OAKLAND CITY ATTORNEY'S OFFICE

Annual Report

FISCAL YEAR 2020-2021

law in the service of the public

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MESSAGE FROM CITY ATTORNEY BARBARA J. PARKER

I am pleased to provide our Annual Report for Fiscal Year ("FY") 2020-21 (July 1, 2020 through June 30, 2021). 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 2020-2021 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 2020-2021 exceeded $20.88 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 2020-2021, 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 of 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 75% of claims and 69% of lawsuits for zero dollars.

✓ **Payments for Settlements and Judgments:** The total amount the City paid for settlements and judgments was $17.96 million this fiscal year, an increase from $9.10 million during the prior fiscal year. This increase can be attributed to the $13 million settlement of the 31st Ave Warehouse fire (sometimes referred to as the "Ghostship Fire"). The City's insurer PRISM reimbursed the City for $13.399 million for settlement and case expenditures associated with this matter.

The number of settlements over $100,000 decreased from thirteen in FY 2019-20 to seven in FY 2020-21.

✓ **Outside Counsel Costs:** Outside counsel fees and costs were $9.78 million in FY 2020-21, **approximately $4.5 million lower than the prior Fiscal Year (2019-20).**

The decrease is primarily attributable to the reduction in litigation costs associated with two lawsuits: (1) *Oakland Bulk and Oversized Terminal ("OBOT") et al. v. City of Oakland* and *City of Oakland v. OBOT et al.,* litigation regarding the 66-year ground lease of the West Gateway located at the former Oakland Army Base for development of a bulk commodity terminal; and (2) 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.

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 $311,000. 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"); OPD has the responsibility to conduct such investigations and paid those fees; those fees total $511,727. 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, the Neighborhood Law Corps and Housing Justice Initiative Units of our Affirmative Litigation, Innovation and

Enforcement Division working with other city departments and/or non-profit partners, successfully intervened in ten cases to immediately protect tenants and allow them to stay in their homes.

- **Tenant Protection Ordinance**—in July 2020, City Council unanimously passed amendments to strengthen the Tenant Protection Ordinance (TPO), Just Cause for Eviction Ordinance (JCO), Rent Adjustment Ordinance, and related relocation ordinances. The amendments improve protections for tenants facing harassment, provide increased security from eviction, and ensure local ordinances conform to changes in state law. The City Attorney crafted and co-sponsored this legislation with Councilmember Nikki Fortunato Bas and Council President Pro Tempore Dan Kalb.

- **Housing Justice Initiative –** in October 2020, the City Attorney launched a Housing Justice Initiative Unit ("HJI") to increase our Office's capacity to advocate in numerous ways to protect Oakland tenants' fundamental rights to safe, healthy, and dignified housing. HJI coordinates with partners across the city and across non-profit and philanthropic sectors to advance this crucial work. The San Francisco Foundation awarded the City Attorney's office two grants to support this initiative.

- **Tenant Protection Lawsuit** – In May 2020*,* the City Attorney secured a 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 and 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.

- 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.

- **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. In late 2020, the City Attorney's Office finally secured a full settlement of these claims.

- **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 continued 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.

- **Trump's Unprecedented Deployment of Federal Agents to Progressive Cities**—the City Attorney, representing Oakland, joined Portland and the Public Rights Project, a national nonprofit, in filing a lawsuit challenging the Trump Administration's unparalleled effort to misuse federal power to quash civil protests in progressive United States cities, and to engage in policing, surveillance, and other law enforcement activities on and off federal property. The White supremacist insurrection on January 6, 2021 in Washington, DC further highlighted the biased ways in which the Trump Administration applied their policies about protecting federal property.

- **Trump's Unconstitutional Efforts to Exclude Undocumented Immigrants from the Census**--Oakland joined then-California Attorney General Xavier Becerra, the cities of Long Beach and Los Angeles, the Los Angeles Unified School District, and the County of Los Angeles in a lawsuit against the Trump Administration's July 2020 memorandum aimed at excluding undocumented immigrants from being counted in the 2020 Census for the purposes of Congressional reapportionment. The District

Court granted a significant victory to the state and local government coalition by striking down the Trump Administration's obviously discriminatory efforts.

- **Gender-Inclusive and Gender-Neutral Language Resolution**-- In October 2020, City Council passed a resolution crafted by our Office and co-sponsored by the City Attorney, Mayor Libby Schaaf, City Council President Rebecca Kaplan, and City Councilmembers Sheng Thao, Lynette Gibson McElhaney, and Nikki Fortunato Bass. The resolution established a pathbreaking, progressive policy requiring that City laws, policies, and communications use terminology that accounts for all gender identities and does not assume or prescribe any specific gender. The resolution also included a plan to submit a City Charter amendment to the voters in 2022 that will update the Charter to be consistent with the City's future-facing policy.

- **Slavery-Era Disclosure Resolution -** In October 2020, the City Council passed a resolution co-sponsored by the City Attorney, Vice Mayor Reid, and Councilmember Taylor directing the City Administrator to implement and provide updates on implementation of the City's Slavery Era Disclosure Ordinance, which officially acknowledges the abomination of African enslavement and its ongoing devastating ramifications and legacy of discrimination against the descendants of enslaved Africans. The Resolution further requires a full and accurate disclosure to the public of the scope of historical ties to slavery within Oakland.

- **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

(3) Fighting for Environmental Justice

- **Cleaning up Toxic Lead Paint** – After nearly two decades of litigation, the City Attorney, with other jurisdictions, recently had settled a $305 million lawsuit against lead paint manufacturers to remove toxic lead paint from homes that is poisoning and disabling children and began to develop plans and procedures to remove the toxic lead paint in Oakland properties and residences.

- **Cleaning up Monsanto's Contamination of Waterways** – The City Attorney, as a lead plaintiff recently had settled a national class action lawsuit against chemical giant Monsanto for $550 million for contaminating Oakland's storm waters and the Bay and waterways across our country with toxic PCBs. The settlement will be judicially approved - Oakland's share of the class settlement is $7,500,000. 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 mitigation and adaptation necessary to protect Oakland due to climate changes caused by their fossil fuels products. The Ninth Circuit Court of Appeals reinstated our lawsuit following the trial court's dismissal of our lawsuit, and the U.S. Supreme Court declined to reverse the Ninth Circuit's decision.

- **Illegal Dumping** – the City Attorney continues work to hold accountable individuals who are responsible for illegal dumping.

(4) Promoting Public Health and 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 public nuisance 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 disproportionally impacted Oakland's African American and homeless populations. The lawsuit, which the City Attorney and other litigating jurisdictions brought to trial this fiscal year, sought civil penalties, injunctive relief and a monetary abatement fund. Meanwhile, the City Attorney also worked closely and collaboratively with numerous other local governments to negotiate the California allocation of national settlement funds from major opioid companies. The court trial began on April 19, 2021 and we expect a ruling from the court in the Fall of 2021.

- **Enforcing Oakland's Paid Sick Leave Law**-- In December 2020, the City resolved a longstanding investigation into Southwest Airlines by entered into a landmark settlement agreement regarding alleged violations of Oakland's municipal sick leave law at Oakland International Airport (OAK). The City Attorney's multi-year investigation into Southwest's leave policies and practices led to this agreement, which: (1) restored rightfully earned sick leave hours to Oakland ground crew employees; (2) ensured that Southwest's practices fully comply with Oakland's sick leave law going forward; (3) required that Southwest pay civil penalties; and (4) allowed Oakland ground crew employees to use their union's grievance procedures for any adverse employment consequences that flow from Southwest's non-compliant prior policies.

(5) Protecting Oakland's Financial Stability and Services

- **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 the City 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 Divisions), 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. The Advisory Division includes the Real Estate Unit, Land Use and Planning Unit, General Government & Finance Unit, and the Code Enforcement, Rent & General Public Safety Unit.

Litigation Divisions

The **Litigation Divisions** represent 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 **General & Complex Litigation Division** advocates for the City's interests in claims and lawsuits that are filed against 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. This Division includes the Law & Motion, Writs and Appeals Unit, Claims, Paralegals and the General and Complex Defense Unit.

The **Affirmative Litigation, Innovation and Enforcement Division** files and prosecutes lawsuits and other affirmative proceedings on behalf of the City and the People of Oakland. The Division includes the Neighborhood Law Corps, the Community Lawyering & Civil Rights Unit and the Housing Justice Initiative.

The **Neighborhood Law Corps** ("NLC") established in 2003 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** ("CLCR") Unit - established in 2016 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.

The **Housing Justice Initiative Unit** – established in 2020 is an initiative serving as a force multiplier for protecting vulnerable tenants in Oakland's diverse neighborhoods. HJI increases OCA's capacity to advocate in numerous ways to defend the basic rights of Oakland tenants to safe, healthy, and dignified housing.

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. The Division includes the Labor & Employment Unit and the Police Departmental Counsel Unit.

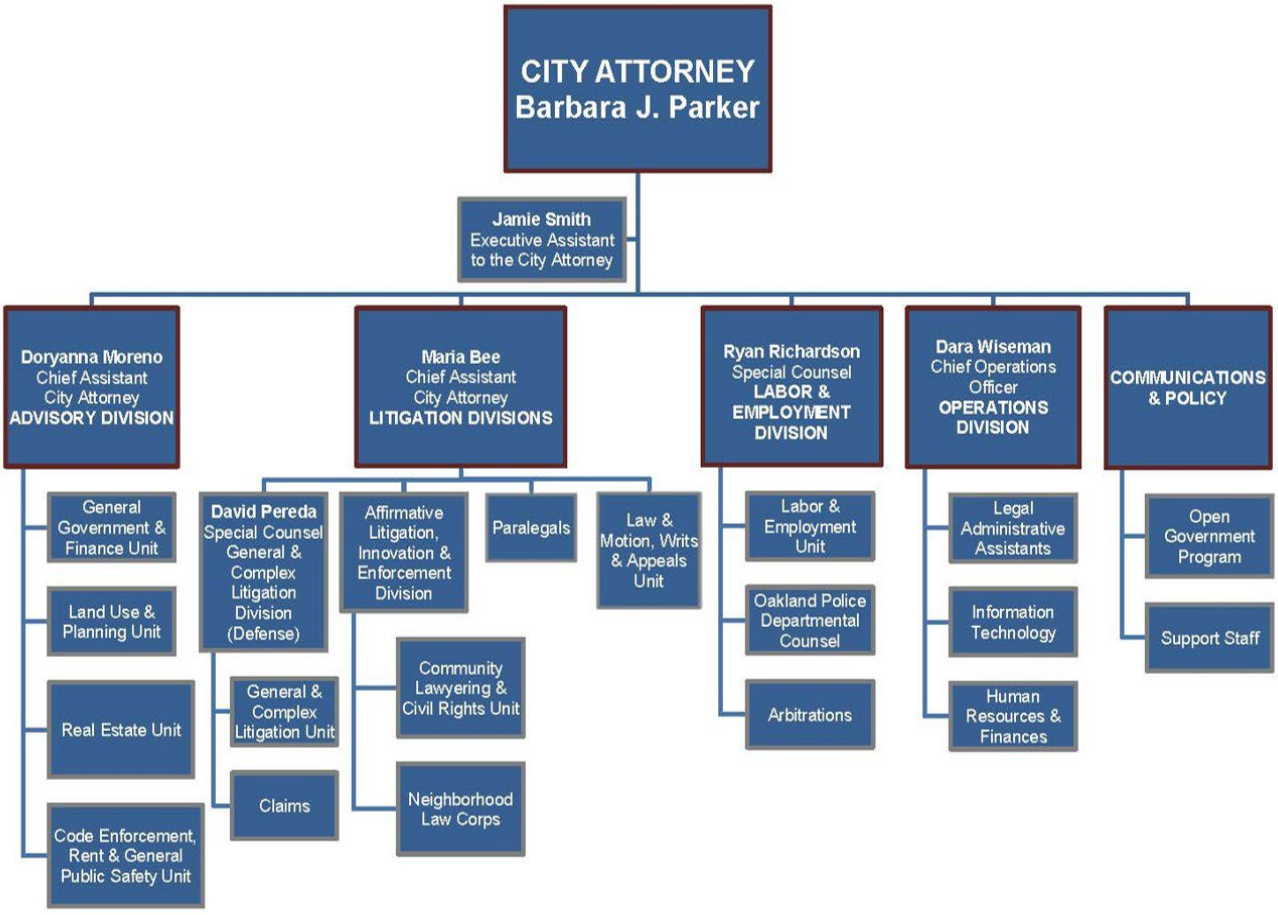
Operations Division

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 76-member staff included 65% women and 68% people of color, plus a wide range of ages and LGBTQ employees.

Our Team Includes:

- 47 attorneys: City Attorney, two Chief Assistant City Attorneys, four Special Counsel, five Supervising Deputy City Attorneys, 31 Deputy City Attorneys and five Neighborhood Law Corps attorneys. Our current attorney staff is approximately 68% people of color and 65% women.

- 28 support staff: three Executive Assistants, nine Paralegals, seven 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 85% people of color and 79% 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 was **$9.78 million this fiscal year**. **This is approximately $4.5 million less than the 2019-20 fiscal year**. Five complex cases accounted for forty-two percent of the total cost of outside counsel fees.

Payments for Judgments and for Settlements of Claims and Lawsuits

The amount the City pays to resolve claims and lawsuits, including settlements and judgements 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 was **$17.96 million this fiscal year.** This is $9.10 million more than the prior fiscal year. The increase is attributable to the $13 million settlement of the 31st Ave Warehouse fire.

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 settlements of claims and lawsuits that exceed $25,000.

Office Budget & Expenses

This year, the Office's budget totaled **$20.88** 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 retains outside counsel to handle legal work when:

(1) cases require specialized expertise that our office does not have, e.g. bankruptcy or complex tax issues;

(2) the City, a City board or commission, an employee, the City Attorney or another City official has a conflict of interest;

(3) 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) 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 key factor in selection of outside counsel. To submit qualifications or read the outside counsel selection policy, go to 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, budgets have not restored the majority of the positions that our Office 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 enacted.

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.

In FY 2020-21, five complex cases accounted for almost half (42 percent) of all outside counsel costs for the year (see Figure 2 below):

(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 City-owned parcel of land located at the former Oakland Army Base. After studying the impacts of coal, the City determined that it would expose current and future residents to conditions that would be substantially dangerous to their health and safety and banned coal on the parcel. 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) ***1305 31st Avenue Warehouse ("Ghost Ship") Fire*** - Three groups of Plaintiffs sued the City and other defendants based on the tragic warehouse Ghost Ship fire at 1305 31st 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.)

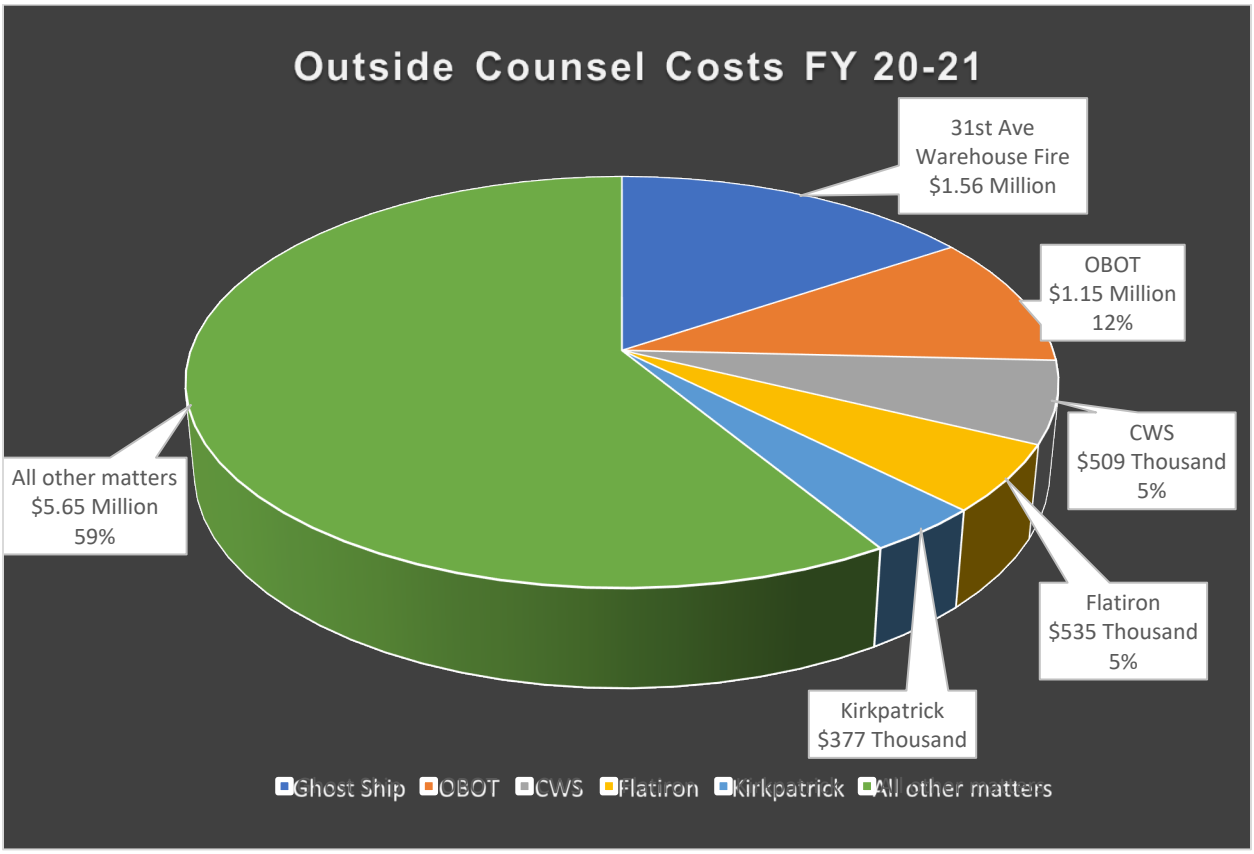
(3) ***City of Oakland v. California Waste Solutions*** - The City filed suit against California Waste Solutions ("CWS") on March 20, 2017 for breach of contract (and other related claims, such as declaratory relief, reformation of contract, breach of implied covenant of good faith and fair dealing, and promissory estoppel) relating to the Residential Recycling Collection Services Contract ("Recycling Contract") entered into between the City and CWS on July 1, 2015. The Recycling Contract gave CWS the exclusive right to provide Oakland residents residential recycling collection services. In the City's lawsuit, the City alleges that CWS breached the contract by overcharging for the service of bringing plastic recycling carts to the curbside for collection for multi-family dwellings. The suit seeks to recover approximately $7 million on behalf of Oakland residents who were overcharged. CWS counterclaimed alleging that the City mis-approximated the number of units that CWS would service under the Recycling Contract, which negatively impacted CWS's revenues.

On December 21, 2021, City Council approved a settlement of the lawsuit and counterclaims. The settlement included a correction to CWS's service charges, a refund to Oakland residents of all past overpayments, a payment of $1.7 million from the City to CWS, and $1.5 million of cost reductions in CWS's obligations under the Recycling Contract.

(4) ***Flatiron v. City of Oakland*** – Flatiron was the general contractor on the construction of a new Embarcadero Bridge, which originally was $16 million project. Flatiron was the general contractor on the construction of a new Embarcadero Bridge, which was originally a $16 million project. Flatiron raises various breach of contract claims against the City, primarily focused on alleged damages caused by delays to the project. Many of those delays were connected to permitting issues which were the responsibility of subcontractors that provided design and engineering services on the project, and the City has cross-complained against the designers. The bridge is also not built to specification and lacks the camber (arching) called for in the design, and the City has a cross-complaint against Flatiron for that and other damages, including sidewalks and ramps that do not comply with ADA standards. The City is also exploring whether Flatiron may have submitted unsupported claims for payment.

(5) ***Kirkpatrick v. City of Oakland*** - -In February 20, 2020, the Oakland Police Commission voted (7-0) to terminate Former Police Chief Kirkpatrick without cause, joining the Mayor's decision to terminate Kirkpatrick without cause. Pursuant to the employment contract, Kirkpatrick was entitled to 12 months of compensation as severance in exchange for executing a standard release. Kirkpatrick rejected the severance and filed a wrongful termination lawsuit alleging that the termination decision was in retaliation for Kirkpatrick's alleged whistleblowing and protected speech (under the First Amendment).

FIGURE 2: Breakdown of outside counsel costs FY 2020-21

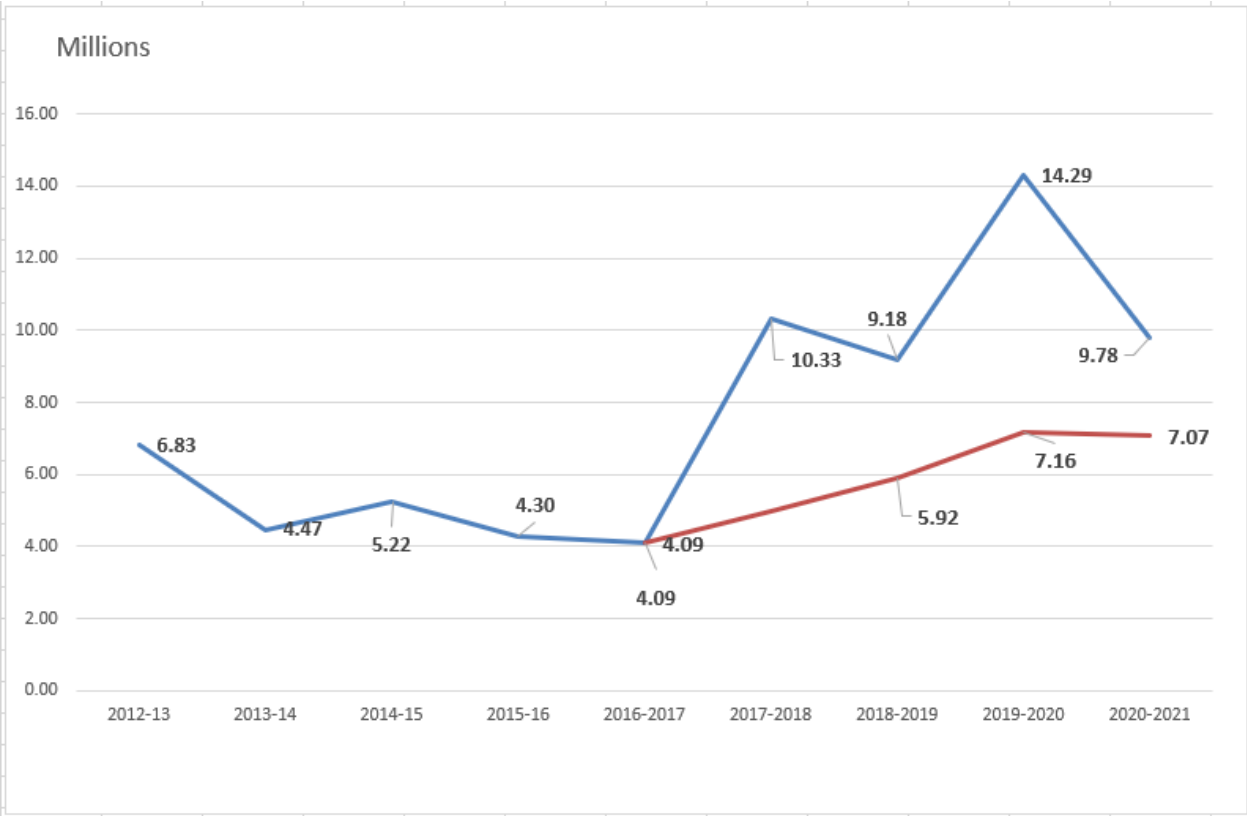


Excluding expenditures for the OBOT and Ghost Ship fire law suits, outside counsel costs remain in line with outside counsel costs in the preceding years. In FY 2018-19, the total cost of outside counsel without these two cases was $5.92 million; in FY 2019-20, the total cost of outside counsel, subtracting these two cases, was approximately $7.16 million. In the current fiscal year, the total cost of outside counsel, subtracting these two cases, was $7.07 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. If we adjust the amounts to reflect the national inflation rate, the total outside counsel costs for FY 2020-2021 (excluding OBOT and the 31st Avenue Warehouse lawsuits) are **LESS** than the total FY 2012-2013 outside counsel costs in today's dollars. ($8.92M inflation adjusted for FY 2012-2013 compared to $7.07M for FY 2020-21).

See U.S. Bureau of Labor Statistics inflation calculator at: https://www.bls.gov/data/inflation_calculator.htm.

The chart below shows the total cost of outside counsel including and excluding expenditures in the OBOT and Ghost Ship matters.



*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 2020-2021 (excluding OBOT and the 31st Avenue Warehouse lawsuits) are **LESS** than the total FY 2012-2013 outside counsel costs in today's dollars. ($8.92M inflation adjusted for FY 2012-2013 compared to $7.07M for FY 2020-21).

See U.S. Bureau of Labor Statistics inflation calculator at: https://www.bls.gov/data/inflation_calculator.htm.

PAYMENTS

Totals

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

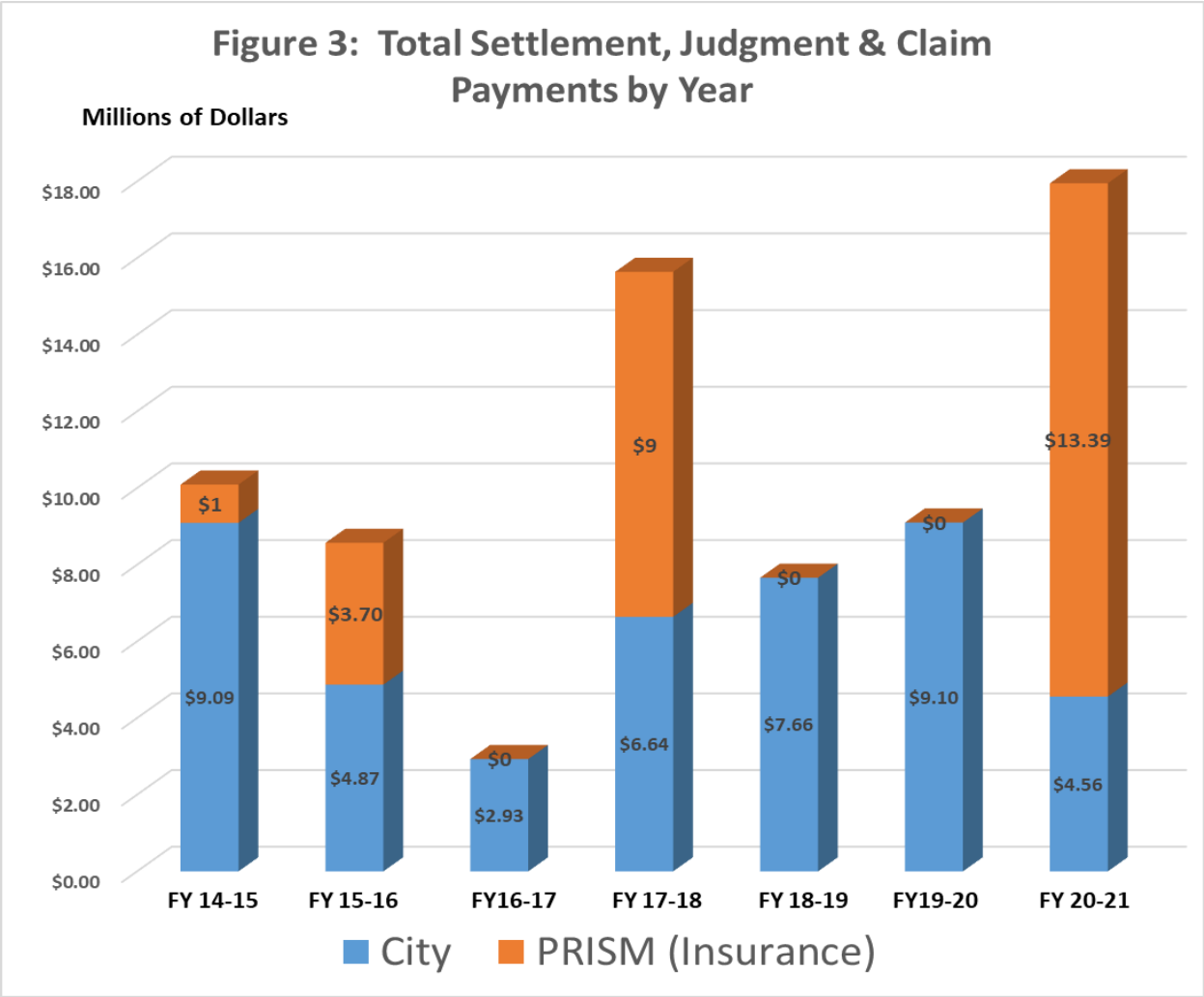
The total amount of payments varies from year to year depending on many factors, including the types and complexity of claims and lawsuits filed against the City and when cases are resolved.

The total amount of payments this year was $17.96 million, up from $9.10 million (an increase of $7.86 million), in the prior fiscal year. This increase can be attributed to the $13 million settlement of the 31st Ave Ghost Ship warehouse fire. Excluding this settlement, the total amount of payouts was 50% lower than previous year (FY 2019-20). **Payouts, without the warehouse fire settlement ($4.56 million), were they lowest they have been since FY 2016-17**.

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."



PRISM, the City's excess insurance carrier paid $13.39 million of the $17.96 million in total payments to plaintiffs in claims or lawsuits against the City. This is because total expenditures in the 31st Ave Warehouse fire case, exceeded the City's self-insurance limit of $5 million per case. This triggered PRISM's obligation to pay $13.399 million of the $17.96M. 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 table below summarizes cases that resulted in payments of more than $100,000 in FY 2020-21. In this fiscal year, one settlement (Ghost Ship), accounted for the overwhelming majority of total payments.

Table 2: Payouts of Claims and Lawsuits of More Than $100,000 FY 2020-21

Case	Type	Payment
1315 31st Avenue- (Ghost Ship Fire Litigation)	Settlement regarding injuries and deaths resulting from the Ghostship warehouse fire	$13,000,000.00
Gilbert, John	Alleged injury resulting from riding bicycle over pothole and falling.	$1,750,000.00
Pawlik, Kelly as successor to decedent Joshua Pawlik	Alleged that OPD unleashed barrage of gunfire, resulting in decedent's death	$1,321,728.00
Saites, Christopher Robert	Alleged facial and other injuries resulting from riding motor scooter over pothole	$185,000.00
Smith, Najari	Alleged racial discrimination and unlawful arrest	$147,500.00
Shine, Mayonah; Griffin, Brazil	Alleged guardrail dislodged and fell on plaintiff's vehicle.	$133,333.33
Tiffer, Denise	Alleged fall and injury due to a large separation in pavement	$100,000.00

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 2020-21 saw a reduction in payments related to police matters. The amount of police related payments in this fiscal year totals, **$1,769,866 (Table 3),** which is well below the five-year average of annual police related payments of **$4,584,400**.

Payments in the category of infrastructure totaled **$2,795,467 in FY 2020-21 (Table 4).** This represents a decrease of $682K compared to the prior fiscal year, FY 2019-2020, and is slightly below the five-year average of **$2,981,962** for payments in this category.

Payments in the category of city vehicle accidents totaled **$330,862 in FY 2020-21 (Table 5),** a major decrease of $2.65M compared to FY 2019-20. This amount may prove to be an aberration as it was the lowest payout amount in this category over the past five years. The five-year average for payouts in this category is **$3,815,147**.

Table 3: Payouts - Police Matters

Category	2016-17	2017-18	2018-19	2019-20	2020-21	5-year average
Conduct: Suspect Chase	$100	$4,600	$14,476	$845	$1,829	$4,370
Alleged Use of Force	$5,000	$0	$112,500	$23,400	$200,000	$68,180
Conduct: Non-force	$309	$1,289,399	$9,500	$10,539	$736	$262,097
Conduct: Strip Search	$0	$0	$0	$0	$0	$0
Alleged Wrongful Death	$1,200,000	$0	$0	$500,000	$1,400,000	$620,000
Vehicle Accidents	$102,521	$12,158,574	$400,200	$2,873,609	$110,251	$3,129,031
Property Loss/Miscellaneous	$31,330	$2,133	$6,536	$3,545	$2,600	$9,229
Towing	$0	$6,891	$28,953	$690	$15,450	$10,397
Personnel/Labor	$0	$0	$0	$261,271	$25,000	$57,254
Other / Admin Hearings	$0	$35,000	$0	$17,669	$14,000	$13,334
Total Paid	**$3,391,805**	**$13,496,597**	**$572,165**	**$3,691,568**	**$1,769,866**	**$4,584,400**

Table 4: Payouts - Infrastructure

Category	2016-17	2017-18	2018-19	2019-20	2020-21	5-year average
City Buildings, Parks, Etc.	$2,911	$36,339	$117,691	$1,761,878	$136,013	$410,966
Sewers & Storm Drains	$213,767	$132,912	$372,544	$217,623	$72,558	$201,881
Sidewalks, Curbs, Etc.	$727,205	$1,238,610	$1,476,567	$202,616	$439,400	$816,880
Streets, Signals & Lights	$48,000	$106,646	$155,468	$1,184,009	$2,066,203	$712,065
Inverse Condemnation	$8,122	$13,122	$13,447	$10,080	$0	$8,954
Trees	$33,387	$52,875	$2,149,661.38	$102,081.00	$81,293.00	$483,859
Total Paid	**$2,770,171**	**$1,580,504**	**$4,285,378**	**$3,478,287**	**$2,795,467**	**$2,981,962**

Table 5: Payouts - City Vehicle Accidents

Category	2016-17	2017-18	2018-19	2019-20	2020-21	5-year average
Police	$102,521	$12,163,174	$400,200	$2,873,609	$110,251	$3,129,951
Public Works	$84,640	$51,584	$64,005	$71,331	$71,218	$68,555
Parks & Recreation	$5,192	$0	$0	$3,089	$1,129	$1,882
Fire	$31,782	$11,968	$14,730	$20,967	$109,589	$37,807
Other Departments	$8,574	$0	$491	$15,832	$38,675	$12,714
Total Paid	**$3,053,894**	**$12,226,726**	**$479,426**	**$2,984,828**	**$330,862**	**$3,815,147**

Table 6: Payouts - Employment/Labor

Category	2016-17	2017-18	2018-19	2019-20	2020-21	5-year average
Police	$0	$0	$0	$261,272	$25,000	$57,254
Parks & Recreation	$0	$0	$0	$72,142	$12,500	$16,928
General Government/Other	$0	$0	$335,000	$115,000	$0	$90,000
Public Works	$75,000	$0	$75,000	$0	$0	$30,000
Fire Services	$0	$450,000	$0	$0	$0	$90,000
Total Paid	**$757,426**	**$75,000**	**$450,000**	**$448,414**	**$37,500**	**$353,668**

DOLLARS SECURED BY THE CITY ATTORNEY

Our 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 **$1,060,880 in FY 2020-21, $83,151 more than in FY 2019-20** for the City, dollars that help to pay for critical services such as libraries, police and fire, road repair and parks and legal services.

Table 7: Dollars Secured by the City Attorney

Case Name	Jurisdiction	Docket No	Collected this FY 2020-21	Description
CE:1620 Fruitvale/2000 26th Ave, Jaber, Suad & Jad (trust) Shihadeh	Alameda County Superior Court: Northern	RG16829447	$ 421,213.80	Illegal dumping case for inadequate service at that location.
Cherepy, Nerine	Alameda Cnty Superior Court: Northern	RG18896713	$ 444,500.00	Cavendish Road collapse Dispute for the Department of Transportation.
Southwest Airlines	N/A	N/A	$ 53,000.00	Southwest Airlines - Measure FF violations
Horizon Projects Consulting Corp.	Alameda Cnty Superior Court: Northern	RG18933347	$ 4,000.00	Plaintiff alleges breach of contract.
L.J. Morgan (Petition)	Alameda Cnty Superior Court: Northern	RG18922269	$ 64,136.33	Receivership - Vacant blighted property that has been a public nuisance for many years.
Progressive Solutions Inc.	U.S. District Court: Northern S.F.	16-cv-04805-SK	$ 74,030.35	Automated local tax billing and collection activities as to City's effort to collect tax revenue. Trade secrets/contract dispute
		Total Collected FY 20-21	**$ 1,060,880.48**	

DIVISIONS OF THE CITY ATTORNEY'S OFFICE

General & Complex Litigation Division

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 444 claims this year, compared to last year's total of 573. 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 third consecutive year, the total number of claims involving police matters registered below the five-year average, while the total number of claims alleging damage due to City vehicle accidents decreased again.

Table 8: Claims Received

Category	2016-17	2017-18	2018-19	2019-20	2020-21	5-year average
Municipal Infrastructure*	562	427	537	425	342	459
Police Matters**	51	62	53	46	32	49
City Vehicle Accidents	67	95	74	82	57	75
Other	76	32	42	20	13	37
Total Claims/Year	**756**	**616**	**706**	**573**	**444**	619

*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 in FY 2020-21

We resolved a total of 528 claims in FY 2020-21. This year, **75.4 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.

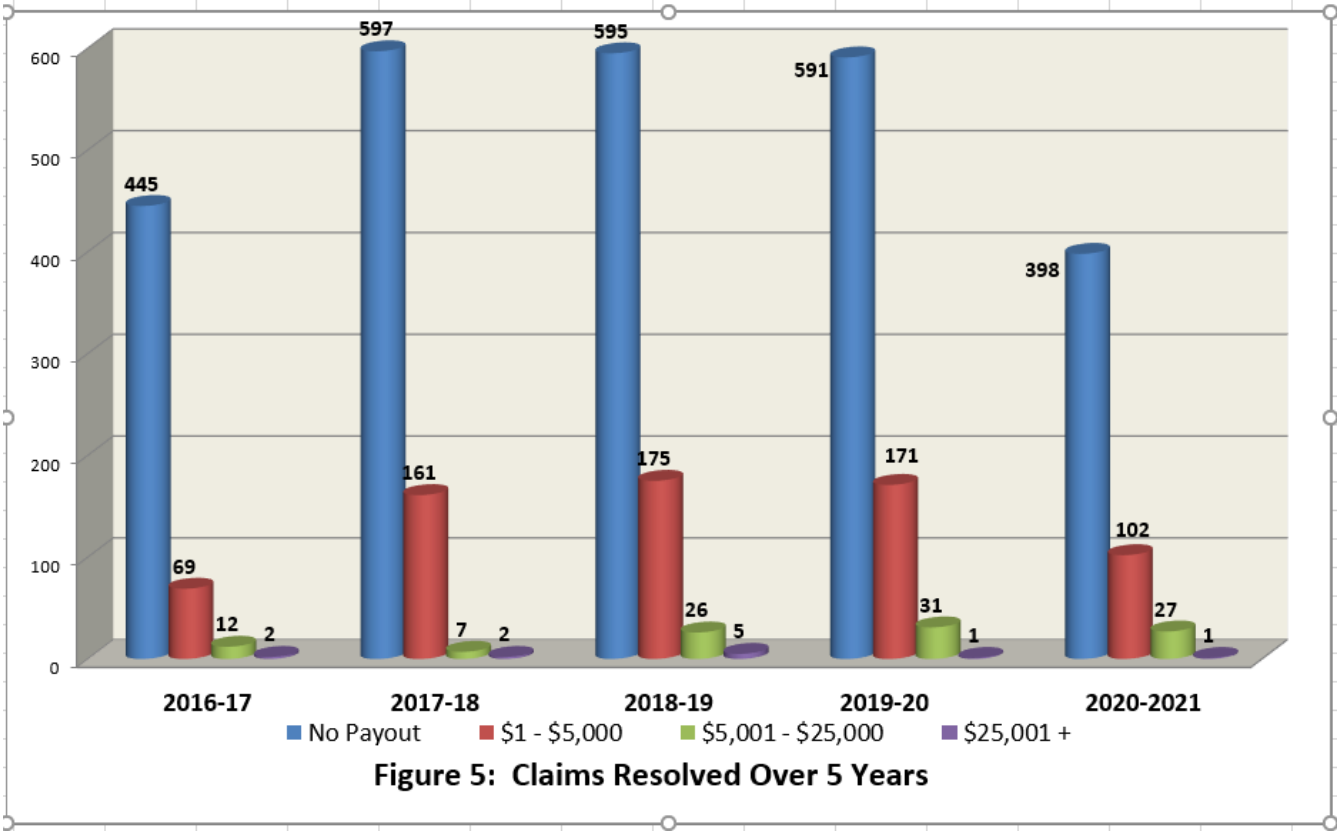


Figure 5: Claims Resolved Over 5 Years

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 2020-21, plaintiffs filed **102** 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.*

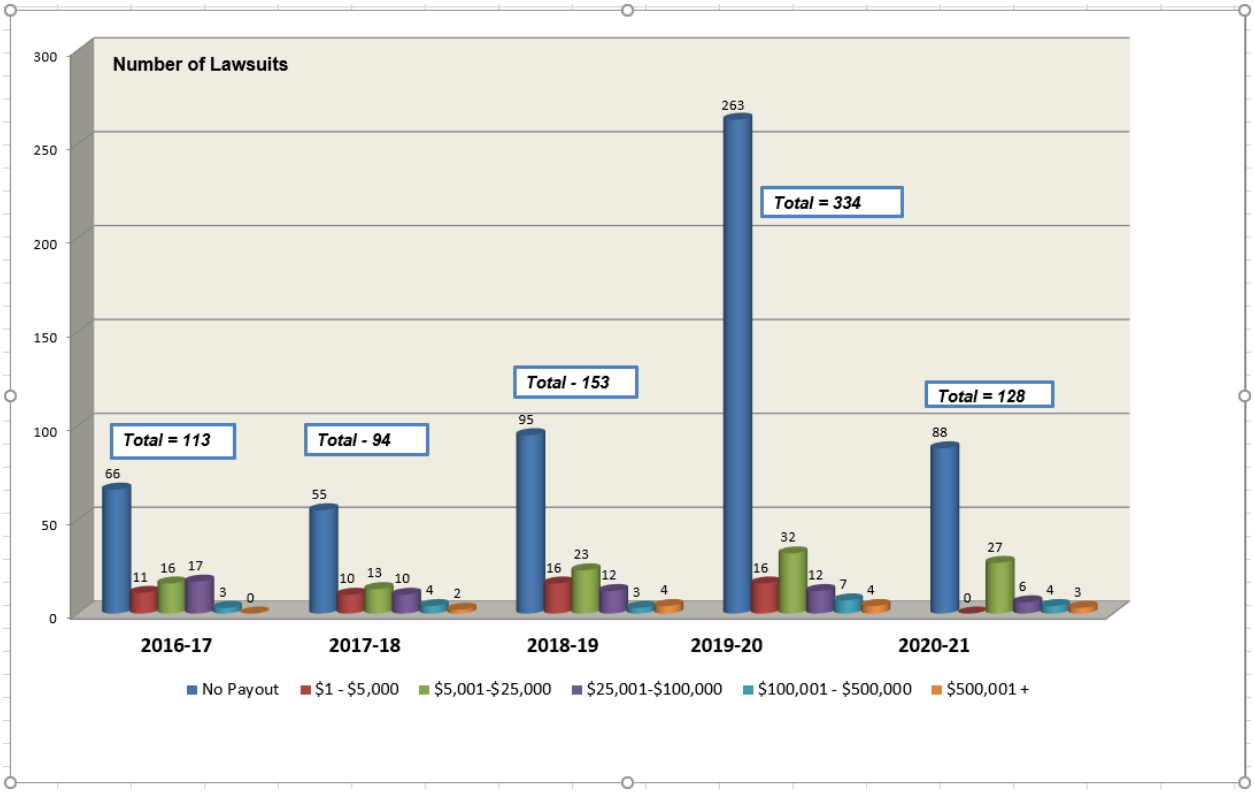
Table 9: Lawsuits Filed Against the City

Category	2016-17	2017-18	2018-19	2019-20	2020-21	5-year average
Municipal Infrastructure	48	53	61	53	45	52
Police Conduct Matters	14	17	14	22	11	16
Personnel/Labor (non-lawsuits and lawsuits)	16	6	18	7	9	11
City Vehicle Accidents	9	21	11	9	10	12
Other	62	33	52	38	27	42
Total Lawsuits/Year	**186**	**149**	**156**	**129**	**102**	**144**

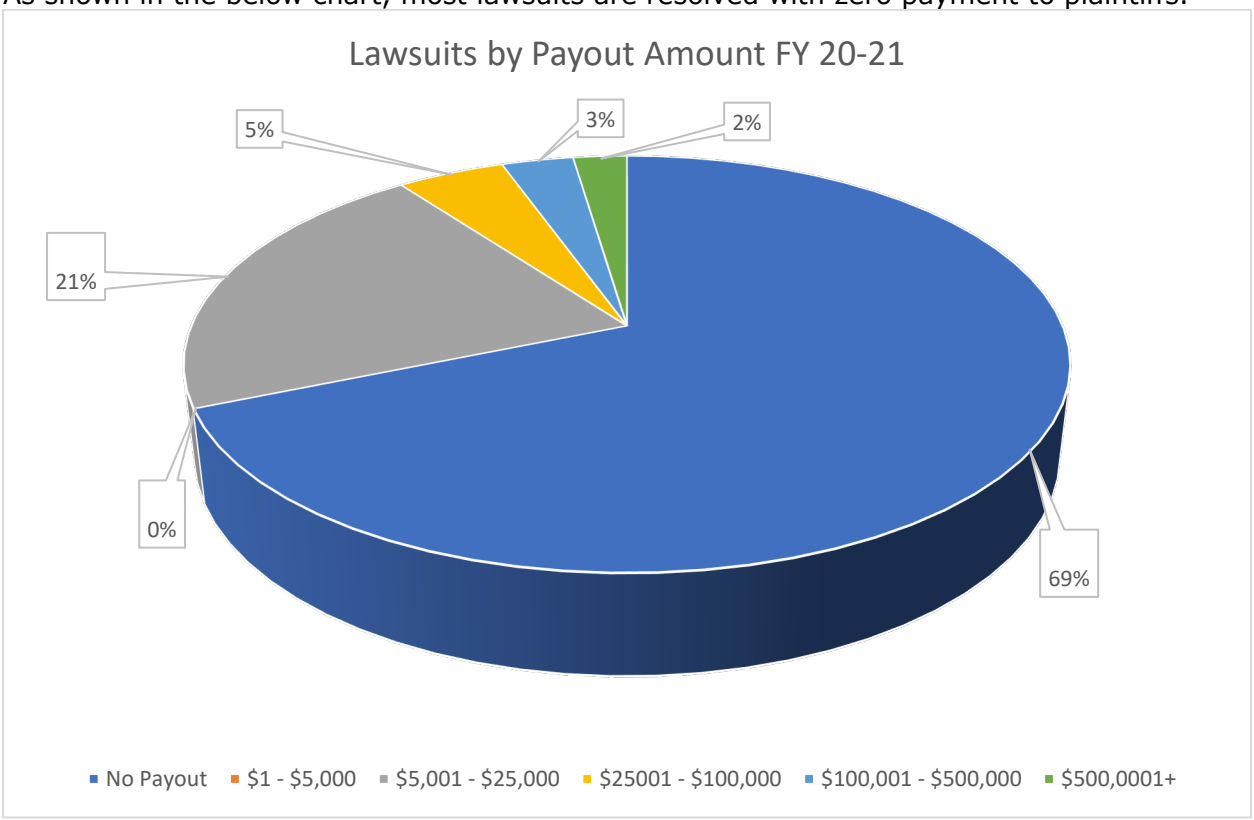
Outcome of Lawsuits

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 128 lawsuits. Almost **seventy percent (88/128)** were resolved with no payment of money whatsoever. Only about 5.56 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 Bulk Commodity Terminal Litigation

Oakland Bulk and Oversized Terminal, LLC ("OBOT") entered into multiple agreements with the City related to building a bulk commodity terminal in Oakland – a Development Agreement ("DA") on the West Gateway of the former Oakland Army Base, and a 66-year, Ground Lease of the West Gateway on which the terminal would be built (the "Project"). The City Council adopted an ordinance and in 2016 passed a resolution applying the ordinance to the Project finding that the handling and transportation of coal at the West Gateway would substantially harm residents' health and safety OBOT sued the City in federal court in 2016 alleging that the City improperly applied the ban to the Project. The City lost this litigation in 2018 in the trial court; the court found that the study provided insufficient evidence to support the ban and the City filed an appeal. The Ninth Circuit Court of Appeals affirmed the trial court's decision in 2021.

After OBOT prevailed in 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 commodity terminal. In May 2020, the City sued OBOT in state court alleging that OBOT's failure to meet the milestones under the Ground Lease resulted in the termination of the lease, entitling the City 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 also was at fault because the intersection used a 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 sued 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 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 Joint Powers Authority ("JPA") and the Golden State 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 on July 23, 2020 and on August 18,

2020, the appellate court denied the Warriors' appeal, and on December 9, 2020, the California Supreme Court rejected Warriors' petition seeking review of 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 where appropriate, such as against the Trump Administration, to protect rights that they violated, undercut and/or decimated on a regular basis.

The Affirmative Litigation, Innovation & Enforcement Division includes three units: the Community Lawyering & Civil Rights Unit ("CLCR"), the Housing Justice Initiative ("HJI"), and the Neighborhood Law Corps ("NLC"). CLCR 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. HJI is a new initiative serving as a force multiplier for protecting vulnerable tenants in Oakland's diverse neighborhoods. HJI increases OCA's capacity to advocate in numerous ways to defend the basic rights of Oakland tenants to safe, healthy, and dignified housing. The 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

While Trump was in office, we 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 continued to file lawsuits, amicus briefs and take other actions to stop the Trump administration's constant assaults on the rights and of Americans. For instance, we joined with over half a dozen cities to send federal Freedom of Information Act requests to the Trump Administration, demanding records about their efforts to target progressive cities, including by sending federal agents to those cities. We then sued the Trump Administration in

October 2020 over their policy of sending federal agents to progressive cities to quell protests.

At the same time, we are providing Oakland's support for sound and sane public policy. During this FY, we signed a number of amicus briefs and comments, and filed or continued to litigate major lawsuits to have Oakland's voice heard in some of the most significant cases in the nation.

Highlights

City of Portland & City of Oakland v. U.S. Department of Homeland Security and U.S. Department of Justice

In June and July 2020, President Trump's administration took unprecedented steps to create a new policy purporting to authorize the deployment of federal agents to United States cities. The then-President, then-illegally acting Department of Homeland Security (DHS) Secretary Chad Wolf, and then-Attorney General William Barr individually and collectively offered varied and pretextual justifications for the deployments, including citing statutes allowing federal agencies limited authority to protect federal property, and generally citing "violence" and "anarchy" in progressive cities.

The full scope and parameters of the policy the Trump Administration enacted to permit these deployments were and are not known, as no ordinary public process was followed to create the Policy. However, the information available revealed that the Trump Administration engaged in an unparalleled effort to misuse federal power to quash civil protests in United States cities, and to engage in policing, surveillance, and other law enforcement activities on and off federal property.

In October 2020, the City of Oakland joined the City of Portland and a national nonprofit, the Public Rights Project, in filing a lawsuit challenging these policies. Trump's DOJ initially attempted to dismiss the lawsuit. However, after the violent White supremacist insurrection at the U.S. Capitol on January 6, 2021, we filed an amended complaint, adding new information that the animating intent of the Policy was to use property protection as the pretextual justification for unlawful viewpoint discrimination. After President Biden took office, DOJ changed its position and agreed to discuss settling and dismissing the lawsuit and other similar lawsuits filed by civil society groups.

City of San Jose et al. & State of California et al. v. Donald J. Trump

Early in this fiscal year, Oakland joined then-California Attorney General Xavier Becerra, the cities of Long Beach and Los Angeles, the Los Angeles Unified School District, and the County of Los Angeles in a lawsuit against the Trump Administration's July 2020 memorandum aimed at excluding undocumented immigrants from being counted in the 2020 Census for the purposes of Congressional reapportionment. The clearly unlawful memorandum ignored federal constitutional requirements and was a last-ditch attempt to exclude

immigrants from the 2020 Census count. In October 2020, the District Court for the Northern District of California granted a significant victory to the state and local government coalition by striking down the Trump Administration's obviously discriminatory efforts.

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, which we are litigating with the San Francisco City Attorney's Office, against the five largest publicly owned fossil fuel companies in the world (Chevron, ConocoPhilips, Exxon Mobil, BP and Royal Dutch Shell.) Despite defendants' efforts to overturn the Ninth Circuit's ruling allowing our climate suit to go forward (including that (1) our state-law claim for public nuisance related to the impacts of global warming on public infrastructure "does not arise under federal law;" (2) our cases are not completely preempted by the Clean Air Act; and (3) as a result, the cases should not have been dismissed), the United States Supreme Court refused to take up the issue, dealing a blow to the fossil fuel companies' efforts to prevent our cases from being fully litigated.

This decision sent the climate litigation back to Judge Alsup, and the Ninth Circuit, for further proceedings to determine 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 the mitigation and adaptation 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, including through a multi-month bench trial, 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 knowingly engaged in a campaign of deceptive advertising that downplayed the risks and overstated the benefits 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 disproportionally 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.

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.

In addition to our California state court case, there is growing consensus across our nation country that these companies must be held accountable for the crisis their products created. The City Attorney's Office participated in an intensive effort to negotiate a statewide allocation agreement to equitably divide the money received in California from national settlements with opioid companies.

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 for abatement of the contaminants 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 Ninth 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. Subsequently, the 9th Circuit decided to rehear the case en banc.

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.

Settlements

In December 2020, the City resolved a longstanding investigation into Southwest Airlines by entered into a pathbreaking settlement agreement regarding alleged violations of Oakland's municipal sick leave law at Oakland International Airport (OAK). The City Attorney's multi-year investigation into Southwest's leave policies and practices led to this agreement, which: (1) restored rightfully earned sick leave hours to Oakland ground crew employees; (2) ensured that Southwest's practices fully comply with Oakland's sick leave law going forward; (3) required that Southwest pay civil penalties; and (4) allowed Oakland ground crew employees to use their union's grievance procedures for any adverse employment consequences that flow from Southwest's non-compliant prior policies.

The settlement applies to Southwest ground crew employees based at OAK, including ramp agents, operations agents, provisioning agents, freight agents, aircraft mechanics, ground mechanics, customer service agents, material specialists, and certain ground crew employees not represented by a union. The investigation and settlement highlighted the importance of a 2014 ballot initiative that Oakland voters overwhelmingly passed ("Measure FF"). Measure FF entitles Oakland-based employees to paid sick leave: specifically, Oakland employees are entitled to accrue one hour of paid sick leave for every thirty hours worked. Under Measure FF, businesses with ten or more employees must allow employees to accrue up to 72 hours of paid leave that can carry over year to year, and employees must be able to use their leave to care for themselves, close family members, domestic partners, and/or another person so designated by the employee. Measure FF applies to all employees who in a particular week perform at least two hours of work in the City.

Amicus Briefs

One of the ways the City Attorney's Office has been advocating for the people of Oakland recently is through a growing and vibrant amicus brief practice. Amicus, or "friend of the court," briefs, are opportunities for individuals and entities not directly involved in litigation to nonetheless present their positions and perspectives to a court. Amicus briefs can be extremely important: they can help a court understand the gravity of the issue before them, point out the possibility of perverse or unanticipated consequences of a court's decision, and/or help educate a court on an unusual or tricky issue. And amicus briefs can be extremely influential: courts sometimes adopt their reasoning rather than the reasoning of any party before them, or use what they learn from amici to frame their decision.

In the past fiscal year, our office authored and/or signed onto numerous amicus briefs 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, we worked closely with the San Francisco City Attorney's Office to join an important battle about workers' rights. In early 2021, a group of app-based drivers and labor unions sued to overturn Prop 22, a ballot measure passed in November 2020 that, among other things, allowed gig economy companies like Uber and Lyft to continue to treat workers as contractors rather than employees. The lawsuit came after the gig economy companies spent over $200 million in the statewide campaign to pass Prop 22. In August 2021, the Alameda County Superior Court struck down the law as unconstitutional, holding, among other things, that it places impermissible limits on the legislature's authority.

The trial court's decision cites the work of various amici that filed "friend of the court" briefs to support the plaintiff workers. Oakland partnered on one of the amicus briefs in the case, filing with the City and County of San Francisco and the City of Los Angeles to support the plaintiffs. The local government amicus brief explained that municipalities provide for the health and welfare of residents and workers within their jurisdictions, and that local governments also protect workers by passing and enforcing municipal laws such as minimum wage floors and sick leave ordinances, which protect workers' livelihoods and contribute to the overall health of local economies. Prop 22 harmed governments' abilities to protect workers via local laws, and materially harmed cities' and counties' efforts to protect all of their residents' rights.

We also worked on or joined briefs in cases on numerous important issues, including: to support humane asylee employment authorization rules, to defend LGTBQ patient protections in the Affordable Care Act, to provide global context and the Oakland experience of climate change, to protect LGBTQ foster youth and families, to defend the Deferred Action for Childhood Arrivals program, to ensure governments can issue eviction moratoria, to allow local governments to fund programs supporting undocumented residents, to protect voting rights and fight voter suppression, and much more.

Community Lawyering & Civil Rights Unit Continued to Mobilize to Respond to Challenges Posed by the COVID-19 Pandemic

Since the beginning of the COVID-19 pandemic, our office has taken a number of steps to affirmatively respond to the crisis in Oakland. Early in the pandemic, we sent letters to California businesses advertising purported COVID-19 treatments, leading to the businesses removed the false or misleading statements from their website; 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; 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; and 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.

As the pandemic progressed, the Unit continued to take steps to protect Oaklanders, including conducting a number of investigations into local businesses that were violating public health orders and workers' rights, including at several different fast food franchises. The Unit's actions helped protect both workers and customers as the pandemic continued.

Housing Justice Initiative

In October 2020, the City Attorney's Office formally launched a new Housing Justice Initiative (HJI), a project that is a force multiplier for the Office's work protecting vulnerable tenants in Oakland's diverse neighborhoods. This initiative has increased the office's capacity to advocate in numerous ways to protect Oakland tenants' fundamental rights to safe, healthy, and dignified housing. HJI coordinates with partners across the city and across non-profit and philanthropic sectors to advance this crucial work.

The launch of the HJI was particularly crucial in 2020, as the country faced many health and economic disasters, harms that are exacerbated by abusive landlords. HJI is positioned to address the fact that Oakland, like the rest of the country, continues to face multiple, overlapping pandemics: the pandemics of COVID-19, systemic racism, the destruction of the social safety net, and climate change disaster. In the context of those crises, the harms of housing insecurity—and housing injustice—are multiplied. HJI's mission is to protect Oakland residents from those harms and lift up the rights of all Oaklanders to access and maintain their housing free of discrimination and other illegal actions.

The Housing Justice Initiative received its first grant from the San Francisco Foundation, and the City Attorney's Office is grateful to the Foundation for its investment in bringing this bold new initiative to life.

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 200036th Avenue—if they are not sold before January 2021. The tenants, who live at these buildings, also have 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 11th Street, 1030 Foothill Boulevard, and 1442 8th Avenue) are the focus of the lawsuit. 1130 East 11th 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 8th 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 8th 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 98th 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.

Ordinances and Resolutions

Tenant Protection Ordinance

On July 21, 2020, City Council unanimously passed amendments to strengthen the Tenant Protection Ordinance (TPO), Just Cause for Eviction Ordinance (JCO), Rent Adjustment Ordinance, and related relocation ordinances. The amendments improve protections for tenants facing harassment, provide increased security from eviction, and ensure local ordinances conform to changes in state law.

The legislation, which the City Attorney crafted and co-sponsored with Councilmember Nikki Fortunato Bas and Council President Pro Tempore Dan Kalb, includes the first major improvements to Oakland's TPO since it was adopted in 2014. The TPO amendments: (1) remove loopholes such as exempting newly constructed units and non-profit housing from the ordinance; (2) limit fees; (3) prohibit the arbitrary removal of housing amenities such as parking and laundry facilities; (4) specifically identify additional forms of prohibited harassment such as discrimination under state law and unlawful self-help evictions; (5) provide heightened penalties for harassing elderly, disabled, or catastrophically ill tenants, and for threatening to report a tenant to an immigration authority; and (6) clarify the City Attorney's enforcement authority to secure justice for tenants.

The legislation also included amendments to the JCO, such as: (1) making failure to pay required tenant relocation benefits an affirmative defense to eviction; and (2) prohibiting evictions based on additional occupants. And the legislation amended the Rent Ordinance, which now: (1) permits tenants to seek a rent reduction if their landlord refuses to allow them to replace a departing roommate; and (2) conforms the maximum rent increase in a 12-month period to a statewide rent limit that took effect in January 2020.

Among other things, these new amendments improve the TPO as a tool for protecting currently and historically marginalized residents. The City Attorney's Office has already enforced the additional tenant protections in court and will continue to do so.

Gender-Inclusive and Gender-Neutral Language Resolution

In October 2020, City Council passed a resolution crafted by our office and co-sponsored by the City Attorney, Mayor Libby Schaaf, City Council President Rebecca Kaplan, and City Councilmembers Sheng Thao, Lynette Gibson McElhaney, and Nikki Fortunato Bass that established a pathbreaking progressive policy regarding the use of gender-inclusive and

gender-neutral language. This resolution ensures that city laws, policies, and communications use terminology that accounts for all gender identities and does not assume or prescribe any specific gender. The resolution also included a plan to submit a City Charter amendment to the voters in 2022 that will update the Charter to be consistent with the City's future-facing policy.

Our office crafted and I co-sponsored this resolution because nonbinary, transgender, pangender, intersex, genderqueer, agender, two-spirit, and other people who may fall somewhere outside of the traditional conceptions of strictly male or female have every right to see themselves reflected in the laws and policies that govern them. LGBTQIA+ rights are human rights, and civil rights, and this resolution is an important step in recognizing those rights and in ensuring that public policy language recognizes and includes all Oaklanders in the discourse and laws of our City.

Slavery-Era Disclosure Resolution

In October 2020, the City Council passed a resolution co-sponsored by the City Attorney, Vice Mayor Reid, and Councilmember Taylor directing the City Administrator to implement and provide updates on implementation of the City's Slavery Era Disclosure Ordinance. The Ordinance was originally sponsored by the City Attorney and Vice Mayor Reid and was adopted in 2005 but has never been fully implemented. The City Administrator fully supports immediate implementation of the Ordinance.

The original Ordinance was and is intended to officially acknowledge the crime of African enslavement and its ongoing devastating ramifications and legacy for the descendants of enslaved Africans. In adopting the Ordinance, Oakland joined the states of California, Illinois, Maryland, along with the cities of Berkeley, Chicago, Detroit, Los Angeles, Milwaukee, Philadelphia, and San Francisco, in collectively highlighting how African enslavement and its legacy, beginning with Jim Crow laws, segregation, and sanctioning of brutality and murder of Black people--which continue to this very day--have been a means to build this country and its extraordinary wealth and deprive descendants of enslaved Africans of the fruits of their labor and their contributions and the wealth they created and sustained.

When fully implemented, the Ordinance will: (1) require a full and accurate disclosure to the public of the scope of historical ties to slavery within Oakland; (2) establish a voluntary fund to provide, among other uses, education support and economic development to economically struggling Oakland neighborhoods; and (3) oblige any City contractor providing insurance, financial, textile, tobacco, railroad, shipping, rice, or sugar

services to the City to complete affidavits regarding any evidence of those companies' historical involvement in slavery. The resolution passed in 2020 directed the City Administrator to take immediate action to begin implementing and reporting on the 2005 Ordinance and directed the City Administrator to otherwise implement the Ordinance to the full extent of the law.

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 2020-21:

- Advised City Administration and City Council on a myriad of unique issues related to COVID-19, including issues related to emergency protocols, employee health and safety, emergency leave, essential workers, and telecommuting,

- Advised City Administration and Employee Relations throughout MOU bargaining with all of the City's civilian unions and the International Association of Firefighters, Local 55, during a period of unprecedented operational and financial uncertainty caused by the pandemic.

- Played an instrumental role in drafting Measure S1 and placing it on the ballot, to strengthen the Police Commission and create an independent inspector general's office.

- Developed and administered multiple trainings for the Police Commission, including training on the Police Commission's powers under the Oakland Charter, state and local laws regarding open meetings, and OPD's discipline process.

- Hired and trained a paralegal to bolster the office's advice to and support for the City Administration and Oakland Police Department related to compliance with California Senate Bill 1421, which mandated the publication of certain previously-confidential police records.

- Advised numerous City Departments (including Police, Fire, Public Works, Employee Relations, Human Resources, and Equal Opportunity Programs Division) on various personnel and labor issues, including leaves of absence, disability accommodations, workplace threats, drug testing, and workplace discrimination.

- 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.

- Provided personnel advice to Fire Chief at biweekly meetings and advised the Chief on responses to union grievances.
- Reviewed staff reports, resolutions and legislation related to personnel issues.
- 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.
- Represented and defended the City before the California's Public Employment Relation Board as well as Oakland's Civil Service Board.
- Reviewed, edited and approved numerous contracts for professional services.

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 2020-21, 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)
    - Tritech
    - 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

- Provided legal advice to the Planning Bureau related to commencement of comprehensive, two-phase update to Oakland General Plan, including creation of Requests for Proposals for technical and community consultants; adoption of the City of Oakland Local Hazard Mitigation Plan; preliminary consideration of industrial land amendments; and compliance with Housing Element, Environmental Justice Element, and Safety Element requirements;

- Advised staff on the processing of the Downtown Oakland Specific Plan (DOSP) draft plan, Incentivized Zoning Program, and Environmental Impact Report in preparation for presentation to the Planning Commission and City Council for adoption;

- Reviewed administrative draft CEQA documents for various development applications/projects (e.g., 2401 Broadway, 2929 Broadway, the Head Royce School Expansion Project; Two Kaiser Plaza, 1433 Webster Street, 1100 Broadway, 295 29th Street, 601 MacArthur, 1750 Broadway, 500 Kirkham, 800 Pine, 914 W. Grand, West Oakland BART, 401 Alice Street, 5441 International Blvd, California College of the Arts, 460 24th Street, 316 12th Street, 2432 Chestnut Street, 2359 Harrison, Mosswood Park Master Plan, 1396 5th Street, Latitude High School, 820 West MacArthur Boulevard, 3403 Piedmont Avenue);

- 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;

- Represented the Planning Commission at its public meetings and provided advice on the Brown Act and Planning and Zoning laws;

- Advised staff on Political Reform Act conflicts of interest issues related to the Planning Commission;

- Reviewed and Advised staff on Public Records Act exemptions and disclosure requirements specific to Planning and Building records, and assisted in the finalization of disclosable records for various Public Records Act requests made to the Planning and Building Department;

- Provided advice to members of the City Council regarding franchise and sign relocation procedures for the digitization of billboards and wayfinding signs;

- Provided ongoing advice on complex issues related to various multi-phased development projects (the Children's Hospital, Oak Knoll, Brooklyn Basin Projects);

- Advise Planning and Building Department staff regarding ongoing code enforcement issues involving Planning Code violations (e.g., Suprema Meats, Mountainview Cemetery);

- 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 updates to the City's implementing Density Bonus Ordinance;

- Provided extensive legal support to staff and City Council in drafting local legislation, such as the Condominium Conversion Ordinance, All Electric Building Ordinance, ADU Legislation, the Public Art Ordinance, and the "Construction Innovation" Ordinance;

- Provided extensive legal support regarding California Government Code 8698.4 (the Shelter Crisis Legislation) and the scope of the City's related regulatory authority, which enabled the City's implementation of various safe parking programs and community cabin programs;

- Provided legal analysis of recreational vehicle state laws and land use issues related to establishing City RV parks for unsheltered persons;

- Assisted staff to develop and draft an ordinance that permits and regulates residential occupancy of recreational vehicles on private property to provide additional housing options for unsheltered persons;

- Provided legal counsel for compliance with San Francisco Bay Conservation and Development Commission (BCDC) enforcement order compelling restoration of Union Point Park amenities;

- Reviewed numerous compliance certificates applications for legal authority under the Subdivision Map Act;

- Drafted resolutions authorizing 2021 Mills Act contracts and reviewed property owner contracts to facilitate preservation of historic resources;

- Advised on various matters related to the streamlined affordable housing review process created by California Senate Bill 35 (2017), Senate Bill 330, Senate Bill 9, including interpretation issues on specific applications, challenges from applicants regarding submittal requirements, tribal consultation procedures, and creation of Planning forms and standard operating procedures;

- Advised Planning Staff on implementation of the Housing Crisis Act of 2019 and recent legislative amendments, including through the creation of Planning forms and standard operating procedures

- Advised staff 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); Latitude High School (charter school in Fruitvale); 1396 5th Street (222-unit residential building with 16 units reserved for very-low income households); and2100 Telegraph Avenue (up to 1.5 million square feet of office space and 395 housing units);

- Advised staff on several historic resource issues, including development proposals at 460 24th Street (office development in historic district); California College of the Arts redevelopment (450-unit residential development and historic building demolition); 5441 International Blvd (redevelopment of historic warehouse); Fire Alarm Building (City-owned historic property); 1431 Franklin Avenue (alternate proposals for office or residential tower in historic district);

- Advised staff on land use, CEQA, and rezoning issues related to granting a conservation easement to a Native American land trust and associated improvements on park property

  Reviewed and provided legal advice related to zoning determinations issued by the Planning Bureau's Zoning Manager;

- Drafted updates to several COVID-19 emergency orders and legislation related to land use aspects of COVID-19 response, including COVID-19 testing and vaccination sites, flexible uses of public streets, and immediate establishment of isolation programs;

- Reviewed and provided legal advice related to proposed changes to live/work conversion Building Code requirements;

- 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 (O.M.C.) 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;

- Provided legal analyses to City Administration on various proposed State housing, transportation, and planning laws and regulations impacting the City of Oakland;

- Analyzed and advised on Religious Land Use and Institutionalized Persons Act (RLUIPA) claims made by applicants proposing a Native American spiritual activity and Sweat Lodge on residential property;

- Provided legal analysis to staff on the formulation of a new plan for West Oakland Truck Routes and Prohibited Truck Parking areas that will take into account equity and health considerations for West Oakland residents;

- Assisted City Staff, the Planning Commission and City Council on legal and procedural questions involving the proposed Oakland Athletics Ballpark at Howard Terminal.

Real Estate Unit

- Advised on legality of City granting a "cultural" easement to the Ohlone Tribe and prepared term sheet for such a grant

- Transferred ownership of the Fox Theater and sub-leases with the Oakland School of the Arts, GASS Entertainment LLC, and The Emporium LLC from the Oakland Redevelopment Successor Agency to the City of Oakland

- 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

- Provide on-going advice on a capital refrigeration replacement project for the management and operation of the Oakland Ice Center by the Sharks Ice

- 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, including 2563 International Blvd, 6818 Lion Way, 401 Jones Ave, and 1000 Broadway

- Advised on and drafted an exchange agreement with the Oakland Unified School District for property located at Marston Campbell Park and 1700 Market Streets

- Advised on the transfer of a franchise to construct, maintain, and operate a bridge and tunnel at 21st Street for the Ordway Building and The Kaiser Center

- Advised Councilmember on legislative efforts to support removal of racist housing covenants on residential property records

- Drafted and negotiated an amendment to the management agreement for the George P. Scotlan Memorial Convention Center

- Provided ongoing advice on the Business Assistance Fund (BAF) to mitigate impacts from the East Bay Bus Rapid Transit (BRT) corridor

- Provided training to the Department of Housing and Community Development on City and state programs and regulations affecting affordable housing

- Provided ongoing advice on the Brooklyn Basin Project Community Facilities District

- 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
- 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 and provided legal counsel 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 Housing Resource Center and Building Code Enforcement staff on Code Compliance Relocation Program issues. Advised Housing Resource Center on implementation, forms, and materials related to Code Compliance Relocation Program.
- 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, nuisance properties, easements, and encroachments.
- 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.
- Successfully petitioned state court for receivership over nuisance property illegally operating as an industrial recycling facility in a residential neighborhood. Worked with receiver to ensure the nuisance was completely abated.
- Coordinated with Code Enforcement staff to minimize displacement of tenants at numerous substandard and otherwise non-code-compliant properties.
- 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.
- 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 ongoing questions arising in response to COVID-19.
- Drafted ordinance: (1) 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 four years from the date such applicant was verified as an equity applicant, regardless of applicant's current income or residency; and (2) extending the due date for cannabis business permit fees for certain businesses burglarized in 2020.
- 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.
- Reviewed agreements for cannabis equity applicants and permittees to receive City grants to fund such business' workforce development activities and shared use manufacturing facilities.
- Drafted City grant agreement templates for City's cannabis equity grants to fund workforce development and shared use manufacturing facilities.
- Advised City Administrator's office regarding Executive Order for special rules for cannabis permit approvals and appeals during COVID-19 pandemic in light of recent court decisions.
- In conjunction with the Land Use Unit, advised City Administrator's office regarding conceptual potential amendments and alternative legal frameworks and policies for City's location requirements for commercial cannabis permittees.
- 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 the Fire Prevention Bureau on enforcement issues related to unlicensed cannabis dispensaries and other cannabis operations.

- Advised City Administrator's on government ethic laws in the context of City grants, the Cannabis Regulatory Commission, and commercial cannabis activity permitting.
- 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 to provide City grants to local equity applicants and permittees for commercial cannabis activity in the areas of shared use manufacturing facilities and workforce development.
- 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.
- Represented the City in administrative appeal hearings concerning approval or denial of cannabis dispensaries.

Fire

- 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.
- Drafted local emergency legislation regarding the existence of dangerous wildfire smoke.
- Advised Fire Department executive staff regarding legal issues concerning patient transport for the MACRO pilot project.
- 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 Prevention Bureau on enforcement and occupant displacement issues for various con conforming residential use properties.
- 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), the Department of Transportation, and City Administrator's office regarding compliance with City's Surveillance Technology and Community Safety Ordinance and other City policies concerning privacy issues, intergovernmental agreements with federal agencies, and City grant agreements with private entities.
- Provided support to City Attorney's Police Counsel on procedural, legislative, policy, and report drafting questions for compliance with the City's rules on local surveillance technology.
- 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.
- Drafted extension to Emergency Eviction Moratorium Ordinance to protect residential and commercial tenants from evictions during the COVID-19 Local Emergency.
- Drafted ordinance to streamline hearings and appeals in the Rent Adjustment Program.
- Provided training to Rent Program staff on a broad range of topics including the California Tenant Protection Act, the COVID-19 Tenant Relief Act, and the Public

Records Act, as well as amendments to local ordinances including the Rent Adjustment Ordinance, Just Cause for Eviction Ordinance, Tenant Protection Ordinance, various relocation ordinances and other landlord-tenant regulations.

- Provided training to new Council Members on local and state law related to tenant protections and history of and legal basis for rent control.
- Staffed bi-weekly Rent Board meetings and advised Board regarding the adjudication of disputes under the Rent Adjustment Program Ordinance.
- Advised Councilmembers and Rent Program staff on a broad array of state and federal COVID-era legislation related to tenant protections.
- Defended the Housing, Residential, Rent and Relocation Board in writ proceedings in Superior Court
- Reviewed procurement and service contracts for the Rent Adjustment Program.
- Assisted litigation division with various matters related to tenant protections including challenges to the Rent and Relocation Ordinances as well as affirmative litigation under the Tenant Protection Ordinance.
- Reviewed grant agreements to provide counseling for homeowners and tenants as well as eviction defense services for tenants.
- Provided trainings to members of the Housing Residential Rent and Relocation Board on quasi-judicial, regulatory and public official roles and responsibilities, the Brown Act, and state and local law related to rent and eviction control.
- Researched, drafted, and shepherded through the legislative process regulations for the Emergency Eviction Moratorium Ordinance.
- Trained incoming Rent Adjustment Program 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 forms including petition and response forms, and forms related to the Tenant Move-out Ordinance and Eviction Moratorium Regulations.
- Researched and drafted legal opinion for the City Council regarding amendments to the Tenant Protection Ordinance, Rent Adjustment Ordinance, Just Cause for Eviction Ordinance, and various ordinances related to tenant relocation payments
- Researched, drafted, and assisted the Housing Residential Rent and Relocation Board with the adoption of amendments to Just Cause for Eviction Regulations and submission of amendments to the Rend Adjustment Ordinance and its Regulations to the City Council

- Reviewed Mayor's resolutions appointing new members to the Housing Residential Rent and Relocation Board

- Advised Housing and Community Development staff on issues related to Fair Chance Access to Housing Ordinance.

General Public Safety

- Researched, drafted and shepherded through the legislative process a Resolution establishing a City-wide policy on use of gender-neutral and gender-inclusive language in future legislation and other City communications.

- Staffed (as meeting Parliamentarian) the bimonthly City Council meetings, and monthly 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 Public Works Department on illegal dumping citations and enforcement procedures.

- Advised Police Department on issues related to bingo halls, tobacco inspections and enforcement.

- Represented City at Tobacco Retailer's License revocation hearings.

- Advised City Administrator, Police Department and Fire Prevention Bureau on enforcement actions against nuisance commercial establishments including unpermitted cabarets, automotive repair facilities, and other nuisance properties.

- Advised City Council and City Administrator's office on issues related to homeless encampment management policies and procedures.

- Advised Animal Control Services on various animal and wildlife-related issues, including animal seizure and release procedures, vicious and potentially dangerous dog hearings, administrative appeals, animal-related nuisance complaints, and other issues arising under Title 6 and state wildlife statutes.

- Represented City at illegal dumping administrative appeals hearings.

- Provided support to Litigation Team on actions involving rental housing, unlawful detainers, building and fire code enforcement, and homeless encampment management issues.

- Advised City Administrator on nuisance enforcement matters.

- Advised City Administrator regarding termination of Emergency Orders issued in response to COVID-19 Emergency.

- Researched and drafted an ordinance prohibiting combustion engine powered leaf blowers and string trimmers to protect workers and the environment

- Assisted City Attorney's Labor & Employment unit with advice to the Public Ethics Commission on range of public ethics 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 2020-21, the Open Government Coordinator reviewed, responded to and facilitated more than 1,000 public records requests involving thousands of pages of documents, providing training to departmental records liaisons and continued administration of the City's public records portal, Next Request.

CONCLUSION

I am honored to serve as City Attorney for our beautiful, 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 rights and interests of all Oaklanders. I and my team are dedicated to vigorously and strategically 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 J. Parker is the City Attorney for Oakland, California. An Oakland resident for four decades, Ms. 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 discrimination and 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 Ain Williams, a Spelman College graduate, and the bursting-with-pride grandparent of Koda and KJ.

Contact Information

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