

CONSENT CALENDAR March 25, 2014

To: Honorable Mayor and Members of the City Council

From: () Christine Daniel, City Manager

Submitted by: Zach Cowan, City Attorney

Subject: Settlement of Claims by Pasand Courtyard, LLC and Rustic Restaurants, LLC

RECOMMENDATION

Adopt a Resolution approving the settlement of claims filed against the City of Berkeley by Pasand Courtyard, LLC and Rustic Restaurants, LLC in the amount of \$22,000.

SUMMARY

On and after August 10, 2013, the City's sewer line backed up and caused damage at 2278-2286 Shattuck Avenue. Pasand Courtyard, LLC (the owner) and Rustic Restaurants, LLC (the tenant) each filed a claim for resulting damages.

FISCAL IMPACTS OF RECOMMENDATION

The City will spend \$22,000 from the Public Liability Fund. Council approval is required for settlements exceeding \$15,000. (BMC section 7.12.020.)

CURRENT SITUATION AND ITS EFFECTS

There are two pending claims seeking damages.

BACKGROUND

These two claims arise from damages sustained on and after August 10, 2013 at 2278-2286 Shattuck Avenue as a result of the City sewer line backup.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

RATIONALE FOR RECOMMENDATION

The Council has already received a confidential memorandum reflecting the City Attorney's advice regarding this matter.

ALTERNATE ACTIONS CONSIDERED

These issues are discussed in the Confidential Memorandum to the Mayor and Council.

CONTACT PERSON
Zach Cowan, City Attorney, 981-6998
Matthew J. Orebic, Deputy City Attorney, 981-6998

Attachment:

1: Resolution

RESOLUTION NO. ##,###-N.S.

AUTHORIZING THE CITY ATTORNEY TO SETTLE TWO CLAIMS IN THE MATTER OF PASAND COURTYARD, LLC AND RUSTIC RESTAURANTS, LLC DBA BUILD PIZZERIA AGAINST THE CITY OF BERKELEY

WHEREAS, Pasand Courtyard, LLC (the owner) and Rustic Restaurants, LLC (the tenant) each filed a claim against the City of Berkeley arising from property damages allegedly sustained as a result of a sewer backup at 2278-2286 Shattuck Avenue, Berkeley; and

WHEREAS, the claimants allege property damage as a result of said incident; and

WHEREAS, it is in the best interests of the City of Berkeley to settle these claims, and a settlement figure of \$22,000 payable only to Pasand Courtyard, LLC has been reached by the City Attorney and both of the claimants.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Attorney is authorized, in accordance with Berkeley Municipal Code Section 7.12.020, to settle these claims by a single payment of \$22,000 from Public Liability Fund 881 1702 410 8101 to Pasand Courtyard, LLC in settlement of both of the above-referenced claims.