



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 19-2007, Version: 1

Dept/ Agency: Law

Action: () Ratifying (X) Authorizing () Amending

Purpose: Settlement of Civil Litigation

Docket No.: ESX-C-000134-19

Claimant: Macasegri, LLC

Claimant's Attorney: Russel M. Finestein, Esq.

Attorney's Address: Finestein & Malloy, LLC, 6 Commerce Drive, Suite 304, Cranford, New Jersey 07016

Settlement Amount: \$12,500.00

Funding Source:

Additional Comments:

Invitation: Corporation Counsel

Deferred 7R6-a 032420

WHEREAS, a lawsuit was filed in the Chancery Division of the Superior Court of New Jersey, Essex Vicinage, captioned, Macasegri, LLC v. City of Newark, et al., DOCKET NO. ESX-C-000134-19, in which the Plaintiff, Macasegri, LLC sought the cancellation of a DCA Mortgage in favor of the City of Newark ("the City"); and

WHEREAS, said mortgage contained a Declaration of Covenants, Conditions and Restrictions ("Affordable Housing Agreement") dated September 18, 2002, restricting the use of the subject property to affordable housing; and

WHEREAS, the Affordable Housing Agreement provided that prior to conveyance of the subject property, the City is to provide documented evidence that the unit has been released from the restrictions of the Affordable Housing Agreement; and

WHEREAS, Plaintiff, Macasegri, LLC, was conveyed the unit by way of a short sale approved by co-Defendant Wells Fargo Bank, N.A., absent release of the restrictions of the Affordable Housing Agreement; and

WHEREAS, a genuine issue of fact exists as to the applicability and enforceability of the Affordable Housing Agreement; and

WHEREAS, a proposal has been made to resolve this litigation in its entirety by payment from Plaintiff Macasegri, LLC and Co-Defendant, Wells Fargo Bank, N.A., in the total amount of \$12,500.00 (Twelve Thousand Five Hundred Dollars and Zero Cents) and execution of the Settlement Agreement and Release; and;

WHEREAS, in order to settle the matter, the City of Newark is required to execute a Release of A Declaration of Covenants, Conditions and Restrictions; and

WHEREAS, the City of Newark is also required to enter into and execute a Discharge of Repayment Mortgage; and

WHEREAS, the Corporation Counsel, based upon all facts and circumstances, deems it in the best interest of the City of Newark to resolve said matter by acceptance of the proposed Settlement.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. The Corporation Counsel is hereby authorized on behalf of the City of Newark to execute and accept the terms of the Settlement Agreement and Release, Discharge of Repayment Mortgage, and Release of Affordable Housing Agreement attached hereto.

2. Upon receipt by the Corporation Counsel of all documents deemed necessary, the Director of Finance is hereby authorized and directed to accept payment in the amount of \$12,500.00 (Twelve Thousand Five Hundred Dollars and Zero Cents).

3. The Corporation Counsel shall file a fully executed copy of the Settlement Agreement and Release in the Office of the City Clerk.

4. This resolution shall be effective upon adoption in accordance with applicable State Law.

STATEMENT

This resolution authorizes the Corporation Counsel, on behalf of the City of Newark, to accept and execute a Settlement Agreement and Release to settle civil litigation in the Chancery Division of the Superior Court of New Jersey, Essex Vicinage, captioned, Macasegri, LLC v. City of Newark, et al., DOCKET NO. ESX-C-000134-19, in the amount of \$12,500.00, in exchange for the release of the Affordable Housing Agreement alleged to have encumbered the property at issue and to indemnify the City of Newark against any and all claims against the same and its employees.