



## The City of San Diego

### Staff Report

DATE ISSUED: February 26, 2025

TO: Chair and Members of the Housing Authority of the City of San Diego

FROM: City Attorney and General Counsel of the Housing Authority of the City of San Diego

SUBJECT: Settlement of *Patrice Baker et al v. City of San Diego, et al*, United States District Court Case No: 3:19-cv-1013-JO (DEB), Claim No. 22699

Primary Contact: Jenny K. Goodman Phone: (619) 533-5822

Secondary Contact: Marissa Mercado Phone: (619) 533-5618

Council District(s): Citywide

#### OVERVIEW:

This item is a settlement of *Patrice Baker, et al. v. City of San Diego, et al.*, United States District Court Case No. 3:19-cv-1013-JO (DEB) (Litigation) related to claims that the City's policy and practice of increasing density throughout the City to create more opportunities for housing when it updates its community plans, violated the federal Fair Housing Act and state Fair Employment and Housing Act. The proposed settlement involves several action items that the City's Planning Department and Economic Development Department will undertake as detailed in the proposed settlement agreement (Agreement). The Agreement also includes a litigation expenses component to be paid to Plaintiffs' attorneys by the City. The Housing Authority of the City of San Diego (Housing Authority) has no action items nor is it required to pay any monies under the terms of the Agreement. Nothing in the Agreement binds any future City Council or Housing Authority discretion and Plaintiffs release all claims, known or unknown, related to the allegations in the Litigation.

#### PROPOSED ACTIONS:

A resolution authorizing the Executive Director of the Housing Authority to execute the settlement agreement.

#### DISCUSSION OF ITEM:

Plaintiffs filed this lawsuit on May 30, 2019, against the City and the Housing Authority alleging claims under the federal Fair Housing Act and the state Fair Employment and Housing Act. Plaintiffs' claim that the City's policy of increasing multifamily density when it updates its community plans disparately impacts minority communities because it allegedly drives all the affordable housing into those communities. The City disputes these claims and asserts that the City's housing policies,

including increased multifamily density, serves legitimate purposes as allowed under the fair housing laws including, among other things, providing more housing opportunities throughout the City at all income levels in a state suffering a long-standing housing crisis.

While the City denies any discriminatory impact caused by its housing policies, settling the Litigation provides certainty and avoids years of protracted litigation and avoids a potential injunction on affordable housing if Plaintiffs were to prevail at trial.

The agreed upon action items in the Agreement generally include items that the Planning Department and the Economic Development Department were already going to implement in their respective Department work plans to further the City's commitment to providing much needed affordable housing in high resource areas. Action items include: (1) presenting a stand-alone City Council policy in a future City Council open session that states that implementation of the City's General Plan should be prioritized to achieve the goals related to affirmatively furthering fair housing; (2) the City will continue to prioritize Community Plan Updates and increase residential densities in high resource areas; (3) City will continue to monitor its housing production and include data that demonstrates that by at least 2028, at least 70% of the affordable housing projects in the City are permitted in moderate, high or highest resource areas; (4) City will allocate preference points in City funded programs for affordable housing built in high resource areas; (5) City's Planning Department will ask the City Council to add to their legislative platform to support legislation that directs fundings for affordable housing to be prioritized in moderate, high and highest resource areas; (6) the Economic Development Department will commit to offer a sales tax rebate through the Business Cooperation Program to incentivize a grocery store in Affected Communities; and (7) the Economic Development Department will ask the City Council to allocate up to \$500,000 in funding to the San Diego Housing Commission to fund their First-Time Homebuyer Program. Nothing in the Agreement shall bind the City Council's future discretion in any manner. The Housing Authority has no action items or obligation to pay any monies under the terms of the Agreement. In exchange, the plaintiffs will dismiss the Litigation with prejudice and release all claims against the City and Housing Authority arising out of the Litigation. The court will retain jurisdiction to enforce the Agreement. Lastly, the Agreement provides payment of \$650,000 for attorneys' fees and litigation costs from the City to Plaintiffs.

City of San Diego Strategic Plan:

N/A

Fiscal Considerations:

N/A

Charter Section 225 Disclosure of Business Interests:

N/A

Environmental Impact:

This activity is not a project pursuant to CEQA Guidelines Sections 15378(b)(4)&(5), as the settlement agreement includes both fiscal activities and administrative activities of government that will not result in direct or indirect physical changes in the environment. This settlement agreement includes action items that the City Planning Department and Economic Development Department were already going to implement as well as the payment of litigation expenses. As such, this activity is not subject to CEQA pursuant to CEQA guidelines Section 15060(c)(3). Processing under the National Environmental Policy Act is not required as no federal funds are involved in this action.

Climate Action Plan Implementation:

N/A

Equal Opportunity Contracting Information (if applicable):

N/A

Previous Council and/or Committee Actions:

The item was heard in closed session by the City Council on December 16, 2024, January 13, 2025, and January 27, 2025.

Planning Commission Action:

N/A

Key Stakeholders and Community Outreach Efforts:

N/A

M. TRAVIS PHELPS

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Assistant City Attorney

HOUSING AUTHORITY OF  
THE CITY OF SAN DIEGO

RESOLUTION NUMBER HA-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE HOUSING AUTHORITY OF THE  
CITY OF SAN DIEGO APPROVING THE SETTLEMENT  
AGREEMENT BETWEEN PLAINTIFFS, PATRICE BAKER,  
GLORIA COOPER, LESLIE DUDLEY, LETITIA FLYNN,  
KATHLEEN MACLEOD, EILEEN OSBORNE, AND KHALADA  
SALAAM-ALAJI, AND THE CITY OF SAN DIEGO AND  
HOUSING AUTHORITY OF THE CITY OF SAN DIEGO

RECITALS

The Housing Authority of the City of San Diego (Housing Authority) adopts this  
Resolution based on the following:

A. Plaintiffs filed a lawsuit on May 30, 2019, against the City of San Diego (City) and the Housing Authority alleging claims under the federal Fair Housing Act and the state Fair Employment and Housing Act entitled *Patrice Baker, et al. v. City of San Diego, et al.*, United States District Court Case No. 3:19-cv-1013-JO (DEB) (Litigation). Plaintiffs alleged the City's policy of designating residential densities in the community plan update process disproportionately increased the multifamily housing densities, capacity and zoning in specified communities identified in the Third Amended Complaint. Plaintiffs sought a moratorium on multifamily housing developments in those communities.

B. The City and the Housing Authority deny their housing policies violate the fair housing laws and are instead focused on providing more housing opportunities for all citizens including increasing housing supply in a state suffering a significant housing crisis, meeting the

City's Regional Housing Needs Allocation obligations, furthering the City's Climate Action Plan goals, and affirmatively furthering fair housing.

C. The Council of the City of San Diego (Council) considered the proposed settlement in closed sessions on December 16, 2024, January 13, 2025, and January 27, 2025. On January 27, 2025, the Council, by the following votes: Yeas, Districts 1, 2, 3, 5, 6, 7, and 9; Nays, District 4; and Absent, District 8, authorized an offer to Plaintiffs consistent with the monetary terms set forth below and additional terms more fully set forth in the Settlement Agreement.

D. The Settlement Agreement involves several action items that the City's Planning Department and Economic Development Department will undertake and calls for the City to pay Plaintiffs' counsel the total sum of \$650,000.00 for Plaintiffs' litigation expenses which includes court costs, experts' fees, and attorneys' fees of any kind incurred in the Litigation. The Housing Authority has no action items and is not required to pay any monies under the terms of the Settlement Agreement.

E. City staff determined this activity is not a project as defined by the California Environmental Quality Act (CEQA) section 21065 and CEQA Guidelines sections 15378(b)(4) and 15378(b)(5) and processing under the National Environmental Policy Act (NEPA) is not required as no federal funds are involved in this action.

#### ACTION ITEMS

Be it resolved by the Housing Authority of the City of San Diego:

The Housing Authority approves the Settlement Agreement and authorizes the Executive

Director of the Housing Authority to sign and deliver the Settlement Agreement on the Housing Authority's behalf.

APPROVED: HEATHER FERBERT, General Counsel

By \_\_\_\_\_  
Jenny K. Goodman  
Lead Deputy General Counsel

JKG:HRM:nja  
02/25/2025  
Or. Dept: SDHC  
Doc. No. 3972551



The City of San Diego  
**Item Approvals**

**Item Subject:** Settlement of Patrice Baker, et al. v. City of San Diego, et al., United States District Court Case No. 3:19-cv-1013-JO (DEB), Claim No. 22699

Contributing Department	Approval Date
DOCKET OFFICE	02/28/2025
ENVIRONMENTAL ANALYSIS	03/03/2025

Approving Authority	Approver	Approval Date
OFFICE OF THE CITY ATTORNEY FINAL DEPARTMENT APPROVER	PHELPS, M. TRAVIS	02/27/2025
CITY ATTORNEY	MERCADO, MARISSA	02/28/2025
ASSISTANT CITY ATTORNEY	PHELPS, M. TRAVIS	03/04/2025