

OAKLAND CITY ATTORNEY'S OFFICE



Annual Report

FISCAL YEAR 2021-2022



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MESSAGE FROM CITY ATTORNEY BARBARA J. PARKER



I am pleased to provide our Annual Report for Fiscal Year ("FY") 2021-22 (July 1, 2021 through June 30, 2022). 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 2021-2022 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 2021-2022 was \$27.67 million and funded a staff of 81 employees who provide critical legal advice and counsel to the City Administrator, City departments, boards and commissions and the City's elected officials on behalf of the people of Oakland.

During FY 2021-2022, 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 79% of claims and 70% of lawsuits for zero dollars. This compares to 75% of claims and 69% of lawsuits that we resolved for zero dollars in FY 2020-2021.

✓ **Payments for Settlements and Judgments:** The total amount the City paid for settlements and judgments was \$17.99 million this fiscal year. This amount is very close to the \$17.96 million the City paid in settlements and judgments in FY 2020-21. One matter accounted for a \$12 million settlement payment. (*Baker v. City of Oakland*) Without this settlement, payouts total \$5.96 million for FY 21-22, an amount that is well below the five-year average of \$13.67 million per year.

The number of settlements over \$100,000 increased from thirteen in FY 2020-21, to eighteen in FY 2021-22.

✓ **Outside Counsel Costs:** Outside counsel fees and costs were \$12.02 million in FY 2021-22, approximately \$2.24 million higher than the prior FY 2020-21.

The increase is primarily attributable to litigation costs associated with three lawsuits and one advisory matter: (1) *Kirkpatrick v. City of Oakland*, litigation regarding the termination of former Police Chief Kirkpatrick; (2) *City of Oakland v. Oversized Bulk Oakland Terminal, LLC. et al. (OBOT)*, the City's and OBOT's dueling breach of contract lawsuits re development of a bulk commodity terminal at the West Gateway of the former Oakland Army Base; (3) the City's lawsuit against California Waste Solutions (CWS), regarding CWS' exorbitant push/pull fees associated with the CWS contract; (4) legal advice, negotiations and litigation regarding the proposed Howard Terminal development project, including a new ballpark for the Oakland A's.

Outside counsel costs for the foregoing four matters totaled \$7.79 million during this fiscal year. This accounts for 64.8% of total outside counsel fees and expenses.

We note that outside counsel costs also include Police Commission outside counsel costs in the amount of \$138,564. 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).)

✓ **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 to protect tenants and allow them to remain in their homes.

- 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.
- **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 the abuse of the tenants. (*People v. Odiwe, et. al.*) In June 2022, the court granted a default judgment against landlord Afamefuna Odiwe and awarded the City \$101,112 in attorneys' fees and litigation costs, and \$75,000 in civil penalties.
- **Tenant Protection and Civil Rights Lawsuit** - In May 2020, the City Attorney filed a Tenant Protection Ordinance (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. The court granted the City's motion for a preliminary injunction and appointed a receiver to take control of the properties to address urgent safety issues and protect tenants from harassment. This case remains in litigation. (*People v. Chau, et. al.*)
- **Dodg Corp** – 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. The Defendants include two corporate entities, DODG Corp. and SBMANN2, LLC and their corporate principals, Baljit Singh Mann and Surinder Mann, who together own over a hundred and thirty properties in Oakland. The City sued the Defendants for severe building and fire code violations, including illegally converted commercial spaces that lacked basic fire safety measures 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, many of whom are low-income, non-English speaking, 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 Planning and Building Department 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 completely or partially red tagged the buildings, requiring the occupants to vacate for their own safety. The case went to trial in April 2021 in Alameda County Superior Court. After 13 days of trial and 10 witnesses from the City departments, the Court found all four Defendants liable under Oakland's Tenant Protection Ordinance and under state and local public nuisance law.

The Court imposed the maximum amount of daily civil penalties for three of the six properties based on the severity of the violations and awarded total civil penalties of \$3,997,550. The Court also issued a Permanent Injunction After Trial, which requires the Defendants to reform their property management practices and prohibits them from violating tenant protection and health and safety laws at all of their Oakland rental properties. The Court granted the City's request for attorney's fees and costs, awarding the City a total of \$2,399,947. On March 10, 2022, the Court entered an amended Final Judgment against Defendants in the total amount of \$6,387,487. Defendants have appealed the final judgment and permanent injunction, and the City Attorney's Office is defending the appeal. The judgment is accruing interest at the rate of 10% per annum while the appeal is pending. Meanwhile, the City Attorney's Office is also monitoring and enforcing the Permanent Injunction.

(2) Fighting Racial Discrimination and Securing Equity

- **Racism Is a Public Health Crisis Resolution** – the City Attorney drafted and co-sponsored a resolution declaring racism a public health crisis and reaffirming the City's commitment to advancing racial equity. The resolution allocated \$350,000 to support the City and the Department of Race and Equity to advance necessary improvements in systems for collecting and processing data to track performance and equity progress and authorized an additional position to support the Department's work and data analysis.
- **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 violation of the federal Fair Housing Act. In August 2020, the Ninth Circuit 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. Unfortunately, in September 2021, an 11-member en banc panel of Ninth Circuit judges reversed course and dismissed all of the City's Fair Housing Act claims against Wells Fargo.

- **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. The case settled successfully after the transition to the Biden Administration and the rescission or termination of the underlying policies at issue. The City litigated this case with counsel from the Portland City Attorney’s Office and with pro bono assistance from the nonprofit Public Rights Project.

(3) Fighting for Environmental Justice

- **Cleaning up Toxic Lead Paint** – After nearly two decades of litigation, the City Attorney, in partnership with other jurisdictions, settled a \$305 million lawsuit against lead paint manufacturers asking the court to order that the defendants pay the cost to remove toxic lead paint from homes that is poisoning and disabling children. The City began to develop plans and procedures to allocate dollars to remove the toxic lead paint in Oakland properties and residences. Because the City of Oakland and the County of Alameda have overlapping jurisdiction, they received a single allocation of 10% of the balance of the settlement funds, \$23,985,922.92. The settlement funds are held in trust by the County Treasurer subject to the City and the County agreeing on disbursement and programming. In December 2021, the Council authorized a partial settlement of the allocation of the settlement funds as follows:
 - 60% of the settlement proceeds will be used for lead poisoning prevention services in Oakland (“City Services Allocation”) and 40% will be used outside of Oakland;
 - The City will receive 20% of the City Services Allocation, \$4,797,184.58, to fund development of an Equity Based Lead Program;
 - The remaining 40% of the City Services Allocation will continue to be held in trust by the County Treasurer subject to the City and the County agreeing on disbursement.
- **Cleaning up Monsanto’s Contamination of Waterways** – The City Attorney, as a lead plaintiff continued its prosecution of a national class action lawsuit against chemical giant Monsanto seeking hundreds of millions of dollars for contaminating Oakland’s storm waters and the Bay and waterways across our country with toxic PCBs.

- **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 from the harms of climate change and to hold them accountable for engaging in misrepresentations and a deception campaign about the dangers of climate change. The case has been tied up in appeals on the issue of whether it should be in state or federal court, but it is expected to be remanded to state court so that it can be litigated on the merits.
- **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

- **Hazard Pay for Grocery Store Workers** – the City received complaints that an Oakland Target location was not providing hazard pay to its workers pursuant to Oakland Grocery Worker Hazard Pay Emergency Ordinance. The City Attorney opened an investigation into Target to protect its workers.
- **COVID-19 Protections for Workers** – the City received complaints that certain food service chains were not providing sufficient protections for workers in light of the COVID-19 pandemic as required by Alameda County health orders. These locations were not adhering to distancing protocols, not providing employees with notice when a co-worker had contracted COVID-19, and not providing adequate sanitization and personal protective equipment. The City Attorney opened investigations and sent letters demanding that these businesses come into compliance with Oakland laws and Alameda County health orders.
- **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 prosecuted 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 disproportionately impacted Oakland’s African American and homeless populations. The case went to trial in the summer of 2021 and the trial court ruled against the public entities. 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. Oakland expects to receive up to \$20 million in funds to put towards opioids abatement through 2039.

- **Enforcing Oakland's Worker Protection Laws**-- In December 2020, the City entered into a [settlement agreement with Southwest Airlines](#) to resolve complaints alleging violations of Oakland's municipal sick leave law at Oakland International Airport (OAK). The City Attorney continues to enforce Oakland's worker protection laws by working in collaboration with the Department of Workplace and Employment Standards to investigate complaints alleging violations by large corporate employers.
- **Amicus Support for Important Nationwide Causes** - The City Attorney continued to sign onto a number of amicus briefs and comments that lend Oakland's voice to critical matters across the nation, including protecting undocumented immigrants, providing services to people impacted by the opioid epidemic, maintaining housing protection during the COVID-19 pandemic, reproductive rights, and regulating greenhouse gas emissions.

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 six units:

1. Real Estate Unit
2. Land Use and Planning Unit
3. General Government & Finance Unit
4. Code Enforcement, Rent & General Public Safety Unit
5. Labor & Employment Unit
6. Police Departmental Counsel

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.

Operations Division

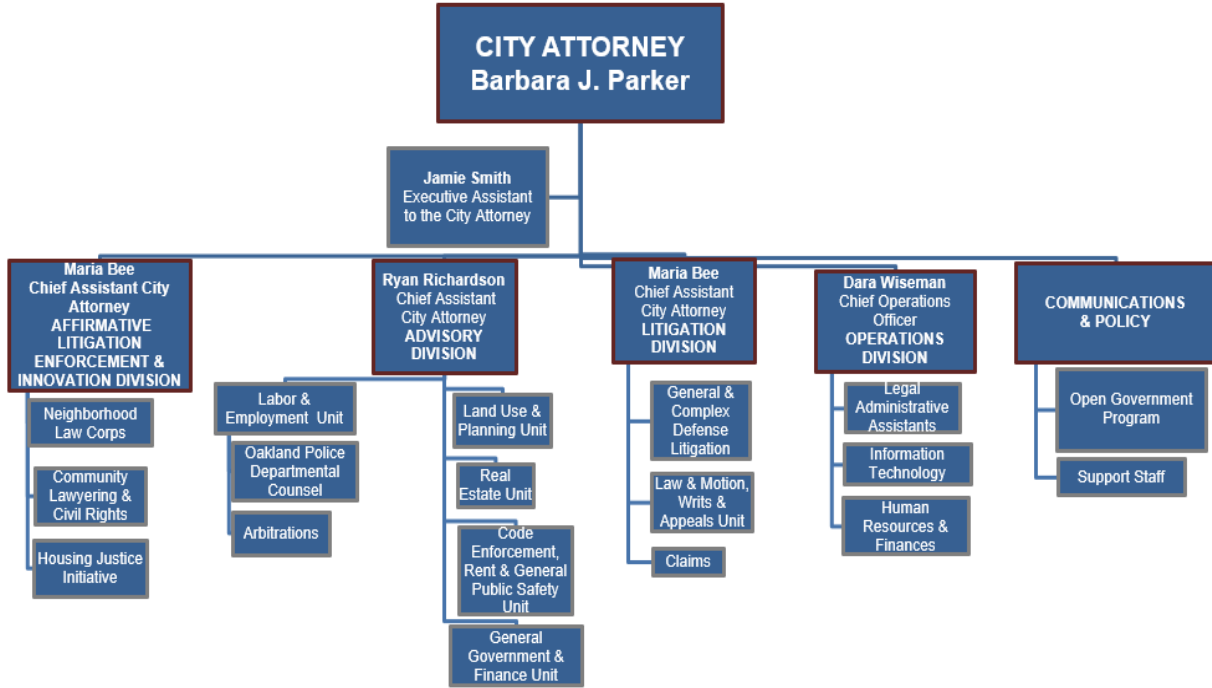
The **Operations Division** administers the budget, personnel and support services of the City Attorney's Office. The group includes administrative and information technology staff, legal administrative assistants and paralegals.

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

ORGANIZATION CHART



Our Team Includes:

- 48 attorneys: City Attorney, two Chief Assistant City Attorneys, two Special Counsel, eight Supervising Deputy City Attorneys, 30 Deputy City Attorneys and five Neighborhood Law Corps attorneys. Our current attorney staff is approximately 54% people of color and 65% women.
- 29 support staff: three Executive Assistants, nine Paralegals, eight Legal Administrative Assistants, one Public Service Representatives, one Legal Support Supervisor, one Legal Assistant Supervisor, two Information Technologists, one Claims Investigator, one Accountant, one Legal Services Coordinator and one executive manager. Our current support staff is approximately 79% people of color and 68% 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 **\$12.02 million this fiscal year. This is approximately \$2.24 million more than the 2021-22 fiscal year.** Four complex litigation lawsuits and one advisory matter accounted for sixty-eight 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 judgments varies from year to year depending on the types of cases that are filed against, and settled by, the City. The total amount of payouts was **\$17.99 million this fiscal year.** This is consistent with the 17.96 million paid in FY 20-21. One settlement of \$12 million accounts for 66% of the total settlement payouts for the fiscal year.

The City Attorney has authority to settle lawsuits and claims filed against the City for up to \$25,000 per case. The City Council authorizes settlements of claims and lawsuits that exceed \$25,000, except claims/lawsuits that the City Attorney has independent authority to file and settle under state law or pursuant to City legislation or longstanding past practice.

Office Budget & Expenses

This year, the Office's budget totaled **\$27.67** 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 2021-22, four complex cases and one advisory matter accounted for over two thirds (68 percent) of all outside counsel costs for the year (see Figure 1 below):

- (1) ***OBOT v. City of Oakland and City of Oakland v. OBOT*** – 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 (City’s case) 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. The cost of this case during FY 2020-21 was \$2.52 million.

- (2) ***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 \$6 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.

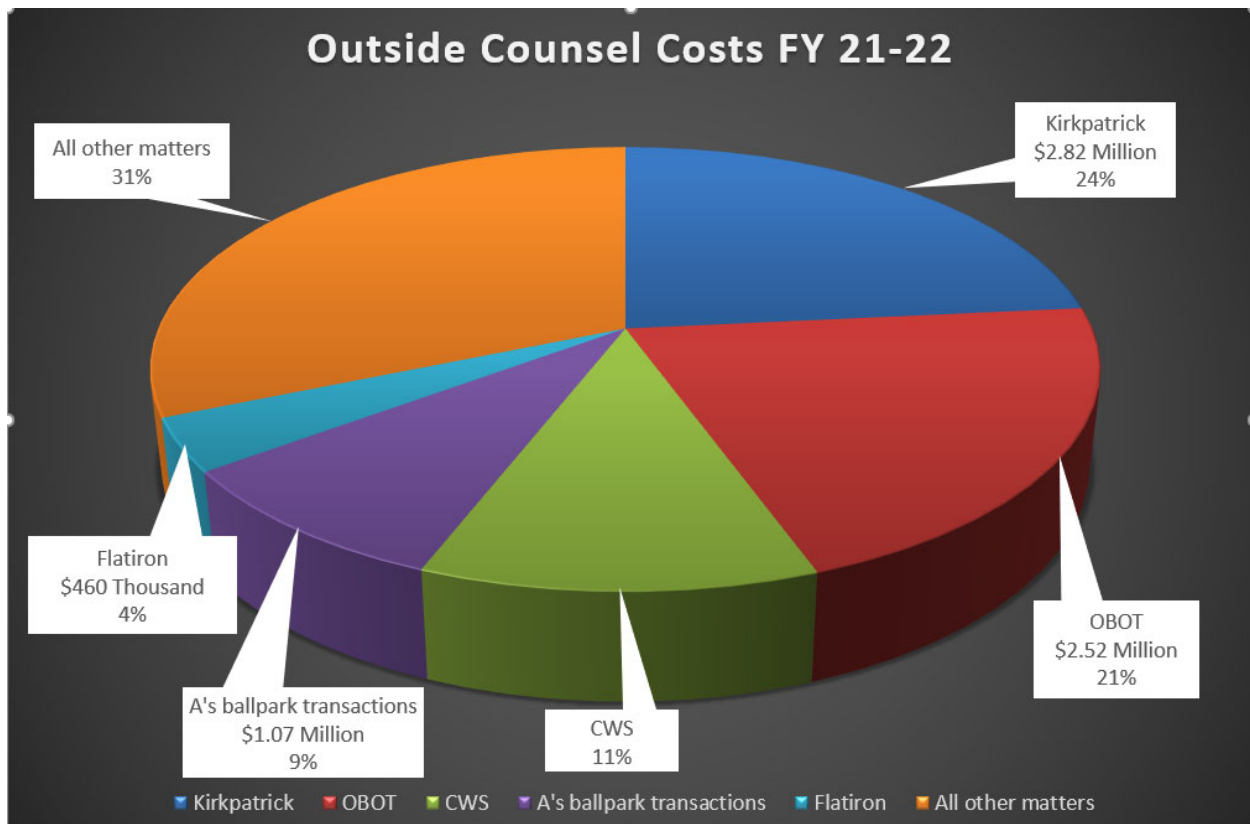
On December 21, 2021, City Council approved a settlement of the lawsuit and counterclaims. The settlement included a correction to CWS’s service charges, a refund to Oakland residents of all past overpayments, a payment of \$1.7 million from the City to CWS, and \$1.5 million of cost reductions in CWS’s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

The refunds to Oakland residents will be distributed by a third-party claims administrator. The claims administration process is currently pending.

- (3) ***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. The total fees for this fiscal year are \$460,000.
- (4) ***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).

The case proceeded to trial from May 16-26, 2022. After trial, the jury returned a verdict in favor Kirkpatrick on the whistleblower claim and returned a verdict in favor of the City on the First Amendment claim. The jury awarded Kirkpatrick \$337,635.00, the amount of severance pay the City offered, and Kirkpatrick rejected, before Kirkpatrick filed the lawsuit. As the prevailing party, Kirkpatrick was entitled attorneys’ fees and litigation costs. Kirkpatrick asserted that Kirkpatrick incurred costs of approximately \$250,000 and attorneys’ fees in excess of \$5 million. The Council authorized settlement of the entire case for \$1.5 million. The total legal fees for the Kirkpatrick during this fiscal year are \$2.82 million.

FIGURE 1: Breakdown of outside counsel costs FY 2021-22



Excluding expenditures for the top two litigation matters, 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 the top two cases in expenditures was \$5.92 million; in FY 2019-20, the total cost of outside counsel, subtracting the top two matters, was approximately \$7.16 million. In FY 20-21, the total cost of outside counsel, subtracting the top two cases, was \$7.07 million. **In the current fiscal year, the total cost of outside counsel, subtracting the top two matters, is \$6.68 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 2021-22 (excluding expenditures on the OBOT and Kirkpatrick lawsuits) are **LESS** than the total FY 2012-2013 outside counsel costs in today's dollars. (\$8.67M inflation adjusted for June 2013 compared to \$6.68M for FY 2021-22).

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.

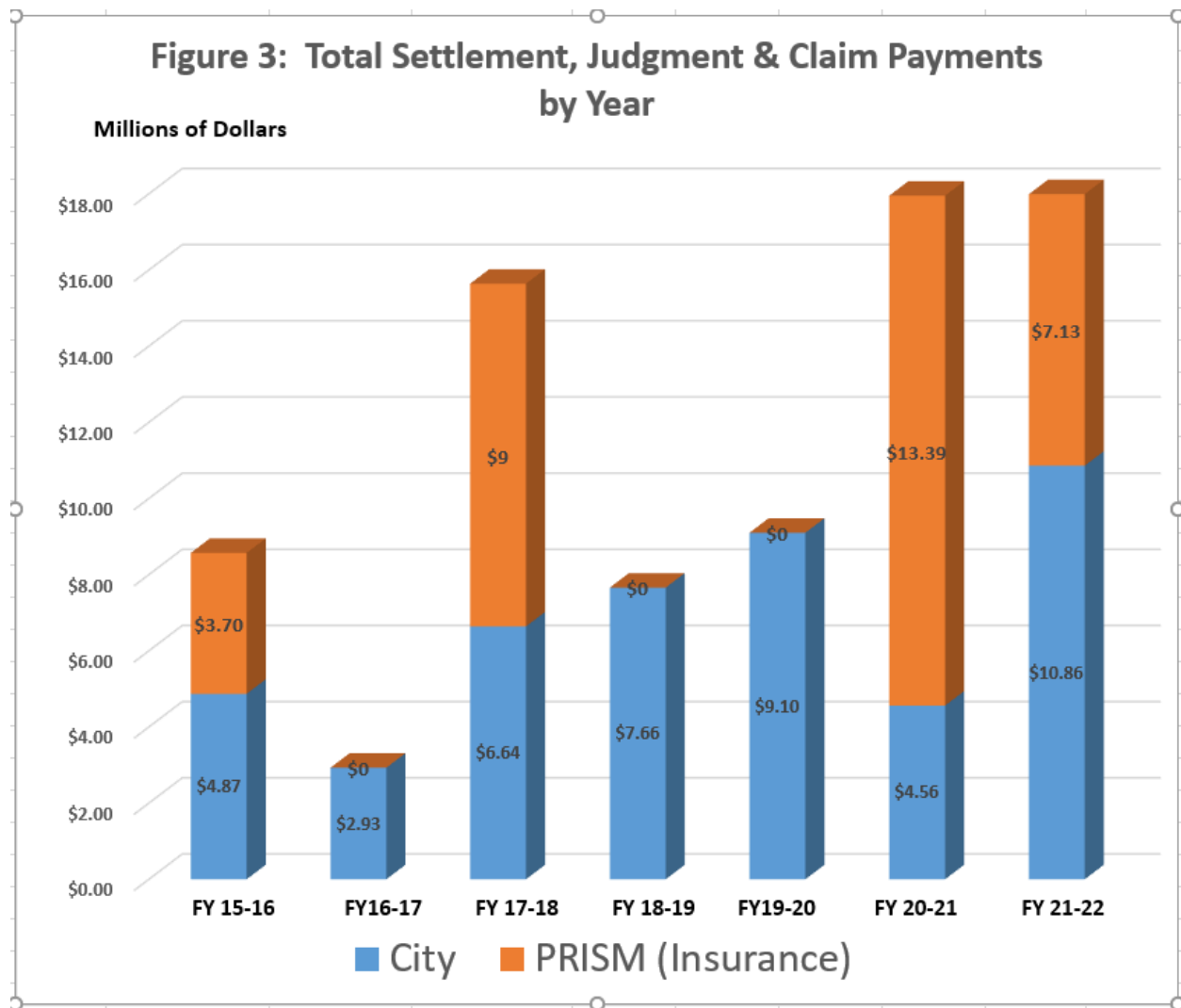
The total amount of payments varies from year to year depending on many factors, including the types and complexity of claims and lawsuits filed against the City and when cases are resolved.

The total amount of payments this year was \$17.99 million, which is in line with the \$17.96 million in settlement payments in FY 20-21. This fiscal year, one settlement (*Baker v. City of Oakland*), accounted for sixty-six percent of all settlement payouts. Excluding this settlement, the total amount of payouts was 50% lower than previous year (FY 2019-20). **Payouts, without the Baker settlement (\$5.99 million), were they second lowest they have been since FY 2016-17.** The Baker case involved an automobile collision for which an Oakland police officer was at fault and which resulted in catastrophic injuries to the plaintiff including permanent brain damage and numerous broken bones.

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 and 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 (PRISM). During this fiscal year, the City's agreement with PRISM provided for the City to pay the first \$5 million for each "incident" and for PRISM to pay amounts in excess of \$5 million up to \$25 million per "incident."



PRISM, the City’s excess insurance carrier paid \$7.13 million of the \$17.99 million in total payments to plaintiffs in claims or lawsuits against the City. This is because total expenditures in the Baker matter, exceeded the City’s self-insurance limit of \$5 million per case. This triggered PRISM’s obligation to pay \$7.13 million of the \$17.99M. 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 2021-22. In this fiscal year, one settlement (Terry Baker), accounted for the overwhelming majority of total payments.

Table 2: Payouts of Claims and Lawsuits More than \$100,000 FY 2021-22

Case	Type	Payment
Baker, Terry	Settlement of auto collision for which a City police officer was at fault.	\$ 12,000,000.00
Holly Ross-Sisneros and Paul Mico	Settlement regarding property damage due to landslide.	\$ 1,100,000.00
Segula Investments, Inc. (Writ and complaint)	Settlement regarding permitting fees dispute.	\$ 465,000.00
City of Oakland v. California Waste Solutions (Push/Pull Fee)	Settlement regarding dispute over push/pull fees.	\$ 425,000.00
Williams, Michele C.	Settlement of allegations of sewage damages to private property.	\$ 400,000.00
Gateway Bank, F.S.B.	Settlement pursuant to allegations of sewage damages to private property.	\$ 307,370.08
Jones, Claudine	Claimant alleges trip and fall on raised sidewalk.	\$ 300,000.00
De La Riva, Katherine and Allan, William	Claimant alleges police destroyed sail boat.	\$ 280,000.00
Dr. Sarai Crain	Settlement regarding Equal and Fair Pay Act.	\$ 201,000.00
Berfield, Frank K.	Alleges injuries from collision at dangerous intersection.	\$ 200,000.00
Ycela Pelta & Zaahir Carter Brown by & thru G.A.L. Ycela Pelta	Settlement pursuant to injuries from trip and fall.	\$ 195,000.00
Mina Nadim	Settlement pursuant to allegation she was struck by city vehicle.	\$ 172,645.00
Davidson, Ian	Settlement pursuant to injuries from bike accident.	\$ 165,000.00
Desley Brooks	Settlement pursuant to representation dispute.	\$ 165,000.00
K.P. a minor & thru her G.A.L. Jourdan Murray & Kennisha Jackson-Cadle	Settlement pursuant to allegations of sexual assault.	\$ 137,000.00
Scott Morris; Sarah Belle Lin; Brian Krans, Michael Katz et al. (Writ)	Settlement regarding Public Records Act violations.	\$ 127,500.00
Darwin BondGraham and Ali Winston (Writ)	Settlement regarding Public Records Act violations.	\$ 125,204.50
Lydia M. Taheny	Settlement pursuant to injuries from trip and fall.	\$ 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 2021-22 saw an increase in payments related to police matters. The amount of police related payments in this fiscal year totals, **\$15,934,477 (Table 3)**, which is above the five-year average of annual police related payments of **\$7,087,146**. As noted above, the driver of this increase is the \$12,000,000 payout of one matter. Without this settlement, police payouts are below the five-year annual average.

Payments in the category of infrastructure totaled **\$3,619,737 in FY 21-22. Up from \$2,795,467 in FY 2020-21 (Table 4)**. This represents an increase of \$824K compared to the prior fiscal year and is slightly above the five-year average of **\$3,151,875** for payments in this category.

Payments in the category of city vehicle accidents totaled **\$337,627 in FY 2021-22 (Table 5)**. This amount is the lowest payout amount in this category over the past five years. The five-year average for payouts in this category is **\$3,265,894**.

Category	2017-18	2018-19	2019-20	2020-21	2021-22	5-year average
Conduct: Suspect Chase	\$4,600	\$14,476	\$845	\$1,829	\$18,199.77	\$7,990
Alleged Use of Force	\$0	\$112,500	\$23,400	\$200,000	\$2,784,000.00	\$623,980
Conduct: Non-force	\$1,289,399	\$9,500	\$10,539	\$736	\$13,225.00	\$264,680
Conduct: Strip Search	\$0	\$0	\$0	\$0	\$0.00	\$0
Alleged Wrongful Death	\$0	\$0	\$500,000	\$1,400,000	\$12,000,000.00	\$2,780,000
Vehicle Accidents	\$12,158,574	\$400,200	\$2,873,609	\$110,251	\$182,165.99	\$3,144,960
Property Loss/Miscellaneous	\$2,133	\$6,536	\$3,545	\$2,600	\$329,414.26	\$68,846
Towing	\$6,891	\$11	\$690	\$15,450	\$12,122.00	\$7,033
Personnel/Labor	\$0	\$0	\$261,271	\$25,000	\$201,000.00	\$97,454
Other / Admin Hearings	\$35,000	\$0	\$17,669	\$14,000	\$394,349.50	\$92,204
Total Paid	\$13,496,597	\$543,223	\$3,691,568	\$1,769,866	\$15,934,477	\$7,087,146

Category	2017-18	2018-19	2019-20	2020-21	2021-22	5-year average
City Buildings, Parks, Etc.	\$36,339	\$117,691	\$1,761,878	\$136,013	\$20,732	\$414,531
Sewers & Storm Drains	\$132,912	\$372,544	\$217,623	\$72,558	\$1,997,485	\$558,625
Sidewalks, Curbs, Etc.	\$1,238,610	\$1,476,567	\$202,616	\$439,400	\$736,430	\$818,725
Streets, Signals & Lights	\$106,646	\$155,468	\$1,184,009	\$2,066,203	\$794,402	\$861,346
Inverse Condemnation	\$13,122	\$13,447	\$10,080	\$0	\$50,331	\$17,396
Trees	\$52,875	\$2,149,661	\$102,081	\$81,293	\$20,356.15	\$481,253
Total Paid	\$1,580,504	\$4,285,378	\$3,478,287	\$2,795,467	\$3,619,737	\$3,151,875

Category	2017-18	2018-19	2019-20	2020-21	2021-22	5-year average
Police	\$12,163,174	\$400,200	\$2,873,609	\$110,251	\$90,993	\$3,127,645
Public Works	\$51,584	\$64,005	\$71,331	\$71,218	\$9,072	\$53,442
Parks & Recreation	\$0	\$0	\$3,089	\$1,129	\$0	\$844
Fire	\$11,968	\$14,730	\$20,967	\$109,589	\$27,327	\$36,916
Other Departments	\$0	\$491	\$15,832	\$38,675	\$180,238	\$13,750
Total Paid	\$12,226,726	\$479,426	\$2,984,828	\$330,862	\$307,629	\$3,265,894

Table 6: Payouts - Employment/Labor

Category	2017-18	2018-19	2019-20	2020-21	2021-22	5-year average
Police	\$0	\$0	\$0	\$261,272	\$0	\$52,254
Parks & Recreation	\$0	\$0	\$0	\$72,142	\$0	\$14,428
General Government/Other	\$0	\$0	\$335,000	\$115,000	\$1,750,000	\$440,000
Public Works	\$75,000	\$0	\$75,000	\$0	\$0	\$30,000
Fire Services	\$0	\$450,000	\$0	\$0	\$0	\$90,000
Total Paid	\$75,000	\$450,000	\$410,000	\$448,414	\$1,750,000	\$626,683

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.

The City Attorney secured **\$633,948.29 in FY 2021-22** 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	Description
4714 Congress Ave - Odiwe	Alameda County Superior Court: Northern	RG20061699	\$18,000.00	Tenant Protection Ordinance violations. Unlawful eviction during the COVID-19 pandemic.
City of Oakland v. EBMUD et al.	Alameda County Superior Court: Northern	RG19043863	\$185,000.00	Settlement of EBMUD water line that broke inside of a City storm water culvert, causing sinkhole requiring repair.
Oakland Public Library Mobile Vehicle / Motiv, Gyroscope, SMA	Alameda County Superior Court: Northern	RG20070821	\$250,000.00	Settlement of breach of contract claims against vendors contracted to build book-mobile for the Oakland Public Library.
People of the State of CA v. Lori Dario (6115 International Blvd.)	Alameda County Superior Court: Northern	RG20070921	\$55,000.00	Settlement of tenant protection ordinance violations.
Progressive Solutions Inc.	U.S. District Court: San Francisco	16-cv-04805-SK	\$125,948.29	Settlement of breach of contract dispute surrounding misappropriation of proprietary info, confidential info and trade secrets, regarding proprietary software system used automate local tax billing and collection activities.
		Total Collected FY 21-22	\$633,948.29	

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 644 claims this year, compared to last year’s total of 444. This amount is slightly higher than the 5-year average of 597 claims per year. The category with the largest increase in claims filed was 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 fourth consecutive year, the total number of claims involving police matters registered below the five-year average. The total number of claims alleging damage due to City vehicle accidents increased from 57 in FY 20-21 to 73 om FY 21-22. However, this number remains below the 5-year average of 76 claims due to City vehicle accidents.

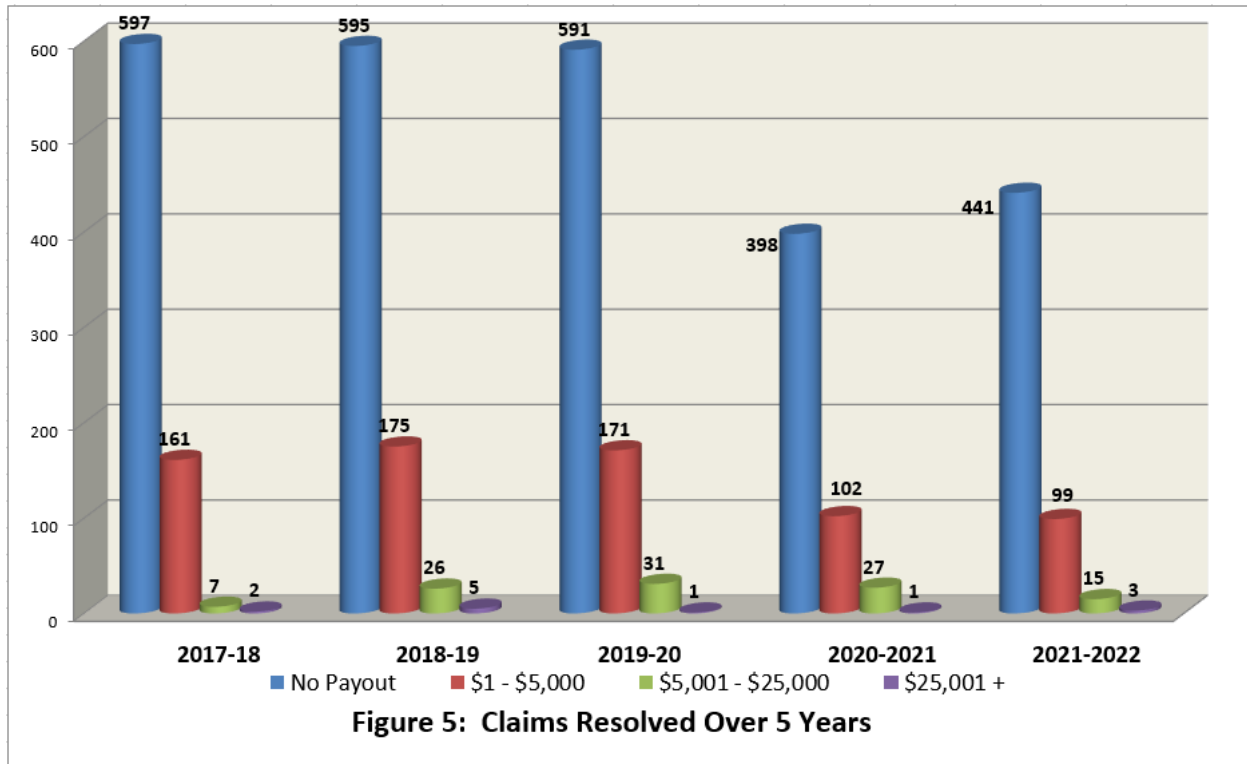
Table 8: Claims Received

Category	2017-18	2018-19	2019-20	2020-21	2021-22	5-year average
Municipal Infrastructure*	427	537	425	342	524	451
Police Matters**	62	53	46	32	29	44
City Vehicle Accidents	95	74	82	57	73	76
Other	32	42	20	13	18	25
Total Claims/Year	616	706	573	444	644	597

*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 2021-22

We resolved a total of 558 claims in FY 2021-22. This year, **79 percent of claims were resolved with no payment of money whatsoever**, four percent more than the 75% in FY 20-21. **Less than one percent** of claims resolved this year resulted in a payout of more than \$25,000.



Lawsuits Filed against the City

Lawsuits primarily arise in the following categories: municipal infrastructure, police matters, City vehicle accidents, personnel/labor, complex contracts and "other." In FY 2021-22, plaintiffs filed **105** 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.*

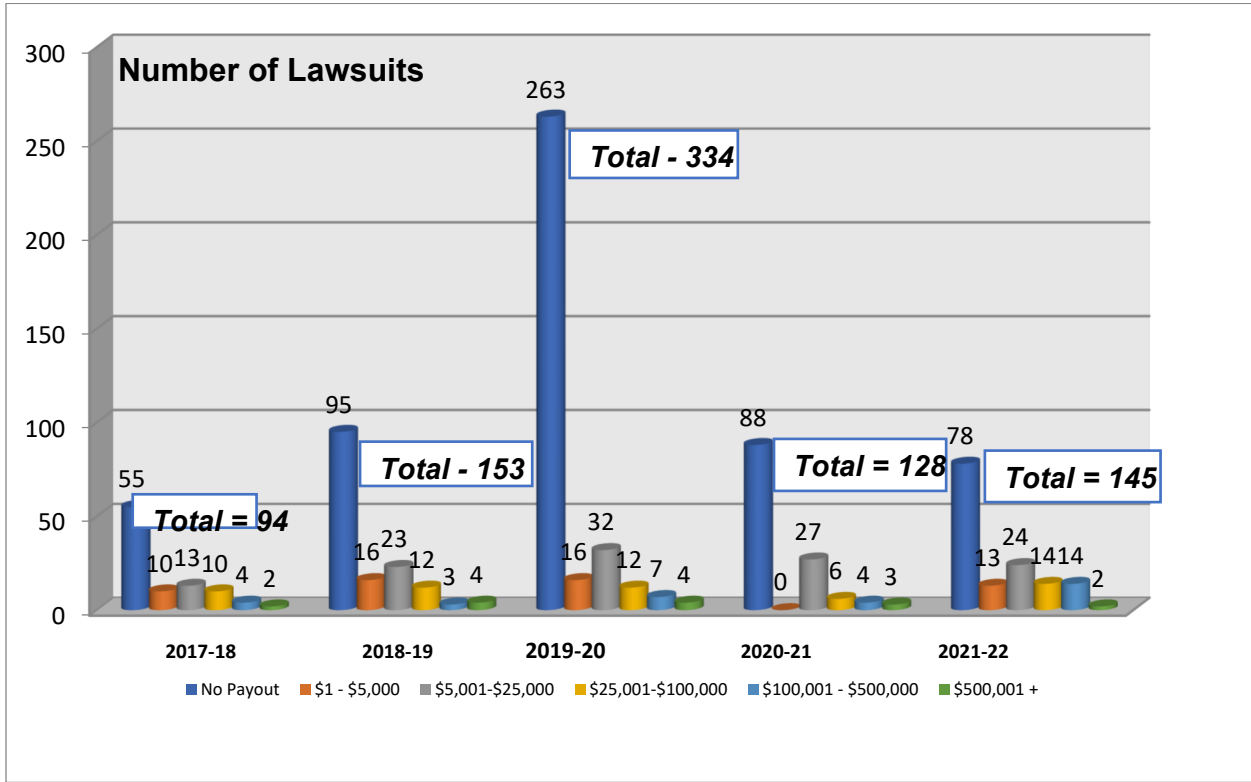
Table 9: Lawsuits Filed Against the City

Category	2017-18	2018-19	2019-20	2020-21	2021-22	5-year average
Municipal Infrastructure	53	61	53	45	46	52
Police Conduct Matters	17	14	22	11	9	15
Personnel/Labor (non-lawsuits and lawsuits)	6	18	7	9	7	9
City Vehicle Accidents	21	11	9	10	10	12
Other	33	52	38	27	33	37
Total Lawsuits/Year	149	156	129	102	105	128

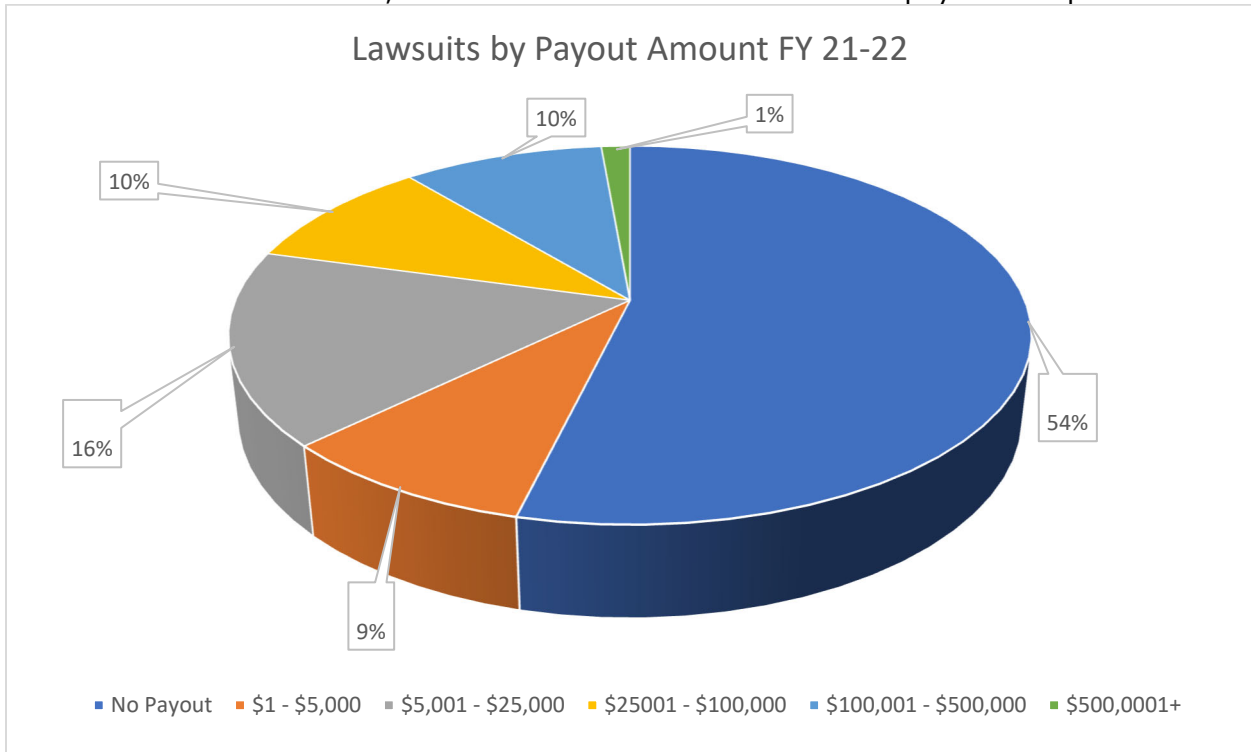
Outcome of Lawsuits

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 fiscal year, the City Attorney’s Office resolved 145 lawsuits, significantly higher number than the 128 resolved in FY 20-21. Almost **seventy percent (78/145)** 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.

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 state court subsequently consolidated the state cases and they have proceeded together on one litigation track. The parties have engaged in several years of intense discovery, including written discovery and depositions, as well as diligent settlement negotiations.

Zolly

In the matter of Robert Zolly, Ray McFadden and Stephen Clayton v. City of Oakland, et al., the Plaintiffs, owners of multi-family dwelling properties in the City filed suit in June 2016, alleging that: (1) the refuse collection, disposal, and recycling rates charged by the City's two franchisees, Waste Management of Alameda County ("WMAC") and California Waste Solutions ("CWS"); (2) the franchise fees that the franchisees pay to the City under their respective franchise agreements; and (3) the California statutory recycling fee (AB 939); all violate California Constitution Article XIIID. Through two rounds of demurrers and amendments, the Plaintiffs' claims narrowed to a claim for declaratory relief challenging the franchise fees paid by the franchisees, alleging that those fees are illegal taxes under California Constitution Article XIIIC, and that a portion of the fees paid by WMAC exceeds what AB 939 authorizes. The contracts at issue went into effect on July 1, 2015. The WMAC contract has a 10-year term with the possibility of renewal, and the CWS contract has a 20-year term.

The City initially responded to Plaintiffs' latest complaint by demurrer (motion to dismiss), which the Superior Court sustained. But that decision was overturned by the Court of Appeal in March 2020. The California Supreme Court granted review and held oral argument in May 2022.

OTHER HIGHLIGHTS

Homeless Encampment Litigation

Since November 2018, the City and various City officials have been sued more than a dozen 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 First, 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 court initially granted a temporary restraining order, after the City had an opportunity to brief and/or argue the issue, federal judges 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 collected 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.

In 2021, the City also began receiving government tort claims and subsequent lawsuits in state courts from Oakland commercial and residential property owners primarily alleging public nuisance related claims stemming from conditions in homeless encampments. Despite contrary allegations, the City continues to diligently enforce its 2020 Encampment Management Policy to address conditions in homeless encampments throughout the City, as well as increase outreach efforts to unhoused individuals including funding for temporary emergency shelter intervention sites. To date, lawsuits seeking to hold the City liable for nuisance and/or failing to engage in alleged mandatory duties related to clearing homeless encampments have been unsuccessful.

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. The plaintiff appealed the dismissal of the lawsuit. In July 2021, the appellate court affirmed the trial court's ruling dismissing the case.

City v. EBMUD: In 2019, the City filed a lawsuit against East Bay Municipal Utility District, arising out of a dispute over damage to a City storm water culvert and roadway surface near 3021 Richmond Boulevard. In discovery, it was determined that EBMUD dug through the surface of the roadway and broke the roof of the culvert below in the course of repairing a damaged water main. Then EBMUD simply left damage in place with metal trench plates over the hole, and refused to take responsibility to repair it, forcing the City to file suit. The lawsuit settled in November 2021, with EBMUD paying the City \$185,000.00, which is the estimated cost to repair the damage.

Ballinger: Oakland's Uniform Residential Tenant Relocation Ordinance requires landlords to provide critical minimal relocation assistance to tenants who, through no fault of their own, are displaced by evictions and face significant unforeseen relocation costs. In 2018, local landlords evicted their tenants in order to move back in, and paid the tenants the relocation assistance required under the Ordinance. The landlords subsequently sued the City, calling the relocation payment "ransom" and claiming that the City's ordinance created an unconstitutional "taking" of their property, and a "seizure" of their money. In 2019, the district court found that the landlords' claims had no merit and dismissed the case. The landlords, represented by the Pacific Legal Foundation, appealed the district court's decision. In February 2022, the Ninth Circuit Court of Appeals agreed with the City and the district court, and affirmed the dismissal of all claims in a published opinion, *Ballinger v. City of Oakland*, 24 F.4th 1287 (9th Cir. 2022). The landlords then petitioned the U.S. Supreme Court for review, which was denied in June 2022.

Jhannkar Fontanilla: Jhannkar Fontanilla alleged they were riding a bicycle on a trail in Joaquin Miller Park when they hit a piece of rebar and fell off the bicycle. They alleged the condition of the trail was a dangerous condition of public property. The City demurred to (moved to dismiss) the complaint, arguing that the City was immune from liability under Government Code section 831.4, trail immunity. The court agreed, holding plaintiff's claims against the City were barred because they were entirely based on the condition of a trail. No language in Government Code section 831.4, and no case cited by plaintiff or of which the Court was aware, limits the immunity provided by Government Code section 831.4 to a "natural" condition of a trail. Plaintiff's theory of liability, if accepted, would expose the City to enormous liability, potentially requiring the City to pay damages any time a bicyclist fell while riding in a city park.

CSHV 1999 Harrison: The City of Oakland imposes a Real Property Transfer Tax on transfers of real property in the City. “CSHV 1999 Harrison Street, LLC” (“the LLC”) purchased property in Oakland and paid \$3,371,250 in tax. The LLC is entirely owned by the California State Teachers’ Retirement System (“CSTRS”), which is a unit of a state agency. As part of the State, CSTRS is exempt from the tax. The LLC filed a petition for writ of mandate seeking a refund of the tax paid on the purchased property on the grounds that the transfer was exempt from the tax because the LLC is owned by CSTRS. The trial court denied the writ and entered judgment for the City. The LLC has appealed the decision.

Candace Koshman:

Plaintiffs Candice Koshman, Michae Legault and American Frontline Workers 4 Freedom filed suit in Alameda Superior Court challenging the City of Oakland's employee vaccine mandate in March 2022. Plaintiffs alleged three claims: 1) Ultra Vires action—that the City was acting outside of its authority in issuing the mandate; 2) that the Skelly process applied to the noncomplying employees violated their due process rights under Skelly v. State Personnel Board and the California Constitution (Art. 1 § 7); and 3) that the mandatory vaccination policy violated employees’ right to privacy under the California Constitution (Art. 1 § 1). Plaintiffs filed a motion for preliminary injunction seeking to enjoin the Skelly process for non-complying City employees in April 2022. The City successfully defeated that motion in May 2022.

In June 2022, the City filed a demurrer (motion to dismiss) all three claims on the ground that plaintiffs failed to state a claim that entitled them to relief. In August 2022, the Alameda County Superior Court sustained the demurrer as to all three claims and entered judgment in favor of the City defendants.

Plaintiffs filed an appeal to the California Court of Appeal in September 2022. The appeal is currently pending.

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.

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

The Affirmative Litigation Division provides Oakland 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.

The case settled successfully after the transition to the Biden Administration and the rescission or termination of the underlying policies at issue. The City litigated this case with counsel from the Portland City Attorney's Office and with pro bono assistance from the nonprofit Public Rights Project.

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

Oakland brought this 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, ConocoPhillips, 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. Judge Alsup granted our motion to remand to state court, but the defendants appealed that decision. That appeal is pending. 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 engaging in misrepresentations and a deception campaign about the dangers of climate change, and seeks to recover 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 disproportionately impacted Oakland’s African American and homeless populations. The rise of opioid addiction and overdoses in our community is directly related to deceptive marketing that aggressively promoted these drugs while covering up the risks. Although there are legitimate medical uses for opioids, they are highly addictive drugs that have been vastly over-prescribed as a direct result of the manufacturers’ deceitful and irresponsible tactics. Families in Oakland are suffering the consequences.

In 2012, there were 464.4 opioid prescriptions for every 1,000 Alameda County residents – almost one prescription for every two residents of the county. The rate of emergency room (“ER”) visits related to opioids in Alameda County increased by almost a third between 2009 and 2014. During that time period, the rate of opioid-related ER visits by African Americans was more than three times higher than the rate of the county as a whole. It is readily apparent that these companies are peddling their wares to every demographic, but they shamelessly prey upon some of the most vulnerable populations.

The case went to trial in the summer of 2021 and the trial court ruled against the public entities. 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. Oakland expects to receive up to \$20 million in funds to put towards opioids abatement through 2039.

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.

The City Attorney, as a lead plaintiff recently settled a national class action lawsuit against chemical giant Monsanto for \$550 million for contaminating Oakland’s storm waters and the Bay and waterways across our country with toxic PCBs.

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 and in September 2021, reversed course and dismissed all of the City's Fair Housing Act claims. The City Attorney will work with fair housing partners to pursue state law remedies and other advocacy strategies that will vindicate the rights of Oaklanders and hold banks accountable for discriminatory conduct.

Amicus Briefs

One of the ways the City Attorney's Office has been advocating for the people of Oakland recently is through an active practice of drafting or signing onto amicus briefs or regulatory comment letters. 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. Comment letters urge regulatory agencies to take certain administrative actions. Oakland's sign-ons to comment letters have highlighted the impacts that a certain regulatory action will have on local governments.

In the past fiscal year, our office authored and/or signed onto numerous amicus briefs and comment letters addressing matters seeking to protect undocumented immigrants, provide services to people impacted by the opioid epidemic, maintain housing protection during the COVID-19 pandemic, protect reproductive rights, and regulate greenhouse gas emissions.

For example, in addition to its own litigation to hold opioid manufacturers responsible for the opioid epidemic, the City Attorney's Office signed onto amicus briefs and comment letters urging the maintenance of overdose-prevention sites. Overdose prevention sites are one of the best hopes to rescue people from overdose with life-saving naloxone administration, and to refer people in crisis to treatment and social support services. The Department of Justice under the Trump administration brought action against an overdose-prevention site called Safehouse and threatened action against other sites. The City Attorney's Office joined amicus briefs in the Third Circuit and Supreme Court on this issue and joined a letter to the Department of Justice urging it to deprioritize enforcement of the Controlled Substances Act against medically supervised overdose prevention programs. The Supreme Court denied review on a particular question at issue and the case is continuing in the trial court.

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.

Hazard Pay for Grocery Store Workers – the City received complaints that an Oakland Target location was not providing hazard pay to its workers pursuant to Oakland Grocery Worker Hazard Pay Emergency Ordinance. The City Attorney opened an investigation into Target to protect its workers.

COVID-19 Protections for Workers – the City received complaints that certain food service chains were not providing sufficient protections for workers in light of the COVID-19 pandemic as required by Alameda County health orders. These locations were not adhering to distancing protocols, not providing employees with notice when a co-worker had contracted COVID-19, and not providing adequate sanitization and personal protective equipment. The City Attorney opened investigations and sent letters demanding that these businesses come into compliance with Oakland laws and Alameda County health orders.

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. The Defendants include two corporate entities, DODG Corp. and SBMANN2, LLC and their corporate principals, Baljit Singh Mann and Surinder Mann, who together own over a hundred and thirty properties in Oakland. The City sued the Defendants for severe building and fire code violations, including illegally converted commercial spaces that lacked basic fire safety measures 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, many of whom are low-income, non-English speaking, 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 Planning and Building Department 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 completely or partially red tagged the buildings, requiring the occupants to vacate for their own safety. The case went to trial in April 2021 in Alameda County Superior Court. After 13 days of trial and 10 witnesses from the

City departments, the Court found all four Defendants liable under Oakland's Tenant Protection Ordinance and under state and local public nuisance law. The Court imposed the maximum amount of daily civil penalties for three of the six properties based on the severity of the violations and awarded total civil penalties of \$3,997,550. The Court also issued a Permanent Injunction After Trial, which requires the Defendants to reform their property management practices and prohibits them from violating tenant protection and health and safety laws at all of their Oakland rental properties. The Court granted the City's request for attorney's fees and costs, awarding the City a total of \$2,399,947. On March 10, 2022, the Court entered an amended Final Judgment against Defendants in the total amount of \$6,387,487. Defendants have appealed the final judgment and permanent injunction, and the City Attorney's Office is litigating the appeal. The judgment is accruing interest at the rate of 10% per annum while the appeal is pending. Meanwhile, the City Attorney's Office is also monitoring and enforcing the Permanent Injunction.

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 preliminary injunction that stopped further abuse of the tenants. The tenants' belongings were returned after the City intervened.

In June 2022, the court granted a default judgment against landlord Afeamefuna Odiwe and awarded the City \$101,112 in attorneys' fees and litigation costs, and \$75,000 in civil penalties.

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 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, were without electricity for more than one year.

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.

On the City's motion, the court issued a preliminary injunction and appointed a receiver to take control of the properties to address urgent safety issues and protect tenants from harassment. This case remains in litigation.

Ordinances and Resolutions

Racism as a Public Health Crisis Resolution – the City Attorney co-sponsored a resolution declaring racism a public health crisis and reaffirming the City's commitment to advancing racial equity. The resolution allocated \$350,000 to support the City and the Department of Race and Equity to advance necessary improvements in systems for collecting and processing data to track performance and equity progress.

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 2021-22, the Advisory Division was comprised of six units: General Government & Finance Unit, General Public Safety, Code Enforcement & Rent Unit, Real Estate Unit, Labor & Employment Unit, Police Departmental Counsel and the 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 and Transportation, Life Enrichment, Education Partnership, Rules and Legislation
- Civil Service Board
- Libraries
- Cultural Arts
- Human Services Department
- 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 and Transportation Committee, and Rules and Legislation Committee on open meetings laws, including the California Brown Act and Oakland Sunshine Ordinance, the City Charter, the Council's Rules of Procedure 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, Housing & Community Development, Human Services, Parks, Recreation & Youth Development (including managed programs such as Oakland Zoo, Children's Fairyland and golf concessions), Library, Public Works, Transportation, Information Technology, Violence Prevention, Animal Services, 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), the Cultural Affairs Commission, the Public Art Advisory Committee, the Mayor's 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, the Business Tax Board of Review, the Taxation and Assessment Board, and the Affordable Housing and Infrastructure Bond (Measure KK) Public Oversight Committee.
- Assisted Oakland boards and commissions with preparing emergency resolutions in order to continue to seamlessly operate throughout the COVID-19 pandemic.
- 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 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, and other substantive issues. 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 the PEC regarding the preparation of all documents associated with its recruitment of a new Executive Director (ED) after a decade of leadership from the outgoing ED, including the application advertisement and materials, closed session interviews and final offer letters.
 - ❖ Conducted Due Process, Brown Act, Sunshine Act and Public Records Act trainings for new commissioners.
- 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 2022 primary and general municipal elections.
 - Drafted ballot titles, summaries, and impartial legal analyses on multiple ballot measures for the 2022 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.
 - Drafted new legislation for OPD to address the issues of sideshows and impermissible anchor-outs in the Oakland estuary.

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: 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, and 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 the March 2022 and November 2022 elections, including the 2022 Amended Library Services Retention and Enhancement Act, the Progressive Business Tax Ordinance, the 2022 Affordable Housing and Infrastructure Bond, the Oakland Fair Elections Act, a Charter amendment replacing gender specific language with gender neutral language, a Charter amendment to allow noncitizen voting in Oakland Board of Education elections, a good governance Charter reform measure, an amendment to Oakland's Just Cause for Eviction Ordinance, and an ordinance to authorize the City to develop 13,000 low rent social housing units.
- 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.
- 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 Free Zone Ordinance, Equal Benefits Ordinance, Border Wall Ordinance, Slavery Era Disclosure Ordinance, procurement and solicitation of bids and proposals, request for proposals/qualifications, and waiver of programs and requirements.
- Advised interdepartmental team in ongoing negotiations of a Community Workforce Agreement (CWA) for City public construction projects

Public Works of Improvement, City Rights of Way, Transportation, and 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, curbs, 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 with Trust For Public Land 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 Public Works Department on city franchises including, solid waste collection, site disposal, recycling, cable, utility and other City major franchises.
- Advised the City Administrator and PW with respect to negotiations between the City and Waste Management of Alameda County, Inc. ("WMAC") with respect to the City's claim against WMAC for \$24 million dollars in liquidated damages assessed against WMAC and WMAC's \$25 million breach of contract claims against the City. An amendment of WMAC's Mixed Materials and Organics franchise agreement is being proposed that would settle and resolve these LDs and implement improved and value-added services to Oakland residents.
- Advised Public Works staff with respect to the implementation of three major recycling ordinances that affect Oakland businesses, contractors and the City itself as to how organic and construction and demolition materials are recycled according to State, County and City statutes and regulations.
- Advised Department of Transportation and other City departments on legal issues related to, Traffic Safety, Bicycle and Pedestrian programs, E-scooters, moped, and Car Share Mobility programs.
- Advised Department of Transportation on major and minor encroachment permits, and the Oakland Complete Streets and Slow Streets and Essential Places Programs developed during the Covid-19 pandemic, School Traffic safety initiatives, street paving, sidewalk and curb repair and capital improvement projects, Americans With Disabilities ("ADA") access issues, parking and mobility such as advising on Oakland Parking Garage management contract, DOT strategic planning, adoption and implementation of an Oakland parklet program, and Broadway Streetscape Improvement program.

- Advised Department of Transportation with respect to Martin Luther King, Jr. Way Streetscape Improvement Program, Jack London Square Streetscape Improvement program.
- Advised Public Works Department with respect to the implementation of the Community Choice Energy Joint Powers Authority.
- Advised City Administrator and Public Works Agency with respect to emergency contracts during the COVID pandemic and ongoing homeless emergency.
- Advised Department of Transportation regarding the abandoned vehicle abatement and towing program, including RV and autos on City streets and in homeless encampments in the City right of way or on City property and Caltrans property and from private property.
- Developed and handled off-site public improvements contract for the Housing Impact Fee program and for the Transportation Impact Fee program.
- Advised DOT regarding the Leimert Bridge Seismic Retrofit project involving temporary relocation of the East Bay Municipal Utility District and PG&E utility lines during project construction.
- Developed and handled off-site public improvements contract for the Housing Impact Fee program and for the Transportation Impact Fee program.
- Advised DOT regarding the Leimert Bridge Seismic Retrofit project involving temporary relocation of the East Bay Municipal Utility District and PG&E utility lines during project construction.
- Advised City Administrator and Public Works Agency with respect to emergency contracts during the COVID pandemic and ongoing homeless emergency.
- Advised Public Works Agency with respect to storm drain compliance with the Clean Water Act and the State's National Pollution Discharge permit issued by the California/Regional Water Board.
- Advised Public Works Agency with respect to the implementation of the Community Choice Energy Joint Powers Authority and advised on resolution creating a citizen advisory committee.
- Advised Department of Transportation on new parking management and enforcement program, mobile pay by phone initiatives, the continued implementation of parking meter enforcement program, which now includes license plate recognition.
- Advised City Administrator and DOT with respect to parking restriction programs and parking enforcement for Lake Merritt.
- Advised Information Technology, DOT and DVP on California Consumer Data Privacy Act and other privacy and personal identifying information issues with respect to collection of personal data to provide
- Advised KTOP with respect to video equipment and cable upgrade contract.

- Advised Fire Department on IT, professional services contracts and lot cleaning and maintenance contracts for wildfire prevention during the California drought.
- Advised Housing and Community Development on CES Service Level subscription IT contract.
- Advised DOT and helped negotiate an Electric Vehicle Fast-charging station agreement with PG&E and Charge Point, a charging station provider.
- Advised Public Works Agency on contract dispute and litigation related to Embarcadero bridge construction project.
- Advised the Housing Department on Community Development Grant Fund legislation and ERAP California Housing and Community Development Department Cashflow Bridge Loan Agreement, and the First Amendment of the EDC CDBG Annual Program Agreement after assuming responsibility for advising the department after Jennifer Logue departed.
- Advised Public Works and Department of Transportation with respect to the implementation of the hundreds of millions of dollars from Measure KK and Measure U bond funding for street improvements, public facilities, critical creek restoration, improvements to parks, fire stations, recreation centers, libraries, and civic and cultural sites across Oakland, and for affordable housing projects,
- Advised the City Administrator and DOT with respect to a Department of Justice (“DOJ”) investigation regarding Americans With Disabilities Act accessibility issues of the City’s/Amtrak’s Coliseum /Capitol Corridor station.
- Advised City Administrator on numerous projects that have provided site clearance and infrastructure such as plumbing and temporary shelter on City or County of Alameda-owned sites for housing for the homeless including for youth and families.
- 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.

Information Technology

- Advised Information Technology Department and City Administrator on various complex information technology, cyber and cloud-based business transactions and system maintenance contracts including:
 - Software as a Service (“SaaS”) project contracts (cloud-based project for licensing, software, maintenance, support and services, and data storage and retrieval)
 - Public Safety Systems Maintenance and Support (Motorola Solutions)
 - Upgrade of Police and Fire 911, CAD dispatch and new alarm systems
 - Cordata (new records storage system)
 - Trittech
 - Aviat
 - Federal Engineering
 - CAD/RMS Interface, Priority Dispatch and Update of System
 - Akumina

- 5G/Small Cell Deployment
- Public Address System Major Upgrade
- City-wide WiFi Fiber Optic Project
- Pulsepoint
- Bound Tree Medical software
- Outsystems
- Presidio
- SaraNet
- PulsepointTT
- Fuse Fellows
- KTOP video equipment and cable upgrade
- Prime Plus 2.0 (police officer tracking software)

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.

Departmental Counsel for the Oakland Police Department

Police Department Counsel Highlights FY 2021-2022:

- Represented the City in ongoing federal civil litigation (*Allen v. City of Oakland*, 00-cv-4599 WHO),
- Advised the Police Department on issues involving compliance with the Negotiated Settlement Agreement (NSA) in *Allen v. Oakland*,
- Collaborated with counsel for the Police Commission on matters involving the Commission's support of compliance with the NSA as part of ongoing federal litigation,
- Updated and advised City Council about the City's compliance with the NSA and ongoing litigation in *Allen v. Oakland*,
- Advised the Police Department on liability issues relating to policy,
- Advised the Police Department on liability issues relating to pattern and practice,
- Advised the Police Department and Employee Relations during union negotiations regarding new and revised Police Department policies,
- Advised on Police Department policy training,
- Collaborated with the City Attorney's Affirmative and Defensive Litigation Attorneys regarding litigation involving the Police Department,
- Advised various City agencies on interagency issues involving the Police Department, and
- Advised City Councilmembers on development of new local criminal ordinances

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); and 2100 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.

Community Development & Real Estate Unit

- Advised on the process for a City-sponsored grant of a “cultural” easement to the Native American land trust and prepared term sheet for the easement
- 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 advised on Council approval for lease amendments with tenants in City Administration buildings
- Reviewed Surplus Land Act notices of availability and advised on negotiation procedures for several future dispositions of City land
- Entered into an Exclusive Negotiating Agreement for the future lease and development of 73rd and Foothill
- Advised on complex questions related to the Surplus Land Act procedures and requirements
- Closed out the Surplus Land Act process for several City parcels with the State Housing and Community Development Department
- Updated and extensively revised real estate form documents, including ENAs, licenses, in-kind leases, commercial leases, easements, DDAs, LDDAs, etc.
- Drafted Purchase and Sale Agreement and closed on the purchase of Clifton Hall from California College of the Arts using Homekey and other affordable housing funding
- Negotiated and drafted long term lease agreements and Homekey grant agreements with East Oakland Community Project and Satellite Affordable Housing Associates for programs in the City-owned Clifton Hall
- Assisted on the joint applications for State Homekey funding for permanent affordable housing units at the Inn at Temescal and scattered sites in the City
- Drafted, negotiated and closed grant agreements for Clifton Hall, Inn at Temescal, and BACS scattered site Homekey projects
- Reviewed and advised on Request for Qualifications and Request for Proposals as part of the competitive funding process for 2022 Homekey projects, drafted legislation awarding 2022 Homekey funding, and reviewed commitment letters for 2022 Homekey grants
- Drafted and reviewed several density bonus regulatory agreements for monitoring of affordable housing units

- Provide on-going advice on former Oakland Army Base matters, including matters related to EBMUD and Caltrans, and negotiated license and access agreement for Port electrical lines serving Berth 9
- Prepare and negotiated creek restoration license.
- Provide on-going advice on Brooklyn Basin matters, including issues offers of dedication, affordable housing, subdivision matters, and alternatives to Community Services District
- 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 license agreements and amendments for several telecommunications sites
- 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. 6th and Madison Trybe license, Homies Empowerment community garden license, TCC office lease, Metropolitan Horseman Association license
- Entered into leases with Caltrans for interim shelter programs for unhoused Oaklanders and dealt with environmental clearance issues
- Drafted several license agreements with homeless program operators, including the 3rd and Peralta site, 12th Street remainder site, Wood Street safe RV parking site,
- Advised on FEMA funding reimbursement and Council approval for lease of hotel rooms for high risk unsheltered persons at the Lake Merritt Lodge
- Advised on and drafted a L/DDA and related agenda materials for the North Gateway California Waste Solution Project
- Negotiated easements for seismic joint covers for both sides of Paramount Theater
- Advised on ENA extension and development issues related to 1707 Wood Street affordable housing development
- 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 ENA between the City and CASS, Inc. for the North Gateway CASS, Inc. Project
- Drafted and negotiated Medical Hill Garage lease for storage of automobile dealer's cars
- Drafted and negotiated complex documents and legislation for the transfer of the first waterfront park in Brooklyn Basin, Township Commons, together with the lease of the Ninth Avenue Terminal Shed Building
- Advised on maintenance issues related to the 1111 Franklin Garage and related title and closing issues
-
- Drafted documents and advised on refinancing of Swans Market loans
- 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 loan documents and advised on loans to 7th & Campbell and Hillside/Ritchie affordable housing projects
- Advised and drafted loan documents for various affordable housing refinancings, including Lincoln Court, Monarch Homes, Adcock Joyner Apartments, and Harp Plaza
- 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
- Drafted and modified model affordable housing loan documents, including new lease-to-own model loan documents, and conducted training of City staff on model loan documents
- 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.
- Regularly staffed joint meeting between Bureau of Building and Fire Prevention Bureau regarding dangerous buildings with residential occupancies.
- Advised Code Enforcement staff on enforcement issues related to numerous blighted, substandard, nuisance properties, and encroachments.
- Drafted Memo for City Council setting forth Building Code enforcement appeals processes and standards.
- 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.
- Applied for and obtained inspection and abatement warrants from the Alameda County Superior Court to abate violations on blighted, substandard, and nuisance properties.
- Coordinated with Code Enforcement staff to minimize displacement of tenants at numerous substandard and otherwise non-code-compliant properties.
- Negotiated Compliance Plan Agreements for owners of substandard properties to bring their properties up to code.
- 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.
- Reviewed and revised clean-up/board up processes and emergency nuisance abatement contracts for blighted properties.
- Assisted Planning and Building staff by drafting proposed revisions to the Oakland Municipal Code pertaining to nuisance noise ordinance to assist with ongoing enforcement.

Cannabis Regulation

- Advised Economic and Workforce Development Department (EWDD) on commercial cannabis activity permitting and enforcement issues, including ongoing questions arising in response to COVID-19.
- Advised EWDD 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 EWDD 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 EWDD 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 EWDD in enforcement strategy options to address public safety issues posed by unauthorized diesel generators in use various cannabis cultivation facilities.
- Reviewed and prepared resolutions authorizing the City to receive state grants to fund equity applicants by issuing loans and grants.
- Represented EWDD in administrative enforcement hearing upholding City's determination of violations for "general" cannabis permittee sponsoring a "equity" cannabis business.
- Advised Department of Planning and Building, EWDD and the Fire Prevention Bureau on enforcement issues related to unlicensed cannabis dispensaries and other cannabis operations.
- Advised EWDD 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 EWDD 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 Robert's Rules of Order.
- Advised on due process, administrative appeals, and related issues for EWDD 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 Prevention

- 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.
- Provided on-going legal support to Fire Prevention Bureau in code enforcement matter involving unauthorized diesel generators at large cannabis cultivation facility.
- 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.
- Provided ongoing legal support to MACRO (Mobile Assistance Community Responders of Oakland) pilot program staff in contracting of temporary facilities for staff operations.
- 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 non-conforming residential use properties.
- Advised Fire Prevention Bureau regarding Fire Code enforcement related to unpermitted commercial cannabis operations.
- Advised Fire Chief and executive staff on matters relating Emergency Medical Services patient transport and state law.

- Researched and advised state and local jurisdictional issues in regard to Fire Code compliance for the Fire Prevention Bureau.
- Advised on Alternative Materials and Methods Request approvals for the Fire Prevention Bureau.

Privacy and Technology

- Staffed monthly meetings of the Privacy Advisory Commission.
- Advised Oakland Police Department, the Department of Transportation, Public Works, the Economic and Workforce Development Department, and City Administrator's Office regarding compliance with City's Surveillance Technology and Community Safety Ordinance and other City policies concerning privacy issues, Surveillance Use Policy drafting, intergovernmental agreements with federal agencies, and City grant agreements with private entities.
- Drafted revisions and advised City Administrator's office on the Privacy Advisory Commission's by laws.
- 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 ballot measure for the 2022 general election to extend eviction protections to tenants residing vehicular residential facilities and further limit grounds for eviction in the Just Cause for Eviction Ordinance; drafted summary and impartial analysis for Alameda County Voter Guide.
- Drafted ordinance to establish a rent registry for units covered by the Rent Adjustment Ordinance or the Just Cause for Eviction Ordinance.
- Drafted implementing regulations for the Rent Registry Ordinance.

- 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.
- Drafted ordinance to amend the Rent Adjustment Ordinance to provide rent stabilization to tenants residing in Vehicular Residential Facilities.
- Staffed bi-weekly Rent Board meetings and advised Board regarding the adjudication of disputes under the Rent Adjustment Program Ordinance.
- Drafted ordinance to amend the Rent Adjustment Ordinance to modify the CPI rent adjustment and to cap CPI rent increases to 3 percent.
- Reviewed professional services contracts for the Rent Adjustment Program.
- Assisted litigation division with various matters related to tenant protections including challenges to the Eviction Moratorium Ordinance and 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.
- 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.
- Drafted legal opinions for the City Council regarding the Rent Adjustment Ordinance and the Just Cause for Eviction Ordinance.
- 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

- Advised City Council and Public Safety Committee on open meetings laws including the California Brown Act, Oakland's Sunshine Ordinance, the City Charter and Council Rules of Procedure; served as parliamentarian and advised on substantive and procedural matters related to agenda items.

- Drafted Fair Elections Act Ballot Measure for 2022 general election to establish public financing for elections of City and School Board officials and increase transparency regarding election spending; drafted, summary, and impartial legal analysis for Alameda County Voter Guide.
- Drafted City ordinance requiring proof of COVID-19 vaccination to enter certain indoor public facilities and advised City staff on implementation and public noticing of the Ordinance.
- Drafted Internet Choice Ordinance to prohibit owners of multi-unit properties from interfering with the choice of communications services providers by occupants
- Drafted ballot measure for the 2022 General Election to amend the City Charter in its entirety to replace gender-specific language with gender inclusive language; drafted summary, and impartial legal analysis Alameda County Voter Guide.
- Advised Department of Public Works on illegal dumping and hauling citations and enforcement procedures.
- Drafted Resolution restoring Oakland Municipal Code Prompt Payment requirements after temporary COVID-Era suspension.
- Advised Public Works Department on City operated surveillance camera program to catch illegal dumpers and assisted the Department with devising a Memorandum of Understanding with the District Attorney's office for enforcement.
- Advised Public Works Department on drafting illegal hauling ordinance to assist Waste Management with seizure of unlawful containers.
- Advised Police Department on issues related to bingo halls, cabarets, tobacco inspections and enforcement.
- Drafted Resolution calling on Microsoft Corporation to allow users to designate their personal pronouns in Microsoft Teams' user profiles.
- Advised City Administrator, Police Department and Fire Prevention Bureau on enforcement actions against nuisance commercial establishments and other nuisance properties.
- Advised City Administrator and Police Department on delegation of tobacco retail license administration and enforcement.
- 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. Reviewed services contracts and assisted with successful defense of animal-related administrative appeals.

- 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.
- Assisted City Attorney's Labor & Employment unit with advice to the Public Ethics Commission on range of public ethics matters.

LABOR & EMPLOYMENT UNIT

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

The Division works closely with 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 2021-22:

- Reviewed staff reports, resolutions and legislation related to personnel issues.
- Continued to advise City Administration, City Council and other City boards and commissions on a myriad of unique issues related to COVID-19, including issues related employee health and safety and emergency leave, returning to work and telecommuting, and public meetings as laws and protocols related to COVID-19 evolved over time.
- Provided trainings for member of the Police Commission and the Police Commission Selection Panel, and the Office of the Inspector General including training on various topics.
- Submitted and presented reports to the Oakland Police Commission regarding police discipline arbitration decisions, the City Attorney's efforts to support police accountability.
- Continued to support transparency with regard to police personnel records as required by California Senate Bill (SB) 1421 as well as the newly passed SB 16, which expanded on the categories of police personnel records, previously confidential, and now required to be disclosed under the Public Records Act. Committed substantial resources and time to compliance, including hiring and training a full-time attorney to manage the review and production of police personnel records and bolster the office's advice to and support for the City Administration and Police Department related to compliance with the Public Records Act.
- Advised numerous City Departments and other City public officials (including the Mayor, the City Auditor, Police, Fire, Public Works, Human Resources, among others) on various personnel and labor issues, including recruitment, hiring and promotions, leaves of absence, disability accommodations, workplace threats, drug testing, and workplace discrimination.
- Advised the City Administrator's Office, numerous City Department heads and managers, and other City public officials (including those from Police, Fire, Public Works, Employee Relations, Employment Investigations and Civil Rights Compliance, and the Citizen's Police Review Agency, regarding employee

misconduct, administrative investigations, discipline grievances and related issues.

- Developed and administered multiple trainings regarding police accountability, including trainings for officers assigned to conduct internal investigations, trainings for command staff regarding the discipline process and for their role as *Skelly* officers.
- Advised Police Department and other City leaders regarding police misconduct, investigations, discipline and related grievances as well as policies and procedures related to the same.
- Advised the Police Department and City leadership regarding the Police Department's court-mandated oversight pursuant to the Negotiated Settlement agreement, assisting in successfully transitioning the Department and City into substantial compliance and the resultant "sustainability period."
- Represented and defended the City in matters before the City's Civil Service Board, California's Public Employment Relation Board, and California's Equal Employment Opportunity Commission.
- Advised the City's Industrial Disability Committee, including via participation in its monthly meetings.
- Reviewed, edited and approved numerous contracts for professional services.

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 and deeply grateful 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; winning every precinct. 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 receiving 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.

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