

# Agenda Report

**TO:** CITY COUNCIL  
Attn: FINANCE COMMITTEE

**DATE:** JUNE 1, 1998

**FROM:** ACTING CITY MANAGER

**SUBJECT:** KINGS VILLAGE LEGAL COST ADJUSTMENT

## RECOMMENDATION

It is recommended that the City Council and the Pasadena Community Development Commission (PCDC) take the following actions:

1. Reduce the amount charged to the Commission for legal fees and settlement costs associated with the City and Commission's lawsuit against Thomas Pottmeyer, Kings Village Ltd., et al from \$2,050,692 to \$318,775 a reduction of \$1,731,917.
2. Apply the reduction of \$1,731,917 in Kings Village legal fees to a reduction in the principal of the \$3,900,000 advance from the City to the Commission. The new principal of the Note will be \$2,168,083.
3. Modify the debt service City schedule for the advance to reflect the reduced principal amount being repaid at 6% interest over seven years commencing in fiscal year 1998 (the existing term and interest rate). Payments from the Commission to City will be reduced from \$700,000 per year to \$388,000 per year over the seven-year term of the note.

## DISCUSSION

In 1991, the City and Commission entered into litigation against Pottmeyer, Kings Village Ltd., regarding housing discrimination at the Kings Village housing complex. This litigation was settled in 1997 with a payment of \$850,000 to Thomas Pottmeyer. The total cost of the litigation to the City was \$4,101,383, including the \$850,000 settlement payment. During the course of the lawsuit, the City Attorney's Office made a decision to allocate 50% of the litigation costs to the PCDC. These expenses were incurred over multiple years without any budgetary appropriation. This has resulted in \$2,050,691 of the total cost being allocated to the PCDC.


Upon the conclusion of the litigation, a review was completed regarding the apportionment of the legal costs. The result of this review indicated that the Commission had been allocated a disproportionate share of the costs. A letter from the firm of DeBose and DeBose indicated that most PCDC costs would have been associated with the period between June 1991 and April 1993. In this period, the total cost of the lawsuit was \$637,550. The DeBose letter indicates that the most practical and acceptable approach to this early contractual litigation is to apportion one half of these costs to the PCDC. For the remaining litigation costs, the DeBose letter indicates that PCDC should be apportioned only nominal costs or no costs. Thus, the recommendation to reallocate all the Kings Village legal cost except for \$318,775 which is 50% of the costs from June 1991 to April 1993.

The second and third aspects of the recommendation incorporate a method to resolve reallocation by reducing the principal of the \$3,900,000 Fair Grove note by an amount that will offset dollar for dollar the reallocated legal cost.

### **FISCAL IMPACT**

The reallocation of the Kings Village legal cost and the associated principal reduction in the Note will reduce the principal and interest payments on the note by \$312,000 per year and will result in an increase in the Commission reserves for fiscal year 1998 by \$312,000. This will also reduce a liability on the Commission's financial statements as well as an asset on the City's. No cash is impacted by this transaction since all expenses were previously paid from available resources in the Benefits and Insurance Fund.

Respectfully submitted,



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