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City Attorney

REPORT NO. R 13 - 0 1 7 9
JUN 24 2013

REPORT RE:

**OUTSIDE COUNSEL FUND APPROPRIATION
FOR LOS ANGELES HOUSING DEPARTMENT CONTRACT WITH
BEST BEST & KRIEGER, LLP, FOR CECIL HOTEL LITIGATION**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

This report recommends a transfer of \$170,000.00 from the Los Angeles Housing Department (LAHD) Rent/SCEP Fee Based Account, as reimbursement to the LAHD Outside Legal Counsel Account, to make a final payment to Best Best & Krieger, LLP (BBK), for past services rendered on *640 South Main Street Partners* and *HSC Properties, LLC v. City of Los Angeles, et al.*, U.S. District Court Case No. CV 08-3611 DDP (JTLx) (the "Cecil Hotel Case"), and any possible post settlement matters.

The total requested to be transferred is \$170,000.00.

The Cecil Hotel Case

During 19 years of representing LAHD, the Cecil Hotel Case is the only case to have been sent to outside counsel by the Office of the City Attorney. The City Attorney's Office has handled all other litigation for LAHD. The Cecil Hotel Case was sent out due to a conflict of interest.

The owners of the Cecil Hotel challenged the constitutionality of the City's Residential Hotel Demolition Ordinance, also known as the Amended Permanent Control Ordinance. The complaint sought injunctive relief and alleged damages of \$40 million. The complaint was originally filed in May 2008. After numerous legal battles, BBK prevailed in a Motion to Dismiss, which finally dismissed the majority of Plaintiffs' 75-page complaint, and left only a single cause of action for alleged violation of equal protection. The Court held that Plaintiffs' sole remaining claim was an alleged as-applied equal protection violation. In addition to the federal complaint for \$40 million, there was a related state court complaint against the City for similar substantial damages. Outside counsel was primarily responsible for the federal court complaint, and the City Attorney's Office for the state court complaint.

Since 2008, the parties were engaged in substantial written discovery and multiple depositions (involving LAHD SCEP inspectors), and in the extensive exchange of documents pursuant to the federal rules.

During late 2010 and through nearly all of 2011, the parties participated in federal and state mediations involving numerous negotiation sessions. Finally, in December 2011 and January 2012, after a very difficult and extensive process, the parties executed final settlement agreements in both cases whereby, among other terms, the City paid no damages in either case, the owner agreed to Residential Hotel Status and to designate 301 rooms as Residential Units, and the complaints were dismissed with a release of all claims against the City.

Resolution Economics, LLC, was retained by BBK as an expert to review all of the occupancy data from the Cecil Hotel, and to determine whether the Cecil Hotel was subject to the Ordinance. Resolution Economics had previously worked directly for the City Attorney's Office on cases involving other downtown hotels. The experts in this case have not been paid for over a year, and there is currently an outstanding balance of \$47,946.99, which is part of the outstanding balance owed to BBK through whose contract Resolution Economics is to be paid.

In addition, there is a need to extend BBK's contract for 18 months in order to make this final payment through July 3, 2013.

Outstanding Balance Owed to Best Best and Krieger

There is currently an outstanding balance owed to BBK in the amount of \$165,059.05, which includes \$47,946.99 owed to the expert referred to above. The majority of this amount is a year past due. We therefore request that a total of \$170,000.00 be transferred to the LAHD Outside Counsel Account to also cover any minor post settlement fees that may arise.

Recommendations

That the City Council:

1. Approve the transfer of \$170,000.00 from the LAHD Rent/SCEP account to the LAHD Outside Legal Counsel Account.
2. Approve the extension of 18 months for the Best Best & Krieger contract No. 109391, for a new end date of July 3, 2013.

Very truly yours,

CARMEN A. TRUTANICH / City Attorney

By


ANNE HALEY
Assistant City Attorney

AH:pj