors that were fronts for human trafficking and recovered nearly \$1M in settlements, attorneys' fees, penalties and other costs from their owners and operators.
- **Opioids** – the City Attorney and other local government partners continue to prosecute a lawsuit on behalf of the People of the State of California against leading manufacturers of opioids, drugs that have caused a nationwide epidemic of abuse and addiction. The lawsuit charges that opioid manufacturers have engaged in a campaign of false advertising that trivialized the risks of opioids – a deceptive business practice that disproportionately impacted Oakland's African American and homeless populations. The lawsuit seeks civil penalties, injunctive relief and a monetary abatement fund.

#### ***(5) Protecting Oakland's Financial Stability and Services***

- **Oakland Raiders** – the City Attorney continued to prosecute its antitrust and breach of contract lawsuit against the National Football League (NFL), the Raiders and each of the other 31 NFL clubs to recover damages resulting from the Raiders' illegal move to Las Vegas, including lost revenue, money that Oakland taxpayers invested in the Raiders and other costs. The antitrust claims are on appeal in the federal court while the breach of contract claim is pending in state court.
- **Golden State Warriors** – the City Attorney and Alameda County and the Joint Powers Authority prevailed in the lawsuit requiring the Warriors to honor their agreement (1) to pay approximately \$48 million of the more than \$150 million the City and County incurred to renovate the Oracle Arena and (2) to pay more than \$1 million dollars in attorney's fees and costs we incurred fighting their bogus claims. The Warriors lost their appeal to the appellate court and the California Supreme Court denied their petition for review.
- **Challenging Trump's Unconstitutional & Discriminatory Policies/Actions: In addition to the lawsuits we filed against the Trump**

**administration** - the City Attorney continued to sign onto or a number of amicus briefs and comments that make Oakland's voice heard in many of the most significant and critical matters in the nation, including cases involving with immigration, human rights, civil rights, reproductive rights and climate change.

## **MISSION OF THE CITY ATTORNEY'S OFFICE**

The City Attorney's Office plays an integral and often behind-the-scenes role in City government.

The City Attorney defends Oakland's interests and resources in court, protects and advances the rights of all Oaklanders, and initiates legal action to force compliance with applicable laws, and to secure justice and equity. We draft and review ordinances and resolutions and sponsor legislation, often with members of the City Council and/or the Mayor. We strategically negotiate major agreements and contracts and help to shape Oakland's policies. And we provide expert legal advice to City leaders and officials including the Mayor, City Council, City Auditor, City Administrator and City departments, boards and commissions.

Our mission is to provide the highest quality of legal services, promote open government and accountability to the residents of Oakland and apply the law in an innovative, community-oriented manner, just and equitable manner to advance Oaklanders' rights and improve the quality of life in Oakland neighborhoods.

We accomplish this mission by constantly pursuing excellence, professionalism and a workforce that values and reflects Oakland's diversity.

### **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.
- Defend Oakland's interests and resources in court and in administrative proceedings and initiate legal action and other initiatives to protect and advance the rights, interests and quality of life of our community, and to ensure justice and equity.
- Continue supporting the City's pursuit of racial and social justice and racial equity through ongoing support for the Police Commission, by working to increase the public's oversight of its Police Department, and by helping to reimagine and retool the City's delivery of public safety services.
- Uphold transparent, honest and fair government by promoting compliance with the Public Records Act, Sunshine Ordinance and other open government laws, and by ensuring that all City officials and employees know and play by the rules.



- Advocate for equal opportunity, diversity, justice, equity and a level playing field for all Oaklanders.
- Explore and identify ways to continue to enhance and provide expert and professional legal services in the most efficient and cost-effective manner possible.
- Maintain a staff of highly qualified and dedicated attorneys and support staff with extensive knowledge of the City of Oakland and municipal law to provide services and advice more efficiently and effectively.

## **OFFICE PROFILE**

### **Executive Team**

The **Executive Team** includes the City Attorney, Chief Assistant City Attorney (Advisory Division), Chief Assistant City Attorney (Litigation Division), Special Counsel (Labor & Employment Division), and Chief Operations Officer (Operations Division).

### **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, land use regulatory authority and processes, negotiating real estate transactions and providing advice regarding finance, municipal bonds, city garbage, recycling, utility and other franchises, retirement, benefits, elections, tax, emergency operations, processes and response, environmental regulatory compliance, constitutional law, ethics and conflicts of interest, and basic operational and risk issues of the municipal corporation.

### **Litigation Division**

The **Litigation Division** represents the City when lawsuits or claims are filed against the City and when the City files lawsuits on behalf of the City or the People of the State of California. The Litigation Division includes a number of units: General and Complex Defense, Neighborhood Law Corps (NLC), Community Lawyering & Civil Rights (CLCR) and Law and Motion, Writs and Appeals.

The **General & Complex Defense Unit** advocates for the City's interests in claims and lawsuits that are filed against or on behalf of the City, its officers, employees, agencies, and/or City boards and commissions. Lawsuits are litigated in the state and federal trial and appellate courts. 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 a strategic approach to

manage liability and limit the City's financial exposure. As public servants we advocate for a fair and just resolution of claims and lawsuits.

The Neighborhood Law Corps is an award-winning program that in recent years has focused on preventing illegal dumping, suing abusive landlords who violate the rights of Oakland tenants and shutting down hotels, massage parlors and other businesses that collude in human trafficking and sexual exploitation of minors.

The Community Lawyering & Civil Rights Unit focuses on proactive lawsuits and other actions to (1) protect and advance the rights and interests of the people of Oakland with a goal of securing and maintaining racial, economic, environmental, and social justice and equity; (2) protect constitutional and civil rights; and (3) enforce laws prohibiting discrimination based on race, class, sexual orientation, gender and other protected classes.

### **Labor & Employment Division**

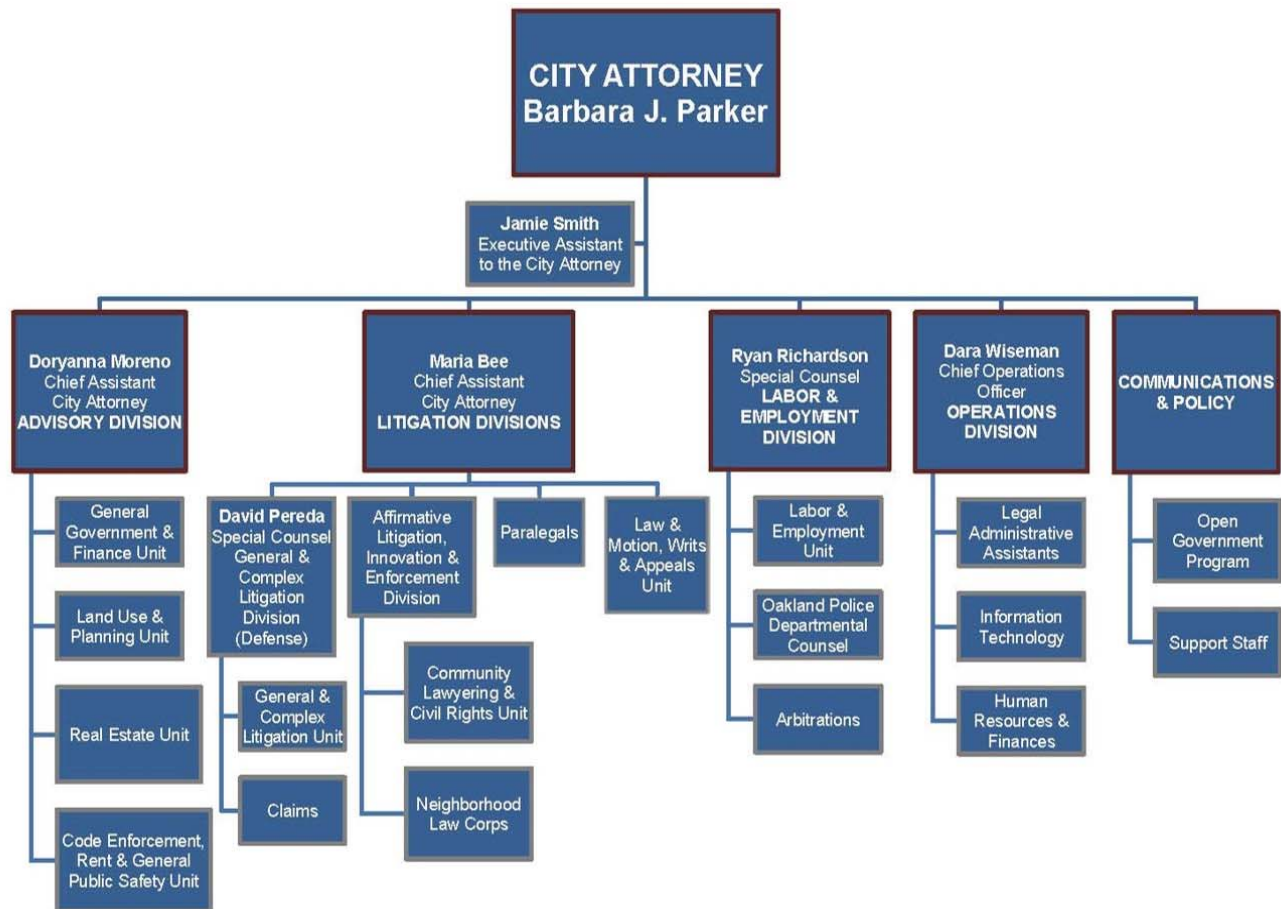
The **Labor & Employment Division** advises the City on labor and employment matters, as well as matters relating to the oversight, accountability, and general management of the Oakland Police Department. In addition to representing the City in arbitrations and providing advice regarding employment law and the City's obligations, attorneys in the group specialize in areas such as police-misconduct investigations, police practices and procedures, and the Negotiated Settlement Agreement.

### **Operations Division**

The **Operations Division** administers the budget, personnel and support services of the City Attorney's Office. The group includes administrative and information technology staff, legal administrative assistants and paralegals.

### **Celebrating and Recognizing the Power and Benefits of Diversity**

The Oakland City Attorney's Office continues to be one of the most diverse legal teams in our country. We are proud of and value our diversity in all arenas, including but not limited to age, gender, race, sexual orientation and disability status. Diversity improves and informs our advice and legal counsel and enhances the public services we provide to the residents of one of the most diverse cities in America by providing a broad range of points of view, perspectives, insight and strategies.



Based on employee disclosures, when we prepared this report, our 74-member staff included 65% women and 68% people of color, plus a wide range of ages and LGBTQ employees.

### Our Team Includes:

- 44 attorneys: City Attorney, two Chief Assistant City Attorneys, four Special Counsel, five Supervising Deputy City Attorneys, 27 Deputy City Attorneys and five Neighborhood Law Corps attorneys. Our current attorney staff is approximately 68% people of color and 65% women.
- 31 support staff: three Executive Assistants, eight Paralegals, nine Legal Administrative Assistants, one Office Assistant, two Public Service Representatives, one Legal Support Supervisor, one Legal Assistant Supervisor, two Information Technologists, one Claims Investigator, one Accountant, one Open Government Coordinator & Legal Services Coordinator and one executive manager. Our current support staff is approximately 87% people of color and 77% women.

## FINANCIAL OUTCOMES

### Summary

The City Attorney's Office strives to safeguard taxpayer dollars by providing the highest quality legal service to the City and its residents in the most efficient and just manner.

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 that are filed against the City and the types of cases the City initiates, and the timing of the resolution of claims and lawsuits.

### Outside Counsel Costs

The total cost of outside counsel increased by approximately \$5 million during the FY. The need for outside counsel remained high this year due to several highly complex cases that accounted for half of the total cost of **\$14.29 million**.

### Payments for Judgments and for Settlements of Claims and Lawsuits

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 that are filed against, and settled by, the City. The total amount of payouts this year was **\$9.10, up from 7.66 million** in the prior fiscal year. The City Attorney has authority to settle lawsuits and claims filed against the City for up to \$25,000 per case; the City Council authorizes such lawsuits and d against the City

### Office Budget & Expenses

This year, the Office's operating costs for personnel, supplies and other expenses totaled **\$20.22 million**.

*Note: The total numbers in this Annual Report may include final tallies from the City's accounting office that were not available when we published the previous year's Annual Report. In some cases, totals from previous years have been updated to reflect more recent information.*

## OUTSIDE COUNSEL COSTS

### Protocol

Like other cities and counties, Oakland hires outside counsel to handle legal work (1) when cases require specialized expertise that our office does not have, e.g. bankruptcy or complex tax issues, (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 a major case that requires dedication of a team of attorneys and (4) when the Office lacks in-house capacity to handle the volume of legal work.

Since 2012, the City Attorney has maintained a Request for Qualifications ("RFQ") process to make the hiring of outside counsel more competitive, open and transparent. The Office maintains a database of pre-qualified firms with expertise in a wide range of areas of law. Diversity of the law firm and the teams that provide advice and counsel is a factor in selection of outside counsel. To submit qualifications or read the outside counsel selection policy, go to [www.oaklandcityattorney.org](http://www.oaklandcityattorney.org).

### Impact of Understaffing on Outside Counsel Costs

Contracting out legal services to more expensive outside attorneys and firms increases the total cost of legal services and reduces the money available for other vital City services such as police, libraries, sidewalks and streets. Over the ten-year period beginning in FY 2003, the OCA lost more than one-third of its staff (19 attorneys and 14 support staff) due to the City Council's budget cuts. Because of the loss of in-house staff, the City Attorney had to retain more expensive and less efficient outside counsel to perform a far greater amount of Charter-mandated legal work. In other words, Oakland spent more to hire outside counsel for charter-mandated work than it saved by cutting in-house legal staff.

In recent years, the City Council has restored some of the positions that were cut. However, we have not restored the majority of the positions that we lost due to budget cuts and the demand for legal services has remained the same or increased due to the important, progressive and cutting-edge policies, laws and programs our Council has pursued.

### Costs of High Profile, Complex Cases

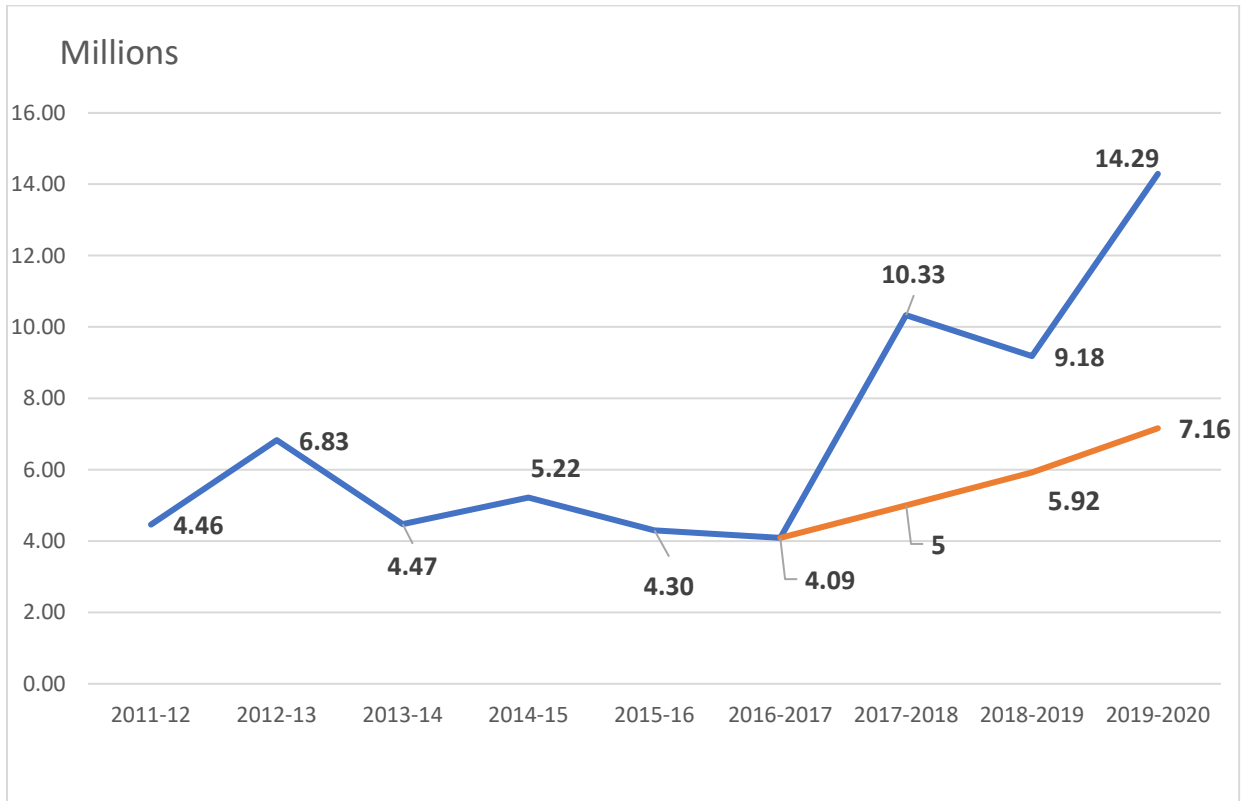
As we advised in previous Annual Reports, the necessity of hiring outside counsel for major and complex cases may significantly increase the City's total outside counsel costs in some years. During the past two fiscal years, a few high profile and complex matters have significantly increased outside counsel costs. It is important to note that without these "outlier" cases, outside counsel costs for the last two fiscal years are consistent with preceding years. This is shown in the timeline below.

This year, two cases alone accounted for almost half (46%) of all outside counsel costs. These two cases have accounted for 45% of outside counsel costs over the past three years:

- (1) *OBOT v. City of Oakland* – In 2013 the City entered into a development agreement (“DA”) with Oakland Bulk and Oversized Terminal (“OBOT”) to develop a public parcel of land located at the former Oakland Army Base. In 2015 the City learned that OBOT planned to develop a rail to ship coal terminal on the parcel. After studying the impacts of this proposed use and determined that it would expose current and future residents to a condition that would be substantially dangerous to their health and safety and banned coal on the parcel in 2016. OBOT sued the City in federal court and prevailed in the trial court and on appeal in the Ninth Circuit. OBOT then sued the City in state court in December 2018 (OBOT’s case) alleging that the federal litigation and various other City actions prevented it from fulfilling its obligations under the DA and ground lease to build a bulk commodities terminal. In May 2020, the City sued OBOT in state court alleging that OBOT’s failure to perform under the ground lease led to the termination of the lease, entitling the City to regain possession of the land. (Outside counsel fees over the past three years total \$3,842,030.)
- (2) Three groups of Plaintiffs sued the City and other defendants based on the tragic warehouse (“Ghost Ship”) fire located at 1305 31<sup>st</sup> Avenue: (1) Samuel Maxwell, who survived the fire with permanent and severe injuries; (2) family members of victims who passed away; and (3) residents who claim property damage and emotional distress. . (Outside counsel fees and costs over the past three years total approximately \$11,260,000.

Without these major cases, outside counsel costs for the last two years have been in line with costs for preceding years. In FY 2017-18, the total cost of outside counsel without these cases was around \$5 million; in FY 2018-19, the total cost of outside counsel, subtracting these two cases, was approximately \$5.92 million. In the current fiscal year, the total cost of outside counsel, subtracting these two cases was \$7.18 million. Importantly, we also need to take into account inflation and increases in outside counsel hourly rates over time which have exceeded the rate of inflation.

The chart below shows the total cost of outside counsel including and excluding these two cases. We also need to take inflation into account. If we adjust the amounts to reflect the national inflation rate, the total outside counsel costs for FY 2019-2020 (excluding OBOT and the Ghostship Warehouse lawsuits) are LESS than the total FY 2012-2013 outside counsel costs in today’s dollars. (\$7.54M (FY 2012-2013 compared to \$7.16M (FY 2019-20).



\*The orange line shows outside counsel costs without the OBOT and the 31st Avenue warehouse cases ("Ghostship Warehouse" lawsuits).

As noted above, we also need to take inflation into account and increases in outside counsel hourly rates which have exceeded inflation. If we adjust the amounts to reflect the national inflation rate, the total outside counsel costs for FY 2019-2020 (excluding OBOT and the Ghostship Warehouse lawsuits) are lower than the total FY 2012-2013 outside counsel costs in today's dollars. (\$7.54M for FY 2012-2013 compared to \$7.16M for FY 2019-20). See U.S. Bureau of Labor Statistics inflation calculator at [https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm).

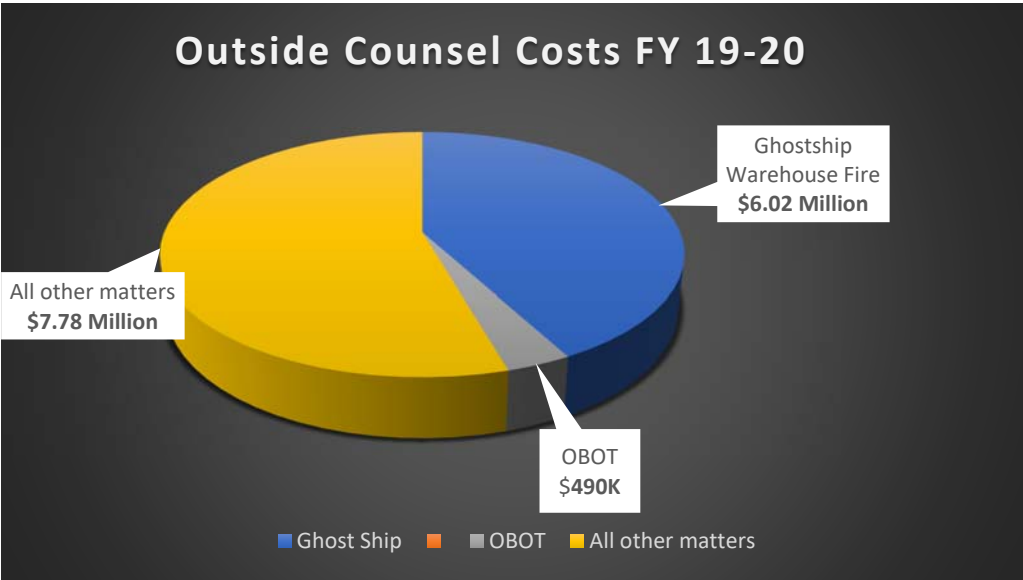
In FY 2019-20, three highly complex cases accounted for almost half (46 percent) of all outside counsel costs for the year (see Figure 2 below):

- (1) The Ghostship Warehouse litigation arose out of a fatal warehouse fire, in which 36 people lost their lives and numerous others were injured. The City settled this case for \$33,099,000. The settlement will be allocated as follows: \$23.5 million for the families of the fire victims who perished, \$9.2 million for plaintiff Sam Maxwell, who survived the fire but will live with severe, lifelong injuries and major medical expenses, and \$399,000 for the resident plaintiffs. The City's insurance will pay \$22 million.
- (2) OBOT litigation OBOT entered into multiple agreements with the City related to building a bulk goods terminal in Oakland. After executing the agreements, the City learned that OBOT intended to store and

handle coal at the terminal. Because City leaders determined that use would be substantially harmful to residents, the Council banned coal in Oakland, and subsequently applied that ban to OBOT in 2016. OBOT sued the City in federal court in 2016 alleging that the ban was improperly applied to OBOT. The City lost this litigation in 2018 in the trial court and subsequently lost its appeal in the United States Court of Appeals for the Ninth Circuit.

OBOT sued the City in state court in December 2018 (OBOT’s case), alleging that the federal litigation and various other City actions prevented it from fulfilling its obligations under the Development Agreement and Ground Lease to build a bulk goods terminal. In May 2020, the City sued OBOT in state court alleging that OBOT’s failure to perform under the Ground Lease resulted in the termination of the lease, entitling the City to regain possession of the leased land. These cases are ongoing. (Outside counsel costs in the state court cases: \$490,030.)

**FIGURE 2: Breakdown of outside counsel costs FY 2019-20**





## PAYMENTS

### Totals

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

The total amount of payments varies from year to year depending on many factors, including the types and complexity of claims and lawsuits filed against the City and when cases are resolved.

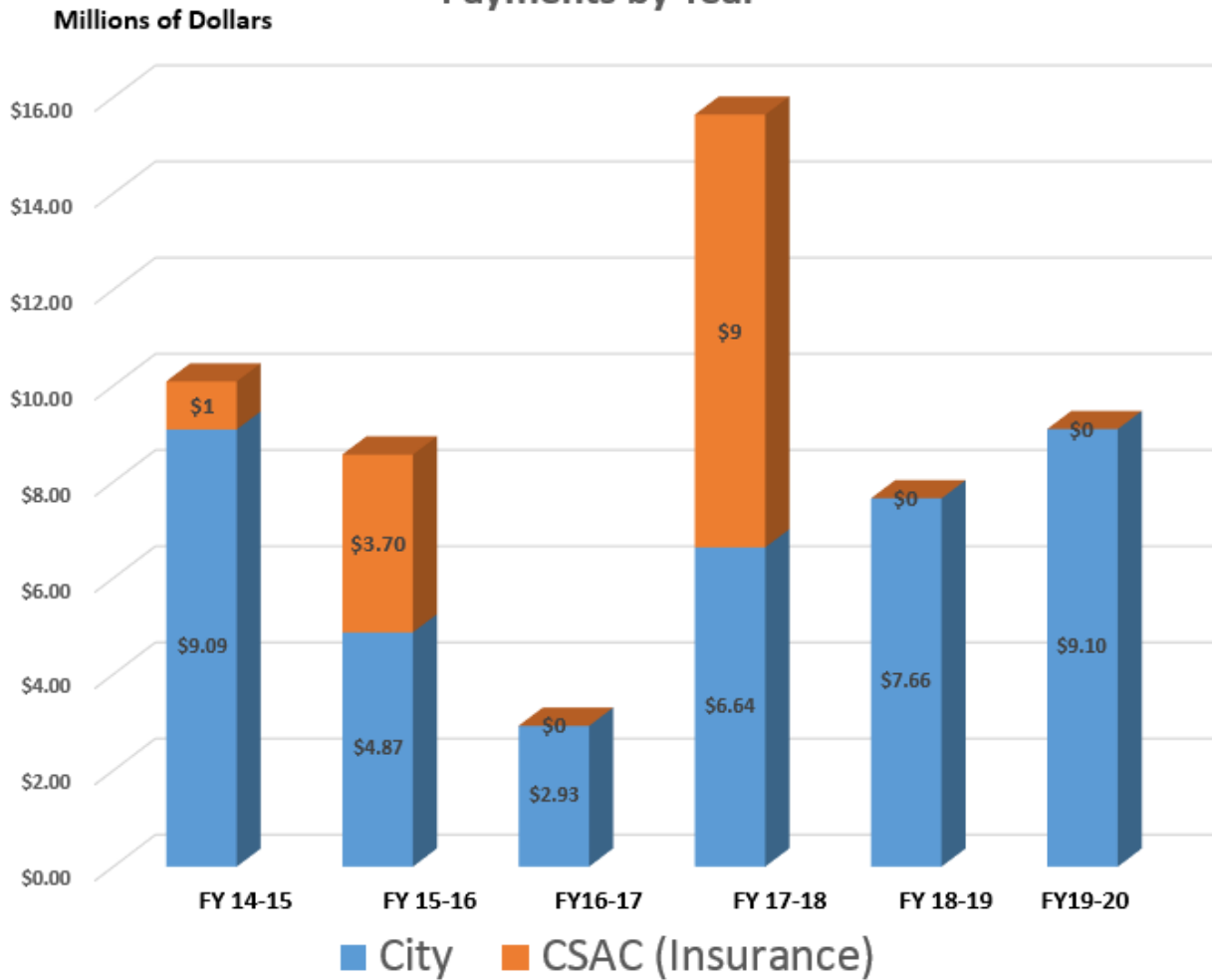
The total amount of payments this year was **\$9.10 million, up from \$7.66 million** (an increase of \$1.44 million), in the prior fiscal year.

The City Attorney's Office works strategically and aggressively to limit financial exposure and to seek fair and just resolution of cases and claims.

The City Attorney's Office provides the City Council legal advice and analysis of potential settlements or trials. The City Attorney has authority to settle cases and claims for up to \$25,000 per case. The City Council approves settlements exceeding \$25,000 except for categories cases for which the City Attorney has independent authority under state law or has been granted authority by Council via legislation and/or longstanding past practice/policy.

*Note: To be consistent with previous Annual Reports, this report tracks total payouts, including payments the City and payments made by the City's insurance carrier (CSAC Excess Insurance Authority). During this fiscal year, the City's agreement with CSAC provided for the City to pay the first \$5 million for each "incident" and for CSAC to pay amounts in excess of \$5 million up to \$25 million per "incident."*

**Figure 3: Total Settlement, Judgment & Claim Payments by Year**



For the second consecutive year, CSAC, the City's excess insurance carrier did not make any payment to plaintiffs in claims or lawsuits against the City. This is because none of the individual payments exceeded the City's self-insurance limit of \$5 million per case. The \$5 million self-insurance limit took effect July 1, 2018. The City's self-insurance limit was \$3 million per case prior to that date.

## Major Payments

The below table shows summaries of cases resulting in payments of more than \$100,000 in FY 2019-20. In this fiscal year, one adverse judgment and two settlements of high liability cases involving loss of life accounted for the vast majority of total payments.

<b>Case</b>	<b>Type</b>	<b>Payment</b>
Sanchez, Sebastian	Plaintiff filed this personal injury lawsuit against the City alleging that major personal injuries resulting from a police vehicle that collided with the motorcycle Plaintiff was riding. Plaintiff alleged that Plaintiff suffered multiple bodily fractures in the ankle, knee, and hips, a dislocated shoulder, and traumatic brain injury. Plaintiff further claimed past and future medical expenses, costs for future care, and pain and suffering.	\$2,500,000.00 (Settlement of lawsuit)
Spritzer-Satomi, Ariel	Plaintiff filed this lawsuit alleging that a fence fell from the 23 <sup>rd</sup> Avenue overpass onto Plaintiff's vehicle. On October 19, 2015, the guardrail and fencing became detached from the 23rd Avenue overpass and fell onto the I-880 freeway below, resulting in an accident wherein Plaintiff Ariel Spritzer-Satomi suffered a traumatic brain injury. Plaintiff filed the above-referenced action to recover monetary damages. Without admitting fault or wrongdoing, the City has determined to compromise and settle all claims against it.	\$1,666,666.66 (Settlement of lawsuit)
C/O v. Retired Oakland Police Officers Association, et al.	Writ re: Holiday Pay to Retirees This matter arose in connection with a threat of litigation submitted on May 21, 2019. The Oakland Police and Fire Retirement System is a closed city-operated retirement system for City sworn police officers and firefighters. Pursuant to City of Oakland Charter, retirees of the Oakland Police Department who are members of the Oakland Police and Fire Retirement System are entitled to receive a retirement allowance	\$914,204.90 (Settlement of writ)

Case	Type	Payment
	<p>that is based on "compensation attached to the average rank held" during the three years immediately preceding retirement.</p> <p>"Compensation attached to rank" currently includes holiday pay provided to current police and firefighters under the applicable union contract. A dispute arose between the Oakland Police and Fire Retirement System Board and the Retired Oakland Police Officer's Association over whether "Floating Holiday Pay", among other things, qualifies as "compensation attached to rank", and over the amount of holiday pay benefits that should be credited to members who retired at the rank of captain or deputy chief. To avoid the cost of litigation and without admitting liability, the parties have agreed to a settlement in which retired captains and deputy chiefs will receive 104 hours of holiday pay per year in exchange for their right to seek reimbursement for past underpayments, if any.</p>	
Salinas, Francisco	<p>Plaintiff alleged an intersection collision caused by dangerous condition. This action arises from an incident on October 8, 2015, wherein Mr. Francisco Romero Salinas and Francisco Barriga Salinas were involved in an automobile collision on Hegenberger Road and Hamilton Street, in Oakland. Mr. Romero Salinas allegedly suffered brain damage and hearing loss. Mr. Barriga Salinas sustained injuries to his hip. Both Plaintiffs alleged significant injuries, including multiple bodily fractures. They claim past and future medical expenses, costs for future care, and pain and suffering. the City of Oakland has determined that settlement without any admission of liability or wrongdoing is consistent with the City's position that the City was not negligent.</p>	\$812,500.00 (Settlement of lawsuit)
Lubin Olson & Niewiadomski LLP	Claimant filed claim on August 14, 2019, alleging unpaid legal invoices	\$300,000.00 (Settlement of claim)

Case	Type	Payment
	for the period December 31, 2018 through February 28, 2019.	
Smith, Lamesha, Crane, Chardonnay, Warren, Gavonyah, Smith, Tyrone	Plaintiffs alleged wrongful death claim against Oakland Police Department Officers for violating their constitutional rights related to the September 28, 2017, in-custody death of Marcellus Toney. Plaintiffs alleged that Mr. Toney should not have been tased following a serious traffic accident while driving under the influence, because he was handcuffed, and was exhibiting Excited Delirium symptoms.	\$250,000.00 (Settlement of lawsuit)
Friends of the Short Cut (writ)	0405 - Code Enforcement: Health & Safety Codes Plaintiffs, largely Oakland and Berkeley residents, filed a petition for writ of mandate alleging a City proposed construction project to repair the stair path between Alvarado and Tunnel Roads adjacent to the Claremont Hotel did not comply with requirements of California's Environmental Quality Act. Judgment was entered in favor of the plaintiffs and they timely sought attorneys' fees under Code of Civil Procedure § 1021.5 in the amount of \$287,901.61. The City disputed that Plaintiffs were entitled to all of the fees or any multiplier they might assert under state law. Plaintiffs agreed to discount fees by \$57,000.00, which the City has determined is in the best interests of the City. This settlement will resolve all claims in this matter.	\$234,041.39 (Settlement of lawsuit)
Peter Dixon	Plaintiff alleged that the City's storm water and/or sanitary sewer systems caused catastrophic erosion and landslide on his property located at 6035 Skyline Boulevard. Sixty feet of the back of the lot with mature trees and landscaping receded, leaving a steep incline behind the home that cannot be restored. He alleges inverse condemnation, nuisance, and dangerous condition of public property. The City resolved	\$185,000.00 (Settlement of lawsuit)

Case	Type	Payment
	the lawsuit with a release all claims in this matter.	
T.D.P., a minor, as successor for Richard Hester Perkins, Jr. (deceased)	Plaintiffs alleged that Oakland Police Department Officers violated their constitutional rights during a November 15, 2015 officer-involved shooting that resulted in Plaintiffs' family member, Richard Perkins' death. Plaintiffs alleged that Oakland Police officers used excessive force when they used lethal force against Mr. Perkins as he approached the officers with a Desert Eagle replica firearm that was not marked in any way as a replica.	\$175,000.00 (Settlement of lawsuit)
Pifari, Nicole	Plaintiff alleged employee discrimination by OPD. In September 2014, Ms. Pifari was accepted as a lateral recruit with OPD with a conditional job offer. Ms. Pifari subsequently failed to secure medical clearance and OPD withdrew the conditional offer. Ms. Pifari filed suit on December 15, 2016 seeking damages for lost wages and benefits and emotional distress alleging the City discriminated against her due to disability when it withdrew the conditional offer and failed to provide a reasonable accommodation or engage in other processes required by the California's Fair Employment and Housing Act. She sought money damages. The Council settled this matter for \$350,000.00. This settlement will resolve all claims this matter.	\$172,543.95 (Settlement of lawsuit)
Trahan, Jr., Chana	Plaintiff alleged an OPD vehicle struck him causing bodily injury. On September 25, 2017 an Oakland Police vehicle collided with Mr. Chana Trahan's vehicle at high speed at the intersection of High Street and International Boulevard as the officer responded to an urgent call for back up. Mr. Trahan's vehicle was pushed across several lanes into a parked vehicle with sufficient force to cause the parked vehicle to jump the curb and turn 90 degrees. Mr. Trahan's vehicle was severely damaged - the	\$154,000.00 (Settlement of lawsuit)

Case	Type	Payment
	hood of his vehicle was bent and driven into the cockpit. Mr. Trahan was rendered unconscious and taken by ambulance to the hospital where abrasions were noted on his shoulder, hand, knees, face and scalp. He was discharged but later diagnosed with post-concussion syndrome and he required medical treatment for headaches and other concussion symptoms and back, knee and hip pain. Mr. Trahan sued the City seeking compensation for approximately \$78,000 for medical expenses and \$4,000 for lost wages.	
Wilson, Sidney	Plaintiff alleged wrongful termination, assault, battery, and emotional distress. Mr. Wilson was employed by the City from July 2016 until October 12, 2017, as a legislative aide to former Councilmember Desley Brooks. Mr. Wilson alleged that Ms. Brooks engaged in a pattern of abusive conduct during his employment with the City. He also alleged that Ms. Brooks retaliated against him because he voiced concerns over the operation of a Farmer's Market. Mr. Wilson sought damages for wage loss and pain and suffering, in addition to attorneys' fees.	\$115,000.00 (Settlement of lawsuit)
Rowe-Lee, Gwendolyn	Claimant alleged that a city tree fell onto her home. On January 30, 2018, a large tree limb from a tree located in the City's right of way broke, landing on the roof of Ms. Rowe-Lee's home located at 4490 Arcadia Avenue. The limb caused significant damage to the roof and structural damage to the house partially exposing it to environmental conditions. The damage consisted of external blemishes to the roof and shingles and structural damage to internal rafters and beams.	\$112,500.00 (Settlement of claim)
		\$7,591,456.90

## Payments by Category

Historically our Annual Reports have tracked payments in four major categories: police matters, infrastructure, City vehicle accidents and labor/employment (Tables 3 – 6 below).

FY 18-19 saw a significant reduction in payments related to police matters. That fiscal year appears to be an aberration (Table 3 - **This fiscal year's total, \$3,691,568**, is well below the average annual payment of **\$4,498,279**, for police matters during the 20-year time period the City Attorney's Office has been tracking this data. (FY 1999/2000).

Payments in the category of infrastructure totaled **\$3,478,287**, a decrease compared to the prior FY 2018-19; but remained above the five-year average of **\$2,629,547**.

Payments in the category of city vehicle accidents totaled **\$2,984,828**, an increase compared to the prior FY 2018-19, but remained below the five-year average of **\$3,795,516**.

<b>Category</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>5-year average</b>
Conduct: Suspect Chase	\$21,652	\$100	\$4,600	\$14,476	\$845	\$8,334
Alleged Use of Force	\$9,978	\$5,000	\$0	\$112,500	\$23,400	\$30,176
Conduct: Non-force	\$553	\$309	\$1,289,399	\$9,500	\$10,539	\$262,060
Conduct: Strip Search	\$0	\$0	\$0	\$0	\$0	\$0
Alleged Wrongful Death	\$450,000	\$1,200,000	\$0	\$0	\$500,000	\$430,000
Vehicle Accidents	\$2,904,461	\$102,521	\$12,158,574	\$400,200	\$2,873,609	\$3,687,873
Property Loss/Miscellaneous	\$3,444	\$31,330	\$2,133	\$6,536	\$3,545	\$9,398
Towing	\$1,717	\$0	\$6,891	\$28,953	\$690	\$7,650
Personnel/Labor	\$0	\$0	\$0	\$0	\$261,271	\$52,254
Other / Admin Hearings	\$0	\$0	\$35,000	\$0	\$17,669	\$10,534
<b>Total Paid</b>	<b>\$3,391,805</b>	<b>\$1,339,260</b>	<b>\$13,496,597</b>	<b>\$572,165</b>	<b>\$3,691,568</b>	<b>\$4,498,279</b>



<b>Category</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>5-year average</b>
City Buildings, Parks, Etc.	\$10,466	\$2,911	\$36,339	\$117,691	\$1,761,878	\$385,857
Sewers & Storm Drains	\$1,014,024	\$213,767	\$132,912	\$372,544	\$217,623	\$390,174
Sidewalks, Curbs, Etc.	\$1,062,300	\$727,205	\$1,238,610	\$1,476,567	\$202,616	\$941,460
Streets, Signals & Lights	\$652,288	\$48,000	\$106,646	\$155,468	\$1,184,009	\$429,282
Inverse Condemnation	\$16,244	\$8,122	\$13,122	\$13,447	\$10,080	\$12,203
Trees	\$14,850	\$33,387	\$52,875	\$2,149,661.38	\$102,081.00	\$470,571
<b>Total Paid</b>	<b>\$2,770,171</b>	<b>\$1,033,392</b>	<b>\$1,580,504</b>	<b>\$4,285,378</b>	<b>\$3,478,287</b>	<b>\$2,629,547</b>

<b>Category</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>5-year average</b>
Police	\$2,904,461	\$102,521	\$12,163,174	\$400,200	\$2,873,609	\$3,688,793
Public Works	\$97,476	\$84,640	\$51,584	\$64,005	\$71,331	\$73,807
Parks & Recreation	\$1,344	\$5,192	\$0	\$0	\$3,089	\$1,925
Fire	\$11,864	\$31,782	\$11,968	\$14,730	\$20,967	\$18,262
Other Departments	\$38,749	\$8,574	\$0	\$491	\$15,832	\$12,729
<b>Total Paid</b>	<b>\$3,053,894</b>	<b>\$232,708</b>	<b>\$12,226,726</b>	<b>\$479,426</b>	<b>\$2,984,828</b>	<b>\$3,795,516</b>

**Table 6: Payouts - Employment/Labor**

<b>Category</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>5-year average</b>
Police	\$0	\$0	\$0	\$0	\$261,272	\$52,254
Parks & Recreation	\$0	\$0	\$0	\$0	\$72,142	\$14,428
General Government/Other	\$725,000	\$0	\$0	\$335,000	\$115,000	\$235,000
Public Works	\$0	\$75,000	\$0	\$75,000	\$0	\$30,000
Fire Services	\$32,426	\$0	\$450,000	\$0	\$0	\$96,485
<b>Total Paid</b>	<b>\$757,426</b>	<b>\$75,000</b>	<b>\$450,000</b>	<b>\$410,000</b>	<b>\$448,414</b>	<b>\$428,168</b>

## DOLLARS SECURED BY CITY ATTORNEY

The Oakland City Attorney's Office seeks to secure the highest possible amount of dollars to compensate the City for damages it has suffered, to reimburse the City for costs and fees for in-house and outside counsel, and fair and just amounts in penalties, fines, etc. These dollars provide funds for vital City services and programs and to implement City policies. We join class action lawsuits or other litigation to protect Oakland's rights and interests and we pursue affirmative litigation to protect civil and constitutional rights and economic interests, enforce City laws, and enhance the quality of life of the community. Our Office recovered attorney's fees and costs, civil penalties, payments for damages, settlement payments and other payments on behalf of the City.

This fiscal year, the City Attorney secured **\$83,151** for the City, dollars that help to pay for critical services such as libraries, police and fire, road repair and parks and legal services.

<b>Table 7: City Attorney-Secured Dollars</b>
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Case Name	Jurisdiction	Docket No	Collected to Date	Collected this FY	Description
California, et al. v. Ross	U.S. Supreme Court	No 18-1214/18-cv-01865-RS	\$14,119.16	\$14,119.16	Oakland is suing the US Dept. of Commerce, the US Census Bureau and their directors for constitutional and statutory violations related to the 2020 Census
CE: Pendleton Partners LLP , Ace/Top Spa (302 Pendleton)	Data Not Available		\$31,432.20	\$6,550.94	CE: Pendleton Partners LLP , Ace/Top Spa (302 Pendleton) red light abatement, public nuisance, massage establishment ordinance
CE: Yahya Korin and Suad Korin (4506 Market)	Data Not Available		\$23,959.29	\$4,375.99	CE: Yahya Korin and Suad Korin (4506 Market), investigation into nuisance action against business "Lets Get It"
CE:1620 Fruitvale/2000 26th Ave, Jaber, Suad & Jad (trust) Shihadeh, N	Alameda Cnty Superior Court: Northern	RG16829447	\$433,213.80	\$10,000.00	am currently building an illegal dumping case for inadequate service at that location.
Crawford, Anthony	Alameda Cnty Superior Court: Northern	RG17845801	\$2,250.00	\$2,250.00	intiff's vehicle was struck by an OPD vehicle.
FIN - Bankruptcy / Collections General Advice	Data Not Available	Data Not Available	\$239,296.97	\$898.80	also contains financial information. Closed files info in File Management.
FIN: 2017 City of Oakland General Obligation Bonds (Measure KK)	Data Not Available	Data Not Available	\$10,111.67	\$10,111.67	FIN: 2017 City of Oakland General Obligation Bonds (Measure KK)
Gethers. Charlene	Alameda Cnty Superior Court: Northern	RG17878898	\$980.00	\$980.00	Alleges trip and fall due to uneven pavement on sidewalk.
Goshe, Christie L.	Alameda Cnty Superior Court: Northern	RG19046256	\$4,177.94	\$4,177.94	From Case: C32826 Claimant was running on side walk and triped and fell on 2x4 that was concealed under a black tarp due to construction done by
Oakport Partnership, LP	Alameda Cnty Superior Court: Northern	RG17878206	\$61,285.00	\$1,180.00	Oakport Partnership LP (7817 Oakport Street/Airport Massage): Red Light Abatement/Massage Parlor
ORA - Oak Knoll Navy Hospital Redevelopment Site	Data Not Available	Data Not Available	\$28,506.50	\$28,506.50	Redevelopment of the Oak Knoll Naval Hospital Site
				\$83,151.00	

## DIVISIONS OF THE CITY ATTORNEY'S OFFICE

### General & Complex Litigation Division (Defense)

The General & Complex 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 and inverse condemnation cases.

Litigators employ a strategic approach to limit the City's financial exposure and to manage liability at the claims stage to limit expensive lawsuits, and to resolve claims in a fair, just and equitable manner.

### Claims

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 City received 573 claims this year, compared to last year's total of 706. The category with the largest decrease is Municipal Infrastructure, which includes "trip and fall" claims, potholes, etc. Additional risk management work, including increased resources dedicated to fixing infrastructure problems, likely would reduce the number of claims, high liability lawsuits and payouts in this area. For the second consecutive year, the total number of claims involving police matters registered below the five-year average, while there were 8 more claims alleging damage due to City vehicle accidents.

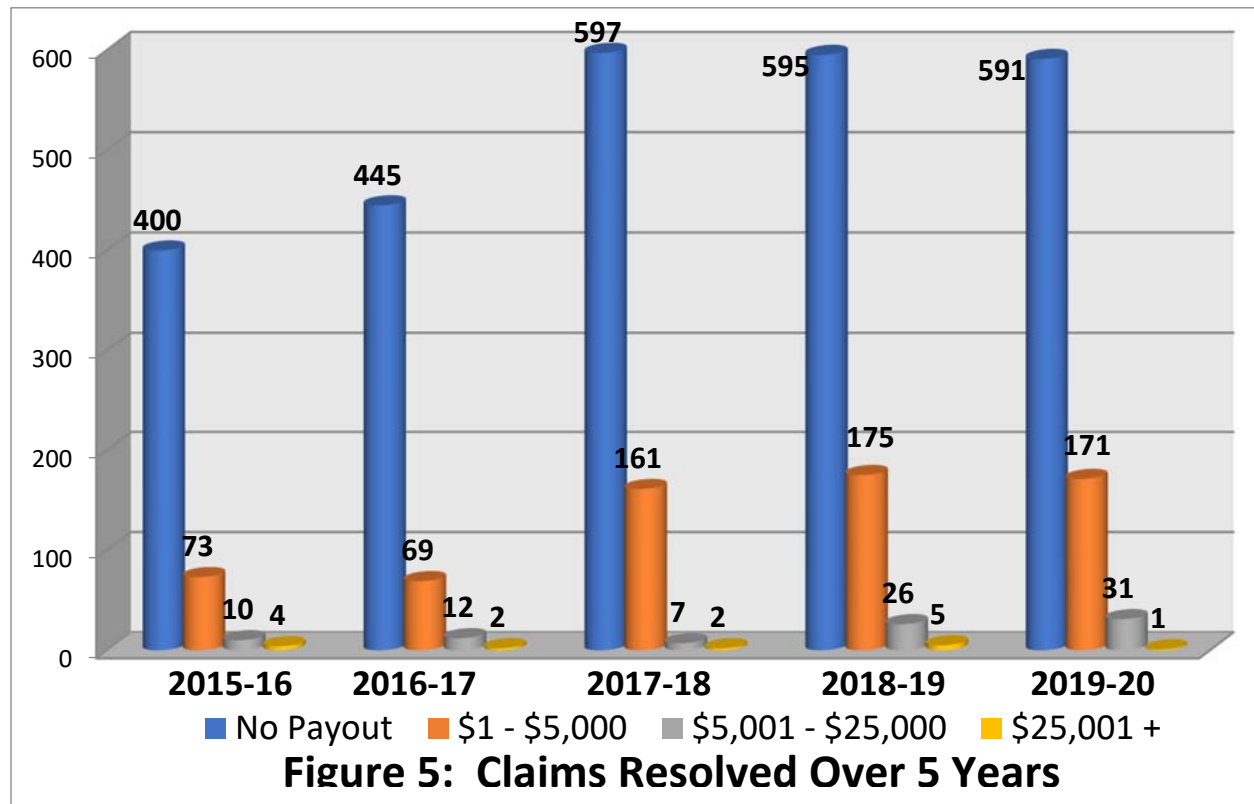
**Table 8: Claims Received**

Category	2015-16	2016-17	2017-18	2018-19	2019-20	5-year Average
Municipal Infrastructure*	401	562	427	537	425	470
Police Matters**	77	51	62	53	46	58
City Vehicle Accidents	68	67	95	74	82	77
Other	37	76	32	42	20	41
<b>Total Claims/Year</b>	<b>583</b>	<b>756</b>	<b>616</b>	<b>706</b>	<b>573</b>	<b>647</b>

\*Municipal Infrastructure includes sewers, trip & fall, bicycle and auto accidents, etc. on streets and sidewalks. \*\*Police Matters includes use of force and civil rights cases.

### Claims Resolved

We resolved a total of 794 claims in FY 2019-20. This year, **74 percent** of claims were resolved with no payment of money whatsoever. **Less than one percent** of claims resolved this year resulted in a payout of more than \$25,000.



### Lawsuits Filed against the City

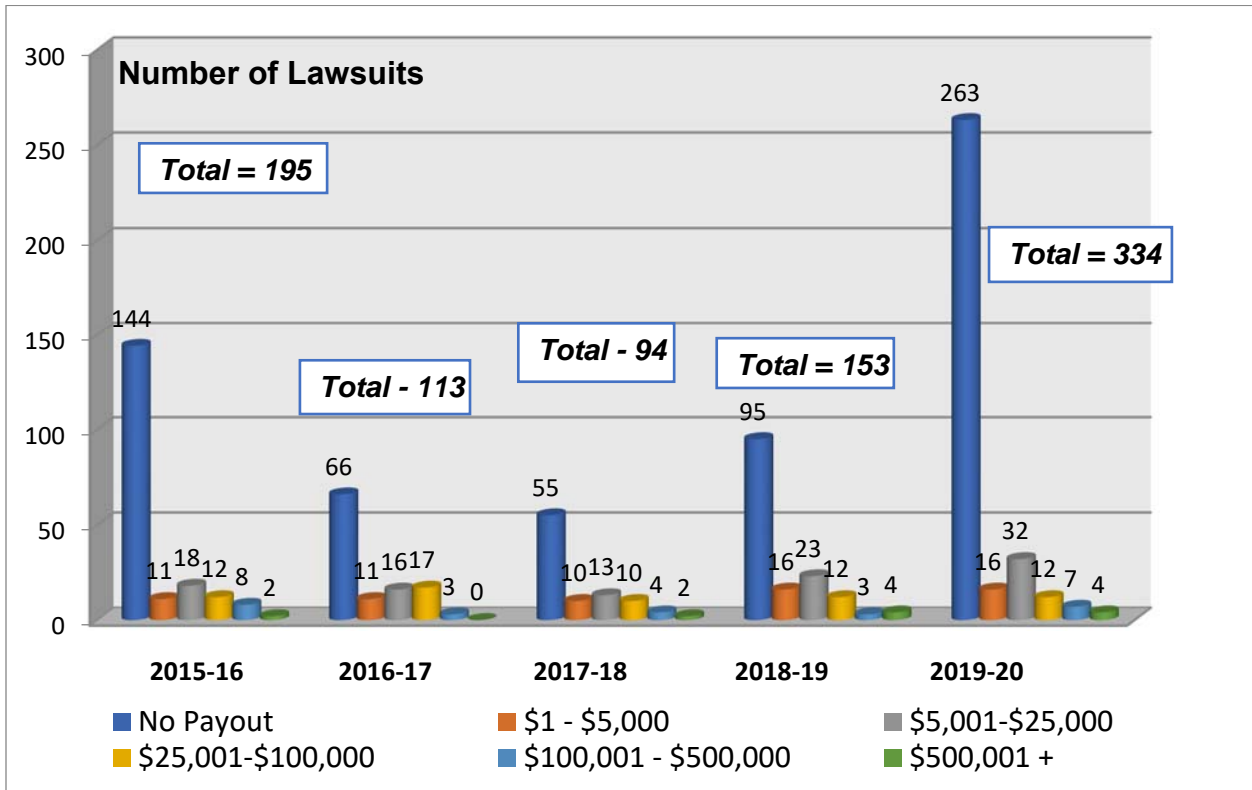
Lawsuits primarily arise in the following categories: municipal infrastructure, police matters, City vehicle accidents, personnel/labor, complex contracts and “other.” In FY 2019-20, plaintiffs filed **129** lawsuits against the City of Oakland. The number of lawsuits decreased in the areas of municipal infrastructure and personnel/labor. *Note: In this table, “Police Conduct Matters” do not include police-related vehicle accidents or personnel/labor matters.*

<b>Table 9: Lawsuits Received</b>						
<b>Category</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>5-year average</b>
Municipal Infrastructure	62	48	53	61	53	55
Police Conduct Matters	10	14	17	14	22	15
Personnel/Labor (non-lawsuits and lawsuits)	27	16	6	18	7	15
City Vehicle Accidents	10	9	21	11	9	12
Other	77	62	33	52	38	52
<b>Total Lawsuits/Year</b>	<b>186</b>	<b>186</b>	<b>149</b>	<b>156</b>	<b>129</b>	<b>161</b>

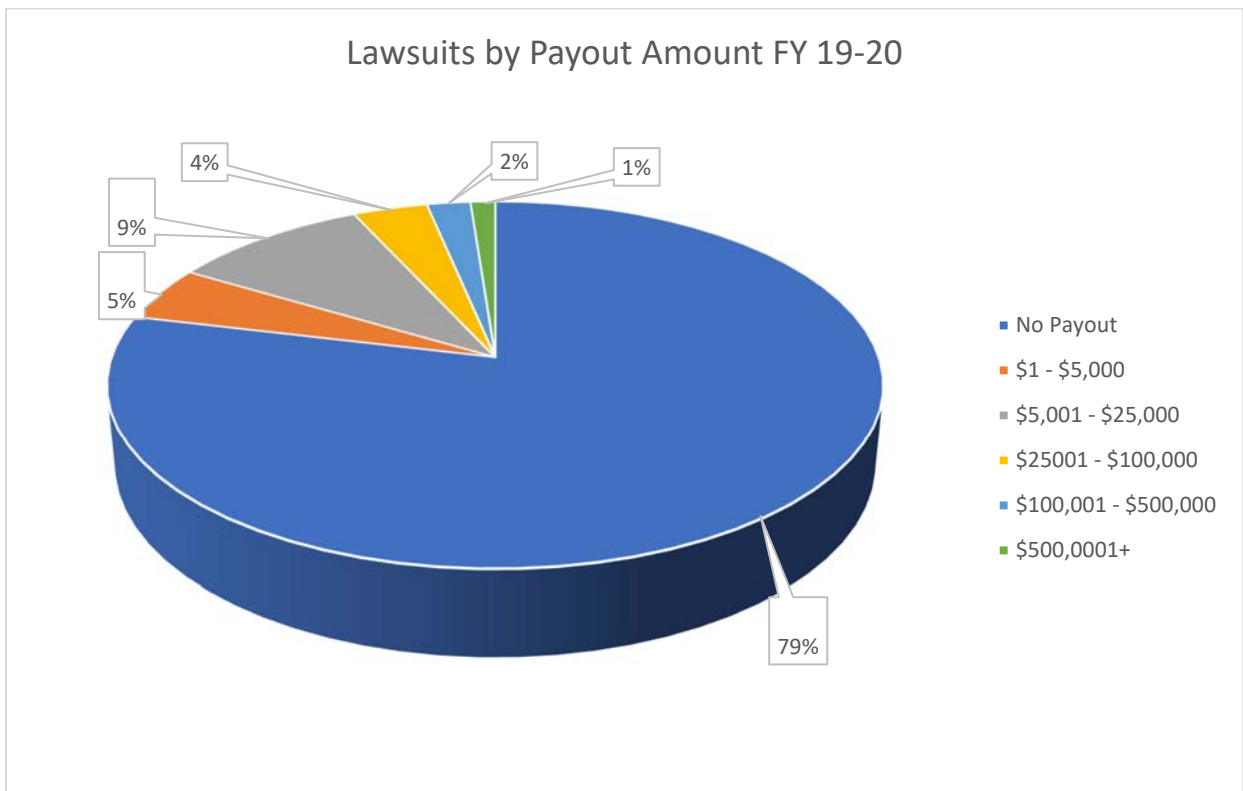
### **Outcome of Lawsuits**

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. We seek to resolve cases on a fair, just and equitable basis.

This year, the City Attorney’s Office resolved 334 lawsuits. Almost four-fifths (**79 percent**) were resolved with no payment of money whatsoever. Only about 2.6 percent of the lawsuits resolved this year resulted in a payment of more than \$100,000.



As shown in the below chart, most lawsuits are resolved with zero payment to plaintiffs.





## **SIGNIFICANT LITIGATION (DEFENSE) CASES**

### **General and Complex Litigation Division (Defense)**

#### **Flatiron v. City of Oakland**

The California Department of Transportation ("Caltrans") identified the Embarcadero Bridge over Lake Merritt Channel in Oakland, constructed in 1967, as one requiring seismic upgrades. On January 23, 2015, the City entered into a contract with Flatiron West, Inc. ("Flatiron") to serve as the general contractor for the project to build the replacement Embarcadero Bridge (the "Project"). The new bridge was to be built substantially wider than the old bridge (58 feet rather than 37), and substantially higher (six feet higher under the spans), which would enhance maritime navigability between Lake Merritt and the Oakland Estuary (and thus the Bay). It would also include separated pedestrian and bicycle lanes, a pedestrian overlook, and restrooms. The bridge was open to traffic in June 2019.

On October 29, 2019, Flatiron filed a lawsuit, alleging that the City breached the Project contract. The Complaint alleges that the City is indebted to Flatiron for the sum of "at least \$3.3 million," including damages allegedly for unpaid work performed to complete the Project and delays allegedly caused by the City. The City denies Flatiron's claims.

On July 21, 2020, the City filed a Cross-Complaint against Flatiron, and against Project designers T.Y. Lin and AECOM, a joint venture. Among other claims, the City alleges performance failures that resulted in construction delays on the Project and in the new bridge failing to meet design and plan specifications. For example, the City alleges that Flatiron failed to include specified levels of camber (i.e., arc or elevation) so that the top deck and bottom soffit of the bridge would have the proper arc and elevation as the bridge settled over time. This error may cause the bottom part of the Bridge to sag nearly one foot lower than the design elevation, thereby reducing the navigable space for boats beneath the bridge.

At the time of this report, discovery is ongoing, and trial is scheduled for April 19, 2021.

#### **Ghostship Warehouse Fire Litigation**

This case arose out of the fatal Ghost Ship fire, in which 36 people lost their lives and numerous others were injured. Plaintiffs are individuals injured by the fire and survivors of people who lost their lives in the blaze. Three groups of Plaintiffs sued the City and other defendants: (1) Samuel Maxwell, who survived the fire with permanent injuries; (2) family members of victims who passed away; and (3) residents who claim property damage and emotional distress.

Plaintiffs sought to hold the City liable for injuries and deaths arising out of the fire alleging that the City was aware of dangerous conditions at this privately-owned

warehouse and failed to (1) conduct inspections and (2) enforce building and fire safety codes.

The City settled this case for \$33,099,000. The settlement will be allocated as follows: \$23.5 million for the families of the fire victims who perished, \$9.2 million for plaintiff Sam Maxwell, who survived the fire but will live with severe, lifelong injuries and major medical expenses, and \$399,000 for the resident plaintiffs. The City's total insurance coverage is \$22 million.

### **Oakland Coal Terminal Litigation**

Oakland Bulk and Oversized Terminal, LLC ("OBOT") entered into multiple agreements with the City related to building a bulk goods terminal in Oakland – a Development Agreement ("DA") to develop a bulk goods terminal and a Ground Lease for the land on which the terminal would be built. OBOT intended to ship coal in/through the terminal. The City believed this use would be substantially harmful to residents, banned coal in Oakland, and subsequently applied this ban specifically to OBOT in 2016. OBOT sued the City in federal court in 2016 alleging that the ban was improperly applied to it. The City lost this litigation in 2018 in the trial court and subsequently lost its appeal in the Ninth Circuit.

After OBOT won the federal litigation, it sued the City in state court in December 2018 alleging that the federal litigation and various other City actions prevented it from fulfilling its obligations under the DA and Ground Lease to build a bulk goods terminal. In May 2020, the City sued OBOT in state court alleging that OBOT's failure to perform under the Ground Lease led to the lease terminating and the City was entitled to regain possession of the land. The parties are engaged in discovery – including written discovery and depositions – on both cases.

## OTHER HIGHLIGHTS

### **Homeless Encampment Litigation**

Since November 2018, the City and various City officials have been sued seven times in federal court about issues related to homeless encampments. Although the facts differed, in each case, the plaintiffs generally alleged that the City and City officials violated or threatened to violate their Fourth, Fifth, Eighth, and/or Fourteenth Amendment rights when the City attempted to clean and/or close the homeless encampment in which they were staying. Prior to or during the pendency of each challenged City encampment intervention, the plaintiffs in each case sought some form of emergency relief (typically both a temporary restraining order and a preliminary injunction) while also filing a separate complaint. In each case, even if the presiding court initially granted a temporary restraining order, after the City has had an opportunity to brief and/or argue the issue, courts have routinely then denied the plaintiffs' requests for a preliminary injunction and have permitted the City to proceed with or complete the encampment intervention. In each case where the City has prevailed, we have done so because we could demonstrate to the court that we: (1) provided advance written notice of the intervention; (2) did not arrest or cite anyone in a manner that would violate *Martin v. City of Boise* (the controlling 2018 Ninth Circuit precedent); (3) had outreach workers offer services, resources, and shelter beds to individuals leading up to a cleaning and/or closure; (4) encouraged individuals to take their personal belongings and stored other items pursuant to the City's storage policy; (5) informed individuals where they could retrieve stored items; and (6) overall, followed established City policies and procedures related to both cleaning and closures.

At this juncture, the City has had three cases favorably dismissed (*Bowen v. City of Oakland*, *Shipp v. Schaff*, *Hung v. City of Oakland*); three other cases (*Hung et al v. Schaaf*, *Winslow & Bostamonte v. City of Oakland*, *Hammond et al v. City of Oakland*) have no active issues and are likely appropriate for dismissal, and one case (*Miralle et al v. City of Oakland*) remains in litigation.

### **Forman v. City of Oakland**

The City was sued by a pedestrian who was struck in a crosswalk at the intersection of a one-way street and two-way street in Rockridge. The driver who hit her admitted that she failed to look at the crosswalk before turning left and that she caused the injury. The victim nevertheless alleged that the City was also at fault because the intersection used an ubiquitous signal design: the green circle light for vehicular traffic and the pedestrian walk signal activated simultaneously. That theory, if accepted, would expose the City to enormous liability, potentially requiring the City to pay damages any time a pedestrian is hit by a driver at a certain common type of intersection, regardless of the driver's negligence. The trial court granted the City's summary judgment motion. We are actively defending that win on appeal.

### **Gamblin v. City of Oakland**

Gloria Gamblin tripped on a curb at 11th Street and Broadway, and sued the City claiming that the curb was a dangerous condition of public property. A small chip was missing from the curb, in an area frequently traveled by pedestrians, and there was no record of any prior complaint or incident involving this missing chip. The case was tried to an Alameda County jury, which rendered a full defense verdict for the City, finding that the curb was not in a dangerous condition.

### **City of Oakland v. Cherepy, et al.**

In February 2017, a Piedmont homeowner and her contractors caused Cavendish Lane, a City street adjacent to the homeowner's property, to fail by digging underneath the road and causing subsidence. Since then the road has had a temporary repair in place to allow access to several homes at the end of Cavendish Lane. The City brought suit against the homeowner and her contractors to recover for the costs of permanently repairing Cavendish Lane. The case settled with payment to the City of \$450,000, which covered all of the costs to repair the road.

### **Horizon Projects Consulting Corp. v. City of Oakland**

The City hired Horizon Projects Consulting Corp. as an IT consultant beginning in June 2015, to work on the City's upgrade of its Oracle systems, and subsequently, to work on other IT projects. Although Horizon's performance was mixed, and it did not deliver all of the items it contracted to perform, the City paid the full amount authorized under the contracts, roughly \$2 million. On two projects, Horizon claimed it continued to perform work after its contracts expired and then submitted invoices for services it was not contracted to perform. This did not follow the contractually required process for approval of work and submission of invoices, and there was no basis pursuant to the contracts to pay these invoices.

After the City refused to pay these invoices, Horizon filed two separate but similar lawsuits against the City, seeking over \$200,000 in damages, along with interest, penalties, and attorneys' fees. After several rounds of motions to dismiss Horizon's claims, the court eventually dismissed all of Horizon's claims in both cases and awarded the City its attorneys' fees.

### **Warriors Litigation**

The License Agreement between the Oakland-Alameda County Coliseum Authority (Authority) and the Warriors required the Warriors to pay the debt incurred to renovate the Oracle Arena (Arena) for the duration of the thirty-year term of the public debt even if the Warriors chose not to renew the agreement. The Warriors contend that because they terminated the agreement by nonrenewal after the initial twenty-year term, they are not obligated to pay the remaining \$55 million debt. The parties arbitrated the dispute. The arbitrator found that the Warriors must pay the debt as they promised. Judge Schulman of the San Francisco Superior Court confirmed the arbitration award. The Warriors appealed this decision. The parties argued the on July 23, 2020 and are awaiting a decision. On August 18, 2020, after

the end of the fiscal year but before the issuance of this Report, the appellate court denied the Warriors' appeal, and on December 9, 2020, the California Supreme Court rejected its petition to review the decision.

## **Affirmative Litigation, Innovation & Enforcement**

In 2016 City Attorney Parker launched this division to make a top priority of affirmative litigation and other actions and initiatives to secure justice and equity for all Oakland residents and workers and to fight discrimination based on race, gender, sexual orientation, age, disability, immigration status, economic status or other protected status. Our affirmative work also includes actions against the federal government and current administration to protect rights that they are violating, undercutting and/or decimating on a regular basis.

The Affirmative Litigation, Innovation & Enforcement Division includes two units: the Community Lawyering & Civil Rights Unit ("CLCR") and the Neighborhood Law Corps ("NLC"). The Community Lawyering & Civil Rights Unit focuses on affirmative litigation and other initiatives to secure social, racial, economic and environmental justice and equity, to protect all Oaklanders' civil and constitutional rights and to enforce laws prohibiting race, sex and other forms of discrimination against protected classes. The Neighborhood Law Corps (NLC) is a unit of recently licensed attorneys who tackle quality of life issues and public nuisances including human trafficking, illegal dumping and violations of tenants' rights.

### **RAISING OAKLAND'S VOICE**

Since Trump took office, we have filed numerous amicus briefs and other legal actions on behalf of Oakland to challenge the current administration's unconstitutional, racist and inhumane policies.

Only five days after he took office, Trump issued an executive order declaring that sanctuary jurisdictions such as Oakland that did not cooperate with federal immigration agents would no longer receive federal funds for after school programs, child care, law enforcement and other critical services. San Francisco filed a lawsuit, and Oakland and a broad coalition of cities, counties and other local jurisdictions filed an amicus ("friend-of-the-court") brief asking the court to block Trump's executive order. The Ninth Circuit U.S. Court of Appeals ruled that Trump abused his authority when he issued an executive order threatening to deny federal funding to sanctuary cities like Oakland. Early in Trump's term, Oakland also filed an amicus brief challenging his administration's blatantly unconstitutional and racist Muslim travel ban.

Since that time, our Affirmative Litigation Division has continued to file lawsuits, amicus briefs and take other actions to stop the Trump administration's constant assaults on the rights and of Americans. At the same time, we are providing Oakland's support for sound and sane public policy. One example is California's ban on high capacity magazines. During this FY, we signed approximately 20 amicus briefs and comments and filed major lawsuits to have Oakland's voice heard in some of the most significant cases in the nation.

## Highlights

### **People of the State of California v. BP, Chevron, ConocoPhillips, Exxon and Royal Dutch Shell**

This year, we had a critical appellate victory in our public nuisance lawsuit against the five largest publicly owned fossil fuel companies in the world (Chevron, ConocoPhillips, Exxon Mobil, BP and Royal Dutch Shell.) In a unanimous ruling authored by Judge Sandra S. Ikuta, the U.S. Court of Appeals for the Ninth Circuit reversed District Court Judge William Alsup's decision dismissing the climate change lawsuits filed by San Francisco and Oakland in September 2017. The panel rejected the legal arguments raised by fossil fuel companies in this and similar suits around the country and held: (1) the state-law claim for public nuisance related to the impacts of global warming on public infrastructure "does not arise under federal law;" (2) the cases are not completely preempted by the Clean Air Act; and (3) as a result, the cases should not have been dismissed.

The Ninth Circuit ruling sends both cases back to Judge Alsup for further proceedings to determine whether any basis for federal court jurisdiction remains, or whether the cases should return to the state courts where they were originally filed. Once the jurisdictional questions are resolved, we look forward to proceeding with the merits of our case. Ultimately, the lawsuit seeks to hold defendants accountable for the costs of sea walls and other infrastructure necessary to protect Oakland from the ongoing and future consequences of climate change caused by the companies' products.

### **People v. Purdue Pharma**

The Affirmative Litigation Division continued to prosecute a lawsuit that Santa Clara County and the Orange County District Attorney brought against leading manufacturers of opioids, drugs that have caused a nationwide epidemic of abuse and addiction, including in Oakland and Alameda County. The lawsuit, initially filed in May 2014, charges that opioid manufacturers have engaged in a campaign of false advertising that trivialized the risks of opioids – a deceptive business practice that resulted in rampant over-prescription and a crisis of opioid-related addiction, injuries and deaths in California and the nation as a whole. Evidence indicates that the epidemic has disproportionately impacted Oakland's African American and homeless populations. The rise of opioid addiction and overdoses in our community is directly related to deceptive marketing that aggressively promoted these drugs while covering up the risks. Although there are legitimate medical uses for opioids, they are highly addictive drugs that have been vastly over-prescribed as a direct result of the manufacturers' deceitful and irresponsible tactics. Families in Oakland are suffering the consequences. Named defendants in the lawsuit include manufacturers Janssen Pharmaceuticals, Inc., Endo Health Solutions, Inc., Actavis PLC and Purdue Pharma L.P., the manufacturer of OxyContin. In 2012, there were 464.4 opioid prescriptions for every 1,000 Alameda County residents – almost one prescription for every two residents of the county. The rate of emergency room ("ER") visits related to opioids in Alameda County increased by almost a third

between 2009 and 2014. During that time period, the rate of opioid-related ER visits by African Americans was more than three times higher than the rate of the county as a whole. It is readily apparent that these companies are peddling their wares to every demographic, but they shamelessly prey upon some of the most vulnerable populations. The law in California is clear: pharmaceutical companies cannot mislead doctors or patients about the dangers of their products and then walk away with impunity. There is growing consensus across our nation country that these companies must be held accountable for the crisis their products created.

### **City of Oakland v. Monsanto, et al.**

In 2015, we filed a lawsuit against Monsanto to hold the giant chemical company accountable for contaminating Oakland's waterways and the San Francisco Bay with Polychlorinated Biphenyls ("PCBs"). PCBs are man-made chemical compounds that have become notorious as environmental contaminants – PCBs are found in bays, oceans, rivers, streams, soils and air and have been detected in the tissues of all living beings on earth, including all forms of marine life, various animals, birds, plants and trees and humans. This public nuisance lawsuit seeks monetary damages and removal of the public nuisance caused by PCBs.

Monsanto sought to settle the cases on a nationwide basis with all affected jurisdictions, including Oakland. On February 20, both sides tentatively accepted a mediator's proposal of a \$550 million class settlement, subject to approval by the governing body of each local jurisdiction. Oakland's recovery from the settlement would be at least \$7,192,424.

The parties created a class concept that covers affected jurisdictions nationwide. They also developed a payment allocation, with the assistance of environmental consultants, that balances the factors at play: widespread harms across the nation, varying degrees of damages, those entities that have been litigating cases, etc. The parties came up with a formula to ensure monies go to those with largest PCB problems.

If less than 98% of class members accept the settlement, Monsanto has the option to back out of the proposed settlement. Oakland also may be able to recover additional sums as attorney's fees for our in-house attorneys.

### **City of Oakland v. Wells Fargo**

The City of Oakland sued Wells Fargo in 2015 for harms suffered due to Wells Fargo's longstanding policies and practices that steered minority borrowers in the city into mortgage loans with "discriminatory" terms. These terms had higher costs and risk features in violation of the Fair Housing Act. When the loans became too onerous, Wells Fargo refused to refinance them or provide other relief on terms offered to white borrowers.

The City asserts injuries from the Bank's discriminatory practices in the form of lowered property taxes and increased municipal spending, both to remediate properties that suffered from foreclosure and abandonment and for wasted



spending on its fair housing efforts. The foreclosed properties became derelict and neglected, which meant the City obtained reduced property tax revenues from the decreased value of the foreclosed properties themselves as well as the decreased value of properties around them, also increasing the need for costly municipal services to remedy the urban blight and unsafe, dangerous conditions stemming from the foreclosed properties.

The City has also alleged that Wells Fargo's practices directly caused it several non-economic injuries, including "impairing the City's goals to assure that racial factors do not adversely affect the ability of any person to choose where to live in the City," injuries to "the City's numerous programs designed to promote fair housing and a safe, integrated community," and impairing many of the City's resources and government programs designed to support fair housing in Oakland.

Wells Fargo moved to dismiss the City's complaint claiming its actions did not cause the City's injuries. The Court denied the motion with respect to the City's claims for property tax injuries and for declaratory and injunctive relief. The Court granted the motion without prejudice to the City amending its complaint as to its claims for its municipal expenditures occasioned by Wells Fargo's discriminatory policies and for its non-economic damage claims.

Wells Fargo appealed the decision. On August 26, 2020 the 9<sup>th</sup> Circuit Court of Appeals rejected Wells Fargo's contentions, agreeing that the City can move forward with its claims that the lender's actions are responsible for lost property tax revenue.

### **City of Oakland v. The Oakland Raiders, et al.**

The City of Oakland filed a federal antitrust and breach of contract lawsuit against the National Football League, the Raiders and each of the other 31 NFL clubs. In voting to approve the Raiders' move to Las Vegas and boycotting Oakland in the marketplace for hosting a football club, the NFL defendants violated federal antitrust laws. The Raiders' move also violated the NFL's own policies for team relocation.

The lawsuit seeks to recover damages resulting from the Raiders' illegal move to Las Vegas, including lost revenue, money that Oakland taxpayers invested in the Raiders and other costs. The defendants filed a motion to dismiss the City's complaint. The District Court granted the motion as to the antitrust claims and declined to hear the breach of contract claims. The City has appealed the Court's decision regarding the antitrust claims and continues to litigate the breach of contract claims in state court.

## Amicus Briefs

Our office authored over a dozen amicus briefs and signed onto nearly twenty more in support of workers, LGBTQ+ rights, housing equity, access to health insurance, and efforts to stop the Trump Administration's unlawful immigration policies.

As one example, on July 16, 2019, the federal government issued an administrative rule to bar asylum applications from anyone who had not already been denied asylum in one of the countries they traveled through on their way to the United States. As reported by the New York Times, the rule was "among the most stringent measures taken by this administration in its battle to halt migration, upending decades of asylum and humanitarian norms." Along with the County of Los Angeles, we led an amicus coalition of local governments to block its effect. The amicus efforts were successful—in July 2020, the Ninth Circuit upheld the preliminary injunction of the rule in *East Bay Sanctuary Covenant v. Barr*.

We also co-authored three amicus briefs with Columbus, Ohio, and Public Rights Project in support of cases challenging the Trump Administration's "conscience rule," which would have allowed health professionals including doctors, nurses, paramedics, and even ambulance drivers, to refuse to provide care to patients if they individually morally objected. This could mean refusal to drive a patient in need of a life-saving abortion to the hospital, or refusing to provide life- and gender- affirming care to an LGBTQ+ individual.

Along with the Public Rights Project and the City of St. Paul, Minnesota, we led efforts to file an amicus brief urging the U.S. Supreme Court to strike down two Trump administration rules that would permit employers to refuse to provide contraceptive coverage to their employees and plan beneficiaries based on so-called religious and moral objections. Although the Supreme Court unfortunately upheld the regulation in the most recent term, we will continue to fight for fair access to contraceptive coverage.

We filed several amicus briefs in support of plaintiffs nationwide supporting challenges to the Trump Administration's public charge rule. The rule denies immigration status to residents who are determined to be a "public charge." The administration expanded definition of public charge to include non-cash benefits like Medicaid and SNAP; it essentially forces immigrants to choose between their wellbeing and their immigration status.

We authored an amicus letter in support of the City of Los Angeles' efforts to remedy the misclassification of employees by trucking and drayage companies operating at the Ports of Los Angeles and Long Beach. We have strongly supported efforts to enforce AB5 because the misclassification of employees under California law harms workers, local governments, and law-abiding businesses alike.

## **Community Lawyering & Civil Rights Unit also Mobilized to Respond to Challenges Posed by the COVID-19 Pandemic**

In March, our office sent letters to California businesses advertising purported COVID-19 treatments. These letters issued pursuant to the City Attorney's authority under Bus. & Prof. Code § 17508, asked the businesses to substantiate fact-based claims that their advertised products prevented or treated COVID-19. The letters also advised these businesses that relevant health authorities, including the WHO and CDC, had determined that there were no treatments shown to prevent or cure COVID-19. As a result of the letters, the businesses removed the false or misleading statements from their website.

In April 2020, we jointly released guidance in the form of Frequently Asked Questions (FAQs) with the County District Attorney's Office to clarify shelter-in-place requirements as they relate to residents facing domestic or other interpersonal violence. The guidance made clear that Oakland residents were allowed to leave their residences if domestic or other interpersonal violence made their homes unsafe during the County shelter-in-place. The FAQs also provided information regarding resources still available during this time to assist survivors of domestic or other interpersonal violence and their loved ones.

At the start of the Covid-19 crisis, we called on the Alameda County's Sheriff and Chief Probation Officer (in a public letter) to implement nine fundamental measures to protect the health and safety of detainees and inmates at Alameda County facilities, including evaluating at-risk inmates for possible early release and ensuring all inmates have access to soap, hand sanitizer, and other protections to prevent infection. The letter also endorsed Alameda County Public Defender Brendon Woods' recommendation that the Sheriff and Chief Probation Officer release all inmates who have six months or less to serve on their sentences. After receiving a dismissive response from the Sheriff, we co-sponsored a Resolution with Councilmembers Bas, McElhaney, and Taylor to urge the Alameda County sheriff's office, probation department, and other county officials to implement the measures recommended in the prior letter, as well as to endorse the Alameda County Public Defender's urgent proposal that county officials immediately release all inmates with six months or less remaining to serve on their sentences. The Resolution passed unanimously.

In June 2020, we released new guidance to remind all Oaklanders that local, state, and federal civil rights protections remain in full force and effect during the COVID-19 pandemic. The guidance, released in the form of FAQs, aimed to assist individuals, businesses, and advocates in understanding what types of choices and activities remain impermissible during the global health crisis. Oakland released these FAQs against the backdrop of thousands of reports of discrimination against Americans of Asian descent based on wholly false assertions that Asian Americans are responsible for or carriers of COVID-19, and with the reality that many are shaming or shunning disabled people based on misunderstandings about infection. The guidance was intended to serve as a warning to anyone who violates their fellow Oaklanders' rights that the City Attorney remains committed to addressing illegal discrimination in all of its forms.

## Housing Justice Cases

### *People v. Jaber, et al.*

In October 2019, the City Attorney secured a settlement with the owners of a thirty-unit Fruitvale apartment complex where, for years, tenants were forced to live with bedbug and cockroach infestations and lacked heat and functioning smoke detectors in their units. According to one tenant, the infestations at the property were so severe that, for nearly a year and a half, her family slept in a closet and on the kitchen floor to avoid being bitten by bedbugs. In July 2016, a fire broke out at the property, damaging multiple units and displacing tenants. A tenant who was at home with her 8-year-old daughter said she did not hear a fire alarm and only learned of the fire when she saw smoke and flames coming out of the walls of her bathroom.

After filing the lawsuit in 2016, the City obtained a preliminary injunction requiring the owners to immediately address the health, safety, and habitability issues at the building. The settlement requires the owners to pay the City **\$475,000** and hire professional property management for two residential buildings they operate in Oakland—1620 Fruitvale and 200036<sup>th</sup> Avenue—if they are not sold before January 2021. The tenants who live at both of these buildings have also filed lawsuits against the owners, and are represented by Centro Legal de la Raza. Centro Legal assisted the City Attorney’s Office with declarations and other aspects of this case.

### *City v. Lee, et al.*

Because “owner move-ins” are one of the limited just causes for eviction under Oakland law, some landlords have sought to unlawfully displace their tenants by fraudulently claiming that they—or their relative—plan to move into the unit. Unscrupulous landlords have used such fake owner move-ins to evict tenants living in rent-controlled units or increase rents under a former rent control exemption. The City Attorney and Centro Legal De La Raza recently secured a settlement against three landlords who harassed and intimidated their long-term tenant, including perpetrating a fraudulent owner move-in to justify raising the tenant’s rent nearly 200%. (Utility bills and direct observation by neighbors revealed that no one was living in the unit where the owner claimed to live.) The settlement required the defendants to pay **\$300,000** to the City and their tenant, hire professional property management for the building, and notify the City of any Rent Adjustment Program or eviction filings at any of their properties in Oakland for the next five years. When the defendants refused to make the required payment, the City and Centro Legal requested that the Court hold them in contempt. A few days after the hearing, the defendants sent the final payment.

### *People v. Dodg Corporation, et al.*

In June 2019, the City Attorney’s Office filed a lawsuit against the owners of a prominent real estate enterprise for providing unsafe and substandard housing, endangering the lives of their tenants, many of whom are low-income and non-English speaking. The Defendants include two corporate entities and their individual

managers, who together own over a hundred properties in Oakland. The City sued the Defendants for serious building code violations at six properties in East Oakland, including converted commercial spaces and a storage warehouse not designed or approved for residential use. Defendants have profited from a predatory business model by renting unsafe units to tenants who are desperate to find affordable housing, and often are unable to take legal action to defend their rights.

The lawsuit focuses on six properties in East Oakland – 276 Hegenberger Road, 1921 International Boulevard, 1931 International Boulevard, 5268 Foothill Boulevard, 5848 Foothill Boulevard, and 5213 International Boulevard. The City's Building and Planning Department has cited the Defendants for a range of serious building code violations at each of these properties including lack of emergency exits, lack of heat, lack of hot water, inadequate ventilation, severe roof leaks, pest infestations, non-functioning smoke and carbon monoxide detectors, and lack of fire suppression systems. The conditions at three of the properties were so hazardous that the Department of Building or Planning completely or partially red tagged the buildings, requiring the occupants to vacate for their own safety.

The City's lawsuit seeks to require the owners to immediately and permanently fix all habitability problems at their properties and additionally seeks penalties, fees, and restitution for tenants. Discovery is underway and litigation in this case is ongoing.

### **People v. Odiwe, et al.**

The City Attorney filed an emergency tenant protection lawsuit in May 2020 against investor landlords who engaged in an unlawful, self-help eviction to drive out their tenants during the COVID-19 pandemic. Under the guise of a fraudulent City of Oakland red tag, the landlords removed all of their tenants' belongings from their home – despite their protests – and changed the locks. More than a week later, the tenants remained without their beds, furniture, and clothing and were unable to use their kitchen. Defendant Anwulika Odiwe told Oakland police that she did not believe a civil eviction action was necessary – despite state law, the eviction moratorium, and the COVID-19 pandemic. Ms. Odiwe threatened that if tenants wanted to live “with no windows and no doors and no toilets ... that's on them.” The Court granted the City's request for a temporary restraining order preventing the defendants from harassing the tenants. The tenants' belongings were returned after the City intervened, and the lawsuit is ongoing.

### **People v. Chau, et al.**

In May 2020, the City Attorney filed a lawsuit against three property owners who rented out multiple unsafe, unpermitted units and subjected their tenants to horrific harassment. Three properties (1130 East 11<sup>th</sup> Street, 1030 Foothill Boulevard, and 1442 8<sup>th</sup> Avenue) are the focus of the lawsuit. 1130 East 11<sup>th</sup> Street is a single-family home that has been subdivided into three units, with two to three additional units constructed out of plywood and around an outhouse at the rear of the property. After the house caught fire in 2018, the City “red-tagged” the building,

which received power directly from the street's electrical pole through a jackhammered hole in the sidewalk, and declared it unsafe to occupy. The owners quickly made a number of unpermitted repairs and re-rented the units. In 2019, another fire broke out at the building, and the City once again red-tagged the premises. Code Enforcement has issued the owners eighteen notices concerning code violations at 1442 8<sup>th</sup> Avenue, a single-family home with at least thirteen sleeping rooms, including an illegally converted garage and an unpermitted detached structure. In the main house, door openings have been sealed off to create separate rooms, showers have been installed in closets, and kitchens and bathrooms have been constructed without permits. Tenants at 1030 Foothill Boulevard, which has also suffered from multiple fires, have been without electricity since August 2019.

In addition to forcing their tenants to live in uninhabitable conditions, the defendants have locked tenants out of their units and engaged in appalling discrimination against a transgender tenant at 1442 8<sup>th</sup> Avenue. After the defendants learned that the tenant is transgender, they embarked on a campaign of intimidation to remove her from the property, changing the locks to her unit, throwing away her possessions, and hiring knife-wielding men to threaten her into leaving. The City Attorney's lawsuit asks the Court to issue an injunction and appoint a receiver to repair the properties and halt the defendants' harassment of their tenants. The lawsuit also seeks civil penalties, punitive damages, and the City's costs and attorney's fees.

## **Anti-Human Trafficking Cases**

### ***People v. Chiok, et al.***

This year, the Neighborhood Law Corps prevailed in a trial against the owners and operators of an illicit massage business that operated as a front for sex trafficking in East Oakland. One of the owners of the business, Hiroshi Odashima, has an extensive history of opening illegal massage parlors in Oakland and across the state. The Court's February 10 final judgment permanently bars Hiroshi Odashima, and his business associates Joann Kim and Susan Chong, from running any business in Alameda County that offers massage or "adult services of a sexual or intimate nature." The Court also ordered these defendants to pay the City a total of **\$484,966.20** in civil penalties, abatement costs, and attorney's fees.

### ***People v. Odashima, et al.***

Another one of our lawsuits against Hiroshi Odashima concerns an illicit massage business called 888 Spa on 98<sup>th</sup> Avenue. In October, the Court granted our motion for summary adjudication and found Mr. Odashima, as well as his business partner, Sook Kyong Lee, liable for violating California's Red Light Abatement Act. The following month, the Court issued a final judgment against the defendants, which included a **\$125,000** settlement to be paid by Odashima and Lee.

## Public Nuisance Cases

### *People v L.J. Morgan, et al.*

In March 2019, the City Attorney filed a Complaint for Public Nuisance, and successfully petitioned the Court for the appointment of a receiver related to the property at 5484 Bancroft Avenue in the Melrose Heights neighborhood of Oakland. The former nursing home had been vacant since 2009, and was the focus of over 18 inspections and multiple citations for various violations of the municipal code. It was declared substandard in August 2018, and was in serious disrepair to the point that the structural integrity of the building was compromised and presented a fire risk. Because of these risks to the community, the City Attorney initiated this lawsuit as well as the petition.

In April 2019, the Court appointed a receiver, who was tasked with cleaning up the Property and preparing it for sale. The receiver managed to clean up the Property and make substantial repairs, and successfully sold the Property at auction in December 2019. In March 2020, the Court approved the Receiver's Final Accounting as well as the City Attorney's request for Attorney's Fees in the amount of just over \$64,000, which is to be used to fund future affirmative litigation for the City.

### *People v. Jeff A. Crear, et. al.*

The City filed this lawsuit in August 2018 against the owners of the vacant Moor Hotel, a former three-story residential hotel with an adjacent parking lot in West Oakland. Unauthorized access to the dilapidated Moor Hotel created an imminent fire hazard for the entire neighborhood, as established by City inspections and community declarations. According to the Fire Marshal, the Moor Hotel was among the worst 1% of properties with regard to disrepair that he had seen in his entire career. There was also rampant drug and prostitution activity on the adjacent parking lot, affecting quality of life in the surrounding neighborhood. The City's claims in this lawsuit are under state and local public nuisance law, the Red-Light Abatement Act (Penal Code §11225), and the Drug Abatement Act (H&SC §11570).

Due to the imminent fire risk, after filing this case, the City filed a motion for a Preliminary Injunction, asking the Court to order the owners to clean up and secure their property. In November 2018, the Court ordered the owners to take immediate, specific steps to reduce the fire risk, including installing a fence and security cameras, hiring a security company, boarding up windows and entrances, and removing combustible materials and debris from the building and vacant lot. These actions immediately helped improve the conditions at the Moor Hotel, and correspondingly the safety and health of the surrounding neighborhood. In August 2019, the Court issued a second order requiring the maintenance and continuation of the steps taken to lower the risk of fire and reduce the nuisance in the community. Litigation in this case is ongoing, and the City continues to seek permanent injunctive relief, civil penalties, abatement costs, and attorney's fees.

### **Equitable Access to Low-Income Housing (“EQUAL”) Ordinance**

In July 2019, the Oakland City Council unanimously adopted an ordinance initiated and created by the City Attorney to improve access to housing for low-income tenants. The ordinance, which was co-sponsored by Councilmember Dan Kalb and Councilmember Nikki Fortunato Bas, ensures that landlords cannot turn away or otherwise discriminate against tenants who depend on housing assistance from government programs (e.g., the “Section 8” program) to pay rent. Many landlords refuse to rent to anyone who receives government assistance; others use underhanded and illegal tactics to force out Section 8 tenants. After the City Council adopted the EQUAL ordinance, the California State Legislature passed a law that prohibits landlords from discriminating against recipients of government assistance statewide.



## **LABOR & EMPLOYMENT DIVISION**

The Labor & Employment Division handles the Office's labor & employment matters, with a special focus on police practices and accountability.

The Division includes Departmental Counsel for the Oakland Police Department to enhance the Office's handling of police matters, including police department policies and personnel/discipline cases.

### **Highlights FY 2019-20:**

- Provided timely advice to City Administration and numerous City Departments on personnel and labor issues, including emergent COVID-19 issues that impacted employee health and safety, sheltering in place, telecommuting, emergency sick leave and family leave, and related labor negotiations.
- Advised and assisted on the development and passage of staff recommendations, resolutions and legislation related to personnel issues. Most notably, the Labor and Employment Division supported the passage of an emergency paid sick leave ordinance and a landmark right-to recall ordinance which were designed to mitigate the impacts of COVID-19 on workers within the City, including leading the development of FAQs and worksite posters to educate and inform employees and employers.
- Continued supporting and furthering civilian police-oversight and the mission of the Oakland Police Commission by helping develop a proposed Charter amendment to strengthen the Commission's oversight and increase its independence, and by continuing to advise and support the Commission and a Community Police Review Agency.
- Developed and administered multiple trainings for Police Commissioners, including training on the Police Commission's powers under the Oakland Charter, state and local laws regarding open meetings, and OPD's discipline process.
- Spearheaded the City's efforts to be as transparent as possible as well as to comply with California Senate Bill 1421 by reviewing and publishing thousands of previously confidential documents related to the City's investigation and handling of multiple critical incidents.
- Advised City Administration and Employee Relations throughout MOU bargaining with multiple unions, including successfully navigating impasse, factfinding and mediation procedures in order to ultimately reach agreements.
- Advised OPD's Internal Affairs Division on investigations into police misconduct and reviewed resulting investigative reports, including an in-depth and interactive training for IAD investigators on important aspects of the investigation process.

- Developed and administered multiple trainings for the managers and commanders at both OPD and OFD who handle those department's Skelly hearings.
- Developed and administered multiple training for new and existing investigators in the Internal Affairs Division of the Police Department, command staff and division-level investigations coordinators on policies and best practices for conducting investigations.
- Attended Skelly due process hearings on behalf of the City in cases involving serious employee misconduct and advised Skelly officers regarding their recommendations.
- Managed and resolved disputes with various unions over employee discipline and contract (MOU) interpretation by negotiating settlements and by representing the City at binding labor-arbitration hearings, hearings before the California's Public Employment Relation Board, and hearing before Oakland's Civil Service Board.

## **ADVISORY DIVISION**

The Advisory Division provides legal services that address the full spectrum of municipal affairs. Examples include drafting legislation, ballot measures and contracts; negotiating complex contracts in matters including information technology, energy systems, garbage, recycling and cable franchises; providing advice on housing and economic development projects; 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 and measures adopted by voters against challenges in court; providing advice on rent, eviction, homeless encampment and other housing policies, and initiating legal proceedings to address public nuisance/quality of life issues in Oakland neighborhoods.

In FY 2019-20, the Advisory Division was comprised of four units: General Government & Finance Unit, General Public Safety, Code Enforcement & Rent Unit, Real Estate Unit, and Land Use & Planning Unit.

Examples of practice areas and responsibilities of each unit are provided below.

## GENERAL GOVERNMENT & FINANCE UNIT

**Table 10: General Government & Finance Unit**

### Practice Areas & Responsibilities

- City Clerk, Elections
- City Council Meetings
- Council Committees – Finance and Management, Public Works, Life Enrichment, Education Partnership, Rules and Legislation
- Civil Service Board
- Libraries
- Cultural Arts
- Health and Human Services
- Violence Prevention Services
- Public Ethics Commission
- Government Ethics/Conflicts of Interest
  
- Police & Fire Retirement Board (PFRS)
- 
- Information Technology Department
- Retirement Systems
- Public Contracting (Purchasing & Grants, Social Equity Contracting Programs)
- Municipal Finance
- Assessment Districts
- Taxes & Revenue; Bonds
- Parks & Recreation Department
- Public Works Agency
- Department of Transportation
- Garbage, Waste & Recycling Franchises
- Cable, Utility and Other Franchises

## **General Government & Finance Unit Highlights:**

### **General Government**

- Staffed and advised the City Council, the Life Enrichment Committee, Education Partnership Committee, Finance and Management Committee, Public Works/Transportation Committee, and Rules Committee on open meetings laws, including the California Brown Act and Oakland Sunshine Ordinance, the City Charter and Council Rules of procedures and other procedural matters.
- Advised the following offices, departments, agencies and divisions on all operational, program and most other matters, except labor and employment and litigation: Finance, Health and Human Services, Parks and Recreation (including managed programs such as Oakland Zoo, Children's Fairyland and golf concessions), Library, Public Works, Transportation, Information Technology, Violence Prevention, Animal Services, and Police and Fire agencies, , Mayor's Office, City Auditor's Office, City Council Offices, City Administrator's Office, City Clerk's Office, Cultural Arts Division and KTOP. Reviewed nearly all contracts, grant program agreements, resolutions, ordinances, staff agenda reports and pre-litigation claims/disputes for the aforementioned offices, departments, agencies and divisions.
- Advised numerous Oakland boards and commissions on open meetings laws and procedural and substantive issues, including: Civil Service Board, Police and Fire Retirement Board (PFRS), Public Ethics Commission, the Cultural Affairs Commission, the Public Art Advisory Commission, the Commission on Persons with Disabilities, the Public Safety and Services Violence Prevention Commission, the Commission on Aging, the Youth Advisory Commission, the Children's Fairyland Board, the OFCY Planning and Oversight Commission, the Parks and Recreation Advisory Commission, the Library Commission, the Alameda County-Oakland Community Action Partnership Administering Board, the Bicycle & Pedestrian Advisory Commission, the Sugar-Sweetened Beverage Tax Community Advisory Board, the Head Start Advisory Board, the Equitable Climate Action Plan (ECAP) Community Advisory Committee, and the Affordable Housing and Infrastructure Bond (Measure KK) Public Oversight Committee.
- Advised and assisted City Administrator and staff to prepare emergency declarations and multiple emergency orders to enable the City to implement critical response measures related to the COVID-19 pandemic.
- Advised on the implementation of Oakland Slow Streets program to allow pedestrians to use streets and other rights of way for recreation activities during the COVID-19 pandemic, and advised on installation of food distribution sites to support East Oakland Seniors
- Advised on and assisted with preparation of an ordinance that imposes a cap on food delivery service fees that are charged restaurants, effective during COVID pandemic and economic crisis.

- Advised Public Works, Department of Transportation and Contract Compliance on new electronic bidding and signature procedures necessitated by the COVID-19 shutdown and social distancing and other state, county and city health safety policies, and related contracts.
- Advised the Public Ethics Commission (PEC) on Brown Act and Sunshine Ordinance open meeting requirements and ethics laws and regulations, including conflicts of interest, gifts, mass mailings, incompatible activities, and post-employment activities. Advised and assisted the PEC to prepare amendments to the City's Campaign Reform Act and advised and assisted the PEC and staff with ethics investigations and procedures for enforcement and administrative hearings.
- Advised on policies addressing homeless encampments, including relocation and set up of parking sites and other relocation facilities, assisted with drafting of complex homeless-services legislation to accept and disburse critical grant monies from the State and federal governments, including Homeless Housing Assistance Program and Homeless Emergency Aid Program funds, and assisted with preparation of homeless services agreements.
- Advised the ADA Programs Division and city departments on matters of ADA compliance in City programs and on City property.
- Advised the City's Elections Officials (City Clerk) on issues related to administering the 2020 primary and general municipal elections.
- Drafted ballot titles, summaries, and impartial legal analyses on multiple ballot measures for the 2020 primary and general municipal elections. Advised and assisted City Administrator and staff to prepare emergency declarations and multiple emergency orders to enable the City to implement critical response measures.

## **Municipal Finance**

- Advised the City's Tax Administrator regarding enforcement and interpretation of Oakland's tax ordinances, including the business tax, parking tax, transient occupancy tax, real property transfer tax, Sugar-Sweetened Beverage Tax, Vacant Property Tax, and utility users' tax.
- Advised the City Administrator and various City departments regarding the use of monies including federal and state grant proceeds (including a large allocation COVID-19 relief CARES Act funds), tax-exempt bond proceeds, special tax revenues and other restricted funds.
- Advised the Budget Department and Controller on City budget matters, fund transfers and expenditures.

- Advised the Treasury Division on financing transactions including tax-exempt equipment lease agreements, banking contracts, outstanding financial obligations, mandated disclosures and reporting, responses to public records requests, and other City finances issues.
- Advised and assisted the Revenue and Management Agency in matters relating to debt collection, placement and enforcement of liens citywide.
- Advised City tax boards of review.
- Advised and assisted City appointed and elected officials with preparation of the Biennial Budget.
- Advised on and drafted multiple ballot measures for March 2020 and November 2020 elections, including Gann Limit Increase, Parks Tax, Youth Voting, Equitable Business Tax, and Transportation Network Company tax.
- Advised City departments on imposition and amendments to fees in the Master Fee Schedule for City services.
- Advised the City's Deferred Compensation Committee regarding administration of the City's Deferred Compensation Plans and contracting for administrative services.
- Advised the Police and Fire Retirement System board (PFRS) on the Brown Act and Sunshine, Public Records Act, estate and probate issues and other pension benefits issues., including negotiation of a pre-litigation settlement between the City and the Retired Oakland Police Officers' Association regarding monthly benefits payable to members who retired at the rank of captain or above.
- Drafted federal funding compliant COVID-19 emergency contract addendums and templates for FEMA and other COVID-19 fund eligible grants, construction, professional services and other purchases/operations/activities.

### **Contracts and Compliance**

- Advised City Administrator's Office, Division of **Contracts and Compliance** on all City contracting programs, policies and requirements such as Living Wage, Minimum Wage, Local and Small Local Business Enterprise Program, Local Employment and apprenticeship program, prevailing wages, Nuclear Freeze Ordinance, Equal Benefits Ordinance, Border Wall Ordinance, Oakland Disadvantaged Business Program, procurement and solicitation of bids and proposals, request for proposals/qualifications, and waiver of programs and requirements.

## **Public Works of Improvement, City Rights of Way, Transportation, Environment**

- Advised City Administrator and Departments of Public Works and Transportation on all legal issues and proposed legislation related to the City's infrastructure, public buildings and facilities, transportation, engineering and construction, environment, sanitary sewers, creeks, watershed and storm water drains, parks, and City landscapes, over one hundred construction professional services contracts for public improvements, garbage collection, recycling and site disposal franchise agreements, streets and sidewalks, and maintenance of the City right of way, encumbrance agreements and access agreements, tree and view ordinances, illegal dumping, homeless encampments, pothole, traffic, bicycle, scooters, and pedestrian programs, and disputes and claims related to these operations/activities.
- Advised the Parks and Recreation Department and Public Works Department on privately-funded park improvements, including contracts for donation of in-kind services and materials, and project construction agreements for improvements to sports fields and facilities, such as new basketball courts, baseball fields, soccer fields, and children's playgrounds.
- Advised the Departments of Transportation and Public Works on the Measure BB Transportation Expenditure Plan for major transportation capital improvement projects including street paving, curb, bicycle and pedestrian projects, bus projects, and technology innovation programs, the Alameda County Transit ("ACT") Rapid Bus project, including fiber optic cable installation issues and completion of project in City's right of way by ACT.
- Advised the Public Works Department on city franchises including, solid waste collection, recycling, cable, bicycle rentals, utility and other City franchises, and the scooter rental program.
- Provided ongoing advice re implementation of the Equitable Climate Action Plan (ECAP), and other environmental operations/programs of the City such as Community Choice Energy Joint Powers Authority and establishment of a citizen advisory committee.
- Advised Public Works Agency, City Council, City Administrator and the Mayor on the Piedmont Pines II Undergrounding project successful application for 20-A subsidy funds to the California Public Utilities Commission.
- Advised Public Works Agency with respect to proposed assessment district for the extension of Oakland's sewer main in the Oakland hills to comply with new state and county laws which require the elimination of non-conforming septic tanks in the Oakland hills and connection to the Oakland public sewer system.
- Advised Department of Transportation on the City-wide parking management agreement and the parking meter enforcement program, which now includes license plate recognition.



## Information Technology

- Advised Information Technology Department and City Administrator on various complex information technology, cyber and cloud-based business transactions and system maintenance contracts including:
  - Software as a Service (“SaaS”) project contracts (cloud-based project for licensing, software, maintenance, support and services, and data storage and retrieval)
  - Public Safety Systems Maintenance and Support (Motorola Solutions)
  - Upgrade of Police and Fire 911, CAD dispatch and new alarm systems
  - Cordata (new records storage system)
  - Trittech
  - Aviat
  - Federal Engineering
  - CAD/RMS Interface, Priority Dispatch and Update of System
  - Akumina
  - 5G/Small Cell Deployment
  - Public Address System Major Upgrade
  - City-wide WiFi Fiber Optic Project
  - Pulsepoint
  - Bound Tree Medical software
  - Outsystems
  - Presidio
  - SaraNet
  - PulsepointTT
  - Fuse Fellows
  - KTOP video equipment and cable upgrade
  - Prime Plus 2.0 (police officer tracking software)
  
- Also advised Finance, Budget and Treasury on the implementation of the City’s Parking Citation Contract, new Business Tax revenue collection system, Beacon Economics contract for Progressive Business Tax Study.
  
- Advised IT, City Administrator, Public Works Agency and Economic Development Department regarding proposed installation of fiber optic cable in Oakland’s public right of way to bring internet service to underserved neighborhoods.

## Land Use & Planning Unit

- Advised the Planning Department in its ongoing processing of a major development proposal to renovate and add housing to the Claremont Hotel and the City's proposed renovation project of the "Shortcut Path"
- Reviewed administrative draft CEQA documents for various development applications/projects (e.g., Claremont Hotel, 2401 Broadway, Two Kaiser Plaza, 1433 Webster Street, 1100 Broadway, 295 29th Street, 601 MacArthur, 1750 Broadway, 500 Kirkham, 800 Pine, 6733 Foothill, 914 W. Grand, West Oakland BART, 401 Alice Street, Leimert Bridge)
- Analyzed the potential expansion of the California Historic Building Code to low-rated properties on the City's cultural heritage survey
- Provided legal and procedural assistance to the Department of Transportation in implementing updates to the City's Bicycle Plan, transportation capital improvements, and the Telegraph Avenue paving and restriping project
- Reviewed and advised on various appeals of Impact Fees, including drafting findings and determinations for such appeals.
- Served as OCA's attorney at the dais for Planning Commission meetings
- Advised on conflicts of interest issues related to the Planning Commissioners
- Assisted in the finalization of disclosable records for various Public Records Act requests made to the Planning Department
- Assisted in drafting an ordinance to address the conversion, demolition and rehabilitation of Single Room Occupancy hotels, including the applicability of an emergency moratorium and potential Ellis Act restrictions on unit replacement requirements
- Provided advice to members of the City Council regarding franchise and sign relocation procedures for the digitization of billboards
- Advised on complex issues related to various appeals of permits as well as code enforcement appeals involving Planning Code violations (e.g., Suprema Meats, Mandela Hotel Project)
- Advised on the City's regulatory authority regarding site applications for wireless telecommunication facilities within the public right of way
- Advised on various matters related to the California Density Bonus Law, including interpretation issues on specific applications, challenges from

applicants regarding submittal requirements, and creation of a new Density Bonus application form

- Provided extensive legal support to draft and lead to adoption several ordinances proposed by City Councilmembers, such as the Condominium Conversion Ordinance and the "Straws Upon Request" Ordinance
- Drafted amendments to the City's Public Art Ordinance to allow for payment of in lieu fees as capital contributions to City arts facilities
- Provided extensive legal support regarding California AB 932 (shelter legislations) and the scope of the City's related regulatory authority, which enabled the City's implementation of various navigation centers and the community cabin program
- Reviewed various certificates of compliance under the Subdivision Map Act, 2017 Mills Act contracts, and Tree Removal permits
- Advised on various matters related to California SB 35, including interpretation issues on specific applications, challenges from applicants regarding submittal requirements, and creation of a new SB 35 checklist
- Advised on various complex development applications, including 900 Pine Street (supportive housing, maker space and multi-family housing); 412 Madison Street (157 apartment units, 89 garage parking spaces, and 1,300 square feet of ground floor commercial use); 1900 Broadway (450-unit apartment building at the historic Tapscott Building); 1431 Jefferson Street (Marriott Hotel); 1414 Martin Luther King Jr. Way (housing); Bishop O'Dowd High School (new outdoor sports facility); Aspire Charter School (Fruitvale); and 2100 Telegraph Avenue (up to 1.5 million square feet of office space and 395 housing units)
- Drafted public improvements reimbursement agreement for a project at 24th and Harrison
- Analyzed and advised on vested rights related to building permits
- Advised on CEQA compliance and development project processing for all Cannabis related project applications and assisted City Administration to develop Standard Operating Regulations for implementation of Chapters 5.80 and 5.81 of the Oakland Municipal Code regarding Cannabis applications and approvals
- Advised and assisted in drafting various Planning Code amendments, such as revisions to Transit Habitation Commercial Activities and correlated changes resulting from the Seismic Strengthening Ordinance.
- Advised on implementation issues related to the Oak Knoll Project, including the finalization of construction bonds and formation of a Mello Roos Financing District

- Provided legal support to City Administration for applications for Transformative Climate Communities Grants provided by the State of California Strategic Growth Council
- Providing legal analyses to City Administration on various proposed State housing, transportation, and planning impacting the City of Oakland
- Analyzed and advised on RLUIPA claims made by applicants proposing a Native American spiritual activity and Sweat Lodge on residential property

### **Real Estate Unit**

- Advised on legality of City granting a “cultural” easement to the Ohlone Tribe and prepared term sheet for such a grant
- Negotiated and drafted documents for Fox Theatre spaces, including a lease termination agreement, promissory note and security agreement with Rudy’s Can’t Fail Café and a restaurant lease and guaranty with Emporium
- Negotiated and drafted in-kind leases with Pro Arts and Bette Ono.
- Updated and extensively revised real estate form documents, including ENA, license, in-kind lease, commercial lease, easement, DDA’s, LDDA, etc.
- Provide on-going advice on Oakland Army Base matters, including issues related to lease administration, mitigation measure implementation, public improvements project, and grant requirements
- Negotiated and drafted an extension amendment to the Raiders license operating agreement at the Coliseum
- Negotiated and drafted a Naming Rights Agreement with Ring Central
- Served as OCA’s attorney representing the Oakland-Alameda County Joint Powers Authority as joint counsel on various matters
- Negotiated and revised management agreement with Shark’s organization for Oakland Ice Center
- Prepared and negotiated a Conduit Agreement with ExteNet
- Advised on and drafted various license agreements, including 11th Street Crane, 1911 Telegraph, 3550 Foothill, 7425 San Leandro, 796 66th Avenue, 9409 International, Lake Merritt Farmer’s Market, Class Parking Inc.,
- Advised on and drafted a DDA amendment and relate agenda materials for the 2016 Telegraph Project

- Reviewed and advised on CC&Rs for the 23rd and Webster Project
- Oversaw various closing issues, including finalization of the regulatory agreement, loan documents and ground lease, for the development and management of 94 mixed-income units at Fruitvale Transit Village IIA by East Bay Asian Local Development Corporation and Unity Council
- Prepared an ENA for 3035 International
- Drafted a purchase and sale agreement and multiple amendments for the acquisition of the 641 West Grand property and handled the closing of the property
- Drafted a purchase and sale agreement for the Girvin Street property and advised on various closing matters, including the application of the Surplus Lands Act and Council approval
- Prepared various Head Start leases
- Advised on and drafted an LDDA between the City and Orton Development for the Kaiser Convention Center Project
- Drafted and negotiated complex DDA between City and Lane Partners for 2100 Telegraph
- Advised on maintenance issues related to the 1111 Franklin Garage and related title and closing issues
- Advised and prepared agreements for use and management of AC Transit parking lots
- Advised on issues related to the Derby Street/Aspire Charter School transaction, including input on the Council report and proposed ordinance for disposition of the City property
- Advised on and revised license agreement for KTOP
- Drafted EBMUD Parking Garage Lease and Entry Permit and advised DOT on related legal issues
- Prepared Right of Entry for Air Quality Management Agreement and Bill of Sale for Air Quality Management Agreement
- Provided ongoing advice to the Oakland Workforce Development Board, including assisting in the preparation of responses to the Grand Jury Report regarding the Oakland Workforce Development Board
- Negotiated and drafted a Utility Easement for EBMUD

- Drafted License Agreement between the City of Oakland and West Oakland Job Resources Center for space at the West Oakland Branch of the Oakland Library
- Drafted predevelopment loan documents for the Friendship Senior Housing Project
- Drafted loan documents for Measure KK funds to provide rehabilitation funding for Fruitvale studios
- Drafted loan documents for the Empyrean Harrison Hotel project
- Drafted predevelopment loan documents for the Macarthur Affordable Units project
- Reviewed and provided comments to the City's loan commitment letter for the 3268 San Pablo Housing Development
- Researched and advised on disposition rules related to personal property acquired with federal grant funds
- Negotiated a Storm Drain Easement Agreement between City of Oakland and San Francisco Bay Area Rapid Transit District
- Negotiated Fund-Pass Through Agreement between City of Oakland and San Francisco Bay Area Rapid Transit District in connection with the Go-Uptown project
- Assisted in the preparation of responses to inquiries relating to the City's regulatory agreement and tenant rents at the Uptown housing development
- Drafted loan documents for the Cannabis Equity Assistance Program
- Advised on and reviewed various resolutions related to affordable housing NOFAs and Council resolutions
- Revised form grant agreement for WIOA grants issued by the Workforce Development Board and reviewed various related grant agreements to entities such as the West Oakland Job Resource Center, Lao Family Community Development, Spanish Speaking Unity Counsel, Youth Employment Partnership, Inc., and Youth Uprising for Summer Jobs services

# GENERAL PUBLIC SAFETY, CODE ENFORCEMENT & RENT UNIT

## Building/Code Enforcement

- Advised on and drafted ordinance amending and updating Building Maintenance Code
- Advised Housing Resource Center and Building Code Enforcement staff on Code Compliance Relocation Program issues.
- Represented City in Building Code enforcement appeal hearings and in pre-hearing negotiations.
- Advised Bureau of Building staff on interpretation of Alameda County's Shelter-in-Place Orders during COVID-19 pandemic
- Regularly staffed Bureau of Building and Fire Prevention Bureau's meetings on Code Enforcement regarding dangerous buildings with residential occupancies.
- Advised Code Enforcement staff on enforcement issues related to numerous blighted, substandard, and nuisance properties.
- Reviewed and revised code enforcement materials and forms related to violations, orders, and appeals.
- Advised Planning and Building staff on policies and procedures related to issuance of civil and administrative citations.
- Obtained inspection and abatement warrants for blighted, substandard, and nuisance properties.
- Worked with Code Enforcement management and staff to revise Standard Operating Procedures.
- Prepared receivership actions for nuisance properties.
- Advised Code Enforcement staff on various encroachment issues.
- Coordinated with Code Enforcement staff to minimize displacement of tenants at numerous substandard and otherwise non-code-compliant properties.
- Participated in nationwide policy sprint on the development and implementation of proactive rental inspection programs.
- Advised Building Code Enforcement regarding abatement of dangerous conditions at properties containing unsafe conditions related to improper excavation, failing retaining walls, crumbling structures, and unstable hillsides.

- Negotiated Compliance Plan Agreements for owners of substandard properties to bring their properties up to code.
- Advised Housing Resource Center on implementation, forms, and materials related to Code Compliance Relocation Program.
- Reviewed and revised clean-up/board up processes and contracts for blighted properties.

## **Cannabis**

- Advised City Administrator's office on commercial cannabis activity permitting and enforcement issues, including questions arising in response to COVID-19.
- Drafted ordinance amending Oakland's commercial cannabis activity permitting rules to allow a cannabis business applicant who previously qualified as an "equity applicant," to receive equity assistance program services up to two years from the date such applicant was verified as an equity applicant, regardless of applicant's current income or residency.
- Advised City Administrator's Office on Public Records Act compliance related to commercial cannabis activity licenses, permits, and approvals.
- Reviewed City contracts for vendors for the provision of technical assistance and legal services to cannabis equity applicants.
- Advised City Administrator's office in the promulgation of administrative regulations concerning various aspects of commercial cannabis activity pursuant to Chapters 5.80 and 5.81 of the Oakland Municipal Code.
- Reviewed agreements for City Administrator's office to conduct loan programs and technical assistance for equity applicants under City's cannabis program.
- Advised City Administrator's office on drafting an Executive Order for special rules for cannabis permit approvals and appeals during COVID-19 pandemic.
- In conjunction with the Land Use Unit, advised City Administrator's office regarding interpretation of City's location requirements for commercial cannabis permittees.
- Advised City Administrator's office regarding issuance of special event permits involving commercial cannabis activity.
- Reviewed and prepared resolutions authorizing the City to receive state grants to fund equity applicants by issuing loans and grants.
- Advised Department of Planning and Building, City Administrator's office and other City departments on enforcement issues related to unlicensed cannabis dispensaries and other cannabis operations.



- Advised Building Code Enforcement on displacement issues related to cannabis operations.
- Advised City Administrator's office regarding City's application and proposal for use of state grants for local equity grant funding.
- Provided training to Cannabis Regulatory Commission on the Brown Act, Oakland's Sunshine Ordinance, and Roberts Rules of Order.
- Advised on due process, administrative appeals, and related issues for City Administrator's office in context of City's enforcement on unauthorized cannabis licensees and non-compliant licensees.

## **Fire**

- Drafted ordinance adopting local amendments to the 2019 state fire code, including establishing a formal administrative appeals process.
- Advised Fire Prevention Bureau on a wide range of enforcement issues, due process concerns, Fourth Amendment law and property inspections, fire watches, staff cost recovery and master fee schedule questions, and related policies including vegetation management and fire-safety inspections.
- Reviewed and prepared resolutions authorizing grant agreements, intergovernmental memorandums of understanding, and equipment procurement for the Fire Department.
- Advised Fire Department on Public Records Act compliance.
- Worked with Fire Prevention Bureau staff and coordinated with Alameda County to ensure property owner compliance with vegetation management provisions of the Fire Code.
- Advised Fire Department executive staff and City Administrator regarding the City's memorandum of understanding with Alameda County to provide paramedic services in Oakland.
- Reviewed procurement and services contracts for the Fire Department.
- Counseled Fire Prevention Bureau enforcement issues at substandard and dangerous building including red-tagging and avoiding tenant displacement.
- Advised Fire Department and City Administrator regarding City's memorandum of understanding with Alameda County to provide fire services to the City of Emeryville.

- Advised City Administrator and Fire Department regarding City's memorandum of understanding with the Port of Oakland for aircraft rescue and firefighting services.
- Advised Fire Prevention Bureau regarding Fire Code enforcement related to unpermitted commercial cannabis operations.

### **Privacy Advisory Commission**

- Staffed monthly meetings of the Privacy Advisory Commission.
- Advised Oakland Police Department (OPD) and City Administrator's office regarding compliance with City's Surveillance Technology and Community Safety Ordinance and other City policies concerning privacy issues and intergovernmental agreements with federal agencies.
- Provided support to City Attorney's Police Counsel on procedural and legislative drafting questions for compliance with the City's rules on local surveillance technology, and on behalf of OPD, negotiated with federal agency legal counsel terms favorable to the City under draft memorandum of understanding.
- Provided support to City Attorney's legal counsel assigned to Department of Transportation and Public Works to ensure procurement legislation complied with the City's rules for acquisition of surveillance technology.

### **Rent Program**

- Advised City Council, Mayor, Rent Adjustment Program staff, and Housing, Residential Rent, and Relocation Board (Rent Board) on a broad range of rent and eviction regulatory matters.
- Researched, drafted, and shepherded through the legislative process the Fair Chance Access to Housing Ordinance, to improve access to housing for persons with criminal records and reduce homelessness.
- Advised City Council, Mayoral staff, and Rent Program staff on the impact of state Tenant Protection Act of 2019 on Oakland's rental housing.
- Researched, drafted and shepherded through the legislative process the Emergency Eviction Moratorium Ordinance and extension ordinances that protect residential and commercial tenants from evictions during the COVID-19 Local Emergency.
- Advised Rent Program regarding the issuance of Administrative Citations.

- Provided training to Rent Program staff on state and local law related to rent control including Rent Adjustment Ordinance, Just Cause for Eviction Ordinance, various relocation ordinances, the Ellis Act, and other landlord-tenant regulations.
- Advised Councilmembers on conflict of interest issues related to the ownership of rental housing by public officials.
- Staffed weekly Rent Board meetings and advised Board regarding the adjudication of disputes under the Rent Adjustment Program Ordinance.
- Advised Councilmembers and Rent Program staff of applicability of Governor's 2020 Executive Order related to evictions.
- Successfully defended the Rent Board in writ proceedings in Superior Court
- Reviewed procurement and service contracts for the Rent Adjustment Program.
- Assisted litigation division with *Ballinger v. City of Oakland* litigation challenging the City's Tenant Relocation Ordinance.
- Reviewed grant agreements to provide counseling for homeowners and tenants as well as eviction defense services for tenants.
- In conjunction with City Attorney's Land Use unit, provided advice on Condo-Conversion Ordinance and policies.
- Assisted litigation division with *Smith v. City of Oakland* litigation challenging the new construction exemption under the City's Rent Ordinance.
- Provided trainings to Housing Residential Rent and Relocation Board members or on state and local law related to rent and eviction control.
- Negotiated settlement of writ petitions filed against the Housing Residential Rent and Relocation Board.
- Drafted regulations for the Emergency Eviction Moratorium Ordinance.
- Developed City informational notices for housing providers and tenants regarding the newly enacted Fair Chance Access to Housing Ordinance, which were distributed citywide and published on the City's website.
- Trained incoming RAP staff members on state and local laws related to housing habitability, tenant relocation, tenant buyout agreements, security deposits, and other common landlord-tenant issues.
- Assisted with updating of Rent Adjustment Program petition forms.
- Researched, drafted, and introduced ordinance amending the Tenant Protection Ordinance, Rent Adjustment Ordinance, Just Cause for Eviction Ordinance, and

various ordinances related to tenant relocation payments to enhance protections against tenant harassment, create additional defenses to eviction, and conform with changes in state law.

- Successfully defended the City in *Owens v. City of Oakland*, resulting in a published decision establishing the Costa-Hawkins Rental Housing Act does not exempt all single-family-homes from local rent control.
- Advised Housing and Community Development employees on public inquiries related to the newly enacted Fair Chance Access to Housing Ordinance.

### **General Public Safety**

- Staffed the bimonthly City Council Public Safety Committee meetings and advised on the Brown Act, Oakland's Sunshine Ordinance, Council Rules of Procedure, and specific items on the meeting agenda.
- Advised Police Department on issues related to alcohol and tobacco inspections and enforcement.
- Represented City at Tobacco Retailer's License revocation hearings.
- Advised City Administrator, Police Department and Fire Prevention Bureau on cabaret inspections and enforcement actions.
- Worked with Police Department to close nuisance commercial establishments including unlawful gaming facilities and other nuisance properties.
- Advised City Administrator's office on multiple issues related to homeless encampment management policies and procedures.
- Advised Animal Control Services on issues related to wild turkey attacks in Morcom Rose Garden.
- Provided support to Litigation Team on actions involving rental housing, unlawful detainers, building and fire code enforcement, and homeless encampment management issues.
- Researched, analyzed, and drafted an emergency ordinance changing local rules for the sale of tobacco products including eliminating the "tobacco store" exception to the City's general prohibition on the sale of flavored tobacco products and prohibiting pharmacies from selling tobacco products.
- Reviewed Resolution authorizing an agreement with FUSE Corps to provide an executive-level fellow to assist the Housing & Community Development Department.
- Advised City Administrator on nuisance enforcement matters.

## **SPECIAL INITIATIVES & PROGRAMS**

### **Open Government Program**

The City Attorney's Open Government Program advises the Mayor, Councilmembers, City Auditor, City Administrator, City departments, boards, commissions, regarding transparency and accountability in City government. The program provides technical and legal assistance to City departments regarding public records requests. We also advocate and provide advice regarding compliance with 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 FY 2019-20, the Open Government Coordinator reviewed, responded to and facilitated more than 1,000 public records requests involving thousands of pages of documents.

## **CONCLUSION**

I am honored to serve as City Attorney for our enlightened, progressive and innovative City. Oakland recognizes and champions the use of the law as a powerful and effective tool to improve our community, and to empower, protect and advance the interests of all Oaklanders. I and my team are dedicated to vigorously and astutely defending Oakland's policies, programs and laws in court, and to initiating legal action and other initiatives to uphold and advance the constitutional, civil and other legal rights, economic interests and the quality of life of all of our residents.

Our faithfulness to accountability and fiscal responsibility and our commitment to fair, honest, open, non-discriminatory and equitable City practices continue to provide the framework that guides our mission. I am grateful to the Oakland electorate for giving me the opportunity to serve the City I love.

### **About Barbara J. Parker**

Barbara Parker is the City Attorney for Oakland, California. An Oakland resident for four decades, Parker is an advocate for civil rights, race and gender equity, women's empowerment and children's issues.

In July 2011, the City Council appointed Ms. Parker to complete the term of the first elected Oakland City Attorney. In November 2012, Oakland voters elected Ms. Parker to a four-year term as Oakland's second elected City Attorney. In November 2016 Oakland voters elected Ms. Parker to a second four-year term. Ms. Parker ran unopposed.

Ms. Parker is the first and only African American woman elected to city-wide office in Oakland. Ms. Parker has commented: "This is an honor, but it also is a sad

commentary on the current state of affairs that at this late date only one African American woman has held City-wide elected office.”

In 2020 Ms. Parker was overwhelmingly elected to serve a third term as Oakland’s City Attorney by 80% of the votes cast.

In an award-winning legal career spanning more than four decades, Parker has developed extensive expertise as an attorney in the private sector and at all levels of government, including work in the private sector for two major law firms and two major corporations, more than five years as an Assistant United States Attorney for the Northern District of California, and more than 10 years as Chief Assistant City Attorney (second in command in the Oakland City Attorney’s Office).

Ms. Parker was born and raised in Seattle, Washington, where her parents migrated to escape the grinding poverty and legalized oppression of sharecropping in the rural, segregated South. Ms. Parker holds a Bachelor of Arts Degree in Economics from the University of Washington. Ms. Parker graduated from Harvard Law School determined to use the law as a tool to make justice and equality a reality.

Ms. Parker has resided in Oakland’s Haddon Hill neighborhood near Lake Merritt for more than 31 years. Barbara is the proud parent of Savannah Williams, a Spelman College graduate, and the bursting-with-pride grandparent of Koda and KJ.

### **Contact Information**

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