

FRANK T. MARTINEZ  
City Clerk

KAREN E. KALFAYAN  
Executive Officer

When making inquiries  
relative to this matter  
refer to File No.

# CITY OF LOS ANGELES

CALIFORNIA



ANTONIO R. VILLARAIGOSA  
MAYOR

Office of the  
**CITY CLERK**  
Council and Public Services  
Room 395, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 978-1043  
General Information - (213) 978-1133  
Fax: (213) 978-1040

HELEN GINSBURG  
Chief, Council and Public Services Division

03-0926

July 14, 2005

Councilmember Reyes  
Chief Legislative Analyst  
City Administrative Officer  
City Attorney  
Department of Building and Safety

Controller, Room 300  
Accounting Division, F&A  
Disbursement Division  
Community Redevelopment Agency

RE: INCREASING THE WORK ORDER AMOUNT FOR THE LAW FIRM OF FOX & SOHAGI FOR  
LITIGATION AND SETTLEMENT SERVICES RELATED TO THE DEMOLITION OF THE  
HISTORIC "GIESE RESIDENCE"

*215 the Place*

At the meeting of the Council held July 13, 2005, the following  
action was taken:

Attached report adopted.....	<u>X</u>
Attached motion adopted().....	_____
Attached resolution adopted().....	_____
Motion adopted to approve attached report.....	_____
Motion adopted to approve attached communication.....	_____
To the Mayor FORTHWITH.....	_____
Mayor failed to act - deemed approved.....	_____
Findings adopted.....	_____
Negative Declaration adopted.....	_____
Categorically exempt.....	_____
Generally exempt.....	_____
EIR certified.....	_____

*Frank T. Martinez*

City Clerk  
dng

PLACE IN FILES

JUL 19 2005

DEPUTY

*7/19/05*



19  
TO THE COUNCIL OF THE  
CITY OF LOS ANGELES

File No. 03-0926

Your  
COMMITTEE

HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT

reports as follows:

	Yes	No
Public Comments	<u>XX</u>	<u>—</u>

HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT COMMITTEE REPORT relative to increasing the Work Order amount for the law firm of Fox & Sohagi for litigation and settlement services related to the demolition of the historic "Giese Residence."

Recommendation for Council action:

AUTHORIZE the Chief Executive Officer, Community Redevelopment Agency (Agency), or designee, to increase the work order amount for the law firm of Fox & Sohagi in the amount of \$22,000 (from \$270,000 to \$292,000) for additional legal services related to the settlement of the litigation entitled Palmer Boston Street Properties II vs. City of Los Angeles and Community Redevelopment Agency, United States District Court Case No. CV03-6402-SVW, regarding the demolition of the historic "Giese Residence" located near the southeast corner of Figueroa Street and Cesar Chavez Avenue in the Chinatown Redevelopment Project Area.

Fiscal Impact Statement: The Agency reports that this action will not impact the General Fund.

Summary:

On June 16, 2005, the Agency Board of Commissioners considered an Agency staff report relative to increasing the Work Order amount for the law firm of Fox & Sohagi for litigation and settlement services related to the demolition of the historic "Giese Residence." In its report to the Board, the Agency states that law firm of Fox and Sohagi has represented the Agency throughout the litigation, settlement and implementation of the settlement related to the lawsuits filed by the developer of the Orsini project, Palmer Boston Properties following City Council action against the developer for demolishing an historic residence.

On June 3, 2004, the Agency Board approved a budget increase of \$170,000 for Fox & Sohagi (from \$75,000 to \$245,000) to pay for the unexpectedly accelerated and hostile discovery and trial preparation stages of the lawsuit, and for future services to negotiate a settlement of the lawsuit. On July 19, 2004 the Agency, City and Palmer executed a settlement agreement resolving three Palmer lawsuits, the 5 year ban on development of the Orsini II project, and multiple contentious issues among the parties. Fox & Sohagi successfully negotiated and drafted a settlement agreement. Following execution of the settlement agreement, several unforeseen events occurred which required a \$25,000 budget increase.

During the period leading to Agency Board consideration of the Project's discretionary approval, several unforeseen events occurred which now require a \$22,000 budget increase. This budget increase is the final increase because the Agency Board approved the Project on May 19, 2005. The events which required unanticipated legal work from Fox & Sohagi were: (i) flawed CEQA documentation for the Project (Le., a legally deficient revised MND, and a missing Mitigation Monitoring and Reporting Program); (ii) three Board Meetings required to grant the Project's discretionary approval (the Settlement Agreement described only one Meeting); (iii) Palmer's accusations of Agency breach of the Settlement Agreement (with the need for legal responses

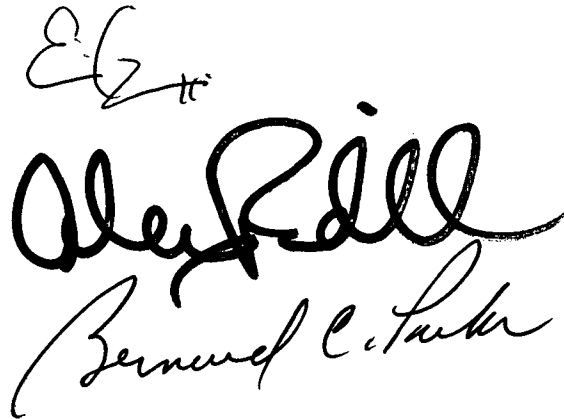
thereto); and (iv) Agency Board requests to Fox & Sohagi for additional legal research and advice (e.g., would proposed Board actions on the Project's discretionary determination constitute breach of the Settlement Agreement and companion legal issues dealt with in closed session). The Board approved the discretionary residential use for the Project site at its third Authorization to increase contract authority for Fox & Sohagi meeting on Orsini II (May 19, 2005). As a result of these events, Fox & Sohagi exceeded its \$270,000 budget by approximately \$22,000. Accordingly, Agency staff asked the firm to prepare a Revised Budget of \$22,000 (from \$270,000 to \$292,000) to cover payment of the above-described legal work.

On June 16, 2005, the Agency Board approved staff's recommendation to increase the budget with Fox & Sohagi by \$22,000.

At its meeting held July 6, 2005, the Housing, Community, and Economic Development Committee discussed this matter with representatives of the Agency and Fox & Sohagi. As part of the settlement negotiated by Fox & Sohagi, Palmer agreed to contribute \$200,000 for Project Area improvements. It was stated that this contribution will allow Agency staff to budget existing Project Area funds for other uses. Councilmember Parks questioned whether the settlement amount should also have paid the City's legal expenses. Following its discussion, the Committee recommended that Council approve the Agency's request to increase the Work Order amount for the law firm of Fox & Sohagi for litigation and settlement services related to the demolition of the historic "Giese Residence," as recommended by the Agency Board.

Respectfully submitted,

HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT COMMITTEE



MEMBER  
GARCETTI  
LUDLOW  
REYES  
PADILLA  
PARKS

VOTE  
YES  
ABSENT  
ABSENT  
YES  
YES

JAW  
7/08/05  
CD 1

#030926b.wpd

Rept  
**ADOPTED**

JUL 13 2005

**LOS ANGELES CITY COUNCIL**

COUNCIL VOTE

Jul 13, 2005 10:55:29 AM, #3

Items for Which Public Hearings Have Been Held - Items 11-33

Voting on Item(s): 11, ~~15~~, 16-20, 22-25, 27-32

Roll Call

CARDENAS	Yes
GARCETTI	Yes
*GREUEL	Yes
HAHN	Absent
LABONGE	Yes
PARKS	Absent
PERRY	Yes
REYES	Yes
ROSENDAHL	Yes
SMITH	Yes
WEISS	Yes
ZINE	Absent
PADILLA	Yes
VACANT	Absent
VACANT	Absent

Present: 10, Yes: 10 No: 0

**HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT  
COMMITTEE**

**NOTIFICATION OF COUNCIL ACTION**

Council File No. 03-0926

- ☒ Council Member(s) 1
- ☐ Interested Department \_\_\_\_\_
- ☐ Mayor (with/without file) \_\_\_\_\_
- ☒ Chief Legislative Analyst \_\_\_\_\_
- ☒ City Administrative Officer \_\_\_\_\_
- ☒ Controller \_\_\_\_\_
- ☐ City Clerk \_\_\_\_\_
- ☐ City Clerk, Chief Administrative Services \_\_\_\_\_
- ☐ Treasurer \_\_\_\_\_
- ☒ City Attorney (with blue sheet / without blue sheet) \_\_\_\_\_
- ☐ General Services Department \_\_\_\_\_
- ☐ Department of Transportation \_\_\_\_\_
- ☐ Personnel Department \_\_\_\_\_
- ☐ Los Angeles Housing Department \_\_\_\_\_
- ☐ Community Development Department, General Manager, Clifford Graves \_\_\_\_\_
- ☐ cc: Contact Person \_\_\_\_\_
- ☒ Community Redevelopment Agency \_\_\_\_\_
- ☐ Board of Public Works \_\_\_\_\_
- ☐ Workforce Investment Board \_\_\_\_\_
- ☐ Workforce Investment Board, Youth Council \_\_\_\_\_
- ☒ Building and Safety
- ☐ \_\_\_\_\_



DATE / JUN 16 2005

FILE CODE /

354 South Spring Street / Suite 800  
Los Angeles / California 90013-1258

T 213 977 1600 / F 213 977 1665  
www.crala.org

CRA File No. 4789  
Council District: 1 ✓  
Contact Person: David Riccitiello  
(213) 977-1794

Honorable Council of the City of Los Angeles  
John Ferraro Council Chamber  
200 N. Spring Street  
Room 340, City Hall  
Los Angeles, CA. 90012

Attention: John White, Office of the City Clerk

**COUNCIL TRANSMITTAL:**

Transmitted herewith, is a Board Memorandum adopted by the Agency Board on June 16, 2005, for City Council review and approval in accordance with the "Community Redevelopment Agency Oversight Ordinance" entitled:

**VARIOUS ACTIONS RELATED TO:**

INCREASE OF WORK ORDER AMOUNT FOR THE LAW FIRM OF FOX & SOHAGI BY \$22,000 (FROM \$270,000 TO \$292,000) FOR LITIGATION AND SETTLEMENT SERVICES RELATED TO THE DEMOLITION OF HISTORIC "GIESE RESIDENCE", DEVELOPER'S LAWSUIT AGAINST AGENCY AND CITY, SETTLEMENT OF THE LAWSUIT, AND SUBSEQUENT IMPLEMENTATION OF THE SETTLEMENT AGREEMENT FOR THE LAWSUIT, CHINATOWN REDEVELOPMENT PROJECT AREA.

**RECOMMENDATION**

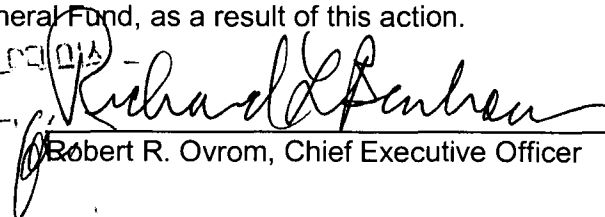
That City Council approves recommendation(s) on the attached Board Memorandum.

**ENVIRONMENTAL REVIEW**

The proposed action does not constitute a "project" as defined by the California Environmental Quality Act ("CEQA").

**FISCAL IMPACT STATEMENT**

There is no fiscal impact to the City's General Fund, as a result of this action.

  
Robert R. Ovrom, Chief Executive Officer

JUN 23 2005

Housing, Community and Economic Development

RECEIVED  
CITY CLERK'S OFFICE

2005 JUN 22 AM 9:04

CITY CLERK.  
BY SL DEPUTY

cc: John White, Office of the City Clerk (9 copies-three hole punched)  
Lisa Johnson,  
Scott Eritano, Office of the CAO  
Paul Smith, Ivania Sobalvarro, Office of the CLA  
Renata Simril, Office of the Mayor  
Neil Blumenkopf, Office of the City Attorney



8

MEMORANDUM

DATE: JUNE 16, 2005 CH6990

TO: AGENCY COMMISSIONERS

FROM: ROBERT R. OVROM, CHIEF EXECUTIVE OFFICER

RESPONSIBLE PARTIES: CURT HOLGUIN, DEPUTY CITY ATTORNEY  
LILLIAN BURKENHEIM, PROJECT MANAGER

SUBJECT: INCREASE OF WORK ORDER AMOUNT FOR THE LAW FIRM OF FOX & SOHAGI BY \$22,000 (FROM \$270,000 TO \$292,000) FOR LITIGATION AND SETTLEMENT SERVICES RELATED TO THE DEMOLITION OF HISTORIC "GIESE RESIDENCE", DEVELOPER'S LAWSUIT AGAINST AGENCY AND CITY, SETTLEMENT OF THE LAWSUIT, AND SUBSEQUENT IMPLEMENTATION OF THE SETTLEMENT AGREEMENT FOR THE LAWSUIT  
CHINATOWN REDEVELOPMENT PROJECT AREA  
CD1

RECOMMENDATION

That the Agency, subject to City Council review and approval, authorize the Chief Executive Officer, or designee, to increase the work order amount for the law firm of Fox & Sohagi ("Fox & Sohagi") in the amount of \$22,000 (from \$270,000 to \$292,000) for additional legal services related to the settlement of the litigation titled Palmer Boston Street Properties II vs. City of Los Angeles and Community Redevelopment Agency (USDC Case No. CV03-6402-SVW).

SUMMARY

The law firm of Fox and Sohagi has represented the Agency throughout the litigation, settlement and implementation of the settlement related to the lawsuits filed by the developer of the Orsini project, Palmer Boston Properties following City Council action against the developer for demolishing an historic residence.

In June 2002, Palmer Boston Street Properties II ("Palmer") filed an application with the Agency for clearance of a permit to allow demolition of a 19<sup>th</sup> century residential building known as the "Giese Residence" located near the southeast corner of Figueroa Street and Cesar Chavez Avenue in the Chinatown Redevelopment Project Area ("Project Area"). A map of the Project Area showing the location of the Giese Residence is appended hereto as "Attachment A". The demolition of the Giese Residence was sought to develop Phase II of Palmer's luxury residential project known as "Orsini II". Agency staff determined that the Giese Residence was potentially historically significant, and accordingly, that an Environmental Impact Report ("EIR") must be prepared before a clearance of the demolition permit could be issued.

On October 31, 2002, Agency staff advised Palmer's legal counsel of its EIR determination. However, Palmer disagreed and refused to prepare the EIR based on the contrary conclusions of its own historic consultant.

Over a weekend in mid April 2003, Palmer's crews demolished the Giese Residence without a permit and without prior preparation of an EIR. Just two days prior to this demolition, a team of historic preservationists, Agency staff, and City officials had met to finalize a plan to have the Giese Residence relocated at no expense to Palmer.

On November 18, 2003, the Board of Building & Safety Commissioners voted to invoke the City's Scorched Earth Ordinance ("Ordinance") against Palmer for the permitless demolition of the Giese Residence. The Ordinance was enacted to deter precisely this type of preemptive illegal demolition of historic structures. The Ordinance was imposed on the Orsini II site for the maximum 5-year period. This resulted in the development of Palmer's Orsini II project being banned for five years.

#### The Litigation Against The Agency And City

On September 8, 2003, Palmer filed a complaint against the Agency and City in Federal District Court. Palmer alleged the Agency violated its procedural due process, substantive due process, and equal protection rights under the US Constitution. As grounds for these allegations, Palmer contended that the Agency: (i) failed to timely act on Palmer's application for the demolition permit; (ii) refused to issue a Mitigated Negative Declaration (MND) for the proposed demolition, instead of requiring an EIR; (iii) failed to itself prepare and certify that EIR for the proposed demolition; and (iv) exposed Palmer to substantial risk of civil and criminal liability arising out of the public nuisance created by the dangerous conditions of the Residence. Palmer demanded \$10 million in damages against the Agency and the City, and an injunction against the City's continued application of the Ordinance to the Orsini II site.

The Agency engaged Fox & Sohagi as litigation counsel to defend against this complaint. Fox & Sohagi submitted a preliminary budget estimate of \$75,000 to handle the litigation (Attachment B hereto).

On March 8, 2004, the Agency and City filed Motions for Summary Judgment. The Court granted (in part) the Agency's Motion for Summary Judgment allowing for the deposition of sitting Councilmember Reyes pending its final determination on the one remaining cause of action pled against the Agency. Almost simultaneously, Palmer requested settlement negotiations of the lawsuit. These negotiations started as bilateral Palmer-City negotiations because the chief remedy sought by Palmer was release from the City's Scorched Earth ban on the Orsini II site. The negotiations evolved into trilateral Palmer-City-Agency negotiations as the Agency needed to present its requirements for settlement Palmer would not have commenced settlement negotiations without the Agency leading the strong charge and obtaining the summary judgment ruling.

#### The First Budget Increase

On June 3, 2004, the Agency Board approved a budget increase of \$170,000 for Fox & Sohagi (from \$75,000 to \$245,000) to pay for the unexpectedly accelerated and hostile discovery and trial preparation stages of the lawsuit, and for future services to negotiate a settlement of the lawsuit (Attachment C hereto).

### The Settlement Agreement Ending The Litigation

On July 19, 2004 the Agency, City and Palmer executed a settlement agreement resolving three Palmer lawsuits, the 5 year ban on development of the Orsini II project, and multiple contentious issues among the parties ("Settlement Agreement"). Fox & Sohagi (working with Agency and City staff) successfully negotiated and drafted the Settlement Agreement. This Agreement is unique in that Palmer (the suing plaintiff) agreed to pay the Agency and City to settle the lawsuit. In summary, the Agreement: (i) obligated Palmer to dismiss the federal lawsuit against the Agency and City as well as his two state lawsuits against the City; (ii) obtained for the Agency a Palmer obligation to construct \$200,000 of streetscape improvements adjacent to the Orsini II project site; (iii) obtained for the City a \$200,000 Palmer cash contribution to mitigate Orsini II impacts on the surrounding area; (iv) obtained for the community 100 permanent and 60 interim parking spaces, as well as a set of Palmer design improvements to the proposed Orsini II (and the built Orsini I) to create a more pedestrian-friendly environment; and (v) obligated Palmer to submit Orsini II through the discretionary review processes of both the City and Agency.

The Agency's discretionary review consisted of a determination to approve (or not) a residential use on the Orsini II site, which is designated "commercial" by the Chinatown Redevelopment Plan. Palmer proposes to develop 566 luxury rental units with 27,000 square feet of street-level commercial space and a 1,245 space subterranean parking garage on that site ("Project").

### The Second Budget Increase

Following execution of the Settlement Agreement, several unforeseen events occurred which required a \$25,000 budget increase. These were: (i) Palmer's addition of Orsini III (described in BACKGROUND) to the Project MND requiring that Fox & Sohagi review the revised MND and its subsidiary documents for the Project; (ii) Palmer's errors in revising the Project MND, requiring that Fox & Sohagi prepare letters outlining the legal deficiencies; and (iii) the City/Agency request that Fox & Sohagi serve as settlement manager to monitor the parties' performance of their respective obligations under the Settlement Agreement (e.g. Palmer's tardy submission of bridge design to City Cultural Affairs Commission). As a result of these events, Fox & Sohagi exceeded its \$245,000 Budget by approximately \$9,000. Accordingly, Agency staff asked the firm to prepare a Revised Budget of \$25,000 (from \$245,000 to \$270,000) to complete the "implementation stage" of the Settlement Agreement (Attached D hereto).

### The Proposed Budget Increase

During the period leading to (and including) Agency Board consideration of the Project's discretionary approval, several unforeseen events occurred which now require a \$22,000 budget increase. This budget increase is the final increase because the Agency Board approved the Project on May 19, 2005. The events which required unanticipated legal work from Fox & Sohagi were: (i) flawed CEQA documentation for the Project (i.e., a legally deficient revised MND, and a missing Mitigation Monitoring and Reporting Program); (ii) three Board Meetings required to grant the Project's discretionary approval (the Settlement Agreement described only one Meeting); (iii) Palmer's accusations of Agency breach of the Settlement Agreement (with the need for legal responses thereto); and (iv) Agency Board requests to Fox & Sohagi for additional legal research and advice (e.g., would proposed Board actions on the Project's discretionary determination constitute breach of the Settlement Agreement and companion legal issues dealt with in closed session). The Board approved the discretionary residential use for the Project site at its third

meeting on Orsini II (May 19, 2005). As a result of these events, Fox & Sohagi exceeded its \$270,000 budget by approximately \$22,000. Accordingly, Agency staff asked the firm to prepare a Revised Budget of \$22,000 (from \$270,000 to \$292,000) to cover payment of the above-described legal work (Attachment E hereto).

## RE

November 15, 2001 - Agency approval of Authorization to Execute Contracts with 25 Law Firms To Serve As Agency Outside Legal Counsel for a Three Year Period

January 29, 2002 - City Council approval of Authorization to Execute Contracts with 25 Law Firms to Serve As Agency Outside Legal Counsel for a Three Year Period

June 3, 2004 - Agency approval of \$170,000 increase in work order amount of Fox & Sohagi (from \$75,000 to \$245,000) for Palmer Boston Properties II vs. City of Los Angeles and Community Redevelopment Agency

July 14, 2004 - City Council approval of \$170,000 increase in work order amount of Fox & Sohagi (from \$75,000 to \$245,000) for Palmer Boston Properties II vs. City of Los Angeles and Community Redevelopment Agency

December 16, 2004 - Agency approval of \$25,000 increase in work order amount of Fox & Sohagi (from \$245,000 to \$270,000) for Palmer Boston Properties II vs. City of Los Angeles and Community Redevelopment Agency.

March 1, 2005 - City Council approval of \$25,000 increase in work order amount of Fox & Sohagi (from \$245,000 to \$270,000) for Palmer Boston Properties II vs. City of Los Angeles and Community Redevelopment Agency.

## SOURCE OF FUNDS

Chinatown General Revenue.

## PROGRAM AND BUDGET IMPACT

Existing funds will be used that are currently set-aside in Chinatown Response to Development Opportunities (CH9990) for unanticipated legal expenses. Since resources have already been set aside in the current budget for this purpose, there will be no net impact to the FY 05 Budget and Work Program.

## ENVIRONMENTAL REVIEW

The proposed action does not constitute a "project" as defined by the California Environmental Quality Act ("CEQA").

## BACKGROUND

Palmer's Recent Projects

Palmer has built or is currently building several luxury housing projects in the City of Los Angeles. These include: (i) the completed Orsini I project, a 297 unit, 4 story rental complex (with ground level retail and subterranean parking) located on the southwest corner of Figueroa Street and Cesar E. Chavez Avenue; (ii) the ongoing Orsini II project, a 566 luxury rental unit, 4 story project (also with ground level retail and subterranean parking) to be located on the southeast corner of Figueroa Street and Cesar E. Chavez Avenue; and (iii) the planned Orsini III project, a 300 unit luxury rental complex (with ground level retail and subterranean parking) to be located on the northeast corner of Figueroa Street and Cesar E. Chavez Avenue. Palmer's other luxury rental unit projects include the completed Medici project (near Eighth Street and the Harbor Freeway); the under construction Piero project (near Sixth and Bixel Streets); and the planned Visconti project in City Center West.

#### The Giese Residence

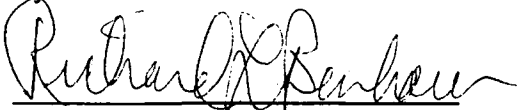
This lawsuit derives from Palmer's illegal demolition of a historic residential structure known as the "Giese Residence," formerly located at 840-844 West Cesar E. Chavez Avenue, within the Chinatown Project Area. According to the historical evaluation prepared by Palmer's own expert Roger Hathaway, the Giese Residence was originally built in the 1880s, during a period known to City historians as the "Boom of the Eighties." The builders were the noted Beaudry Brothers. The architectural style is known as "Queen Anne" or "Queen Anne cottage." In 1914, the original residence was incorporated into a larger building as the upper story of a 4-unit apartment building, an event that Hathaway considered in itself "historic."

In 1981, the Giese Residence was recognized as potentially eligible for listing in the National Register of Historic Places in an architectural/historical survey prepared for CRA by the same Roger Hathaway. In February 2002, Hathaway again surveyed the Giese Residence (this time for Palmer) and surrounding buildings, and again concluded in his report that "This building does appear to qualify for listing in the California Register of Historic Places."

In June 2002, Hathaway again observed in a follow-up report that "the original residence must be regarded as a prime example of the "Boom of the Eighties" architecture in Los Angeles," and "an example of hillside residential architecture as pioneered by the Beaudry Brothers." However, Hathaway also stated in his June 2002 report that he was now persuaded that the Giese Residence would no longer qualify as eligible for listing due to deterioration and vandalism occurring since his February 2002 report. This conclusion was disputed by others, setting the stage for the dispute between Agency staff and Palmer on the level of CEQA review required prior to the Residence's demolition.

Robert R. Ovrom  
Chief Executive Officer

By:

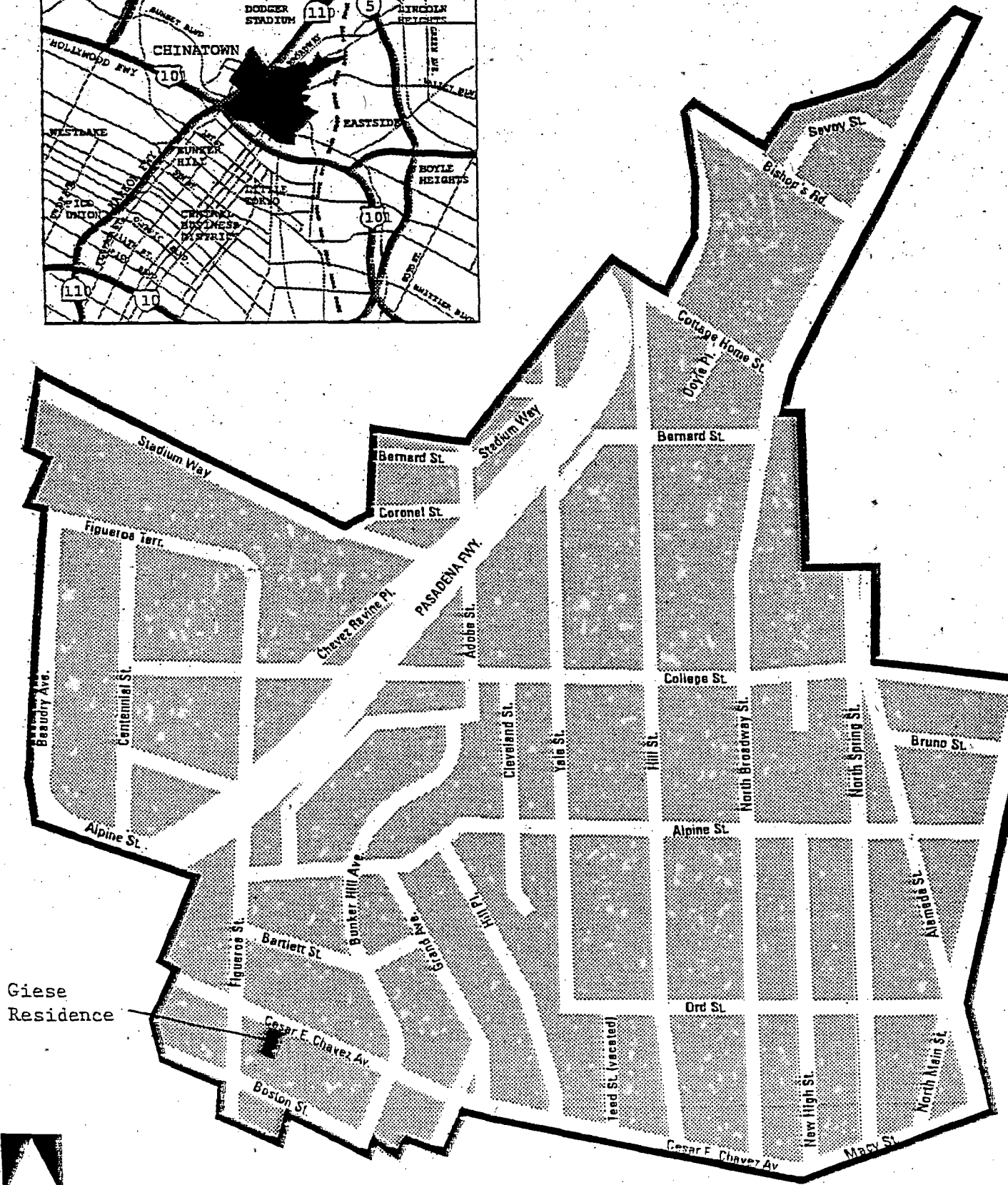
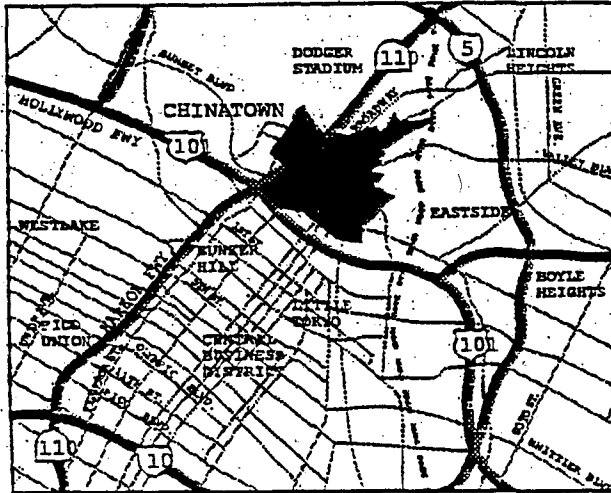


Richard L. Benbow  
Chief Operating Officer

There is no conflict of interest known to me, which exists with regard to any Agency officer or employee concerning this action.

- Attachment A – Site Map Showing “Giese Residence”
- Attachment B – Fox & Sohagi Initial Budget
- Attachment C – Fox & Sohagi First Revised Budget
- Attachment D – Fox & Sohagi Second Revised Budget
- Attachment E – Fox & Sohagi Third Revised Budget

## ATTACHMENT A



Giese  
Residence



## ATTACHMENT B

**ESTIMATED BUDGET  
FOR LITIGATION SERVICES**

**LAW FIRM:** FOX & SOHAGI, LLP  
**CASE NAME:** Palmer v. CRA, et al.

**CONTRACT #:** \_\_\_\_\_  
**PURCHASE ORDER #:** \_\_\_\_\_



L100	Assessment & Development	<u>20</u>	<u>\$ 5,000</u>
L200	Pre-Trial Pleadings & Motions 12(b)6	<u>100</u>	<u>25,000</u>
L300	Discovery	<u>50</u>	<u>12,500</u>
L400	Trial Preparation & Trial	<u>130</u>	<u>32,500</u>
L500	Appeal	_____	_____
L600	Expenses*	_____	_____
TOTALS		<u>300</u>	<u>\$75,000</u>

\* Attach receipts to bill.

**CERTIFIED CORRECT:**

**DATE:** September 23, 2003

DEBORAH J. FOX



# ESTIMATED BUDGET FOR LITIGATION SERVICES

LAW FIRM: FOX & SOHAGI, LLPCONTRACT #: 502373CASE NAME: Palmer v. CRA, et al.

PURCHASE ORDER #: \_\_\_\_\_

CATEGORY	HOURS	BUDGET
L100 Assessment & Development	40	\$ 10,000.00
L200 Pre-Trial Pleadings & Motions	200	50,000.00
L300 Discovery	350	87,500.00
L400 Trial Preparation & Trial	390	97,500.00
L500 Appeal		
L600 Expenses*		
TOTALS	980	\$245,000.00

\* Attach receipts to bill.

CERTIFIED CORRECT:

DATE: March 24, 2004

3/24/04  


DEBORAH J. FOX

EXHIBIT A

## ATTACHMENT D

ESTIMATED BUDGET  
FOR LITIGATION SERVICESLAW FIRM: Fox & Sohagi, LLP  
CASE NAME: Palmer v. CRA, et al.CONTRACT #: 502373  
PURCHASE ORDER #: 04-0407

CATEGORY	HOURS	BUDGET
----------	-------	--------

L100	Assessment & Development	110	31,000
L200	Pre-Trial Pleadings & Motions	200	50,000
L300	Discovery	350	87,500
L400	Trial Preparation & Trial	404	101,500
L500	Appeal		
L600	Expenses*		
TOTALS		1,064	270,000

\* Attach receipts to bill.

Commencement of Work Date: \_\_\_\_\_

Estimated Completion Date: \_\_\_\_\_

CERTIFIED CORRECT:

DATE: November 29, 2004

## ATTACHMENT E

# ESTIMATED BUDGET

## FOR LITIGATION SERVICES

LAW FIRM: Fox & Sohagi, LLPCONTRACT #: 502373CASE NAME: Palmer v. CRA, et al.PURCHASE ORDER #: 04-0407

CATEGORY	HOURS	BUDGET
----------	-------	--------

L100	Assessment & Development	180	53,000
L200	Pre-Trial Pleadings & Motions	200	50,000
L300	Discovery	350	87,500
L400	Trial Preparation & Trial	404	101,500
L500	Appeal		
L600	Expenses*		
TOTALS		1134	292,000

\* Amount reflects to bill.

Commencement of Work Date: \_\_\_\_\_

Estimated Completion Date: \_\_\_\_\_

CERTIFIED CORRECT

DATE May 2, 2005

FRANK T. MARTINEZ  
City Clerk

KAREN E. KALFAYAN  
Executive Officer

When making inquiries  
relative to this matter  
refer to File No.

03-0926

# CITY OF LOS ANGELES

CALIFORNIA



JAMES K. HAHN  
MAYOR

Office of the  
**CITY CLERK**  
Council and Public Services  
Room 395, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 978-1043  
General Information - (213) 978-1133  
Fax: (213) 978-1040

HELEN GINSBURG  
Chief, Council and Public Services Division

PLACE IN FILES

CD 1

MAR - 4 2005

*cf*

DEPUTY

March 2, 2005

Councilmember Reyes  
Community Redevelopment Agency  
Building and Safety Department  
City Attorney  
Board of Building and Safety Commissioners

Fox & Sohagi,  
c/o Community Redevelopment Agency

RE: LITIGATION AND SETTLEMENT SERVICES RELATED TO DEVELOPER'S PERMITLESS  
DEMOLITION OF HISTORIC "GIESE RESIDENCE" - CHINATOWN REDEVELOPMENT  
PROJECT AREA

At the meeting of the Council held March 1, 2005, the following action was  
taken:

Attached report adopted.....	_____
Attached motion (-) adopted.....	_____
Attached resolution adopted.....	_____
FORTHWITH.....	_____
Mayor concurred .....	_____
To the Mayor FORTHWITH .....	_____
Motion adopted to approve communication recommendation.....	_____ X
Motion adopted to approve committee report recommendation(s)...	_____
Ordinance adopted.....	_____
Ordinance number.....	_____
Mayor failed to act - deemed approved.....	_____
Findings adopted.....	_____
Negative Declaration adopted.....	_____
Categorically exempt.....	_____
Generally exempt.....	_____
Set for Hearing.....	_____

*Frank T. Martinez*

City Clerk  
crm

*3/3/05 KOK*



TO: LOS ANGELES CITY COUNCIL

File No. 03-0926

FROM: CHAIR AND MEMBER, HOUSING, COMMUNITY, AND ECONOMIC  
DEVELOPMENT COMMITTEE

	<u>Yes</u>	<u>No</u>
Public Comments		XX

COMMUNICATION FROM CHAIR AND MEMBER, HOUSING, COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE relative to litigation and settlement services related to developer's permitless demolition of historic "Giese Residence" - Chinatown Redevelopment Project Area.

Recommendation for Council action:

AUTHORIZE the Chief Executive Officer, Community Redevelopment Agency (CRA), or designee, to increase the work order amount for law firm, Fox & Sohagi, in the amount of \$25,000 (from \$245,000 to \$270,000) for additional legal services related to the litigation and settlement of Palmer Boston Street Properties II vs. City of Los Angeles and CRA (USDC Case No. CV03-6402-SVW), currently in the United States Federal District Court - Central District of California.

Fiscal Impact Statement: The CRA states that existing funds will be used that are currently set aside in the Chinatown Response to Development Opportunities for unanticipated legal expenses. Since resources have already been set aside in the current budget for this purpose, there will be no net impact to the Fiscal Year '05 Budget and Work Program.

Summary:

Palmer Boston Street Properties II (Palmer) filed an application for clearance of a permit to allow demolition of a 19<sup>th</sup> century residential building, "Giese Residence" in June, 2002. On October 31, 2002, the CRA notified Palmer's legal counsel that the building was potentially historically significant and that an Environmental Impact report (EIR) must be prepared. Palmer disagreed and refused to prepare the EIR based on the contrary conclusions of its own historic consultant.

On April 19, 2003, Palmer's crews demolished the Giese Residence without a permit and without prior preparation of an EIR. On November 18, 2003, the Board of Building and Safety Commissioners voted to invoke the City's Scorched Earth Ordinance against Palmer for the permitless demolition of historic structures. Per the Ordinance, development of Orsini II was banned for five years.

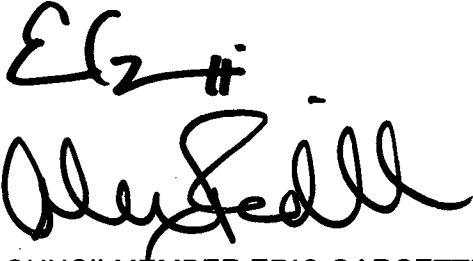
The CRA engaged Fox & Sohagi as outside litigation counsel in September, 2003, when Palmer filed a complaint against the CRA and the City in Federal District Court.

In July, 2004, the CRA, the City and Palmer executed a settlement agreement resolving three Palmer lawsuits. Since then, several additional and unforeseen events occurred which require a \$25,000 budget increase. These reasons are listed in the CRA's report on the Council file. Fox & Sohagi has exceeded its \$245,000 budget by approximately \$9,000. This request reflects a budget

increase from \$245,000 to \$270,000.

At its regular meeting on January 19, 2005, the Chair and Member of the Housing, Community, and Economic Development Committee approved the CRA's request. This matter is now forwarded to the Council for its consideration.

Respectfully submitted,

The block contains two handwritten signatures in black ink. The first signature is "Eric Garcetti" and the second is "Alex Padilla".

COUNCILMEMBER ERIC GARCETTI, CHAIR  
COUNCILMEMBER ALEX PADILLA, MEMBER  
HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT COMMITTEE

MEMBER	VOTE
GARCETTI	YES
LUDLOW	ABSENT
REYES	ABSENT
PADILLA	YES
PARKS	ABSENT

hn  
2/23/05  
#030926a.wpd  
CD,

**ADOPTED**  
MOTION ADOPTED TO APPROVE COMMUNICATION RECOMMENDATION  
MAR 01 2005

**LOS ANGELES CITY COUNCIL**

COUNCIL VOTE

Mar 1, 2005 10:36:38 AM, #3

Items for Which Public Hearings Have Not Been Held - Items 20-34  
Voting on Item(s): 20-30,33-34  
Roll Call

CARDENAS	Yes
GARCETTI	Yes
GREUEL	Yes
HAHN	Absent
LABONGE	Yes
LUDLOW	Absent
MISCIKOWSKI	Absent
PARKS	Yes
PERRY	Absent
REYES	Yes
SMITH	Yes
VILLARAIGOSA	Absent
WEISS	Yes
ZINE	Yes
*PADILLA	Yes

Present: 10, Yes: 10 No: 0

25

**HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT COMMITTEE**

**Report/Communication for Signature**

Council File Number: 03 - 0926

Committee Meeting Date: 11/19/05

Council Date: 3/1/05

COMMITTEE MEMBER	YES	NO	ABSENT
Councilmember Garcetti, Chair	✓		
Councilmember Ludlow			✓
Councilmember Reyes			✓
Councilmember Padilla	✓		
Councilmember Parks			✓

Remarks

*Base Residence*

John A. White, Legislative Assistant ----- Telephone 213-978-1080



**HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT  
COMMITTEE**

**NOTIFICATION OF COUNCIL ACTION**

Council File No. 03-0926

- ☒ Council Member(s) ~~CD4~~ CD1
- ☒ Interested Department Building and Safety, B+S Board of Commissioners
- ☐ Mayor (with/without file) \_\_\_\_\_
- ☐ Chief Legislative Analyst \_\_\_\_\_
- ☐ City Administrative Officer \_\_\_\_\_
- ☐ Controller \_\_\_\_\_
- ☐ City Clerk \_\_\_\_\_
- ☐ City Clerk, Chief Administrative Services \_\_\_\_\_
- ☐ Treasurer \_\_\_\_\_
- ☒ City Attorney (with blue sheet / without blue sheet) \_\_\_\_\_
- ☐ General Services Department \_\_\_\_\_
- ☐ Department of Transportation \_\_\_\_\_
- ☐ Personnel Department \_\_\_\_\_
- ☐ Los Angeles Housing Department \_\_\_\_\_
- ☐ Community Development Department, General Manager, Clifford Graves \_\_\_\_\_
- ☐ cc: Contact Person \_\_\_\_\_
- ☒ Community Redevelopment Agency \_\_\_\_\_
- ☐ Board of Public Works \_\_\_\_\_
- ☐ Workforce Investment Board \_\_\_\_\_
- ☐ Workforce Investment Board, Youth Council \_\_\_\_\_
- ☒ Fox & Sohegi
- ☐ \_\_\_\_\_



**CRA/LA**

*Building communities with jobs & housing*

**Community Redevelopment Agency**  
*of the CITY OF LOS ANGELES*

DATE / January 7, 2005

FILE CODE /

354 South Spring Street / Suite 800  
Los Angeles / California 90013-1258

T 213 977 1600 / F 213 977 1665  
[www.crala.org](http://www.crala.org)

CRA File No. 4677  
Council District: 1 ✓  
Contact Person: Lillian Burkenheim  
(213) 977-2601  
Curt Holguin  
(213) 977-1802

Honorable Council of the City of Los Angeles  
John Ferraro Council Chamber  
200 N. Spring Street  
Room 340, City Hall  
Los Angeles, CA. 90012

Attention: John White, Office of the City Clerk

**COUNCIL TRANSMITTAL:**

Transmitted herewith, is a Board Memorandum adopted by the Agency Board on December 16, 2004, for City Council review and approval in accordance with the "Community Redevelopment Agency Oversight Ordinance" entitled:

**VARIOUS ACTIONS RELATED TO:**

INCREASE OF WORK ORDER AMOUNT FOR THE LAW FIRM OF FOX & SOHAGI BY \$25,000 (FROM \$245,000 TO \$270,000) FOR LITIGATION AND SETTLEMENT SERVICES RELATED TO DEVELOPER'S PERMITLESS DEMOLITION OF HISTORIC "GIESE RESIDENCE", DEVELOPER'S SUBSEQUENT LAWSUIT AGAINST AGENCY AND CITY, AND SUBSEQUENT SETTLEMENT OF THAT LAWSUIT, CHINATOWN REDEVELOPMENT PROJECT AREA (CD1)

**RECOMMENDATION**

That City Council approves recommendation(s) on the attached Board Memorandum.

**ENVIRONMENTAL REVIEW**

The recommended action does not constitute a "project" as defined by the California Environmental Quality Act ("CEQA").

**FISCAL IMPACT STATEMENT**

There is no fiscal impact to the City's General Fund, as a result of this action.

  
Robert R. Ovrom, Chief Executive Officer

Housing, Community and Economic Development

JAN 11 2005

RECEIVED  
CITY CLERK'S OFFICE

2005 JAN 10 AM 7:05

CITY CLERK

BY  DEPUTY

Council Transmittal  
Page 2

cc: ~~John White~~, Office of the City Clerk (9 Copies 3 hole punched)  
Lisa Johnson, Scott Eritano, Office of the CAO  
Paul Smith, Ivania Sobalvarro, Office of the CLA  
Renata Simril, Office of the Mayor  
Neil Blumenkopf, Office of the City Attorney

12

MEMORANDUM

DATE: DECEMBER 16, 2004 CH6990

TO: AGENCY COMMISSIONERS

FROM: ROBERT R. OVROM, CHIEF EXECUTIVE OFFICER

RESPONSIBLE  
PARTIES: CURT HOLGUIN, DEPUTY CITY ATTORNEY  
LILLIAN BURKENHEIM, PROJECT MANAGER

SUBJECT: INCREASE OF WORK ORDER AMOUNT FOR THE LAW FIRM OF FOX & SOHAGI BY \$ 25,000 (FROM \$245,000 TO \$ 270,000) FOR LITIGATION AND SETTLEMENT SERVICES RELATED TO DEVELOPER'S PERMITLESS DEMOLITION OF HISTORIC "GIESE RESIDENCE", DEVELOPER'S SUBSEQUENT LAWSUIT AGAINST AGENCY AND CITY, AND SUBSEQUENT SETTLEMENT OF THAT LAWSUIT  
CHINATOWN REDEVELOPMENT PROJECT AREA  
CD1

RECOMMENDATION

That the Agency, subject to City Council-review and approval, authorize the Chief Executive Officer, or designee, to increase the work order amount for the law firm of Fox & Sohagi ("Fox & Sohagi ") in the amount of \$25,000 (from \$245,000 to \$270,000) for additional legal services related to the litigation and settlement of Palmer Boston Street Properties II vs. City of Los Angeles and Community Redevelopment Agency (USDC Case No. CV03-6402-SVW), currently in the United States Federal District Court - Central District of California.

SUMMARY

The Illegal Demolition Of The Giese Residence

In June 2002, Palmer Boston Street Properties II ("Palmer") filed an application with the Agency for clearance of a permit to allow demolition of a 19<sup>th</sup> century residential building known as the "Giese Residence" located near the southeast corner of Figueroa Street and Cesar Chavez Avenue in the Chinatown Redevelopment Project Area ("Project Area"). A map of the Project Area showing the location of the Giese Residence is appended hereto as "Attachment A". The demolition of the Giese Residence was sought to develop Phase II of Palmer's luxury residential project known as "Orsini II". Agency staff determined that the Giese Residence was potentially historically significant, and accordingly, that an Environmental Impact Report ("EIR") must be prepared before a clearance of the demolition permit could be issued.

On October 31, 2002, Agency staff advised Palmer's legal counsel of its EIR determination. However, Palmer disagreed and refused to prepare the EIR based on the contrary conclusions of its own historic consultant.

On April 19, 2003, Palmer's crews demolished the Giese Residence without a permit and without prior preparation of an EIR. Just two days prior to this demolition, a team of historic preservationists, Agency staff, and City officials had met to finalize a plan to have the Giese Residence relocated at no expense to Palmer.

On November 18, 2003, the Board of Building & Safety Commissioners voted to invoke the City's Scorched Earth Ordinance ("Ordinance") against Palmer for the permitless demolition of the Giese Residence. The Ordinance was enacted to deter precisely this type of preemptive illegal demolition of historic structures. The Ordinance was imposed on the Orsini II site for the maximum 5-year period specified therein. Thus, the development of Palmer's Orsini II project was effectively banned for five years.

#### The Litigation Against The Agency And City

On September 8, 2003, Palmer filed a complaint against the Agency and City in Federal District Court. Palmer alleged the Agency violated its procedural due process, substantive due process, and equal protection rights under the US Constitution. As grounds for these allegations, Palmer contended that the Agency: (i) failed to timely act on Palmer's application for the demolition permit; (ii) refused to issue a Mitigated Negative Declaration for the proposed demolition, instead of requiring an EIR; (iii) failed to itself prepare and certify that EIR for the proposed demolition; and (iv) exposed Palmer to substantial risk of civil and criminal liability arising out of the public nuisance created by the dangerous conditions of the Residence. Palmer demanded \$10 million in damages against the Agency and the City, and an injunction against the City's continued application of the Ordinance to the Orsini II site.

The Agency engaged Fox & Sohagi as outside litigation counsel to defend against this complaint. Fox & Sohagi submitted an initial budget estimate of \$75,000 to handle the litigation (Attachment B hereto).

On October 20, 2003, the Agency filed a Motion to Dismiss the lawsuit. The Court denied this Motion (as well as the City's Motion to Dismiss) and instructed both parties to answer Palmer's complaint. This denial put in motion the document-producing, deposition-intensive, time-consuming, and expensive discovery stage of the lawsuit. Additionally, on February 9, 2004, the Court imposed an extremely short 2-month period for the parties to prepare Motions for Summary, oppositions thereto, and replies to the opposition.

On March 8, 2004, the Agency filed its Motion for Summary Judgment on the procedural and substantive due process claims. If granted, the Agency is dismissed from the lawsuit without need to go to trial. The Court granted the Agency's Motion with respect to the Palmer's equal protection claim. The Court denied the Agency's Motion with respect to Palmer's substantive due process claim, but indicated it was disposed to granting it once the Court ruled on limited additional discovery issues.

Contemporaneous with the Agency's (and City's) filing of Motions for Summary Judgment, Palmer commenced settlement negotiations of the lawsuit. These negotiations started as bilateral Palmer-City negotiations because the chief remedy sought by Palmer was release from the City's Scorched Earth ban on the Orsini II site. The negotiations evolved into trilateral Palmer-City-Agency negotiations as the Agency needed to present its requirements for settlement. It is unlikely that

Palmer would have commenced settlement negotiations without the Court's granting (in part) the Agency's Motion for Summary for Summary Judgment.

#### The First Budget Increase

On June 3, 2004, the Agency Board approved a budget increase of \$170,000 for Fox & Sohagi (from \$75,000 to \$245,000) to pay for the unexpectedly accelerated and hostile discovery and trial preparation stages of the lawsuit; and for future services to negotiate a settlement of the lawsuit. The \$170,000 increase was approved because several unique and unexpected factors combined to significantly increase Fox & Sohagi's initial \$75,000 budget estimate. These factors were: (i) the trial judge's compressed time schedule imposed on the parties; (ii) Palmer's multiple and lengthy document demands on the Agency; (iii) Palmer's document demands on third parties (which required Fox & Sohagi's review); and (iv) Palmer's numerous and hostile discovery disputes. A copy of the first Revised Budget Estimate of \$245,000 is on Attachment C hereto.

#### The Settlement Agreement Ending The Litigation

On July 19, 2004 the Agency, City and Palmer executed a settlement agreement resolving three Palmer lawsuits, the 5 year ban on development of the Orsini II project, and multiple contentious issues among the parties ("Settlement Agreement"). Fox & Sohagi (working long hours with Agency and City staff) successfully negotiated and drafted the Settlement Agreement. This Agreement is unique in that Palmer (the suing plaintiff) agreed to pay the Agency and City to settle the lawsuit. In summary, the Agreement: (i) obligated Palmer to dismiss the federal lawsuit against the Agency and City as well as his two state lawsuits against the City; (ii) obtained for the Agency a Palmer obligation to construct \$200,000 of streetscape improvements adjacent to the Orsini II project site; (iii) obtained for the City a \$200,000 Palmer cash contribution to mitigate Orsini II impacts on the surrounding area; (iv) obtained for the community 100 permanent and 60 interim parking spaces, as well as a set of Palmer design improvements to the proposed Orsini II (and the built Orsini I) to create a more pedestrian-friendly environment; and (v) obligated Palmer to submit Orsini II through the discretionary review processes of both the City and Agency.

#### The Second Budget Increase

Since the Settlement Agreement was executed, several additional and unforeseen events occurred which require a \$ 25,000 budget increase. These were:

(1) Palmer's Revision of Project -- in September 2004, Palmer revised the "Project" to add Orsini III (described in BACKGROUND section) to Orsini II. This revision required substantial additional work of Fox & Sohagi to assist Agency staff in reviewing newly drafted "Project" documents including the revised MND and its subsidiary documents (e.g., new traffic study, new site plan).

(2) Palmer's Errors in CEQA Documentation -- in reviewing the revised MND, Fox & Sohagi found multiple errors and deficiencies which, left uncorrected, will subject the revised "Project" to legal challenge. Such legal challenges would be directed at the Agency and City if they issue discretionary approvals for the revised "Project" based on a deficient MND. Accordingly, Fox & Sohagi spent substantial time in preparing technical and legal comments for the Agency's "comment letter" on the MND.

(3) Parties' Need For Settlement Manager -- the complex and timeline-oriented nature of the Settlement Agreement required that someone monitor and manage the parties' performances of settlement-related activities. The Agency and City wished Fox & Sohagi to perform that role with substantial attorney time required for interacting with the parties, interpreting their obligations under the Settlement Agreement, drafting letters which clarified those obligations, and assembling a record confirming Agency compliance with its obligations.

(4) Additional Legal Work To Implement Settlement -- Based on the above, Agency and City Attorney staff anticipate the following additional work for Fox & Sohagi: (i) at least one additional round of review and critique of a further revised MND and its constituent documents; (ii) continued counsel on implementation of the parties' duties under the Settlement Agreement; and (iii) continued assistance in resolving disputes with Palmer such as the current dispute over who "caused" the Project to be revised and the impact of such revision on the Settlement Agreement's timeline.

As a result of (1) through (3) above, Fox & Sohagi has exceeded its \$245,000 Budget by approximately \$9,000. Accordingly, Agency staff asked Fox & Sohagi to prepare a Revised Budget of \$25,000 (from \$245,000 to \$270,000) to complete the "implementation stage" of the Settlement Agreement (Attached D hereto). The Revised Budget has been transmitted to the City Attorney's Outside Counsel Review Committee for review and approval.

## RE

November 15, 2001 - Agency approval of Authorization to Execute Contracts with 25 Law Firms To Serve As Agency Outside Legal Counsel for a Three Year Period

January 29, 2002 - City Council approval of Authorization to Execute Contracts with 25 Law Firms to Serve As Agency Outside Legal Counsel for a Three Year Period

June 3, 2004 - Agency approved of \$170,000 increase in work order amount of Fox & Sohagi (from \$75,000 to \$245,000) for Palmer Boston Properties II vs. City of Los Angeles and Community Redevelopment Agency

July 9, 2004 -- City Council approval of \$170,000 increase in work order amount of Fox & Sohagi (from \$75,000 to \$245,000) for Palmer Boston Properties II vs. City of Los Angeles and Community Redevelopment Agency

## SOURCE OF FUNDS

Chinatown General Revenue.

## PROGRAM AND BUDGET IMPACT

Existing funds will be used that are currently set aside in Chinatown Response to Development Opportunities (CH9990) for unanticipated legal expenses. Since resources have already been set aside in the current budget for this purpose there will be no net impact to the FY 05 Budget and Work Program.



## ENVIRONMENTAL REVIEW

The proposed action does not constitute a "project" as defined by the California Environmental Quality Act ("CEQA").

## BACKGROUND

### Palmer's Recent Projects

Palmer has built or is currently building several luxury housing projects in the City of Los Angeles. These include: (i) the completed Orsini I project, a 297 unit, 4 story rental complex (with ground level retail and subterranean parking) located on the southwest corner of Figueroa Street and Cesar E. Chavez Avenue; (ii) the planned Orsini II project, a 600 plus unit, 4 story project (also with ground level retail and subterranean parking) to be located on the southeast corner of Figueroa Street and Cesar E. Chavez Avenue; and (iii) the planned Orsini III project, a 300 unit luxury rental complex (with ground level retail and subterranean parking) to be located on the northeast corner of Figueroa Street and Cesar E. Chavez Avenue. Palmer's other luxury rental unit projects include the completed Medici project (near Eighth Street and the Harbor Freeway); the under construction Piero project (near Sixth and Bixel Streets); and the planned Visconti project in City Center West.

### The Giese Residence

This lawsuit concerns Palmer's illegal demolition of a residential structure known as the "Giese Residence," formerly located at 840-844 West Cesar E. Chavez Avenue. The property is located within the Chinatown Redevelopment Project Area.

According to the historical evaluation prepared by Palmer's own expert Roger Hathaway, the Giese Residence was originally built in the 1880s, during a period known to City historians as the "Boom of the Eighties." The builders were the noted Beaudry Brothers. The architectural style is known as "Queen Anne" or "Queen Anne cottage." In 1914, the original residence was incorporated into a larger building as the upper story of a 4-unit apartment building, an event that Hathaway considered in itself "historic."

In 1981, the Giese Residence was recognized as potentially eligible for listing in the National Register of Historic Places in an architectural/historical survey prepared for CRA by the same Roger Hathaway. In February 2002, Hathaway again surveyed the Giese Residence (this time for Palmer) and surrounding buildings, and again concluded in his report that "This building does appear to qualify for listing in the California Register of Historic Places."

In June 2002, Hathaway again observed in a follow-up report that "the original residence must be regarded as a prime example of the "Boom of the Eighties" architecture in Los Angeles," and "an example of hillside residential architecture as pioneered by the Beaudry Brothers." However, Hathaway also stated in his June 2002 report that he was now persuaded that the Giese Residence would no longer qualify as eligible for listing due to deterioration and vandalism occurring since his

February 2002 report. This conclusion was disputed by others, setting the stage for the dispute between Agency staff and Palmer on the level of CEQA review required prior to the Residence's demolition.

Robert R. Ovrom  
Chief Executive Officer

By:

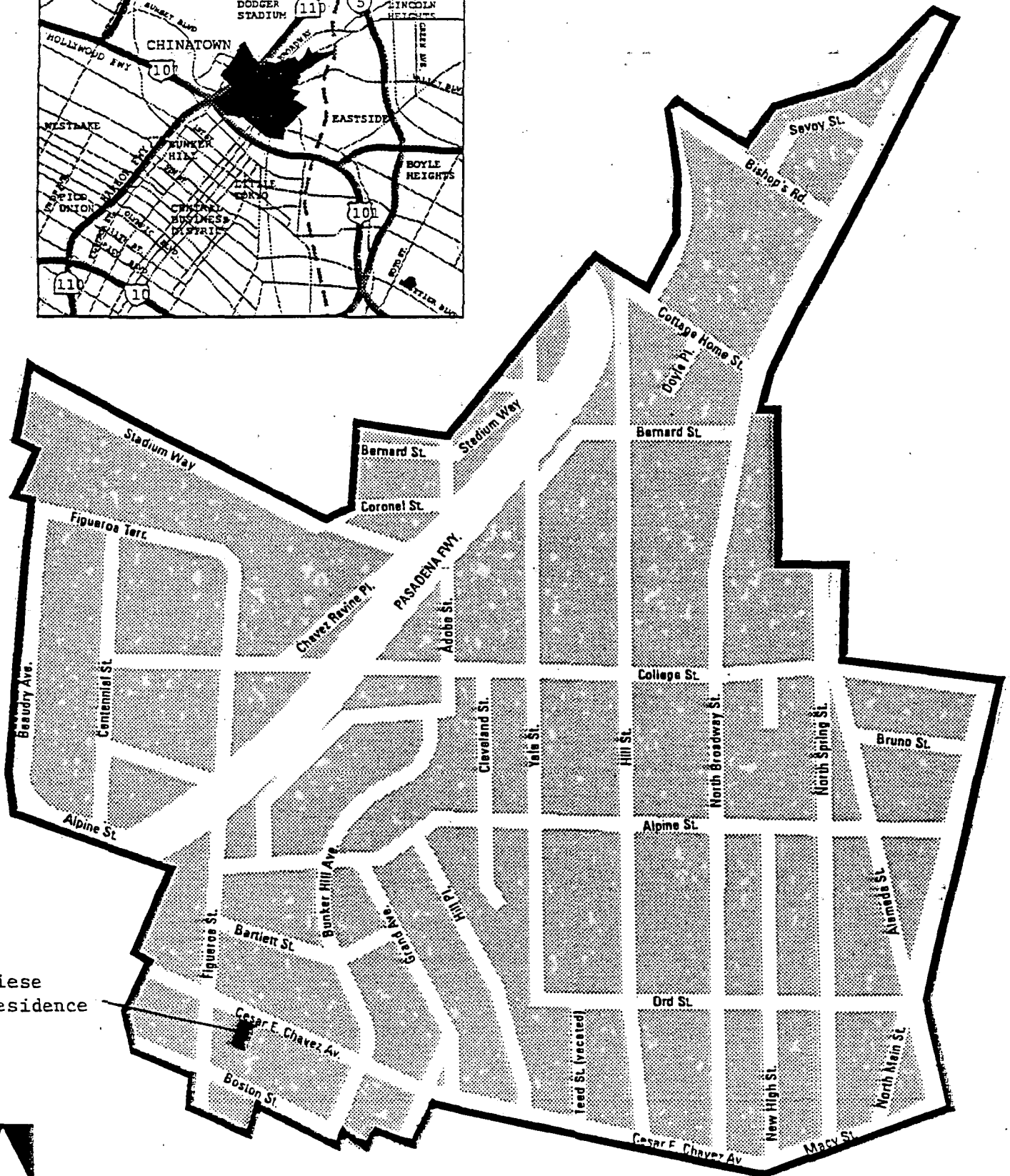
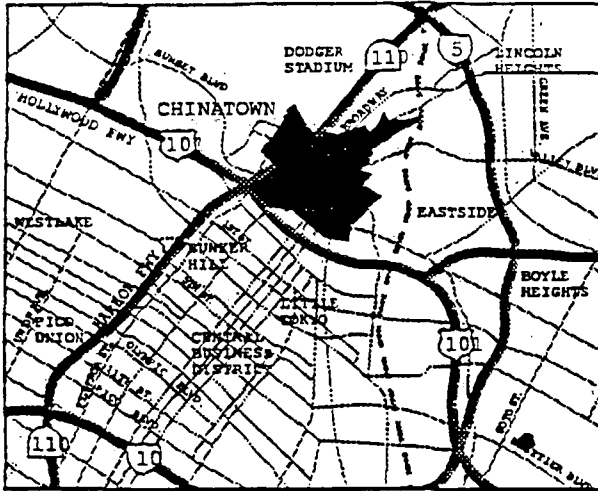
A handwritten signature in cursive script, appearing to read "Richard L. Benbow", written over a horizontal line.

Richard L. Benbow  
Chief Operating Officer

There is no conflict of interest known to me, which exists with regard to any Agency officer or employee concerning this action.

- Attachment A – Site Map Showing "Giese Residence"
- Attachment B – Fox & Sohagi Initial Budget
- Attachment C – Fox & Sohagi First Revised Budget
- Attachment D – Fox & Sohagi Second Revised Budget

## Attachment A



Giese  
Residence



# ESTIMATED BUDGET FOR LITIGATION SERVICES

LAW FIRM: FOX & SORAGI, LLP

CONTRACT #: \_\_\_\_\_

CASE NAME: Palmer v. CRA, et al.

PURCHASE ORDER #: \_\_\_\_\_



L100	Assessment & Development	<u>20</u>	<u>\$ 5,000</u>
L200	Pre-Trial Pleadings & Motions 12(b)6	<u>100</u>	<u>25,000</u>
L300	Discovery	<u>50</u>	<u>12,500</u>
L400	Trial Preparation & Trial	<u>130</u>	<u>32,500</u>
L500	Appeal	_____	_____
L600	Expenses*	_____	_____
TOTALS		<u>300</u>	<u>\$75,000</u>

\* Attach receipts to bill.

CERTIFIED CORRECT:

DATE: September 23, 2003

DEBORAH J. FOX

# ESTIMATED BUDGET FOR LITIGATION SERVICES

LAW FIRM: FOX & SOHAGI, LLPCONTRACT #: 502373CASE NAME: Palmer v. CRA, et al.

PURCHASE ORDER #: \_\_\_\_\_

CATEGORY		HOURS	BUDGET
L100	Assessment & Development	40	\$ 10,000.00
L200	Pre-Trial Pleadings & Motions	200	50,000.00
L300	Discovery	350	87,500.00
L400	Trial Preparation & Trial	390	97,500.00
L500	Appeal		
L600	Expenses*		
TOTALS		980	\$245,000.00

\* Attach receipts to bill.

CERTIFIED CORRECT:

DATE: March 24, 2004

3/24/04  
Deborah J. Fox  
 DEBORAH J. FOX

EXHIBIT A

# ESTIMATED BUDGET FOR LITIGATION SERVICES

LAW FIRM: Fox & Sohagi, LLP  
CASE NAME: Palmer v. CRA, et al.

CONTRACT #: 502373  
PURCHASE ORDER #: 04-0407

CATEGORY		HOURS	BUDGET
L100	Assessment & Development	110	31,000
L200	Pre-Trial Pleadings & Motions	200	50,000
L300	Discovery	350	87,500
L400	Trial Preparation & Trial	404	101,500
L500	Appeal		
L600	Expenses*		
TOTALS		1,064	270,000

\* Attach receipts to bill.

Commencement of Work Date: \_\_\_\_\_

Estimated Completion Date: \_\_\_\_\_

CERTIFIED CORRECT:

DATE: November 29, 2004

EXHIBIT A

J. MICHAEL CAREY  
City Clerk

FRANK T. MARTINEZ  
Executive Officer

When making inquiries  
relative to this matter  
refer to File No.

03-0926

CITY OF LOS ANGELES

CALIFORNIA



JAMES K. HAHN  
MAYOR

Office of the  
CITY CLERK  
Council and Public Services  
Room 395, City Hall  
Los Angeles, CA 90012

Council File Information - (213) 978-1043  
General Information - (213) 978-1133  
Fax: (213) 978-1040

HELEN GINSBURG  
Chief, Council and Public Services Division

PLACE IN FILES

JUL 20 2004

July 15, 2004

DEPUTY

Councilmember Reyes  
Chief Legislative Analyst  
City Administrative Officer  
Community Redevelopment Agency

Controller, Room 300  
Accounting Division, F&A  
Disbursement Division  
City Attorney

RE: INCREASING THE WORK ORDER FOR THE LAW FIRM OF FOX AND SOHAGI FOR LEGAL  
SERVICES RELATED TO THE DEMOLITION OF THE HISTORIC GIESE RESIDENCE

At the meeting of the Council held July 14, 2004, the following  
action was taken:

Attached report adopted.....  
Attached motion adopted().....  
Attached resolution adopted().....  
Motion adopted to approve attached report.....  
Motion adopted to approve attached communication..... X  
To the Mayor FORTHWITH.....  
Mayor approved.....  
Mayor failed to act - deemed approved.....  
Findings adopted.....  
Negative Declaration adopted.....  
Categorically exempt.....  
Generally exempt.....  
EIR certified.....

*J. Michael Carey*

City Clerk  
dng



## COMMUNICATION

TO: LOS ANGELES CITY COUNCIL

File No. 03-0926

FROM: HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT  
COMMITTEE

	<u>Yes</u>	<u>No</u>
Public Comments	—	<u>XX</u>

COMMUNICATION FROM CHAIR, HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT COMMITTEE relative to increasing the purchase order amount by \$170,000 for the law firm of Fox and Sohagi for litigation services related to the demolition of the Historic Giese Residence by a developer, and subsequent lawsuit filed against the Community Redevelopment Agency (Agency) and the City.

Recommendations for Council action:

AUTHORIZE the Chief Executive Officer, Agency, or designee to:

- a. Amend the Agency's 2003-04 Budget and Work Program to transfer \$170,000 from Work Objective CH9990 (Project General) to CH6990 (Response to Development Opportunities).
- b. Increase the Work Order for Fox and Sohagi in the amount of \$170,000 (from \$75,000 to \$245,000) for additional legal services related to the demolition of the Historic Giese Residence lawsuit.

Fiscal Impact Statement: The City Administrative Officer (CAO) reports that this action will not impact the General Fund. Funding for this Work Order increase will reduce dollars available to the Chinatown Redevelopment Project Area inasmuch as this action was not anticipated in the 2003-04 Work Program and Budget.

Summary:

In a July 2, 2004 report to the Mayor and Council (attached to the Council file), the CAO states that the Agency requests authority to increase compensation by \$170,000 to Fox and Sohagi for legal services related to the demolition of the Giese Residence and subsequent litigation between the Palmer Boston Street Properties and the City and the Agency. The Agency also requests authority to amend its Work Program and Budget to reflect this action.

The CAO reports that the developer filed an application for a permit to demolish the 19<sup>th</sup> Century residential building known as the Giese Residence. Agency staff determined that the building was potentially historically significant and that an Environmental Impact Report was required. In April 2003, the developer demolished the Giese residence without a permit. In November 2003, the Board of Building and Safety Commissioners



invoked the City's Scorched Earth Ordinance against the developer, with a maximum punishment of a five-year ban on development of the property by the developer.

The CAO goes on to report that in September, 2003, the developer filed a complaint in Federal Court against the City and Agency alleging that its procedural due process, substantive due process, and equal protection rights were violated. The courts approved a Motion filed by the Agency to dismiss the developer's claims relative to the violation of its procedural equal protection rights. The court also stated that it would rule on substantive due process matter once additional discovery issues were resolved. As a result, the Agency, the City, and the developer entered into settlement negotiations concurrently with the legal proceedings.

Fox and Sohagi were hired as outside litigation counsel to defend the lawsuit. Due to factors such as compressed scheduling by the Judge, document review, depositions, and discovery additional costs were incurred. On June 3, 2004, the Agency's Board approved staff recommendations to increase the purchase order amount by \$170,000 for the law firm of Fox and Sohagi. The CAO concurs with this action.

At the Housing, Community, and Economic Development Committee meeting held July 7, 2004, the Committee Chair recommended that Council approve the recommendations above relative to increasing the purchase order amount by \$170,000 for the law firm of Fox and Sohagi, as recommended by the CAO and the Agency's Board.

Respectfully submitted,



Councilmember Eric Garcetti Chair  
Housing, Community, and Economic Development Committee

JAW  
07/09/04

#030926.wpd

**ADOPTED**  
MOTION ADOPTED TO APPROVE COMMUNICATION RECOMMENDATION  
JUL 14 2004

**LOS ANGELES CITY COUNCIL**

16  
**HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT COMMITTEE**  
**Report/Communication for Signature**

Council File Number: 03-0926

Committee Meeting Date: 7-7-04

Council Date: 7-14-04

COMMITTEE MEMBER	YES	NO	ABSENT
Councilmember Garcetti, Chair	✓		
<del>Councilmember Ludlow</del>			
<del>Councilmember Reyes</del>			
<del>Councilmember Padilla</del>			
<del>Councilmember Parks</del>			

Remarks Increase Purchase Order for  
Fox and Sohagi

John A. White, Legislative Assistant ----- Telephone 213-978-1080

COUNCIL VOTE

Jul 14, 2004 10:34:37 AM, #3

Items for Which Public Hearings Have Not Been Held - Items 10-28  
Voting on Item(s): 10-17,19-21,25-28  
Roll Call

CARDENAS	Yes
GARCETTI	Yes
GREUEL	Absent
HAHN	Yes
LABONGE	Yes
LUDLOW	Yes
*MISCIKOWSKI	Yes
PARKS	Yes
PERRY	Yes
REYES	Yes
SMITH	Yes
VILLARAIGOSA	Absent
WEISS	Yes
ZINE	Absent
PADILLA	Absent
Present: 11, Yes: 11 No: 0	

**HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT  
COMMITTEE**

**NOTIFICATION OF COUNCIL ACTION**

Council File No. 03-0926

- ☒ Council Member(s) 1
- ☐ Interested Department \_\_\_\_\_
- ☐ Mayor (with/without file) \_\_\_\_\_
- ☒ Chief Legislative Analyst \_\_\_\_\_
- ☒ City Administrative Officer \_\_\_\_\_
- ☒ Controller \_\_\_\_\_
- ☐ City Clerk \_\_\_\_\_
- ☐ City Clerk, Chief Administrative Services \_\_\_\_\_
- ☐ Treasurer \_\_\_\_\_
- ☒ City Attorney (with blue sheet / without blue sheet) \_\_\_\_\_
- ☐ General Services Department \_\_\_\_\_
- ☐ Department of Transportation \_\_\_\_\_
- ☐ Personnel Department \_\_\_\_\_
- ☐ Los Angeles Housing Department \_\_\_\_\_
- ☐ Community Development Department, General Manager, Clifford Graves \_\_\_\_\_
- ☐ cc: Contact Person \_\_\_\_\_
- ☒ Community Redevelopment Agency \_\_\_\_\_
- ☐ Board of Public Works \_\_\_\_\_
- ☐ Workforce Investment Board \_\_\_\_\_
- ☐ Workforce Investment Board, Youth Council \_\_\_\_\_
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

---

Date: July 2, 2004

CAO File No. 0220-00013-1952

Council File No. 03-0926

Council District: 1 ✓

To: The Mayor  
The Council

From: William T Fujioka, City Administrative Officer *WTF  
bmt*

Reference: Community Redevelopment Agency Transmittal Dated June 3, 2004; Received by the City Administrative Officer on June 4, 2004

Subject: Increase in Contract Authority for Legal Services Related to the Demolition of the Giese Residence Lawsuit

---

### SUMMARY

The Community Redevelopment Agency (Agency) requests authority to increase compensation in the amount not to exceed \$170,000, from \$75,000 to \$245,000, to Fox and Sohagi (Fox) for legal services related to the demolition of the Giese Residence and subsequent litigation between the City and the Agency and Palmer Boston Street Properties II (Developer). The Agency also requests authority to amend its 2003-04 Work Program and Budget to transfer funds in the amount of \$175,000 between Work Objectives to fund the cost of legal services. Funding for the increase is provided from Chinatown Redevelopment Project Area (CRPA) bond proceeds.

### Background

In June 2002, the Developer filed an application with the Agency for clearance of a permit to allow demolition of a 19<sup>th</sup> century residential building known as the "Giese Residence" located within the CRPA. Agency staff determined that the Giese Residence was potentially historically significant and that an Environmental Impact Report (EIR) would need to be prepared before a permit could be issued.

During this time, the condition of the Giese Residence had deteriorated as trespassers and vandals began using the property. In December 2002, the Board of Building and Safety Commissioners (BSC) issued abatement orders as the nuisance activities increased. In April 2003, the Developer demolished the Giese Residence without a permit and preparation of an EIR. In November 2003, the BSC voted to invoke the City's "Scorched Earth" Ordinance against the Developer for the permitless demolition of the Giese Residence. The purpose of the Ordinance is to deter preemptive illegal demolition of historic structures with the punishment being a maximum five-year ban on development of the property by a developer.

*g*

RECEIVED  
CITY CLERK'S OFFICE

2004 JUL -2 PM 12:42

CITY CLERK

BY \_\_\_\_\_  
DEPUTY

## Legal Proceedings

In September 2003, the Developer filed a complaint in Federal Court against the City and Agency alleging the Agency violated its procedural due process, substantive due process and equal protection rights under the United States Constitution (Lawsuit). The Developer contended that the Agency:

- Failed to timely act on the Developer's application for the demolition permit;
- Refused to issue a Mitigated Negative Declaration for the proposed demolition, instead of requiring an EIR;
- Failed to itself prepare and certify an EIR for the proposed demolition; and,
- Exposed the Developer to substantial risk and liability arising out of the public nuisance created by the conditions at the Giese Residence.

In October 2003, the Agency filed and was granted a Motion to Dismiss on the Developer's claims of violation of procedural due process. In February 2004, the Court ordered the Agency and City to file Motions for Summary Judgment for the claims of violation of substantive due process and equal protection. The Court granted the Agency's Motion with respect to the equal protection claim made by the Developer in March 2004. The Court also stated that it would rule on the outstanding claim of violation of substantive due process once additional discovery issues are ruled on. As a result, the Agency, City and the Developer entered into settlement negotiations concurrently with the legal proceedings. Discovery proceedings and depositions are continuing should settlement negotiations fail, however, the Agency reports that a settlement could be reached and given to the Agency Board and Council for approval in mid-July.

The Agency hired Fox as outside litigation counsel to defend the Lawsuit and submitted an initial budget estimate of \$75,000. To defend the Agency through the trial stage of the Lawsuit, Fox submitted a revised budget of \$245,000. At present time, Fox's invoices to the Agency total \$166,805. The Agency reports that several factors have led to the increase in the initial budget estimate:

- Compressed scheduling of the Court- The Judge in the case gave the parties two months instead of the usual six months to begin document review, deposition preparation and defense, discovery disputes, and drafting Motion for Summary Judgment papers;
- Document Review- The Developer's attorneys served the Agency over 50 document demands, each requiring review by Fox;
- Third Party Document Review- The Developer's attorneys also served third parties in the case document demands, which also required Fox to review these documents to assess the impact on the Agency's Motion for Summary Judgments and defense of depositions of Agency and City employees;
- Depositions- Fox was required to prepare for and defend six depositions of Agency and City employees in a one-month period; and,
- Discovery Disputes- The Developer's attorneys demanded numerous privileged documents during the discovery period. Fox researched and held meet and confer sessions with the opposing attorneys to resolve the issue.

This Office concurs with the Agency's recommendations to increase the contract authority to Fox by \$170,000, from \$75,000 to \$245,000, for legal costs associated with the Lawsuit.

## **RECOMMENDATIONS**

That the Council authorize the Community Redevelopment Agency (Agency) Chief Executive Officer, or designee, to:

1. Amend the Agency's 2003-04 Budget and Work Program to transfer \$170,000 from Work Objective CH9990 (Project General) to CH6990 (Response to Development Opportunities); and,
2. Increase the Work Order amount for Fox and Sohagi in the amount of \$170,000 (from \$75,000 to \$245,000) for additional legal services related to the demolition of the Giese Residence lawsuit.

## **FISCAL IMPACT STATEMENT**

There is no impact on the General Fund. The Agency reports that since this action was not anticipated in the 2003-04 Work Program and Budget, funding for the increase will reduce dollars available to the Chinatown Redevelopment Project Area.

WTF:SDE:02040223





DATE / June 3, 2004

FILE CODE /

354 South Spring Street / Suite 800  
Los Angeles / California 90013-1258

T 213 977 1600 / F 213 977 1665  
www.crala.org

CRA File No. 4600  
Council District: 1  
Contact Person: L. Burkenheim  
(213) 977-1613

Honorable Council of the City of Los Angeles  
John Ferraro Council Chamber  
200 N. Spring Street  
Room 340, City Hall  
Los Angeles, CA. 90012

Attention: John White, Office of the City Clerk

RECEIVED  
CITY CLERK'S OFFICE  
JUN -9 AM 7:59  
CITY CLERK  
DEPUTY

**COUNCIL TRANSMITTAL:**

Transmitted herewith, is a Board Memorandum adopted by the Agency Board on June 3, 2004, for City Council review and approval in accordance with the "Community Redevelopment Agency Oversight Ordinance" entitled:

INCREASE OF PURCHASE ORDER AMOUNT FOR THE LAW FIRM OF FOX & SOHAGI BY \$170,000 (FROM \$75,000 TO \$245,000) FOR LITIGATION SERVICES RELATED TO DEVELOPER'S PERMITLESS DEMOLITION OF HISTORIC "GIESE RESIDENCE" AND SUBSEQUENT LAWSUIT AGAINST AGENCY AND CITY  
CHINATOWN REDEVELOPMENT PROJECT  
CD1 - DOWNTOWN REGION

**RECOMMENDATION**

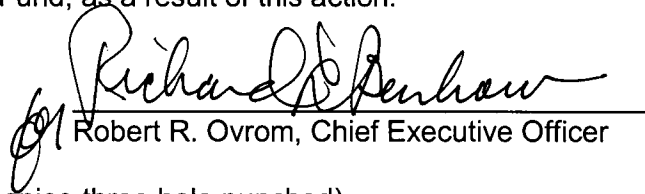
That City Council approves recommendations on the attached Board Memorandum.

**ENVIRONMENTAL REVIEW**

The proposed action does not constitute a "project" as defined by the California Environmental Quality Act ("CEQA").

**FISCAL IMPACT STATEMENT**

There is no fiscal impact to the City's General Fund, as a result of this action.

  
Robert R. Ovrom, Chief Executive Officer

cc: John White, Office of the City Clerk (10 copies-three hole punched)  
Lisa Johnson, Scott Eritano, Office of the CAO  
Paul Smith, Ivania Sobalvarro, Office of the CLA  
Renata Simril, Office of the Mayor  
Neil Blumenkopf, Office of the City Attorney

Housing, Community and Economic Development

JUN 9 2004

bcc: Robert R. Ovrom, CEO  
Cognizant Deputy Administrator  
Ras Mallari, Accounting  
Alma Acosta  
Nenita Tan, Office of the City Controller  
Records (2 copies)  
City Attorney  
Lillian Burkenheim  
Curt Holguin

8

MEMORANDUM

DATE: JUNE 3, 2004. CH6990

TO: AGENCY COMMISSIONERS

FROM: ROBERT R. OVROM, CHIEF EXECUTIVE OFFICER

RESPONSIBLE PARTIES: LILLIAN BURKENHEIM, PROJECT MANAGER, AND CURT HOLGUIN, DEPUTY CITY ATTORNEY

SUBJECT: INCREASE OF PURCHASE ORDER AMOUNT FOR THE LAW FIRM OF FOX & SOHAGI BY \$170,000 (FROM \$75,000 TO \$245,000) FOR LITIGATION SERVICES RELATED TO DEVELOPER'S PERMITLESS DEMOLITION OF HISTORIC "GIESE RESIDENCE" AND SUBSEQUENT LAWSUIT AGAINST AGENCY AND CITY  
CHINATOWN REDEVELOPMENT PROJECT AREA  
CD1

RECOMMENDATION

That the Agency, subject to City Council review and approval, authorize the Chief Executive Officer, or designee, to (1) increase the purchase order amount for the law firm of Fox & Sohagi ("Fox & Sohagi") in the amount of \$170,000 (from \$75,000 to \$245,000) for additional legal services related to the litigation, Palmer Boston Street Properties II vs. City of Los Angeles and Community Redevelopment Agency (Case No. CV03-6402-SVW), currently in the United States Federal District Court - Central District of California and (2) to amend the FY04 Budget to transfer \$170,000 from CH9990 Project General to CH6990 Response to Development Opportunities.

SUMMARY

The Illegal Demolition Of The Giese Residence

In June 2002, Palmer Boston Street Properties II ("Palmer") filed an application with the Agency for clearance of a permit to allow demolition of a 19<sup>th</sup> century residential building known as the "Giese Residence" located near the southeast corner of Figueroa Street and Cesar Chavez Avenue in the Chinatown Redevelopment Project Area ("Project Area"). A map of the Project Area showing the location of the Giese Residence is appended hereto as "Attachment A". The demolition of the Giese Residence was sought to develop Phase II of Palmer's luxury residential project known as "Orsini II". Agency staff determined that the Giese Residence was potentially historically significant, and accordingly, that an Environmental Impact Report ("EIR") must be prepared before a clearance of the demolition permit could be issued. On October 31, 2002, Agency staff advised Palmer's legal counsel of its EIR determination. However, Palmer disagreed and refused to prepare the EIR.

On April 19, 2003, Palmer's crews demolished the Giese Residence without a permit and without prior preparation of an EIR. Just two days prior to this demolition, a team of historic preservationists, Agency staff, and City officials had met to finalize a plan to have the Giese Residence relocated at no expense to Palmer.

On November 18, 2003, the Board of Building & Safety Commissioners voted to invoke the City's Scorched Earth Ordinance ("Ordinance") against Palmer for the permitless demolition of the Giese Residence. The Ordinance was enacted to deter precisely this type of preemptive illegal demolition of historic structures. The Ordinance was imposed on the Orsini II site for the maximum 5-year period specified therein. Thus, the development of Palmer's Orsini II project was effectively banned for five years.

#### The Lawsuit Against the City and Agency

On September 8, 2003, Palmer filed a complaint against the City and Agency in Federal District Court. Palmer alleged the Agency violated its procedural due process, substantive due process, and equal protection rights under the US Constitution. As grounds for these allegations, Palmer contended that the Agency: (i) failed to timely act on Palmer's application for the demolition permit; (ii) refused to issue a Mitigated Negative Declaration for the proposed demolition, instead of requiring an EIR; (iii) failed to itself prepare and certify that EIR for the proposed demolition; and (iv) exposed Palmer to substantial risk of civil and criminal liability arising out of the public nuisance created by the dangerous conditions of the Residence. Palmer demanded \$10 million in damages against the Agency and City, and an injunction against the City's continued application of the Ordinance to the Orsini II site.

The Agency engaged Fox & Sohagi as outside litigation counsel to defend against this complaint. Fox & Sohagi submitted an initial budget estimate of \$75,000 to handle the litigation (Attachment B hereto).

On October 20, 2003, the Agency filed a Motion to Dismiss the lawsuit. The Court granted the Agency's Motion as to Palmer's procedural due process claims, but denied the balance relating to Palmer's substantive due process and equal protection claims. On February 9, 2004, the parties attended a status conference where the Court ordered the Agency and City to file Motions for Summary Judgment. The Court also set an expedited 2 month briefing and hearing schedule. As a result, the Court set in motion a document-intensive, deposition-intensive, time-consuming, and expensive discovery stage of this lawsuit.

On March 8, 2004, the Agency filed its Motion for Summary Judgment on the procedural and substantive due process claims. If granted, the Agency is dismissed from the lawsuit without need to go to trial. The Court granted the Agency's Motion with respect to Palmer's equal protection claim. The Court denied the Agency's Motion with respect to Palmer's substantive due process claim, but indicated it was disposed to granting it once the Court ruled on limited additional discovery issues. Those discovery rulings are expected by late June 2004.

Contemporaneous with the Agency's (and City's) filing of Motions for Summary Judgment, Palmer commenced settlement negotiations of the lawsuit. These negotiations started as bilateral Palmer-City negotiations because the chief remedy sought by Palmer was release from the City's Scorched Earth ban on the Orsini II site. The negotiations evolved into trilateral Palmer-City-Agency negotiations as the Agency needed to present its requirements for settlement. It is unlikely that Palmer would have commenced settlement negotiations without the Court's granting (in part) the Agency's Motions to Dismiss and for Summary Judgment.

### The Need To Increase Outside Counsel Fees

Several unique and unexpected factors combined to significantly increase Fox & Sohagi's initial budget estimate. These were:

(1) Judge's Time Compressed Schedule -- The Palmer lawsuit was assigned to Judge Stephen Wilson who is known for time-compressed scheduling of cases in his Court. The Judge gave the parties a mere two months for work that normally requires six months (i.e., all discovery and all work on Summary Judgment papers). Consequently, three Fox & Sohagi attorneys were required to work on document review, deposition preparation and defense, discovery disputes, and drafting of the Motion for Summary Judgment papers.

(2) Palmer's Multiple Document Demands On Agency -- Palmer's attorneys served over 50 document demands on the Agency during the compressed two-month discovery period. Each of these requests required extensive review by Fox & Sohagi for privileged documents and the preparation of privilege logs to prevent inadvertent release of such documents to Palmer.

(3) Palmer's Document Demands On Third Parties -- Palmer's attorneys also served three (3) third parties with document demands during the compressed discovery period. Fox & Sohagi was obligated to review these demands (and the documents produced thereunder) to see how they would impact the Agency's Motion for Summary Judgment, and the Agency's defense of depositions of Agency (and City) employees.

(4) Palmer's Numerous Depositions -- Fox & Sohagi was required to prepare for and defend (or attend) six depositions of Agency and City employees in approximately a one month period. All of the depositions required extensive document review, and extensive witness preparation was required for the three Agency employees deposed.

(5) Parties' Protracted Discovery Disputes -- Palmer's attorneys demanded numerous privileged documents during the compressed discovery period. Among these documents were communications between City Attorneys representing the City and Agency who asserted the "joint defense privilege" as both their clients were sued (or anticipating suit) by Palmer. Palmer's attorneys bombarded the Agency with demands for these documents, the Agency's attorneys refused such demands based on extensive legal research, and the parties held numerous meet and confer sessions to try to resolve their differences. Ultimately, the Court denied Palmer access to the disputed documents sought by his attorneys.

As a result of the above, Agency staff asked Fox & Sohagi to prepare a revised budget for this lawsuit (Attachment C hereto). That revised budget represents an increase of \$170,000 in outside counsel fees (from \$75,000 to \$245,000) to defend the Agency through and including the trial stage of this lawsuit. At the present time, Fox & Sohagi's invoices to the Agency total approximately \$166,805.47.

RE

November 15, 2001 - Agency approval of Authorization to Execute Contracts with 25 Law Firms To Serve As Agency Outside Legal Counsel for a Three Year Period.

January 29, 2002 - City Council approval of Authorization to Execute Contracts with 25 Law Firms to Serve As Agency Outside Legal Counsel for a Three Year Period.

### SOURCE OF FUNDS

Chinatown Bond Proceeds.

### PROGRAM AND BUDGET IMPACT

This activity was not contemplated in the FY 04 Budget and Work Program. As a result, approval of the recommended actions will reduce dollars available for the Program in the amount of the subject budget increase, thus, impacting the FY 05 Budget and Work Program.

### ENVIRONMENTAL REVIEW

The proposed action does not constitute a "project" as defined by the California Environmental Quality Act ("CEQA").

### BACKGROUND

#### Palmer's Recent Projects

Palmer has built or is currently building several luxury housing projects in the City of Los Angeles. These include: (i) the completed Orsini I project, a 297 unit, 4 story rental complex (with ground level retail and subterranean parking) located on the southwest corner of Figueroa Street and Cesar E. Chavez Avenue; (ii) the planned Orsini II project, a 600 plus unit, 4 story project (also with ground level retail and subterranean parking) to be located on the southeast corner of Figueroa Street and Cesar E. Chavez Avenue; and (iii) the planned Orsini III project, also a luxury rental complex (with ground level retail and subterranean parking) to be located on the northeast corner of Figueroa Street and Cesar E. Chavez Avenue. Palmer's other luxury rental unit projects include the completed Medici project (near Eighth Street and the Harbor Freeway); the under construction Piero project (near Sixth and Bixel Streets); and the planned Visconti project in City Center West.

#### The Giese Residence

This lawsuit concerns Palmer's illegal demolition of a residential structure known as the "Giese Residence," formerly located at 840-844 West Cesar E. Chavez Avenue. The property is located within the Chinatown Redevelopment Project Area.

According to the historical evaluation prepared by Palmer's own expert Roger Hathaway, the Giese Residence was originally built in the 1880s, during a period known to City historians as the "Boom of the Eighties." The builders were the noted Beaudry Brothers. The architectural style is known as "Queen Anne" or "Queen Anne cottage." In 1914, the original residence was incorporated into a larger building as the upper story of a 4-unit apartment building, an event that Hathaway considered in itself "historic."

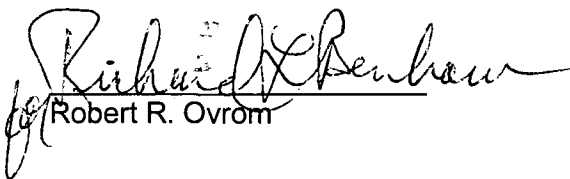
In 1981, the Giese Residence was recognized as potentially eligible for listing in the National Register of Historic Places in an architectural/historical survey prepared for CRA by the same Roger Hathaway. In February 2002, Hathaway again surveyed the Giese Residence (this time for Palmer)

and surrounding buildings, and again concluded in his report that "This building does appear to qualify for listing in the California Register of Historic Places."

In June 2002, Hathaway again observed in a follow-up report that "the original residence must be regarded as a prime example of the "Boom of the Eighties" architecture in Los Angeles," and "an example of hillside residential architecture as pioneered by the Beaudry Brothers." However, Hathaway also stated in his June 2002 report that he was now persuaded that the Giese Residence would no longer qualify as eligible for listing due to deterioration and vandalism occurring since his February 2002 report. This conclusion was disputed by others, setting the stage for the dispute between Agency staff and Palmer on the level of CEQA review required prior to the Residence's demolition.

#### City's Nuisance Abatement Proceedings

While the CEQA debate between the Agency and Palmer unfolded, the vacant Giese Residence became the scene of nuisance activities by local vagrants and gang members. Opinions differ as to whether Palmer could have done more to prevent trespasses and vandalism to the Residence. On December 17, 2002, the City's Board of Building and Safety Commissioners conducted a public hearing, which resulted in a determination that nuisance conditions existed on the Giese Residence property. This determination and consequent abatement orders form the basis of Palmer's lawsuit against the City and Agency. Contrary to Palmer's contentions, however, the Building and Safety Board orders did not require Palmer to demolish, as opposed to repair and secure, the Giese Residence, nor were they intended to preclude relocation of the Residence. Neither did they purport to eliminate the need for a valid demolition permit.



Robert R. Ovrom

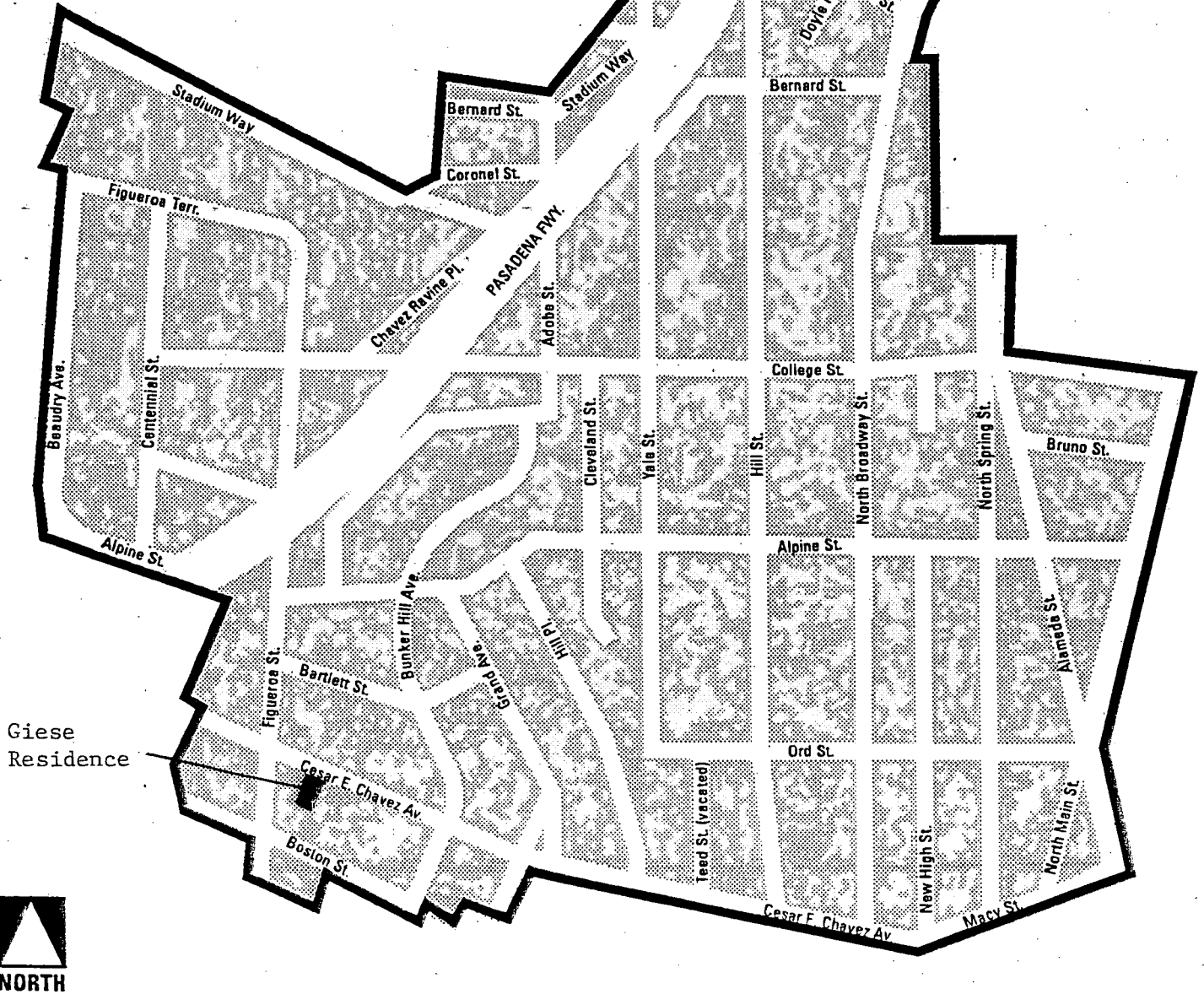
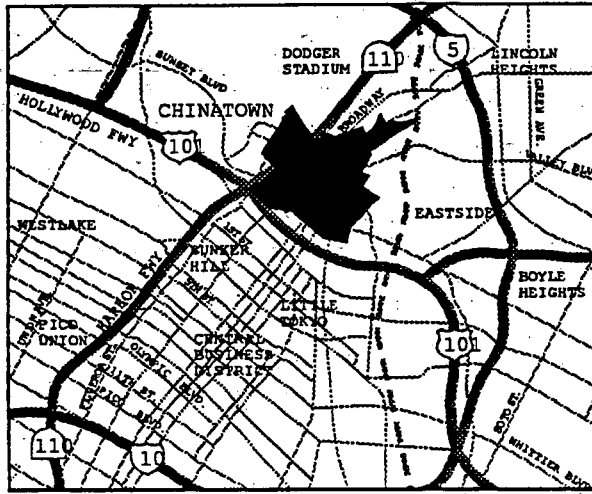
There is no conflict of interest known to me, which exists with regard to any Agency officer or employee concerning this action.

Attachment A – Site Map Showing "Giese Residence"

Attachment B – Fox & Sohagi Initial Budget

Attachment C – Fox & Sohagi Revised Budget

## Chinatown

Redevelopment  
Project



Attachment B

**ESTIMATED BUDGET  
FOR LITIGATION SERVICES**

LAW FIRM: FOX & SOHAGI, LLP

CONTRACT #: \_\_\_\_\_

CASE NAME: Palmer v. CRA, et al.

PURCHASE ORDER #: \_\_\_\_\_



L100	Assessment & Development	20	\$ 5,000
L200	Pre-Trial Pleadings & Motions 12(b)6	100	25,000
L300	Discovery	50	12,500
L400	Trial Preparation & Trial	130	32,500
L500	Appeal		
L600	Expenses*		
TOTALS		300	\$75,000

\* Attach receipts to bill.

CERTIFIED CORRECT:

DATE: September 23, 2003

DEBORAH J. FOX

\_\_\_\_\_

**ESTIMATED BUDGET  
FOR LITIGATION SERVICES**LAW FIRM: FOX & SOHAGI, LLPCONTRACT #: 502373CASE NAME: Palmer v. CRA, et al.

PURCHASE ORDER #: \_\_\_\_\_

CATEGORY		HOURS	BUDGET
L100	Assessment & Development	40	\$ 10,000.00
L200	Pre-Trial Pleadings & Motions	200	50,000.00
L300	Discovery	350	87,500.00
L400	Trial Preparation & Trial	390	97,500.00
L500	Appeal		
L600	Expenses*		
TOTALS		980	\$245,000.00

\* Attach receipts to bill.

CERTIFIED CORRECT:

DATE: March 24, 2004

3/24/04  
Deborah J. Fox  
DEBORAH J. FOX

J. MICHAEL CAREY  
City Clerk

FRANK T. MARTINEZ  
Executive Officer

When making inquiries  
relative to this matter  
refer to File No.

03-0926

CD 1

May 14, 2003

# CITY OF LOS ANGELES

CALIFORNIA



JAMES K. HAHN  
MAYOR

Office of the  
**CITY CLERK**  
Council and Public Services  
Room 395, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 978-1043  
General Information - (213) 978-1133  
Fax: (213) 978-1040

HELEN GINSBURG  
Chief, Council and Public Services Division

PLACE IN FILES

MAY 23 2003

DEPUTY *gf*

City Attorney (with blue sheet)  
Councilmember Reyes  
Councilmember Padilla  
Councilmember Bernson  
Councilmember Miscikowski  
Department of Building & Safety  
Community Redevelopment Agency  
City Administrative Officer  
Planning and Land Use Management Committee,  
Attn: J. White

RE: POSSIBLE PROSECUTION OF G.H. PALMER ASSOCIATES FOR THE WRONGFUL  
DEMOLITION OF THE GIESE RESIDENCE AT 840 WEST CESAR CHAVEZ BOULEVARD

At the meeting of the Council held May 13, 2003, the following action was  
taken:

Attached report adopted.....	_____
Attached motion (Reyes - Padilla) adopted, as amended.....	_____ X
Attached amending motion (Bernson - Reyes) adopted.....	_____ X
Mayor approved.....	_____
FORTHWITH.....	_____ X
Mayor concurred .....	_____
To the Mayor FORTHWITH .....	_____
Motion adopted to approve committee report recommendation(s)...	_____
Motion adopted to approve communication recommendation(s).....	_____
Ordinance adopted.....	_____
Ordinance number.....	_____

*J. Michael Carey*  
City Clerk  
crm



On April 19, 2003, the Giese Residence at 840 W. Cesar Chavez Boulevard was knowingly and wrongfully demolished by G.H. Palmer Associates (Palmer) without a demolition permit. Built in 1887, the Giese Residence was the last 19<sup>th</sup> Century home in the Bunker Hill area of downtown Los Angeles.

On April 21, 2003, the Department of Building and Safety verified that the destruction of the Giese Residence had occurred without issuance of a demolition permit and immediately issued Palmer a "Stop Work" order and a 48-hour order to correct.

On May 2, 2003, the Community Redevelopment Agency (CRA) advised Palmer that it "did not, and could not, clear [his] Application because the proposed demolition did not comply with the Plan or applicable law." CRA further informed Palmer that his "demolition of the 'Giese Residence' (a structure of historical significance) without review, mitigation or permit was inconsistent with the Plan and the California Environmental Quality Act ("CEQA"), and was not authorized by the Agency."

In 2002, Palmer had applied for a permit to demolish the Giese Residence to clear the site for future development. The Giese Residence was located within the boundaries of the Chinatown Redevelopment Project Area. Pursuant to the Chinatown Redevelopment Plan (Plan), CRA was required to review Palmer's application to ensure conformance with the Plan.

In September 2002, following preparation of an Initial Study/Draft Mitigated Negative Declaration and public comment period, CRA determined that the Giese Residence was an historical resource and that an Environmental Impact Report (EIR) was required under the California Environmental Quality Act (CEQA) prior to CRA's clearance of Palmer's application for a demolition permit. CRA's determination was communicated to Palmer's legal counsel on October 31, 2002.

Not only had the residence been identified as an historic resource within the Chinatown Redevelopment Project Area, but it also appeared to be eligible for listing in the California Register of Historic Resources. The home had historic significance as a last remaining example of "Boom of the Eighties" architecture downtown and as the last remaining home in downtown's "Park Tract" laid out by Prudent and Victor Beaudry.

Prior to the wrongful weekend demolition of the Giese Residence, Council District 1 had been in communication with Palmer's legal counsel and agents in an effort to facilitate the relocation of this historical resource. Just two days before the demolition occurred, an interagency meeting was held to facilitate relocation of the house by a willing buyer to a vacant lot located in the Angelino Heights Historic Preservation Overlay Zone (HPOZ), less than a mile away.

In the late- 1980's, the City of Los Angeles enacted the so-called "Scorched Earth Ordinance" found in Section 91.106.4.1(10) of the Municipal Code to punish illegal demolition activity without proper permits and to deter developers from defying City permit requirements and State environmental laws. This ordinance authorizes the Department of Building and Safety to withhold development permits on a property for five years if it determines that demolition has occurred without proper permits.

**I THEREFORE MOVE** that the City Council direct the Department of Building and Safety in consultation with the City Attorney to undertake all civil and criminal measures available to the City under the Los Angeles Municipal Code and State law to enforce and prosecute G.H. Palmer Associates for this clearly egregious violation of City codes and the CEQA, including but not limited to the invoking of Section 91.106.4.1(10) of the Los Angeles Municipal Code, otherwise known as the "Scorched Earth Ordinance" in relation to the demolition of the Giese Residence at 840 W. Cesar Chavez Boulevard; and

**I FURTHER MOVE** that the Department of Building and Safety and the City Attorney provide a status report of the enforcement actions undertaken by them to the Planning and Land Use Management Committee of the Council within two weeks.

PRESENTED BY:

Ed P. Reyes  
Council member, 1<sup>st</sup> District

SECONDED BY:

See Attached Motion

**ADOPTED**

MAY 13 2003

LOS ANGELES CITY COUNCIL  
**FORTHWITH**

**VERBAL MOTION**

I HEREBY MOVE that Council AMEND the Motion (Reyes - Padilla) on today's agenda (Item No. 32, CF 03-0926) relative to possible prosecution of G. H. Palmer Associates for the wrongful demolition of the Giese Residence at 840 West Cesar Chavez Boulevard, to include the following recommendations:

1. INSTRUCT the Department of Building and Safety and REQUEST the City Attorney to issue no permits for any new development for a minimum period of five years in connection with the wrongful demolition at 840 West Cesar Chavez Boulevard; and further REQUIRE that the property shall be maintained during this period at the owner's expense, and further, if the owner does not comply with this requirement, the City shall clean the property and place a lien on said property to cover the cost of cleaning.
2. REQUEST the City Attorney to prepare and present an Ordinance to amend the Los Angeles Municipal Code Section 91.106.4.1(10) to state that the Department of Building and Safety shall withhold a building permit.     \*(Miscikowski - Reyes)

PRESENTED BY \_\_\_\_\_

HAL BERNSON  
Councilmember, 12th District

SECONDED BY \_\_\_\_\_

ED P. REYES  
Councilmember, 1st District

May 13, 2003

CF 03-0926

*Motion*  
**ADOPTED**

MAY 13 2003

**LOS ANGELES CITY COUNCIL**

**FORTHWITH**

COUNCIL VOTE

May 13, 2003 12:22:09 PM, #10

ITEM NO. (32)

Adopt as Amended

BERNSON	Yes
GALANTER	Absent
*GARCETTI	Yes
GREUEL	Yes
HAHN	Yes
HOLDEN	Yes
LABONGE	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PARKS	Yes
PERRY	Yes
REYES	Yes
WEISS	Yes
ZINE	Yes
PADILLA	Yes

Present: 14, Yes: 14 No: 0

CITY : LOS ANGELES SPEAKER CARD

Date

5/13/03

Council File No., Agenda Item, or Case No.

32

I wish to speak before the

City Council

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ☒ For proposal

☐ Against proposal

☐ General comments

Name:

Ken Bernstein

Business or Organization Affiliation:

Los Angeles Conservancy

Address:

523 W. 6th St. #826

LA

CA

90014

Street

City

State

Zip

Business phone:

213-623-2489

Representing:

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MAY 13 2003

CITY ☐ LOS ANGELES SPEAKER ☐ RD

Date 5/13/03

Council File No., Agenda Item, or Case No.

# 32

I wish to speak before the

City Council —  
Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ☒ For proposal

☐ Against proposal

☐ General comments

Name: Edmund S. Soto

Business or Organization Affiliation: Historic Cultural Neighborhood Council

Address: 600 N. Spring St. L.A. CA 90012  
Street City State Zip

Business phone: 213 680-0861 Representing: M. Soto

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MAY 13 2003



3

CITY: LOS ANGELES SPEAKER CARD

Date

5-13-03

Council File No., Agenda Item, or Case No.

#32

I wish to speak before the

CITY COUNCIL

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ☒ For proposal

☐ Against proposal  
☐ General comments

Name:

DON TOY

Business or Organization Affiliation:

Chairman - CCAC - Redevelopment Project

Address:

600 N. BROADWAY # D L.A. CA 90012

Street

City

State

Zip

Business phone:

(213) 680-0876

Representing:

MYSELF

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Phone #:

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MAY 13 2003

4

CITY ☐ LOS ANGELES SPEAKER ☐ RD

Date

5-13-03

Council File No., Agenda Item, or Case No.

03-0926 #32

I wish to speak before the

City Council

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ☒ For proposal

☐ Against proposal

☐ General comments

Name:

CHRISTINE PETERS

Business or Organization Affiliation:

Echo/Elysian Neighborhood Council

Address:

2327 Vista GORDO DR

LA, CA 90026

Street

City

State

Zip

Business phone:

323 6621007

Representing:

Self

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Client Name:

Phone #:

Client Address:

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City

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MAY 13 2003

5  
CITY OF LOS ANGELES SPEAKER CARD

Date

5-13-03

Council File No., Agenda Item, or Case No.

03-0926, #32

I wish to speak before the

City Council

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda?

- (x) For proposal  
( ) Against proposal  
( ) General comments

Name:

~~Isa Kae McKen~~ Judith Hansen

Business or Organization Affiliation:

Echo Pk. Historical Society

Address:

1028 1/2 Laguna Ave., CA 90026

Street

City

State

Zip

Business phone:

(213) 250-4350

Representing:

self

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Client Name:

Phone #:

Client Address:

Street

City

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MAY 13 2003

CITY OF LOS ANGELES SPEAKER CARD

Date

5/13/02

Council File No., Agenda Item, or Case No.

#32

I wish to speak before the

City Council

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ☒ For proposal

☐ Against proposal

☐ General comments

Name:

Kelly Sochoo

Business or Organization Affiliation:

Historic Cultural Neighborhood Council

Address:

1019 WHITE KNOLL DR. Los Angeles CA 90022

Street

City

State

Zip

Business phone:

213453 8119

Representing:

Myself

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Phone #:

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City

State

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MAY 13 2003

7  
CITY LOS ANGELES SPEAKER CARD

Date

5/13/03

Council File No., Agenda Item, or Case No.

32

I wish to speak before the

City Council

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda?

- ☒ For proposal  
☐ Against proposal  
☐ General comments

Name:

Kevin Kuzma

Business or Organization Affiliation:

Echo Park Historical Society

Address:

914 1/2 W. Kensington Rd. LA 90026

Street

City

State

Zip

Business phone:

Representing:

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Phone #:

Client Address:

Street

City

State

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MAY 13 2003

CITY LOS ANGELES SPEAKER CARD

Date  
05/13/03

Council File No., Agenda Item, or Case No.  
#32/03-0926 CD1

I wish to speak before the

L.A. CITY COUNCIL

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ☒ For proposal

☐ Against proposal

☐ General comments

Name: JIM CHUDS

Business or Organization Affiliation: A.D.H.O.C.

Address: 2341 SCARFF ST. L.A. CA 90007  
Street City State Zip

Business phone: 213-748-1656 Representing:

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name: Phone #:

Client Address: Street City State Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

MAY 13 2003