

**SEPTEMBER 23, 2021**

**CLOSED SESSION REPORT OF FINAL ACTION**

Date of Meeting: *Thursday, September 23, 2021*

Litigation

**NAME OF ACTION:**

**Segula Investments, Inc., a California Corporation v. City of Oakland, a California municipal corporation, Oakland Department of Planning and Building, William Gilchrist in his official capacity, and DOES 1-10, inclusive Alameda County Superior Court Case No. RG19005344**

This matter is listed as **Item 2** on the Closed Session Agenda:

The council authorized settlement in the amount of **\$ 465,000.00.**

A motion to schedule this settlement resolution to the October 5, 2021 council meeting was moved by Council President Bas, seconded by Councilmember Gallo, and approved by the following votes: 8 Ayes; 0 Nays; 0 absent.

This case arose out of incidents occurring between **June 8, 2018 and April 23, 2020.**

**FACTS/ISSUES:**

Plaintiff Segula Investments, Inc. is the property developer for the 2305 Webster Street Project. On June 8, 2018, Plaintiff applied for a building permit to construct a 21-story mixed-use building and subsequently paid \$624,307.75 in permitting fees.

Plaintiff indicated on June 25, 2019 that it intended to withdraw its building permit application and resubmit an application for a revised project to include additional affordable housing units. Plaintiff filed its formal refund request, dated January 23, 2020. On April 23, 2020, the City informed Plaintiff that it would retain and not refund Plaintiff \$446,326.49 of the \$624,307.75 total fees paid.

Citing the early stage when the project was withdrawn and claiming the City had not performed a level of work and incurred sufficient costs to justify retaining the fees the City deemed nonrefundable, Plaintiff sued the City, including its Planning and Building Department and Planning and Building Director William Gilchrist, in the director's official capacity. Plaintiff sought refund of the permitting fees, related damages, and costs, including attorneys' fees. This settlement will resolve all claims against defendant City in this matter.

Motion Authorizing Settlement Made by: **Councilmember Fife**

Motion Seconded by: **Councilmember Taylor**

**AYES: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas= 8**

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

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

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