

JULY 15, 2021

CLOSED SESSION REPORT OF FINAL ACTION

Date of Meeting: *Thursday, July 15, 2021*

Litigation Negotiations

NAME OF ACTION:

Katherine De la Riva and William Allan v. City of Oakland, Officer Kaleo Albino, Sergeant Patrick Gonzales, and Sean Alexander Marine Services, Inc.
USDC Case No: 4:19-CV-06106-JSW

This matter is listed as **Item No. 1(c)** on the Closed Session Agenda:

The council authorized settlement in the amount of **\$280,000.00**

This case arose out of incidents occurring in **2018**

FACTS/ISSUES:

From January 2018 to September 2018, Defendant Oakland Police Officer Kaleo Albino warned Plaintiffs that their vessels were illegally docked and must be moved. Plaintiff Katherine De la Riva's vessel, a houseboat, was tied to a condemned pier at the Jack London Aquatic Park. Plaintiff William Allan's vessel, a sailboat, was illegally tied to moorings in the water near the public pier of the Aquatic Park. Defendant Albino issued verbal and written warnings to Plaintiff De la Riva from January to September, and issued written warnings to Plaintiff Allan from July to September. Plaintiffs De la Riva and Allan continued to illegally dock their vessels at the condemned and public piers, respectively. On September 14, 2018, Defendant Albino posted 10-Day notices on each of Plaintiffs' vessels, stating that the vessels were marine debris in violation of Harbors and Navigation Code section 551 and that they "may be removed and dismantled" on or after September 28, 2018. On October 2 and 3, 2018, several defendant officers seized several vessels that were tagged on September 14th with removal warnings. Plaintiff De la Riva's houseboat was transported to a dump yard and Plaintiff Allan's sailboat was destroyed on the shore. Prior to removing Plaintiff De la Riva's houseboat from the water, defendant officers assisted Plaintiff De la Riva to remove some personal belongings from the houseboat.

Plaintiffs sued the City alleging violation of their due process rights – that they had not received adequate notice and opportunity for hearing. Plaintiffs seek compensation for their vessels each with an estimated value of \$35,000, and De La Riva's personal property allegedly worth \$200,000 and Allan's personal property allegedly worth \$50,000 that was on the vessels when they were destroyed. In addition to the monetary settlement, the City has agreed to draft an estuary clean-up policy. This settlement will resolve all claims in this matter.

Motion Made by: **Councilmember Gallo**

Motion Seconded by: **Councilmember Taylor**

AYES: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas= 6

NOES: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas=

ABSENT: ~~Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao~~ and ~~President Fortunato Bas~~=2

ABSTENTIONS: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas=