

04-²-0394
 (Do Not Write Above This Line)

A RESOLUTION
 BY THE PUBLIC SAFETY AND LEGAL
 ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE CITY
 ATTORNEY TO SETTLE THE LAWSUIT
 STYLED JOHN R. TAYLOR V. CITY OF
 ATLANTA, UNITED STATES DISTRICT
 COURT FOR THE NORTHERN DISTRICT OF
 GEORGIA, ET AL., CIVIL ACTION FILE NO.
 1:01-CV-0958-JOF, FOR THE AMOUNT OF
 FIFTY-FIVE THOUSAND DOLLARS
 (\$55,000.00)

LINDA K. DISANTIS, CITY ATTORNEY

ADOPTED BY
 MAR 15 2004

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred

Referred To:

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First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

PSL Committee

3-9-04 Dale

Chair

Action

Fav. Adv, Hold (see rev. side)

Other

Members

David ...
Carla ...

Henry ...
Humb ...

Carla ...

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Members

Fav, Adv, Hold (see rev. side)

Other

Members

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FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Consent V Vote RC Vote

CERTIFIED

MAR 15 2004

MAR 15 2004

MAYOR'S ACTION

MAR 23 2004
 Mayor

A RESOLUTION

04-*ℓ*-0394

BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SETTLE THE LAWSUIT STYLED JOHN R. TAYLOR V. CITY OF ATLANTA, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ET AL., CIVIL ACTION FILE NO. 1:01-CV-0958-JOF, FOR THE AMOUNT OF FIFTY-FIVE THOUSAND DOLLARS (\$55,000.00).

WHEREAS, Plaintiff John R. Taylor (hereinafter “Plaintiff”) filed this lawsuit against the City of Atlanta, former Commissioner of the Department of Planning, Development and Neighborhood Conservation Michael Dobbins, and former Director of the Bureau of Neighborhood Conservation Carl Smart (hereinafter “the City Defendants”), alleging a violation of his rights when the City demolished his house located at 1479 Memorial Drive without providing him notice of the demolition; and

WHEREAS, Plaintiff asserts that the City Defendants violated his Due Process rights under the Fourteenth Amendment to the U. S. Constitution by failing to notify him of the demolition of his house. Plaintiff also asserts state law claims of inverse condemnation and negligence against the Defendants; and

WHEREAS, the City Defendants filed a summary judgment motion as to all of Plaintiff’s claims, and the Court granted in part and denied in part the City Defendants’ motion; and

WHEREAS, the Court granted the City Defendants summary judgment on Plaintiff’s substantive due process claim, finding that Plaintiff cannot show that the City’s actions were arbitrary and capricious or without rational basis. The Court reasoned that the City has the police power to demolish dwellings that are unfit for human habitation pursuant to O.C.G.A. §41-2-7, and that the City did not demolish Plaintiff’s property with an improper motive; and

WHEREAS, the Court granted the City summary judgment on Plaintiff’s state law claim of negligence; and

WHEREAS, the Court denied the City Defendants summary judgment on Plaintiff’s procedural due process claim, asserting that the City’s housing code itself leads to a deprivation of property owners’ due process rights because it is insufficient to ensure that property owners receive proper notice of the City’s demolition actions. The Court found that Plaintiff has proffered evidence from which a jury could conclude that his correct address was “reasonably ascertainable” through means within easy reach of the City Defendants; and

WHEREAS, the Court declined to exercise its discretion to dismiss Plaintiff's state law claim of inverse condemnation against the City Defendants; and

WHEREAS, the Court declined to exercise its discretion to dismiss Plaintiff's state law claim of negligence against City Defendants Smart and Dobbins; and

WHEREAS, the Court also denied the City Defendants qualified immunity because the concepts of notice and an opportunity to be heard prior to the demolition of Plaintiff's house are clearly established in the law; and

WHEREAS, the City has determined that it is in the best interests of the City to execute a settlement with Plaintiff on behalf of the City Defendants with respect to Plaintiff's remaining claims; and

WHEREAS, the City shall execute any Consent Orders with the Court to effectuate the settlement.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the City Attorney is authorized to settle the case of John R. Taylor v. City of Atlanta, et al., Civil Action No. 1:01-CV-0958-JOF, United States District Court for the Northern District of Georgia, for a total amount of fifty-five thousand dollars (\$55,000.00), to be paid to the attorney for Plaintiff, Gary LeShaw, Esq..

BE IT FURTHER RESOLVED THAT the Settlement Agreement will not be binding upon the City and the City will incur no liability under it until it has been executed by the Mayor, attested by the Municipal Clerk, approved by the City Attorney as to form and duly executed by the parties.

BE IT FURTHER RESOLVED THAT the Settlement Agreement shall provide that in exchange for the above payment, Plaintiff releases the City of Atlanta, Michael Dobbins, Carl Smart and all City employees or former employees from any and all claims which were or could have been raised in Plaintiff's Complaint in the court action.

BE IT FURTHER RESOLVED THAT the Settlement Agreement shall provide that the settlement herein authorized shall not be deemed an admission of liability or wrongdoing on the part of Michael Dobbins, Carl Smart, the City of Atlanta, or any of its officers or employees, and that the aforementioned individuals shall be dismissed from the case with prejudice.

BE IT FURTHER RESOLVED THAT the City Attorney is authorized to approve as to form and execute the Settlement Agreement and any Consent Orders on behalf of the aforementioned officers.

BE IT FURTHER RESOLVED THAT the Chief Financial Officer is further authorized and directed to issue a check in the aggregate sum of Fifty-Five Thousand

Dollars (\$55,000.00) as the City Attorney directs in conformity with the Settlement Agreement, and to charge such sum to Account No. 1A01-529017-T31001.

A true copy,
Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

March 15, 2004
March 23, 2004

Dollars (\$55,000.00) as the City Attorney directs in conformity with the Settlement Agreement, and to charge such sum to Account No. 1A01-529017-T31001.