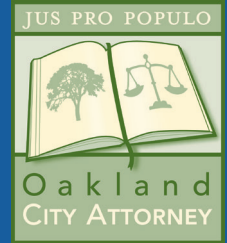


OAKLAND CITY ATTORNEY'S OFFICE



Annual Report

FISCAL YEAR 2015-2016



law in the service of the public
jus pro populo

Table of Contents

Message from City Attorney Barbara J. Parker	1
Mission of the City Attorney’s Office	2
Office Profile.....	6
Financial Results	6
Outside Counsel Costs	9
Litigation Division	12
Payouts	18
Advisory Division.....	22
General Government & Finance Unit Highlights	23
Special Programs, Initiatives & Litigation.....	48
City Attorney Initiatives & Legislation.....	49
Affirmative Litigation.....	51
Special Programs.....	57
Conclusion	59
Contact Information	60

MESSAGE FROM CITY ATTORNEY BARBARA J. PARKER



In Fiscal Year 2015-16, my Office continued our strong advocacy to protect and advance the rights of all Oaklanders.

For example, we sued Monsanto to compel the giant chemical company to pay to clean up its long standing contamination of Oakland's storm water and San Francisco Bay with toxic chemicals, and we sued Wells Fargo Bank, our country's largest mortgage lender, to compel the bank to cease its predatory and racially discriminatory mortgage lending practices against African American and Latino borrowers in Oakland.

We also defended the City and its progressive laws and policies in court, reduced the total amount the City paid to plaintiffs and claimants by millions of dollars and provided critical legal advice and counsel to City leaders on the City's development deals, contracts, programs and services to the public.

We filed amicus briefs in the U.S. Supreme Court and appellate and trial courts to uphold affirmative action in higher education and protect the rights of workers, tenants and immigrants, and we sponsored legislation that the City Council adopted to protect a woman's right to reproductive health care choices and to reduce the number of illegal firearms on Oakland's streets.

And, thanks to City Council's budgeting of some additional positions, we continued to maintain or increase reductions in outside counsel costs.

The City Attorney has published an annual report every year since Fiscal Year ("FY") 2000-01 to give Oakland residents, businesses and taxpayers a transparent and comprehensive accounting of the services we provide on their behalf.

Like all of our previous reports, the annual report for FY 2015-16 details financial results, litigation trends, advisory work, projects and initiatives that our Office undertook during the fiscal year beginning on July 1, 2015 and ending June 30, 2016.

Since our last annual report, we reorganized the Office to facilitate better coordination and more efficient delivery of legal services, to prioritize affirmative litigation to protect Oaklanders' rights and enforce City laws such as the City's new Minimum Wage and Tenant Protection Ordinances and to secure economic, environmental and social justice and equity for Oakland residents regardless of their race, gender, disability, sexual orientation, or immigration status. In August 2016, we added two new divisions to our longstanding Advisory and Litigation Divisions: the Labor & Employment Division and the Affirmative Litigation, Innovation & Enforcement Division. Because we established the two new divisions after the fiscal year this report covers, we will include detailed information regarding those divisions in our next annual report.

I look forward to your questions and comments about this report and about the important work we perform.

Mission of the City Attorney's Office

The City Attorney's Office plays an integral and often behind-the-scenes role in City government.

The City Attorney defends Oakland's interests and resources in court and initiates legal action to secure justice and protect the rights of Oakland taxpayers and residents. We draft and review ordinances and resolutions and sponsor legislation along with members of the City Council. We aggressively and strategically negotiate major agreements, approve as to form and legality all contracts and help to shape Oakland's policies. And we provide expert legal advice to City leaders and officials including the Mayor, City Council, City Auditor, City Administrator and City departments, boards and commissions.

OUR MISSION IS:

1. To provide the highest quality of professional legal services,
2. To promote open government, transparency and accountability to Oakland residents, and
3. To apply the law in an innovative and community-oriented manner to protect and advance the rights of all Oaklanders and improve the quality of life in Oakland neighborhoods.

We accomplish our mission by constantly pursuing excellence, professionalism and maintaining a workforce that values and reflects Oakland's diversity.

Since we are publishing this report at the beginning of 2017, I want to go on record that our mission also includes preserving Oaklanders' rights as we face the draconian policies of the new federal administration. The lion's share of the new administration's executive orders, policies, and its proposed budget are unconstitutional and/or inhumane. To mention just a few, the new administration wants to defund the Corporation for Public Broadcasting, the National Endowment for the Arts and the Legal Aid Corporation; slash Medicaid, the Environmental Protection Agency and housing assistance funding; cease enforcement of voting rights; abandon reforms to ensure constitutional policing; and promote environmental pollution and war.

As of this date the federal courts have had to step in once again to enjoin the 45th president's Muslim travel ban and Oakland stands proudly as a sanctuary city against the new administration's executive order and U.S. Attorney General's declarations of the intent to punish Oakland and other sanctuary cities and their residents by denying millions of dollars for child care, Head Start and other critical services in Oakland. Not only does our sanctuary city policy protect immigrant families, it helps to make our community safer. Defending the constitutional rights of Oakland residents and Oakland's progressive values and policies is a vital mission for the City Attorney's Office in this disturbing new era.

TOP PRIORITIES

- Continue to provide the highest quality of legal services to City officials, departments, boards and commissions by negotiating, drafting and reviewing agreements, legislation, regulations, policies and procedures and helping to shape viable, legally sound policies, programs and services for the City.
- Aggressively defend and advocate for Oakland's interests and resources in court and in administrative proceedings and initiate legal action and other initiatives to protect and enhance the rights, interests and quality of life of our community.
- Uphold transparent, honest and fair government by enforcing the Public Records Act and other open government laws, and by ensuring that City officials and employees know and play by the same rules.
- Advocate for equal opportunity, equity, diversity, justice and a level playing field in our community and the world as a whole.
- Continue to explore and identify ways to provide expert and professional legal services in the most efficient and cost-effective manner.
- Maintain a staff of highly-qualified and dedicated attorneys and support staff with extensive knowledge of the City of Oakland and municipal law in order to meet demands more efficiently and effectively.

Office Profile

As noted above, in August of 2016, the City Attorney's Office announced a major reorganization that we will report on in our next annual report.

During this fiscal year, (July 1, 2015 through June 30, 2017) the City Attorney's Office maintained two legal divisions: the Advisory and Litigation divisions, plus our operations/administrative support team and an Executive Team headed by City Attorney Barbara J. Parker.

■ EXECUTIVE TEAM

As of August 2016, the Executive Team includes the City Attorney, Chief Assistant City Attorney (Advisory Division), Chief Assistant City Attorney (Litigation Division), Special Counsel (Labor & Employment Division), Special Counsel (Affirmative Litigation, Innovation & Enforcement Division), the Legal Administrative Services Manager (Operations) and the Chief of Staff (Policy, Open Government & Communications).

■ ADVISORY DIVISION

The Advisory Division provides legal services that address the full spectrum of municipal affairs. Examples include drafting legislation and contracts, providing advice on housing and economic development projects, providing advice on labor and employment matters, land use, negotiating real estate transactions and providing advice regarding finance, municipal bonds, retirement, benefits, elections, tax, constitutional law, ethics and conflicts of interest.

■ LITIGATION DIVISION

The Litigation Division advocates for the City's interests in claims and lawsuits that are filed against or on behalf of the City, its officers, employees and agencies. Lawsuits are litigated in the state and federal trial and appellate courts. Examples include high value personal injury cases, complex civil rights actions, personnel disputes, eminent domain actions, breach of contract, challenges to constitutionality of Oakland's laws, policies and procedures and inverse condemnation cases. Litigators take an aggressive and strategic approach to manage liability and limit the City's financial exposure. As public servants we advocate for a fair and just resolution when the City's liability is clear.

■ LABOR & EMPLOYMENT DIVISION

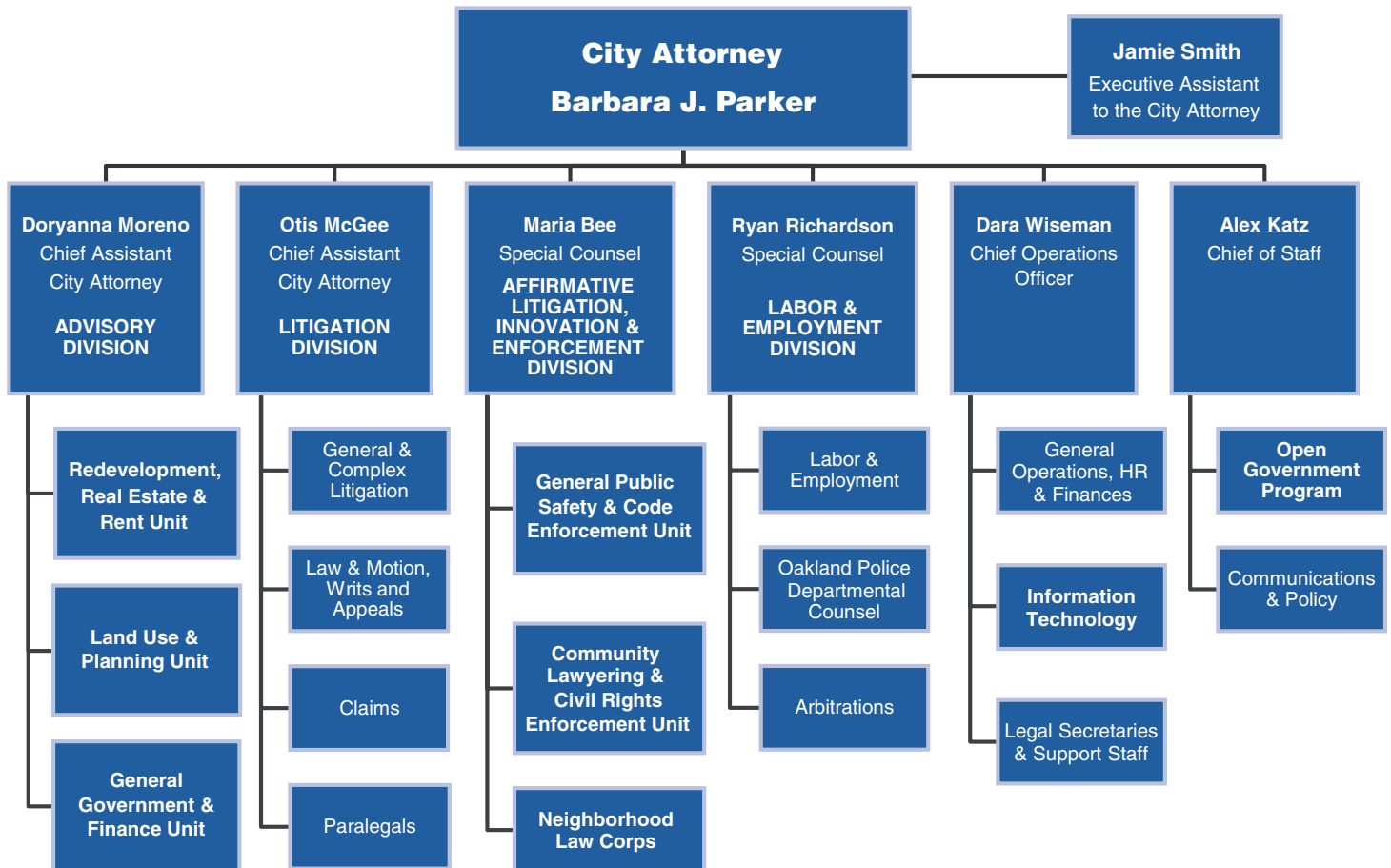
The Labor & Employment Division advises the City on labor and employment matters with a special focus on advice and counsel to the Oakland Police Department and police discipline from the investigation through arbitration. The division includes Departmental Counsel for the Oakland Police Department to enhance coordination of the City Attorney's handling of police matters, including police department policies and personnel/discipline cases.

■ AFFIRMATIVE LITIGATION, INNOVATION & ENFORCEMENT DIVISION

The Affirmative Litigation, Innovation & Enforcement Division includes affirmative litigation, community lawyering, civil rights enforcement, code enforcement, general public safety and the Neighborhood Law Corps ("NLC"). The NLC is an award-winning program that in recent years has focused on preventing illegal dumping, suing abusive landlords who violate the rights of Oakland tenants and shutting down hotels, massage parlors and other businesses that collude in human trafficking and the sexual exploitation of minors. In addition to the NLC, the division includes two units: the *General Code Enforcement & Public Safety Unit* and the *Community Lawyering & Civil Rights Enforcement Unit*; the latter focuses on proactive lawsuits and other actions to protect and advance the rights and interests of all Oakland residents with a goal of economic, environmental and social and racial and gender-related and sexual orientation-related justice.

■ OPERATIONS GROUP

The Operations Group administers the budget, personnel and support services of the City Attorney’s Office. The group includes administrative and information technology staff, legal secretaries, paralegals and the Open Government Coordinator.



REFLECTING OAKLAND’S DIVERSITY

Our seventy-five (75)-member staff is approximately 62% women and 66% people of color. The Oakland City Attorney’s Office continues to be one of the most diverse legal teams in the country.

- **43 attorneys:** City Attorney, two Chief Assistant City Attorneys, three Special Counsel, six Supervising Deputy City Attorneys, 26 Deputy City Attorneys and five Neighborhood Law Corps attorneys.
- **33 support staff:** three Executive Assistants, eight Paralegals, nine Legal Secretaries, four Operations Managers, three Public Service Representatives, two Information Technology (“IT”) staff, one Claims Investigator, one Analyst, One Accountant and an Open Government Coordinator.

Financial Results

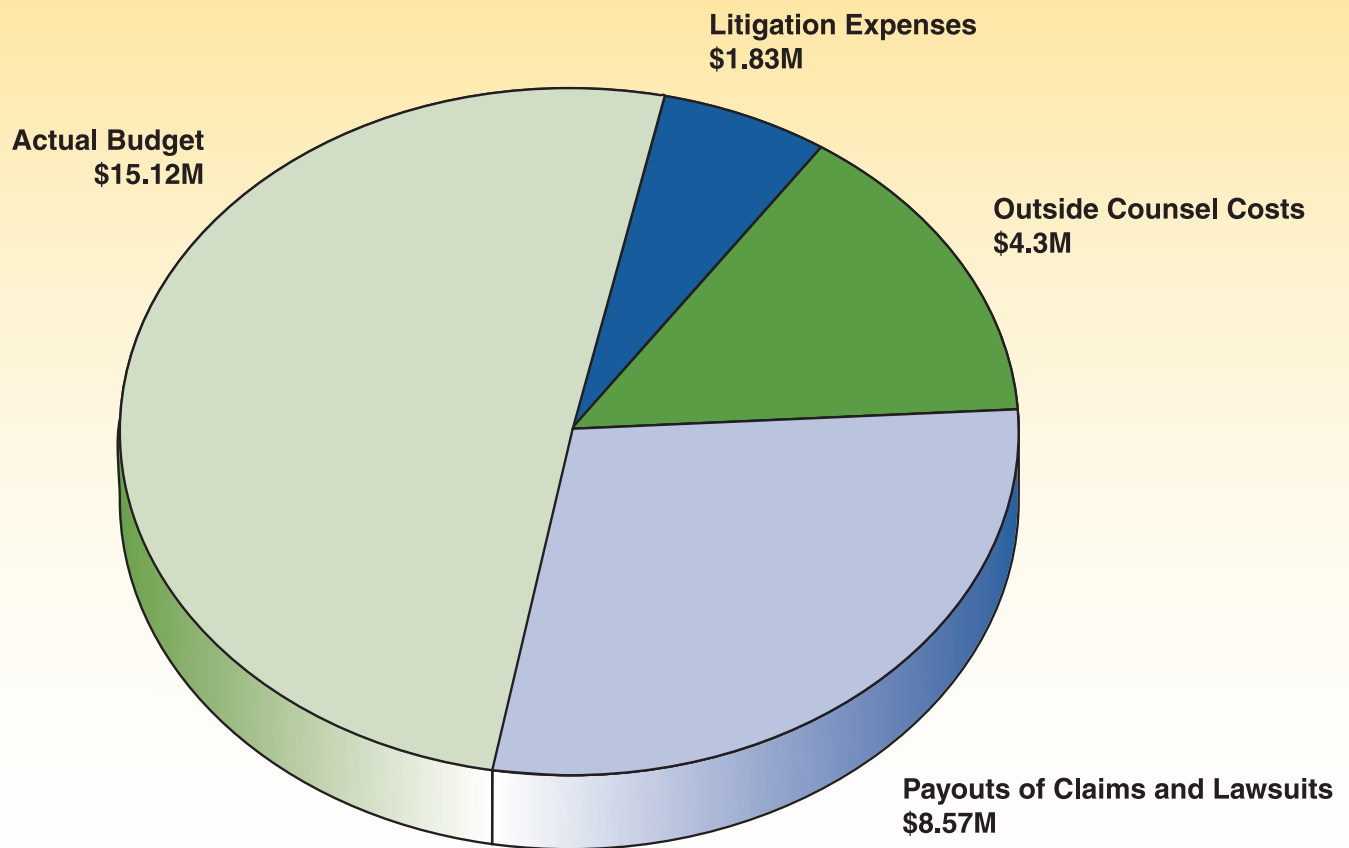


Figure 1: City Attorney Budget v. Other Legal Costs

Note: The FY2015-16, \$4.3 million total cost for outside counsel in Figure 1 includes \$908,164 paid out of City-approved project funds and \$3.41 million paid out of the City's Self Insurance Liability Fund.

SUMMARY

The City Attorney's Office strives to safeguard tax payer dollars by providing the highest quality of legal services to the City and its residents in the most efficient and efficacious manner.

The City Attorney's operating budget was \$15.12 million this year (FY 2015-16), greater than the last year's total of \$13.13 million (FY 2014-15) due to the higher cost of staff, but less than the \$15.46 million in the previous fiscal year (FY 2013-14).

The City spent an additional \$1.83 million on litigation expenses (court fees, retention of experts, arbitration expenses, etc.).

As detailed below, \$4.31 million was the total cost of outside counsel, including both counsel that were budgeted and paid for out of project funds and attorneys the City Attorney retained for matters that were not funded by projects.¹ This amount is **thirty-seven percent** (37%) less than the high point (\$6.83M) in FY 2012-13, before the Council and Mayor restored some of the 33 staff positions that the Council cut from the Office's budget during the previous decade.

The amount the City pays to resolve claims and lawsuits, including settlements and judgments varies from year to year depending on the types of cases that are filed against the City. In FY 2015-16, payouts for claims and lawsuits that were filed against the City totaled \$8.57 million, a significant decrease from the FY 2014-15 total of \$10.09 million. The FY 2015-16 total also is significantly lower - **41 percent** (41%) - than the \$14.58 million the City paid two years ago (FY 2013-14), when the City paid settlements in several high liability cases involving police uses of force and infrastructure matters.

Note: The total numbers in this Annual Report may include final tallies that were not available when we published the previous year's Annual Report. In some cases, totals from previous years have been updated to reflect more recent information.

REVENUE RECOVERED

The Oakland City Attorney's Office seeks to recover the highest possible amount of revenue to fund City services. We join class action lawsuits or other litigation when Oakland's rights are threatened or detrimentally impacted, and we pursue affirmative litigation to protect the economic interests and quality of life of the community. Our Office recovered revenue, such as attorney's fees and costs, civil penalties, payments for damages and settlement payments.

This year, the City Attorney's Office recovered **\$3.01 million** for the City, money that was deposited in the City's general fund to help pay for vital services such as libraries, police and fire, road repair and parks.

In addition, in October 2015 the City Attorney secured a \$200,000 settlement with the JPMorgan financial company, one of the defendants in the City's antitrust lawsuit against a number of big banks, financial institutions and brokers for conspiring to fix prices and rig bids in the municipal derivatives industry (*City of Oakland v. AIG Financial Products Corp.*, U.S. District Court Case No. C 08-2116 MMC). To date, the City Attorney's Office has secured more than \$1 million in settlements with big banks and financial companies in this case, and the litigation continues against other institutions. For more about this case, see **Special Programs, Initiatives & Litigation**.

¹ This year, the City spent \$908,164 on outside legal services that were paid out of City-approved project funds. \$3.41 million of outside counsel costs were paid out of the City's Self Insurance Liability Fund.

Case Name	Jurisdiction	Docket Number	Collected to Date	Collected FY 15-16	Description
Occupy Oakland Insurance Claim	N/A	N/A	\$2,600,000	\$2,600,000	City Attorney negotiated and recovered this amount with insurance carrier for City services, property damage and other costs that the City incurred related to Occupy Oakland protests.
Pacific Renaissance Associates II	Alameda County Superior Court	RG03111924/ RG03108416	\$3,184,929.32	\$293,521.03	Settlement resulting from owners overcharging residents and violating terms of contract.
City of Oakland v. AIG Financial Products Corp.	U.S. District Court, Northern District of California	C 08-2116 MMC	\$928,541.75	\$150,000.00*	Settlement with one defendant in antitrust case involving bid rigging and price fixing in the municipal derivatives industry.
Communities for a Better Environment, Sierra Club et al.	Alameda County Superior Court	RG15788084	\$50,164.57	\$50,164.57	Settlement of lawsuit to compel additional environmental review for development on the former Oakland Army Base.
People v. Besay, et al. (Kim's Spa)	Alameda County Superior Court	RG15781010	\$18,000.00	\$18,000.00	Settlement of lawsuit filed by Neighborhood Law Corps to stop prostitution/nuisance activity at a massage parlor.
Yvonne Gillard (4211 Oak Hill Road)	Alameda County Superior Court	RG15778866	\$17,500.00	\$17,500.00	Settlement of blighted/nuisance property case.
Oakland Zoo Expansion Project	N/A	N/A	\$13,116.85	\$13,116.85	Recovery of costs associated with Oakland Zoo Expansion Project.
Sierra Technician's Institute	Alameda County Superior Court	RG07317917	\$11,145.65	\$11,145.65	Recovery in collections case: delinquent business taxes
Curtis, Ronald El-Malik	U.S. District Court, Northern District of California	C10-00358 SI /12-15831	\$4,932.64	\$4,932.64	Recovery of attorney's fees in labor and employment case.
Bankruptcy / Collections Cases	N/A	N/A	\$232,506.29	\$3,099.53	Recovery based on claims and collections matters.
Nand, Evelyn (7248 MacArthur Boulevard)	Alameda County Superior Court	RG15756817 /RG15756819	\$8,000.00	\$2,000.00	Settlement of nuisance property case.
Totals			\$7,068,837.07	\$3,163,480.27	

* City received \$150,000 of the \$200,000 settlement after deducting attorney's fees.

Outside Counsel Costs

PROTOCOL

Like other cities and counties, Oakland hires outside counsel to handle legal work (1) when the City requires specialized expertise (e.g., bankruptcy, tax clean water act expertise), (2) when the City, a City board or commission, an employee, the City Attorney or another City official has a conflict of interest, (3) when a particular matter requires dedication of resources that are not available in house, such as a major class action suit that demands full time work of one or more attorneys, and (4) when the Office lacks in-house capacity to handle the volume of legal work.

In FY 2011-12, shortly after the Council appointed Barbara J. Parker as City Attorney, the City Attorney for the first time established a Request for Qualifications (RFQ) process to make the hiring of outside counsel more competitive, open and transparent. The City Attorney's Office maintains a database of highly qualified firms with expertise in various areas of law. A firm's diversity and whether it is based in Oakland are significant factors in selection of outside counsel. This is a standing RFQ that is posted on the City Attorney's website..

Qualified firms and attorneys who are interested in working for the City can submit a response to the RFQ. A link to the RFQ is on the home page of the City Attorney's web site: <http://www.oaklandcityattorney.org>.

BACKGROUND

In past annual reports, we have demonstrated that contracting out legal services to more expensive outside attorneys and firms increases the total cost of legal services and reduces the money available for other vital City services such as police, libraries, sidewalks and streets.

Over the ten-year period beginning in FY 2003, the OCA lost more than one-third of its staff (19 attorneys and 14 support staff) due to the City Council's budget cuts. In that same time period, outside counsel costs rose from the lowest level of \$1.45 million to a highest level of \$6.83 million in FY 2012-13, an increase of about 370 percent.

While the City Council cut City Attorney staff, the demand for legal services remained high. Because of the loss of in-house staff, the City Attorney had to contract out a far greater amount of charter-mandated legal work to more expensive and less efficient outside counsel. In fact, the higher cost of outside counsel far exceeded the savings the City realized by cutting in-house legal staff. For example, during the four-year period of FY 2007-08 through FY 2010-11, staff cuts reduced the Office's budget by \$3 million. However, during that same period the cost of outside counsel rose from \$1.74 million to \$6.18 million, an increase of \$4.44 million. In other words, Oakland spent more on outside counsel than it saved by cutting in-house legal staff.

In the last two budget cycles, the City Council restored some of the positions our Office lost to budget cuts over the last decade. With those additional resources we were able to handle work in-house that otherwise would have been contracted out to outside counsel at a higher cost to the City.

As a result, the cost of outside counsel fell to **\$4.31 million** in FY 2015-16 from the high of \$6.83 million in FY 2012-13, the year before the Council began to restore positions to the City Attorney's Office. The savings in outside counsel have more than paid for the annual cost of the restored positions.

COST ANALYSIS

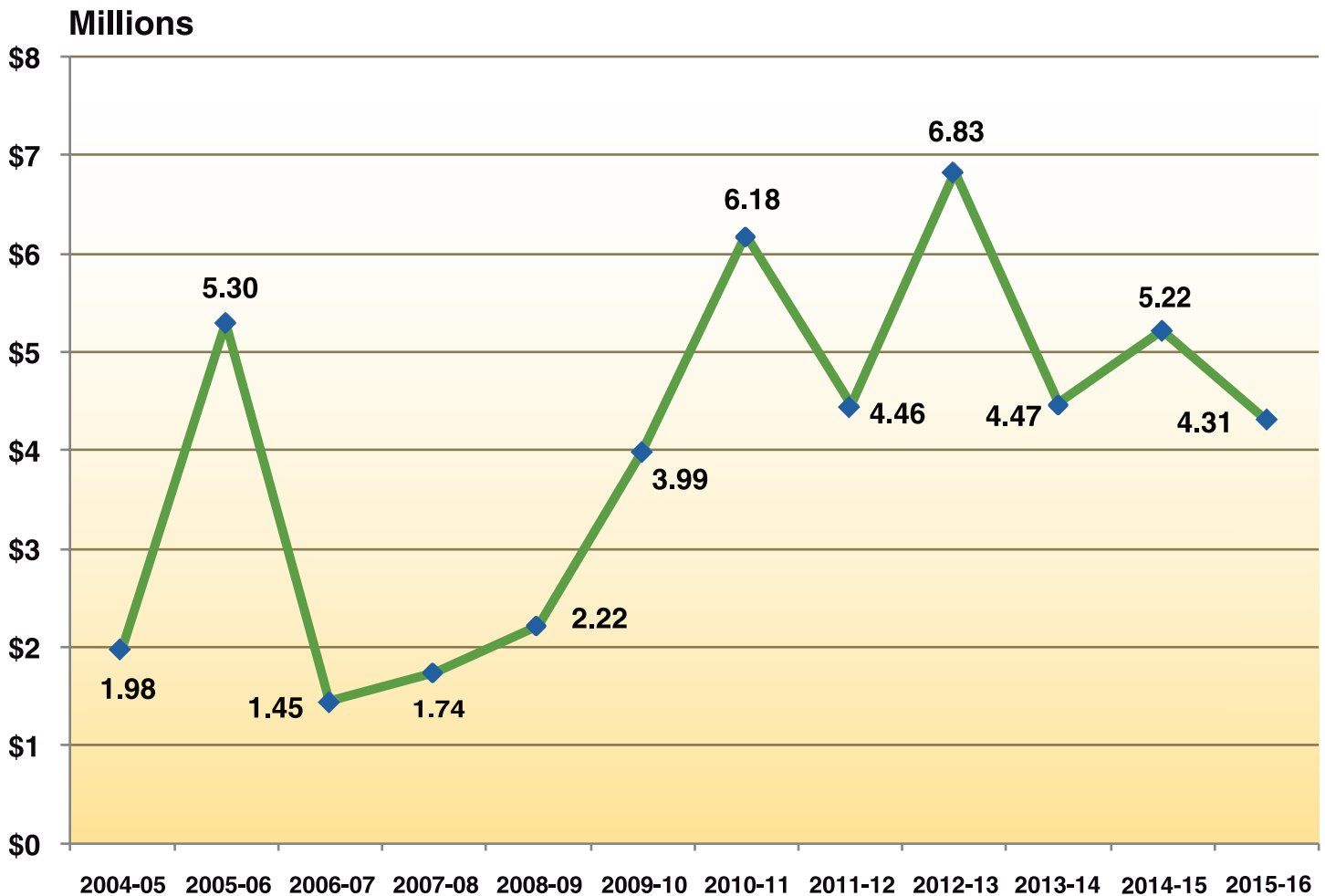
The need for outside counsel varies from year-to-year, sometimes dramatically, depending upon the number of in-house staff in the City Attorney’s Office and the volume, complexity and types of legal issues the City faces.

In FY 2015-16, the City spent a total of \$4.31 million on outside legal services. However, some of those costs were paid out of budgeted City project funds such as the development of the former Oakland Army Base. This year, the City spent **\$908,164** on outside legal services that were paid out of City-budgeted project funds. **\$3.41 million** of outside counsel costs were paid out of the City’s Self Insurance Liability Fund.

The Council’s restoration of some in-house positions to the City Attorney’s Office during the last two fiscal years clearly was a factor in maintaining the reductions in the total cost of outside counsel.

As we stated above, the cost of outside counsel will vary each year depending on the types and number of legal issues and matters and the number of in-house attorneys and administrative staff. However, as the above cost analysis shows, restoring additional staff in future years will help to maintain and increase reductions in outside counsel expenses.

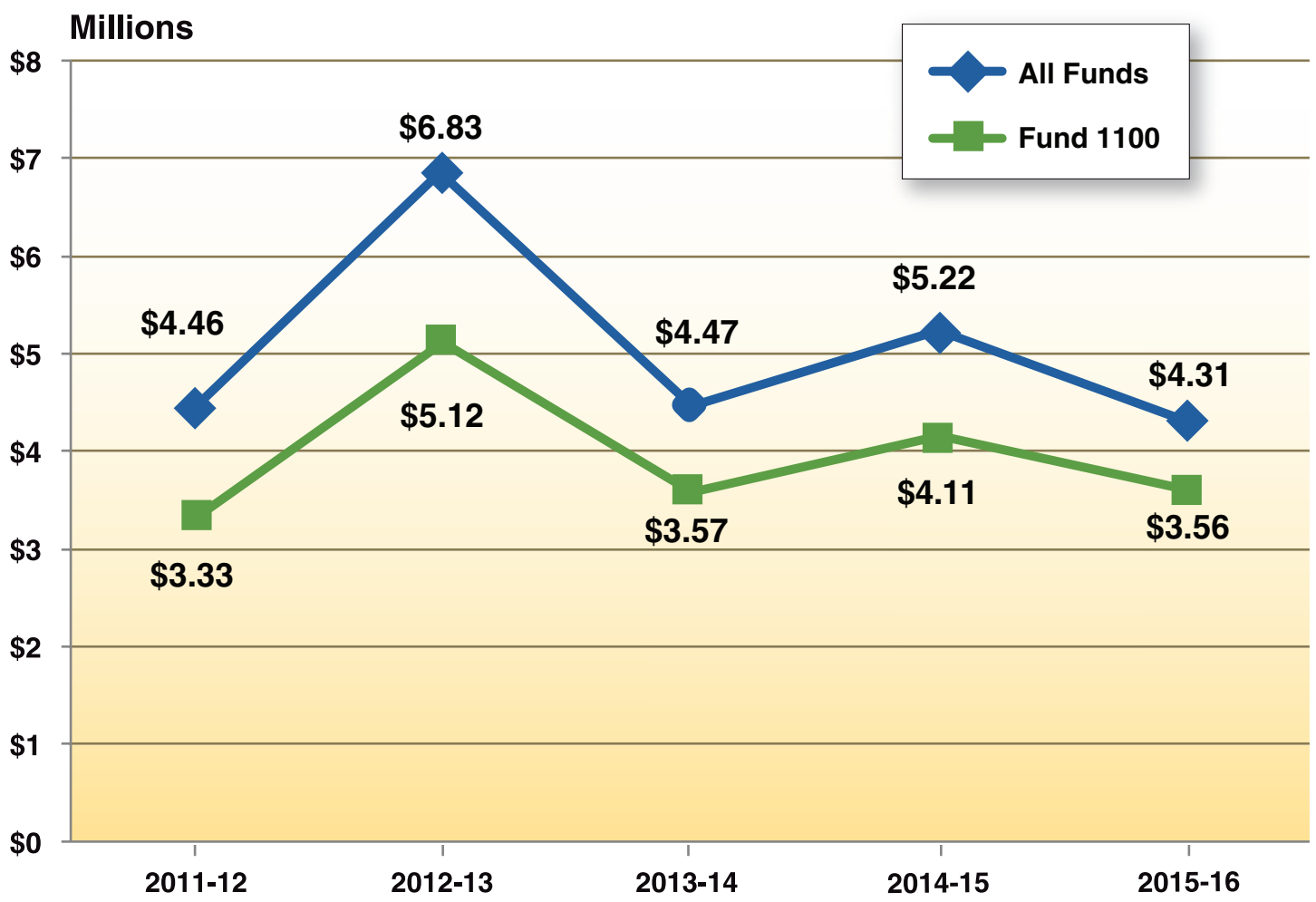
Figure 2: Outside Counsel Timeline



Note: The cost of outside counsel spiked in FY 2005-06 due to one case (Pacific Renaissance); the outside counsel costs for FY 2005-06 would have been in line with prior and subsequent years without the Pacific Renaissance expenditure. In Pacific Renaissance, the City Council decided to hire outside counsel against the recommendation of the then City Attorney. Although outside counsel initially advised that they would provide services pro bono, outside counsel expenses for this case ultimately cost the City \$3.26M in that fiscal year.

This fiscal year, \$3.41 million of outside counsel costs were paid out of the City’s Self Insurance Liability Fund (Fund 1100) and \$908,164 of outside counsel costs were paid out of City-budgeted project funds. The chart below shows outside counsel costs paid by Fund 1100 compared to total outside counsel costs for the last five years.

Figure 3: Outside Counsel Timeline



Litigation Division

The Litigation Division advocates for the City’s interests in claims and lawsuits filed against or on behalf of the City, its officers, employees and agencies. Lawsuits are litigated in the state or federal court systems. Examples include high value personal injury cases, complex civil rights actions, personnel disputes, eminent domain actions and inverse condemnation cases.

Litigators take an aggressive and strategic approach to limit the City’s financial exposure and to managing liability at the claims stage to limit expensive lawsuits. Only a very small percentage of claims evolve into lawsuits (only **1.5 percent** in FY 2015-16), underscoring the effectiveness of this strategy.

CLAIMS FILED

Claims fall into four categories: municipal infrastructure (streets, sewers and sidewalks), police matters (conduct, towing, jail and property damage), city vehicle accidents and “other.”

The City received 583 claims this year, higher than the 5-year average of 536. The number of claims filed against the City increased in every category except City Vehicle Accidents.

Table 1: Types of Claims Received

Category	2011-12	2012-13	2013-14	2014-15	2015-16	5-year average
Municipal Infrastructure*	351	384	324	366	401	365
Police Matters**	101	86	62	53	77	76
City Vehicle Accidents	45	69	70	75	68	65
Other	43	33	18	20	37	30
Total Claims/Year	540	572	474	514	583	536

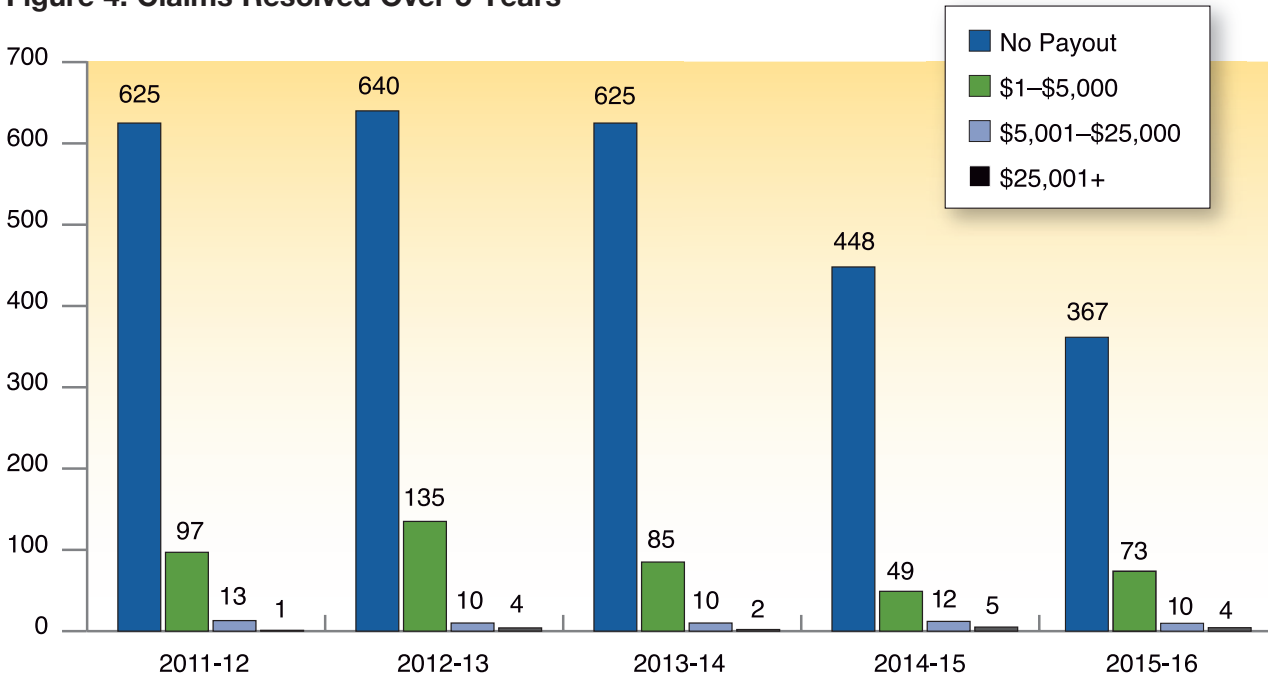
*Municipal Infrastructure includes sewers, trip & fall, bicycle and auto accidents, etc. on streets and sidewalks.

**Police Matters includes use of force and civil rights cases.

CLAIMS RESOLVED

We resolved a total of 454 claims in FY 2015-16. The large majority of claims (80 percent) were resolved without any payment. **Less than 1 percent** of claims resolved this year resulted in a payout of more than \$25,000.

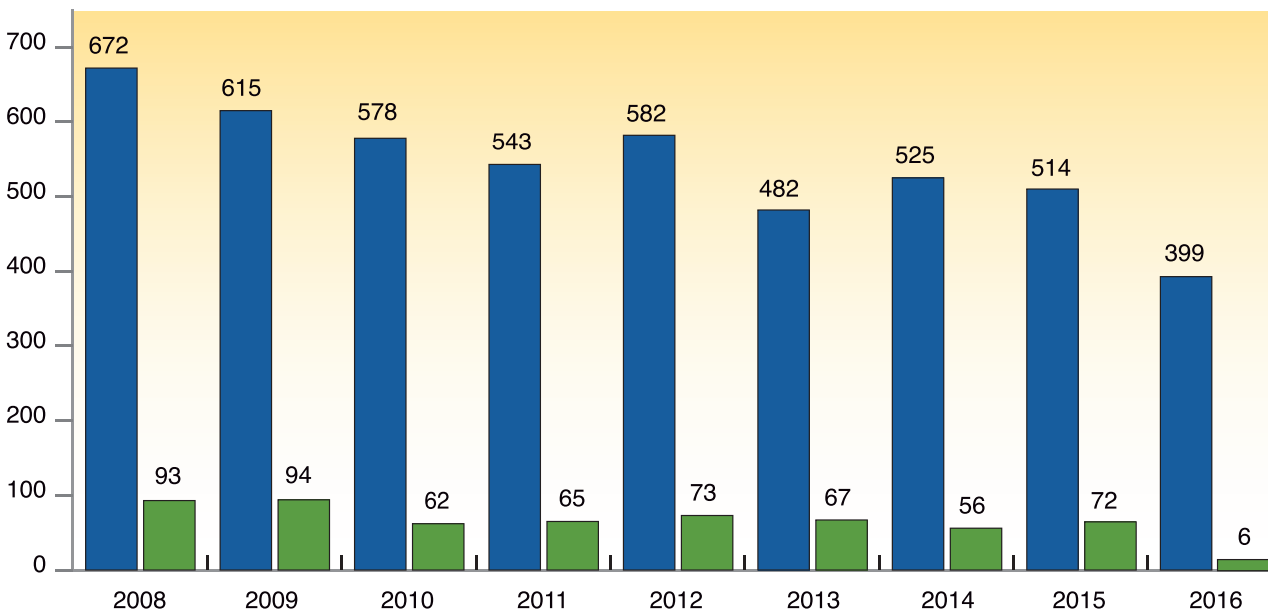
Figure 4: Claims Resolved Over 5 Years



CLAIMS THAT EVOLVE INTO LAWSUITS

The City Attorney’s Office aggressively manages liability at the claims stage to limit expensive lawsuits. When liability is clear, we seek to settle claims early to avoid the higher cost of litigation. The vast majority of claims never evolve into lawsuits, underscoring the effectiveness of this strategy. This year, only 1.5 percent of claimants filed lawsuits.

Figure 5: Claims that Evolved into Lawsuits by Year of Incident



LAWSUITS FILED AGAINST THE CITY

Lawsuits primarily arise in the following categories: municipal infrastructure, police matters, City vehicle accidents, personnel/labor, complex contracts and “other,” which includes code enforcement cases, collections/bankruptcy, breach of contract, liens and other matters.

In FY 2014-15, plaintiffs filed **186** lawsuits against the City of Oakland.

Notably, the number of lawsuits filed in the category of Police Conduct remained low this year. However, the number of lawsuits continued to increase in the category of Municipal Infrastructure. Additional risk management, including increased resources dedicated to fixing infrastructure problems, likely would reduce the number of high liability lawsuits and significant payouts in this area.

In this table, “Police Conduct Matters” do not include police-related vehicle accidents or personnel/labor matters.

Table 2: Types of Lawsuits Filed

Category	2011-12	2012-13	2013-14	2014-15	2015-16	5-year average
Municipal Infrastructure*	45	40	37	53	62	47
Police Conduct Matters**	27	27	25	13	10	20
Personnel/Labor (non-lawsuits and lawsuits)	45	59	30	42	27	41
City Vehicle Accidents	8	6	6	13	10	9
Other	28	21	32	56	77	43
Total Lawsuits/Year	153	153	130	177	186	160

* Municipal Infrastructure includes sewers, trip & fall, bicycle and auto accidents and other matters involving streets and sidewalks.

**Police Matters includes use of force, civil rights, wrongful death and other matters.

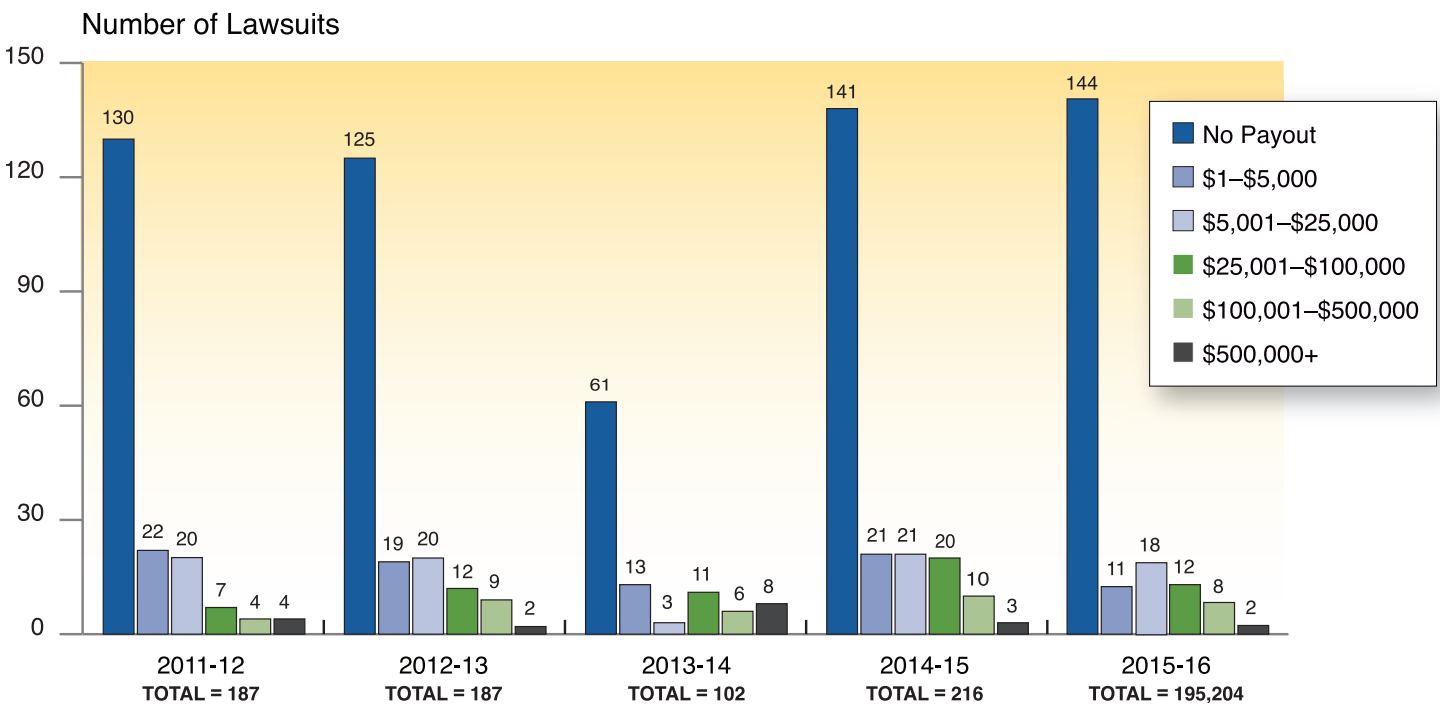
LAWSUITS RESULTS

When lawsuits are filed, our litigators work aggressively and strategically to protect taxpayer resources, reduce litigation costs and limit potential exposure by filing motions to dismiss defendants and causes of action, thereby narrowing the scope of defense. When liability is clear, we seek to resolve the matter early to limit the cost to taxpayers.

This year, the City Attorney’s Office resolved 195 lawsuits. Seventy-three percent 73% were resolved without any payment of money.

Only five percent (5%) of the lawsuits resolved this year resulted in a payout of more than \$100,000.

Figure 6: Lawsuits Resolved 5-Year Period



DEFENSE VERDICTS

The City prevailed in a number of high profile cases in FY 2014-15. Examples include:

***Curtis v. City of Oakland* U.S. District Court Case No. C 10-00358 SI**

In December 2015, a federal court jury in San Francisco returned a verdict in favor of the City of Oakland in *Curtis v. City of Oakland, et al.* A firefighter filed this lawsuit, claiming harassment and retaliation by the City several high-ranking supervisors. The jury unanimously rejected plaintiff's allegations that his coworkers harassed, shunned and ostracized him and other African American firefighters because of their race, and that the City retaliated against him for complaining about the alleged conduct.

***Joe Hemp's First Hemp Bank and Distribution Network v. City of Oakland* U.S. District Court Case No. C 15-05053 WHA**

In February 2015, the U.S. District Court issued an important decision upholding the City's right to regulate and license medical marijuana businesses in Oakland.

The plaintiff, Joe Hemp's First Hemp Bank and Distribution Network, was a medical cannabis dispensary that operated without a permit in Oakland. Several years ago the City informed the business that it either had to apply for a permit and pay related fees or shut down. The business declined and continued to operate; the City ultimately assessed civil penalties and ordered the business to vacate its premises.

Plaintiffs sued the City in 2015. The lawsuit challenged the City's right to issue permits to any marijuana-related businesses because those businesses are still illegal under federal law. The plaintiffs also made the creative legal argument that Joe Hemp's First Hemp Bank and Distribution Network was exempt from the Federal Controlled Substances Act because the business was nothing more than a warehouse, despite the fact that the business sold medical cannabis and called itself a "Distribution Network."

The Court did not buy the plaintiffs' arguments.

"Plaintiffs' whole arrangement is a sham," U.S. District Court Judge William Alsup wrote in his order. "Their customers are called 'members.' They go to the front desk, pay a 'service fee,' and get their regular dose of marijuana. The substance of this transaction is nothing more than a sale, which would place plaintiffs' business squarely outside the protection of the warehouseman exemption and plainly in violation of federal law."

***Ray v. Leal* Court of Appeals for the Ninth Circuit No. 4:11-cv-05550-YGR**

The federal Court of Appeals for the Ninth Circuit ruled in favor of the City regarding allegations that police used excessive force in the course of arresting a convenience store robber after a high speed chase.

Plaintiff Edward Ray, Jr. had been in prison for 10 years after convictions for a number of convenience store robberies throughout the East Bay. In 2006 Oakland police arrested Mr. Ray and his son after a car chase in East Oakland. Oakland officers hit and blocked Mr. Ray's car to stop him, and used a Taser when Mr. Ray resisted arrest.

In 2011, Mr. Ray filed a lawsuit in federal court against the City of Oakland and three Oakland police officers alleging they used excessive force during his arrest. The Court granted the City's motion for summary judgment arguing that Mr. Ray's claim was untimely because he filed it five years after the incident.

Mr. Ray appealed to the Ninth Circuit Court of Appeals in 2015. On January 28, 2016, the Appeals Court affirmed the order dismissing Mr. Ray's case against the City and the three officers.

***Sheehan v. Bay Area Rapid Transit, et al.*
U.S. District Court Case No. 14-cv-03156-LB**

A U.S. District Court judge granted Oakland's motion for summary judgment and dismissed the City as a defendant in a case alleging that a BART police officer used excessive use. The plaintiff was seriously injured when a BART police officer threw her to the floor, causing extensive damage to her face, teeth and eyes. The Court granted the City's motion for summary judgment, dismissing the lawsuit against the City on the grounds that an OPD officer at the scene was not involved in throwing the plaintiff to the ground.

Payouts

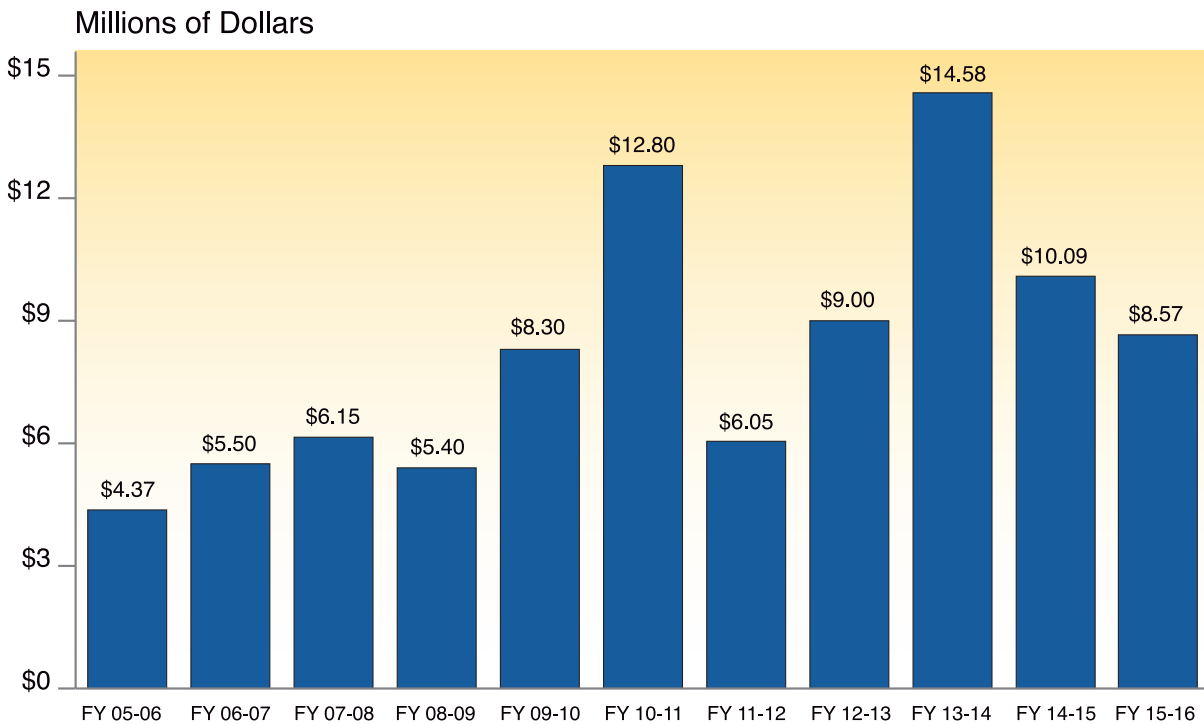
TOTALS

Payouts include settlements of claims, settlements of lawsuits and judgments against the City.

In FY 2015-16, payouts for claims and lawsuits filed against the City totaled **\$8.57 million** – a decrease of 15 percent from the prior fiscal year’s total of \$10.09 million, and a significant drop of 41 percent from a high of \$14.58 million two fiscal years ago.

In our previous Annual Reports, we have reported the total amount of payouts, including the City’s payments and payments that the City’s insurance carrier (CSAC Excess Insurance Authority) made. CSAC made payments in two major cases this year: \$2.6 million related to claims of excessive force and civil rights violations during an Occupy Oakland protest, and \$1.1 million in a case involving a City vehicle accident that caused serious injuries. The City made payouts in those cases in previous fiscal years.

Figure 7: Total Settlements, Judgments & Claim Payments by Year



IMPORTANT INFORMATION ABOUT PAYOUTS

The total amount of payouts varies from year to year depending on many factors, including the types and complexity of claims and lawsuits filed against the City.

The City Attorney’s Office works strategically and aggressively to limit financial exposure. When liability is clear, the City seeks to protect taxpayer resources by settling for the lowest possible amount, thereby avoiding the high risk of an adverse jury verdict that would cost taxpayers a much greater amount.

In this fiscal year, the City Council reserved authority to approve all settlements exceeding \$5,000. The City Attorney’s Office provides the City Council legal advice and analysis of cases involving claims exceeding \$5,000.

In FY 2015-16, the City’s annual premium for general liability insurance in FY 2015-16 was **\$3,723,363**.

MAJOR PAYOUTS

Last year (FY 2014-15), payouts included one major settlement (\$930,000) of a lawsuit alleging violation of civil rights during a protest and several major settlements of cases involving infrastructure – potholes, uneven sidewalks, missing storm grates, etc.

In FY 2015-16, settlement of one wrongful death lawsuit, arising out of an OPD vehicle accident, accounted for almost one third (32 percent) of the total payouts for the year. (See Luu, Kieu case below.) That wrongful death lawsuit and other payouts for more than \$100,000 are as follows.

Table 3: Payouts of Claims, Lawsuits & Arbitrations of More Than \$100,000

Case	Type	Total Settlement
Luu, Kieu; successor in interest of Bien Cam Tran deceased, et al.	Alleges wrongful death caused by OPD vehicle accident	\$2,750,000
New Cingular Wireless (Class Action)	Complaint for refund of taxes	\$725,954
Church Insurance Company a/s/o St. John's Episcopal Church (multiple)	Alleges property damage caused by sewage backup	\$696,933.70
Preston, Daryelle	Alleges wrongful termination	\$600,000
Tillis, Antonio	Alleges injury sustained from trip & fall incident	\$450,000
Biocini, Ana	Alleges wrongful death caused by officers' use of excessive force in restraining decedent.	\$450,000
Painters & Decorators Jt. Apprenticeship Training Committee of Bay Area	Alleges dispute arising out of a contract breach	\$375,000
Wiley, Nina	Alleges injury from a trip & fall	\$265,000
Daniels, Joshua	Alleges assault by City employees	\$205,000
Zeremariam, Joan & Zeremariam, Solomon	Alleges injury sustained from a trip & fall on utility vault	\$150,000
Whitmire, Ava	Alleges injury sustained from trip & fall	\$135,000
Alcala, Gloria	Alleges discrimination/harassment of City employee	\$125,000

PAYOUTS BY CATEGORY

Total payouts equaled \$8.57 million, well below the five-year average of \$9.65 million.

This year, payouts of claims and lawsuits related to police matters (civil rights, use of force, wrongful death, etc.) increased to \$3.4 million mainly due to one wrongful death/vehicle accident case (Luu, Kieu). This payout is included in the vehicle accident category in Table 4 below.

Payouts related to infrastructure cases fell sharply by 42 percent from the previous year, when the City settled a number of high liability infrastructure cases involving death or injury.

Payouts for cases involving City vehicle accidents increased to \$3.05 million this year. This is the highest amount the City has ever paid in this category. For the last three decades, the Office has kept track of payouts in this category. Annual payouts related to City vehicle accident cases historically have typically totaled less than \$500,000. However, in the past three years, we have seen a spike in payouts in this category, including an all-time high in FY 2015-16.

Payouts for labor/personnel matters totaled \$757,426 for the year, higher than the five-year average of \$661,900.

Table 4: Payouts – Police Matters

Category	2011-12	2012-13	2013-14	2014-15	2015-16	5-yr average
Conduct: Suspect Chase	\$7,500	\$0	\$721	\$6,800	\$21,652	\$7,334.46
Alleged Use of Force	\$96,350	\$1,864,928	\$5,388,500	\$1,400,000	\$9,978	\$1,751,951.20
Conduct: Non-force	\$2,750	\$0	\$885,764	\$0	\$553	\$177,813.59
Conduct: Strip Search	\$1,037,754	\$4,819,970	\$0	\$0	\$0	\$1,171,544.80
Alleged Wrongful Death	\$1,740,000	\$275,000	\$0	\$185,000	\$450,000	\$530,000.00
Vehicle Accidents	\$33,435	\$88,907	\$38,300	\$75,365	\$2,904,461	\$628,093.55
Property Loss/Miscellaneous	\$13,347	\$55,330	\$13,962	\$37,900	\$3,444	\$24,796.66
Towing	\$155	\$0	\$74,750	\$2,600	\$1,717	\$15,844.40
Personnel/Labor	\$583,333	\$0	\$1,132	\$0	\$0	\$116,892.97
Other / Admin Hearings	\$0	\$73,800	\$0	\$0	\$0	\$14,760.00
Total Paid	\$3,514,624	\$7,177,935	\$6,403,129	\$1,707,665	\$3,391,805	\$4,439,031.64

Table 5: Payouts – Infrastructure

Category	2011-12	2012-13	2013-14	2014-15	2015-16	5-yr average
City Buildings, Parks, Etc.	\$8,237	\$68,623	\$4,383	\$113,180	\$10,466	\$40,977.70
Sewers & Storm Drains	\$228,979	\$200,974	\$201,930	\$657,428	\$1,014,024	\$460,666.92
Sidewalks, Curbs, Etc.	\$643,322	\$278,271	\$354,001	\$1,305,500	\$1,062,300	\$728,678.64
Street, Signals & Lights	\$1,030,402	\$125,767	\$3,284,862	\$2,752,573	\$652,288	\$1,569,178.41
Inverse Condemnation	\$0	\$421,252	\$129,384	\$0	\$16,244	\$113,376.06
Trees	\$132,797	\$107,022	\$59,969	\$27,874	\$14,850	\$68,502.49
Total Paid	\$2,043,737	\$1,201,909	\$4,034,529	\$4,856,555	\$2,770,171	\$2,981,380.22

Table 6: Payouts – City Vehicle Accidents

Category	2011-12	2012-13	2013-14	2014-15	2015-16	5-yr average
Police	\$33,435	\$88,907	\$39,021	\$82,166	\$2,904,461	\$629,597.85
Public Works	\$50,982	\$28,731	\$2,063,890	\$2,130,930	\$97,476	\$874,401.56
Parks & Recreation	\$8,979	\$6,616	\$13,500	\$3,301	\$1,344	\$6,748.06
Fire	\$21,661	\$9,262	\$556,821	\$28,828	\$11,864	\$125,687.07
Other Departments	\$1,445	\$4,014	\$7,500	\$9,367	\$38,749	\$12,214.98
Total Paid	\$116,502	\$137,530	\$2,680,731	\$2,254,591	\$3,053,894	\$1,648,649.52

Table 7: Payouts – Payouts – Personnel/Labor

Category	2011-12	2012-13	2013-14	2014-15	2015-16	5-yr average
Police	\$583,333	\$0	\$1,132	\$0	\$0	\$116,893
Parks & Recreation	\$0	\$0	\$0	\$0	\$0	\$0
General Government/ Other	\$409,753	\$95,000	\$436,000	\$227,795	\$725,000	\$378,710
Public Works	\$2,400	\$115,000	\$34,663	\$646,999	\$0	\$159,812
Fire Services	\$0	\$0	\$0	\$0	\$32,426	\$6,485
Total Paid	\$995,486	\$210,000	\$471,795	\$874,794	\$757,426	\$661,900

Advisory Division

The Advisory Division provides legal services that address the full spectrum of municipal affairs.

Division attorneys provide advice to City leaders on everything from finance and bonds to employee retirement and benefits to ethics and elections. The Division drafts legislation and contracts and negotiates complex agreements in matters including real estate transactions, information technology, garbage and cable franchises. Advisory attorneys also play a critical role as legal counsel on housing and economic development projects. In this fiscal year, the Division included the Labor & Employment Unit, which represented the City in arbitrations and advised on all labor and employment matters, and the Public Safety Unit, which provided advice on police, fire and emergency services policies, procedures and practices. This year the Division also included the Neighborhood Law Corps, which initiates legal proceedings to address public nuisance and quality of life issues in Oakland neighborhoods.

In FY 2015-16, the Advisory Division was comprised of six main units. Details of each unit’s work, responsibilities and practice areas are listed below in **Tables 8-13**.

Table 8: General Government & Finance Unit

Practice Areas & Responsibilities	
<ul style="list-style-type: none"> • Arts Agreements and Grants • Assessment Districts (LLAD, BIDs, Wildfire) • Cable Franchise • City Clerk including Elections • Ethics Commission • Finance & Management Committee • Finance Agency including Controller • Garbage, Waste & Recycling Contracts • Government Ethics/Conflicts of Interest • Health and Human Services • Information Technology Department • Libraries • Life Enrichment Committee 	<ul style="list-style-type: none"> • Measure Y • Municipal Finance • Oakland Fund for Children & Youth • Oakland Zoo • Parks & Recreation Department • Public Contracting • Public Works Agency • Public Works Committee • Purchasing & Grants • Retirement Systems • Streets, Sewers & Infrastructure • Taxes & Revenue • Utility & Energy Franchises

General Government & Finance Unit Highlights

MUNICIPAL FINANCE

- Advised the City's Tax Administrator regarding enforcement and interpretation of Oakland's tax ordinances, including the business tax, parking tax, transient occupancy tax, real property transfer tax and utility users' tax.
- Advised the City Administrator and various City departments regarding the use of monies including grants proceeds, tax-exempt bond proceeds, special tax revenues and other restricted funds.
- Advised and assisted the Revenue and Management Agency in matters relating to debt collection, placement and enforcement of liens citywide.
- Advised various City tax boards of review.
- Provided legal analysis and advice to the Budget Department and Controller in matters relating to the City budget, fund transfers and expenditures, and use of restricted funds
- Provided ongoing legal advice to the City's Deferred Compensation Committee regarding administration of the Deferred Compensation Program.
- Advised the City Administrator on various issues regarding the Police and Fire Retirement System.
- Advised the Police and Fire Retirement System regarding various issues such as the Brown Act, Public Records Act, and division of pension benefits upon divorce.
- Managed outside counsel in continuing litigation between the City and the Retired Oakland Police Officers' Association relating to compensation for retired police officers.
- Advised the Treasury Division regarding various financing transactions including tax exempt equipment lease agreements for new police, fire and public works radio-related infrastructure, vehicle financing, and information technology hardware and software for the Oracle budgeting system upgrade.
- Supervised the City's litigation against municipal bond guaranteed investment contract (GIC) brokers and issuers for bid-rigging. Supervised the City's litigation against municipal bond insurers.
- Supervised outside counsel in an action before the California Board of Equalization by various California cities and counties seeking redistribution of \$12 million in sales tax revenue collected by the City.
- Advised the City Administrator and City Council regarding investigation relating to potential debarment proceedings.
- Advised regarding issuance of \$128,825,000 in City of Oakland General Obligation Refunding Bonds.

- Advised regarding issuance of \$22,510,000 (tax-exempt) and \$66,675,000 (taxable) Oakland Redevelopment Successor Agency Subordinated Tax Allocation Refunding Bonds.
- Advised regarding the issuance of \$79,735,000 in Oakland–Alameda County Coliseum Authority Lease Revenue Bonds (Oakland Coliseum Arena Project).
- Advised regarding the issuance of \$49,245,000 (tax exempt) and \$108,975,000 (taxable) City of Oakland 2015-2016 Tax and Revenue Anticipation Notes.
- Advised the Economic Development Division and drafted legislation for the 10-year renewal of the Laurel Business Improvement District and the creation of the Tourism Business Improvement District.
- Assisted the public in resolving contested parking citations and guided citizens in the appeals process.

GENERAL GOVERNMENT

- Provided regular oral and written advice to over 30 departments, commissions, divisions and agencies.
- Staffed and provided legal advice to the City Council’s Life Enrichment Committee, Education Partnership Committee, Finance and Management Committee, and Public Works Committee.
- Provided legal advice to numerous Oakland boards and commissions, including the new Bicycle Advisory Commission, the Cultural Affairs Commission, the Public Art Advisory Commission, the Commission on Persons with Disabilities, the Wildfire Prevention Assessment District Commission, the Violence Prevention and Public Safety Oversight Committee, the Public Safety and Services Violence Prevention Commission, the Commission on Aging, the Youth Advisory Commission, the Children’s Fairyland Board, the OFCY Planning and Oversight Commission, the Parks and Recreation Advisory Commission, the Library Commission, the Alameda County-Oakland Community Action Partnership Administering Board, the Bicycle & Pedestrian Advisory Commission and the Head Start Advisory Board.
- Provided advice and training to the City Council, boards and commissions, and City staff on open meetings laws, including the California Brown Act and Oakland Sunshine Ordinance.
- Provided advice and training to staff and officials on public records laws, including the California Public Records Act and Oakland Sunshine Ordinance.
- Provided advice and legal opinions to staff and officials on a variety of public ethics issues, including conflicts of interest, gifts, mass mailings, incompatible activities, and post-employment activities.

- Advised and assisted in drafting for the November 2016 election ballot measures proposing the issuance of \$600,000,000 in infrastructure and affordable housing bonds, and a general tax on the distribution of sugar-sweetened beverages.
- Advised and assisted in drafting a resolution to award \$577,000 grant for the provision of immigration legal services to undocumented minors fleeing violence in other countries.
- Advised the City Auditor on various legal issues concerning Auditor authority and operations.
- Reviewed contracts, grant agreements, resolutions, ordinances and staff reports for the Parks and Recreation Department, including programs and services that provide Oakland residents greater access to nature, wildlife, and recreation, such as Oakland's Feather River Camp, Woodminster Theatre, Metropolitan Golf Course, Lake Chabot Golf Course, wildlife programs at Peralta Hacienda Historical Park, boating and sailing activities, equestrian activities, and a variety of programs for Oakland's after-school programs and recreation centers.
- Advised the Parks and Recreation Department on the Lake Chabot Golf Course Driving Range Improvement Project contract dispute
- Drafted an agreement between Friends of Oakland Parks and Recreation and the City for continued fundraising to support Oakland's parks.
- Advised the Parks and Recreation Department on gifts in place, donation of in-kind services and materials, and project construction agreements for improvements to sports fields and facilities, such as new basketball courts, baseball fields, soccer fields, and children's playgrounds.
- Advised the Parks and Recreation Department on joint projects with the Oakland Unified School District.
- Drafted a management agreement between the City and the East Bay Zoological Society for management of the Oakland Zoo.
- Drafted a grant agreement for funding of the Chabot Space and Science Center.
- Advised staff on use of Measure WW funds for improvements at the Chabot Space and Science Center.
- Assisted the Parks and Recreation Department in establishing fixed park hours.
- Advised the Parks and Recreation Department on updating park use regulations. Reviewed hundreds of contracts, grant agreements, staff reports, ordinances and resolutions for the Human Services Department, including Kids First grant agreements, Oakland Unite grant agreements, numerous services contracts and grant agreements for programs for children and families, Head Start, youth, adults and seniors, paratransit services, and homeless programs.

- Reviewed contracts, grant agreements, resolutions and staff reports for the Oakland Public Library to provide Oakland residents' greater access to library services and other youth programs.
- Reviewed contracts, grant agreements, resolutions and staff reports for City funding of local artists and nonprofit arts and cultural organizations, and for public art projects throughout the City, including graffiti abatement and murals.
- Provided advice to the ADA Programs Division on matters of ADA compliance in City programs and on City property.
- Assisted the City Administrator in extending a contract to provide security services in the downtown area.
- Drafted ballot titles, summaries, and impartial legal analyses on several ballot measures proposed for the November 2016 ballot.
- Drafted legal opinions and trained and advised staff on various issues regarding the use of City resources for campaign purposes.
- Advised the Planning Department and the City Council regarding the threatened referendum on the Oakland Zoo expansion project.
- Provided advice to the City Clerk and staff as needed in connection with administering the November 2016 general election.
- Prosecuted and settled lawsuit under the California False Claims Act seeking penalties and damages arising out of false and altered documentation submitted with reimbursement requests in multiple façade improvement and tenant improvement projects grants.
- Worked with outside counsel in continued litigation against the federal government to prevent the forfeiture of the property used by Harborside Health Center, a City permitted medical cannabis dispensary, to uphold Oakland's regulatory scheme for the safe distribution of medical cannabis.
- Drafted resolutions to support state legislation to control or limit guns and ammunition.
- Advised the City Council and the City Administrator on contract issues with respect to the implementation of a new municipal identification system and the extension of the program.

PUBLIC WORKS AND CONTRACTING

- Reviewed over a hundred construction and professional services contracts for the Public Works Contracting Division and advised Public Works on contract claims and disputes
- Reviewed hundreds of Schedule M-Independent Contractor Schedules for City professional services contracts and advised staff on independent contractor status issues.
- Advised the Contracting and Compliance Department with respect to nearly a hundred professional services contracts and construction contracts for Parks and Recreation.
- Advised the Contracting and Compliance Department with respect to the Local Employment Program in connection with the Army Base redevelopment project and the proposed City Infrastructure Bond.
- Advised the City Council on legal procedures for debarment of public works contractors.
- Advised the Public Works Agency with respect to a consent decree and settled litigation against the City by the U.S. Environmental Protection Agency, California State/Regional Water Board and environmental groups involving Oakland's aging sewer collection system, and provided on-going advice with respect to implementation and compliance with the consent decree
- Advised the Public Works Agency and the City Council with respect to the implementation of the solid waste collection, recycling and site disposal franchises (over \$1 billion in total contract value) for providing solid waste collection, recycling and site disposal services to Oakland residents and businesses, and amendments to those agreements.
- Advised the Public Works Agency with respect to ongoing contract issues related to the Waste Management solid waste collection and site disposal franchise agreements and the California Waste Solutions recycling franchise agreement.
- Advised the Public Works Agency with respect to the negotiation and award of a franchise agreement in the City's public right of way for the Bike Share Program with Bay Area Motivate, LLC.
- Advised the Public Works Agency with respect to implementation of the LED lighting conversion project, RFP procurement and contract negotiation and execution, and implementation/installation of LED lights City-wide, and with respect to contract disputes.
- Advised the Public Works Agency on a negotiated settlement of take-over by project contractor's surety, and project completion and close-out of the City-wide LED lighting project due to contractor default.

- Advised the Public Works Agency with respect to the lease/purchase of new fleet of public works truck vehicles.
- Advised the Public Works Agency on RFP and agreements for proposed installation of solar power panels on City buildings.
- Advised the Public Works Agency on solar power purchasing agreements/ procurement program with the County of Alameda, including applying City community benefit programs, and advised and negotiated agreement with the contractor for the installation of solar panels on City buildings.
- Advised the Public Works Agency with respect to the City joining the Community Choice Energy Joint Powers Authority being formed by the County of Alameda and cities in Alameda County, and negotiated the East Bay Community Energy JPA agreement.
- Advised the Public Works Tree Division regarding tree removal permits and appeals.
- Advised the City Administrator, Information Technology Department, and Police Department with respect to police radio communications problems and contract issues resulting from radio upgrade project and the purchase of new radios for Police, Fire and Public Works, including possible alternatives for system, and advised the City on joining the EBRICS regional radio communications system.
- Advised the Public Works Agency on new parking program initiatives
- Advised the Building Department with respect to the proposed building permit tracking program.
- Advised the Fire Department and reviewed professional services contracts.
- Advised the Oakland Police Department, Fire Department, Public Works Agency and Information Technology with respect to the major purchase of mobile radios and implementation of the mobile radio replacement and EBRICSA integration project.
- Advised the Information Technology Department on the Data Center Modernization Project (Phase I), the BIAS contract and the Horizon contract (for system implementation of the City's data storage migration to the cloud).
- Advised Treasury on the Park Mobile contract.
- Advised the Information Technology Department with respect to City broadband fiber optic communications study and City conduit dark fiber system.
- Advised the Information Technology Department, the City Administrator, the Public Works Agency and the Economic Development Department with respect to the laying of fiber optic cable in Oakland's public right of way by private companies and by public agencies such as BART and the need for a comprehensive policy for Oakland's participation in these systems.

- Advised the Finance Department and the Information Technology Department with respect to a new business tax software system contract with HDL.
- Advised the Information Technology Department with respect to dozens of IT software and maintenance agreements including agreements with Microsoft and Oracle for implementation of a new citywide 360 operating system.
- Advised the Finance Department and the Information Technology Department on Oracle R-12 upgrade, and AST Public Sector Budgeting IT contracts.
- Advised the City Administrator with respect to negotiation and execution of the Next Request contract, which is upgrading the RecordTrac public records request system.
- Advised the Economic Development Department on the Open Counter contract which is a Software as a Service (“SaaS”) project/application for small business owners to use in getting information regarding needed permits and other requirements needed to open a business in Oakland.
- Advised the Police Department on police monitors professional services contracts with respect to Riders settlement and the “Occupy Oakland” events.
- Advised the Information Technology Department and negotiated agreement with Microsoft for the IPass Phase 2 Police Officer Tracking software system for the City for compliance with federal consent decree.
- Advised on Oakland Army Base Design-Build Agreement, Owner Controlled Insurance Program, maintenance of public improvements, permitting and plans/specification sign-offs, role and structure of Public Works staff involvement, and implementation of horizontal project construction.
- Advised the City Council with respect to illegal dumping matters, including review of existing maintenance agreements and Caltrans/City Letter of Understanding.
- Advised the Public Works Agency and negotiated with AC Transit with respect to Conditions of Approval, City/AC Transit Cooperative Agreement and Implementation Agreement, and Memorandum of Understanding on the Business Sustainability Program and Business impact consultant contracts, for proposed AC Transit Bus Rapid Transit system in City’s right of way.
- Advised the Public Works Agency on the Piedmont Pines Undergrounding project and advised the Mayor and the Councilmember with respect to PG&E’s obligations for Phase 2 of the project
- Advised the Public Works Agency with respect to the new County septic tank policy and new state law mandating the elimination of septic tanks in the Oakland hills and connection to the Oakland public sewer system, and related private property owner concerns with respect to extending the City sewer main to accommodate conversion from septic tanks to City sewer main connections.

- Advised the Public Works Agency on new City-wide electronic parking meter system that replaced all standard metered parking to state-of-the-art parking meters.
- Advised the Public Works Agency on award and implementation of a new City-wide parking management agreement.
- Advised the City Clerk’s Office on Netfile electronic public disclosure statement filing, and upgrade of the Granicus video recording of City Council meetings.
- Advised KTOP with respect to extension of the captioning services agreement and purchase of new video equipment.

Table 9: Code Enforcement Unit

Practice Areas & Responsibilities	
<ul style="list-style-type: none"> • Code Enforcement & Building Services • OPD Alcoholic Beverage Action Team • Problem Liquor Stores & Bars • Rent Board • Housing, Foreclosure & Eviction Issues • Affirmative Litigation & Legislation 	<ul style="list-style-type: none"> • Neighborhood Law Corps Program • Public Nuisance Abatement • Community Engagement • Quality of Life Issues • Blight & Zoning Issues • Prostitution Abatement (Hotels)

CODE ENFORCEMENT UNIT HIGHLIGHTS

Rent Adjustment Program

- Provided legal advice to rent board commissioners, hearing officers and other RAP staff.
- Handled three writs from Rent Board decisions.
- Assisted staff and City Council in drafting the tenant protection ordinance (“TPO”).
- Included TPO as cause of action in Emyrean case.
- Filed an amicus brief in the California Court of Appeal in support of a challenged regulation of the City of Berkeley’s Rent Stabilization Board. The Rent Board prevailed in the appeal. The regulation concerned the ability of the City of Berkeley to regulate rents after a fraudulent owner move-in eviction and benefited Oakland’s new efforts to regulate these evictions.
- Assisted staff and the Rent Board in the Board’s adoption of regulation changes (to recommend to City Council) related to Seismic Strengthening Capital Improvements.
- Worked with staff and City Council to consider Ellis Act relocation fee changes and relocation fee changes generally. The Ellis Act is a state law that allows landlords to evict tenants in order to “go out of the rental business.”

NEIGHBORHOOD LAW CORPS

■ *City of Oakland v. Miller* and *City of Oakland v. Kilpatrick*

The NLC filed two lawsuits in June 2016 against abusive landlords. The first lawsuit (Miller), charged the owners of a four-unit building in East Oakland with violations of the City's Tenant Protection and Just Cause for Eviction ordinances, along with California's Bane Act. The NLC also joined a coalition of civil rights organizations and attorneys to sue the owners of a Single Room Occupancy ("SRO") building in Oakland's Chinatown (Kilpatrick).

In Miller the City charged the owners of a building on 69th Avenue with waging a campaign of harassment to unlawfully remove each of the building's four tenants. After buying the building in 2015, the owner misappropriated City of Oakland stationery in an apparent attempt to mislead tenants and filed a series of retaliatory lawsuits against one tenant who refused to move out. And tenants have reported that the owner's partner threatened them with physical harm.

The City's lawsuit sought an injunction to prevent the owners from continuing harassment and abuse of tenants, as well as civil penalties of up to \$25,000 and damages to be determined by the Court.

The NLC partnered with Advancing Justice – Asian Law Caucus and civil and housing rights law firm Sundeen, Salinas and Pyle to sue the owners of a SRO building on 8th Street (Kilpatrick). The lawsuit charged the owners with making living conditions unbearable in an effort to force tenants out, renovate the building and make way for higher rents.

In August 2016, the Alameda Superior Court granted a preliminary injunction against the owners of the building. The ruling orders the owners to stop their campaign of harassment of the tenants, which included demolishing shared kitchens and bathrooms, installing security cameras in the shared living spaces and taking tenants' property including a child's bike.

- ***City of Oakland v. Empyrean Towers, LLC***

In March 2016, the U.S. Bankruptcy Court issued a landmark order authorizing sale of the notorious Empyrean Towers in downtown Oakland to an affordable housing developer to rehabilitate the building as long-term low-income housing. The Court's order was a landmark decision because it was not based simply on compensating creditors; the ruling recognized the principle of "social responsibility" in bankruptcy law and guaranteed that the building will be maintained as affordable housing for at least 55 years.

In April 2015, the City Attorney, on behalf of the people of the City of Oakland and the State of California, sued the owners of the Empyrean in the Alameda County Superior Court for maintaining the property in an uninhabitable condition, for violating Oakland's Tenant Protection Ordinance and for operating the property as a public nuisance. The lawsuit prosecuted by City Attorney's Neighborhood Law Corps unit asked that the Superior Court order the owners to bring the building into compliance with applicable building codes and appoint a receiver to manage the property and oversee the repairs. The property required major renovations including structural, electrical, mechanical and plumbing systems.

The Court's decision was a major milestone in the City's long battle to improve deplorable and inhumane conditions at the Empyrean Towers, a more than 90-unit building located at 13th and Webster streets.

- ***City of Oakland v. East Bay Lodging LLC***

In FY 2015-16, Neighborhood Law Corps prosecuted a lawsuit charging the owners of the Mills Motel with maintaining their business as a source of crime including the sexual exploitation of minors. The motel had been a source of gun violence, illegal drug sales, the sexual exploitation of minors and other crimes. Numerous police reports documented criminal activity at the property including: domestic violence, rape, prostitution, robbery, burglary, unexplained death and illegal possession of firearms. A joint operation by the Federal Bureau of Investigation and the Oakland Police Department resulted in numerous arrests at the property located at 4550 MacArthur Boulevard in Oakland.

- **Illegal Dumping Enforcement Program**
(see *Special Programs, Initiatives & Litigation*).

CODE ENFORCEMENT

- **1001 Panoramic** – won more than \$103,000 in fines against the owner of an illegal wedding venue that created a serious public nuisance and fire hazard in the Oakland hills.
- **Value Inn** – won more than \$6,800 in Deemed Approved hearing against nuisance motel owners.
- Settlement agreement reached with **Bookers** on 90th Avenue to curb loitering.
- Settlement agreement reached with **E One Entertainment** to abate nuisance.
- **Convenience Discount Market** – tobacco license suspended for 10 days, \$5,000 fine.
- **Lucky Stop** – \$1,000 fine for tobacco violations.
- **Golden 7 Food Store** – Settlement resulted in 1-day suspension and \$500 fine for tobacco violations.
- **Gift & Smoke Shop** – tobacco license suspended for 10 days, \$5,000 fine.

Table 10: Public Safety Unit

Practice Areas & Responsibilities	
<ul style="list-style-type: none"> • Police & Fire Department General Advice • Police & Fire Department Personnel • Police Development, Training & Investigations • Negotiated Settlement Agreement • Police Department Reform Measures 	<ul style="list-style-type: none"> • OES Emergency Services • Use of Force & Vehicle Pursuit Boards • Public Safety Legislation & Initiatives • Community Policing Advisory Board • Public Safety Committee

PUBLIC SAFETY UNIT HIGHLIGHTS

- Gun Ordinances – advised and assisted City Council draft and adopt ordinances banning high-capacity magazines, prohibiting unsecured gun storage in unattended vehicles and requiring safe storage of firearms in the home.
- Drafted/reviewed the “Ordinance Establishing the Privacy Advisory Commission, Providing for the Appointment of Members Thereof, and Defining the Duties and Functions of Said Commission.”
- Reviewed community-sponsored legislation “Adding Chapter 9.08.270 to Chapter 9 of the Oakland Municipal Code Establishing the Right to Photograph, Video and/or Audio Record Police and/or Peace Officer(s).”
- Developed specialized contract for hazardous waste disposal.
- Developed specialized contract for tree/vegetation removal by goat grazing.
- Assisted city administration and the OPD develop a RFP for a new tow contract; advised on contract disputes with former contractor.
- Reviewed numerous contracts for police and fire, including retention of federal court monitors, health providers, consultants, auditors, etc.
- Advised on use of funding from Measures M and N for emergency management services.
- Reviewed numerous intergovernmental contracts for police and fire/OES, including MOU with OUSD for emergency shelter services, FEMA Wildfire Grant agreement, Fire’s WestNet One Step software contract, and UASI federal grants.
- Consolidated City emergency orders and material and updated City legal binder for emergency responses.
- Reviewed/advised on OPD’s Forward Looking Infrared Thermal Imaging Camera System (FRIR) policy.
- Responded to public protests and EOC activations and provided advice.
- Advised on hundreds of Public Records Act requests for police and fire.
- Reviewed stop data policy and numerous other OPD policies.
- Provided advice on vegetation management and enforcement options for Fire.
- Staffed the Public Safety Committee and the Public Ethics Commission.
- Reviewed policy compliance cases, provided advice and attended numerous OPD force and other review boards.
- Trained Fire on City contracting rules and procedures.
- Prioritized and expedited OPD contracts related to Allen/NSA compliance.

- Advised on sideshows and impound authority.
- Assisted with B&B tow contract renewal/extension.
- Responded to the field for OPD critical incidents.
- Worked on NSA implementation project.
- Reviewed/advised on Coliseum security agreement.
- Reviewed Mayor's Pipeline Cadet Program.
- Research City regulation of drones.
- Established regular attorney office hours for IAD investigators.
- Established regular attorney hours for OPD Records employees on Public Records Act compliance questions.
- Researched and advised on homeless encampment issues.
- Advised OPD on matters pertaining to providing security at council meetings.
- Reviewed OES model disaster recovery plan
- Advised on updates to force policies.
- Advised on vehicle tows ordinances and notice/enforcement issues.
- Researched and advised staff on squatters and landlord-tenant issues in context of code and police enforcement.
- Reviewed and edited numerous Council reports and legislation for Council.
- Advised Animal Shelter on findings pertaining to dangerous animals, takings and administrative appeals.
- Advised on IAD reports.
- Advised on PDRD /lapel cameras policies.
- Advised OPD on gun tracing project and MOU with state Attorney General's Office.
- Reviewed lawsuits alleging violations of law by OPD.
- Reviewed CPRB administrative policies/procedures.
- Advised on OPD special events permits/policies.
- Advised OPD on Carfax agreement and data sharing re: vehicle collisions.
- Advised on sex offenders website legal issues.
- Advised OPD on nondisclosure and info sharing of Intel through Suspicious Activity Reporting (SAR) and National Strategy for Information Sharing (NSIS).
- Advised OPD on laws/options to address illegal fireworks.

- Provided advice to the Ethics Commission on wide range of issues including:
 - Conflicts under City’s new Ethics ordinance.
 - Misuse of city resources under City’s new Ethics ordinance.
 - Campaign finance matters under City’s new Ethics ordinance.
 - Conflicts training.
 - Due process and ex parte presentation for Commissioners.
 - Proposed settlements of ethics-related laws.
 - Public Records Act and Sunshine Ordinance violations.
 - Questions related to fines and penalties.
 - Open meetings and materials questions under the Brown Act and Sunshine Ordinance.
 - “Frequently Asked Questions” sheet related to campaigning.
 - Due process, open meetings and public records training for new commissioners.

Table 11: Real Estate & Development Unit

Practice Areas & Responsibilities	
<ul style="list-style-type: none"> • Community & Economic Development Committee • Real Estate • Redevelopment Successor Agency • Oakland Army Base Project • Economic & Workforce Development • Neighborhood Preservation 	<ul style="list-style-type: none"> • Oakland Zoo • Environmental Remediation • Economic & Workforce Development • Port of Oakland • Zoning • Innovation

REAL ESTATE & DEVELOPMENT UNIT HIGHLIGHTS

- Advised staff and City Council on numerous complex issues arising from continuing state legislation eliminating redevelopment agencies, including proposed amendments to such legislation.
- Advised on issues related to implementation of multi-use 3100 unit Brooklyn Basin (Oak to Ninth) redevelopment project.
- Continued to advise staff on semi-annual Recognized Obligation Payment Schedules (“ROPS”), and issues raised during review by the California Department of Finance.
- Attended Oakland Oversight Board meetings to represent the City’s and ORSA’s interests before the Board.
- Monitored and advised staff on state legislative proposals to enact new economic development programs.
- Continued to advise staff regarding issues related to the City’s purchase of two parcels for affordable housing development in the Brooklyn Basin (Oak to Ninth) project.
- Provided advice regarding development of an affordable housing and mixed-use commercial project at 7th and Campbell in West Oakland.
- Provided ongoing legal services to the Oakland Workforce Development Board (“WDB”) and WDB staff.
- Drafted and negotiated numerous funding contracts with providers of workforce development services to adults and youth.
- Advised staff to facilitate ongoing administration of the West Oakland Jobs Center and establish the Jobs Center as a City-controlled nonprofit.
- Initiated an update and codification of the City’s real property acquisition and disposition laws that was adopted by ordinance in January 2015.

- Advised staff on agreements related to the Broadway Shuttle service.
- Advised on numerous issues involving the Coliseum City project.
- Advised staff on continuing issues arising from complex Lease Disposition and Development Agreement and related documents (e.g., Property Management Agreement, Community Jobs Agreement, etc.) with the Master Developer for an estimated half-billion dollar development on the City-owned Gateway portion of the former Oakland Army Base.
- Advised staff in ongoing issues regarding Army Base Gateway development matters, such as the design-build contract for the City's public improvements, a Project Labor Agreement, Army Base Oversight Commission, West Oakland Jobs Resource Center, public records requests and miscellaneous jobs monitoring issues.
- Negotiated form of amended long-term ground leases with ProLogis and CCIG entities for developments at the former Oakland Army Base.
- Advised staff re implementation of a Lease Disposition and Development Agreement with Oakland Maritime Support Services, Inc., for development of a truck-serving facility on the former Oakland Army Base that will ultimately relocate significant truck traffic from West Oakland neighborhoods to the former Base.
- Advised staff in negotiations regarding proposed conveyance of Army Base North Gateway properties to relocate recyclers from West Oakland residential neighborhoods.
- Continued to advise on legal issues arising from a negotiated Cost Sharing Agreement with the Port of Oakland for coordinated development of the former Oakland Army Base, including issues over joint Port/City public infrastructure matters; grants and funding, environmental cleanup and rail track issues.
- Continued to advise City staff and reviewed contracts for various services at the Army Base including utilities and telecommunications.
- Assisted staff in implementing a Memorandum of Understanding with EBMUD regarding the former Army Base development.
- Continue complex negotiations with the State Department of Toxic Substances Control regarding environmental remediation issues at the former Oakland Army Base.
- Continued to pursue additional phase of the tidelands trust exchange at the former Oakland Army Base, which will allow certain portions of the base to be developed free of trust restrictions.
- Staffed City-Port meetings on behalf of the City Attorney's Office.
- Advised City staff regarding existing and prospective agreements with outdoor advertising companies.

- Assisted City Collection staff in dealing with persons who owe money to the City who file bankruptcy.
- Negotiated, revised and executed a number of leases/licenses and amendments in which City leases property to private parties, and in which the City leases property as a tenant.
- Negotiated, drafted and executed many rights of entry to facilitate beneficial use of City properties.
- Negotiated several agreements with the Port of Oakland including a large number relating to development of the former Oakland Army Base.
- Assisted staff in effectuating an assignment of the Marriott Hotel to a new owner that intends to upgrade the facility, and on revising the City's convention center management agreement.
- Advised staff on several transactions related to the City's business incentive program.
- Advised on leases with telecommunication companies on City property.
- Staffed regular and special meetings of the Community and Economic Development Committee and attended City Council meetings on numerous real estate and redevelopment matters.
- Advised staff on issues related to the proposed development of a multiuse complex in the Coliseum area that includes the Oakland A's Baseball team stadium.
- Assist staff to facilitate consideration of alternative sites for the Oakland A's Baseball team operations.
- Advise staff and the City Council on negotiations regarding renewal of the Warriors Basketball Team License Agreement at the Oakland Arena.
- Assisted staff in negotiating potential development of the Coliseum Transit Village project.
- Advised staff on legal issues relating to proposals for the development of 1901 Telegraph and 1911 Telegraph; negotiated ENA with Council-authorized developer, Oliver McMillian.
- Reviewed contract extensions of several tenant/supplier entities.
- Reviewed and revised a number of Temporary Construction Easements to allow for completion of important public works projects.
- Drafted and negotiated an easement in favor of local Oakland restaurant to facilitate its local business operations.
- Reviewed and advised on Economic Development Activities Quarterly informational reports.

- Advised staff regarding and negotiated terms of a DDA amendment for proposed re-start of development of the T-12 parcel, a major development site in Downtown Oakland.
- Negotiated Disposition and Development Agreement for a multi-use development at 2330 Webster and 2315 Valdez Streets; provided ongoing advice to staff regarding various pre-closing issues, including the amendment of third-party parking licenses on the property.
- Advised staff regarding issues related to development of City-owned 12th Street Remainder Parcel; negotiated terms for a draft Disposition and Development Agreement for the 12th Street Project.
- Advised on redevelopment of Kaiser Convention Center and negotiated Exclusive Negotiating Agreement with prospective developer.
- Advised staff regarding and negotiated term sheet and Disposition and Development Agreement for a two-phase mixed-use residential and hotel project on the vacant parcel of land bounded by Broadway, 11th Street, 12th Street and Clay Street, commonly known as T-5/T-6; advised staff regarding various pre-closing issues, including potential assignment of developer interest.
- Advised and negotiated facilities agreements with wireless service providers.
- Advised staff on sale versus ground leasing of City-owned properties regarding specific proposed City-owned projects.
- Advised on real estate issues pertaining to bond financing.
- Advised on continuing issues regarding development of a Caltrans-owned Mandela Parkway parcel for a proposed residential project by a local developer.
- Advised staff regarding various issues arising out of the Fruitvale Transit Village project.
- Advised staff regarding developer issues for the Macarthur Transit Village Project and the sale of parcels A and C-1.
- Assisted City negotiating team for the 2016 License Extension for the Oakland Raiders National Football League franchise.
- Reviewed title report for existing use restrictions on deed for property located at 10733 Pippin Avenue; advised staff regarding removal of restrictions.
- Reviewed several Head Start Program Leases, located throughout the City of Oakland.
- Advised staff and assisted with issues arising from the lease at 5050 Coliseum Way for use by the Public Works; reviewed and revised lease language.

- Advised and assisted staff and advised Council on issues relating to Surplus Lands Act matters.
- Advised staff regarding development of a proposed Nike Community Store on City-owned land at 3050 International Boulevard.
- Advised and assisted staff with restructuring the Foreign Trade Zone #56.
- Advised and assisted staff with the review of several License Agreements for access at various locations throughout the City.
- Assigned legal counsel for the CDBG Commercial Loan Default Program.
- Continued to advise City staff and reviewed contracts Under the Façade and Tenant Improvement Program for grants to businesses.
- Advised and assisted staff regarding the proposed development on City-owned land on Derby Avenue as affordable housing and a charter school.
- Continued to advise staff regarding the proposed City-owned Oakport Street property, as an Acura automobile dealership.
- Advised staff and negotiated agreements with BART regarding shared use of fiber through a master Reciprocal Use Agreement.
- Advised staff and assisted in closing on the sale of the City's ground lessor interest in the Marriott Hotel.
- Advised staff regarding management agreement for the Scotlan Convention Center.
- Assisted staff regarding several issues on the development of 2100 Telegraph, including amending the ENA to include a third developer and incorporate a change of project from residential to office building.
- Conducted negotiations regarding potential sale of City-owned land at 822 Washington & 890 8th Street.
- Assisted regarding potential sale of Hillside Street Properties (8603 and 8701) in compliance with City Settlement agreement.
- Provided assistance regarding proposed City Charter Amendment changing the authorized term for a term lease from 66 to 99 years.
- Advised staff on Below Market Rate Rents Policy for Arts & Cultural Uses in City-owned Real Estate.
- Consulted with Council Member Annie Campbell Washington reestablishment of Small/I Business Task Force.
- Completed Amendment No. 1 for Oakland Police Department Helicopter Hanger lease.
- Advised staff regarding reuse of takeout packaging for Small Business Enterprises, dba Go Box SF Bay.

Table 12: Land Use & Planning Unit

Practice Areas & Responsibilities	
<ul style="list-style-type: none"> • Natural resources/creeks/species • Land Use • Subdivisions • Oakland Base Reuse Authority (OBRA) 	<ul style="list-style-type: none"> • Building Services & Planning • Zoning • Environmental Laws (CEQA/NEPA) • Eminent Domain

LAND USE & PLANNING UNIT HIGHLIGHTS

- Advised on the implementation Specific Plans for four major planning areas of the City: Broadway-Valdez, Lake Merritt BART Station, Coliseum area and West Oakland (including processing development applications and further environmental review).
- Advised on development of scope for future Downtown Area Specific Plan.
- Advised on the adoption of the “coal ban” at the former Oakland Army Base and assisted in defending the ban in federal court.
- Advised on land use and environmental review of the Oak Knoll Project Mixed Use Community Plan, an approximately 900 unit project, including creek restoration and other amenities, which is proposed for development at the site of the Oak Knoll Naval Medical Center
- Advised on land use issues associated negotiations of community benefits, such affordable housing, provision of public art strategies.
- Advised in development of new standards for new hotel projects.
- Advised staff in the City’s implementation of the Measure DD-funded public open space improvements, including updated design for Snow Park and Sausal Creek Restoration.
- Advised on land use issues regarding potential new baseball stadium for Oakland A’s.
- Advised on land use issues regarding the City’s plans for a new Oakland Raiders stadium.
- Advised legal requirements for various activities at the former Oakland Army Base, including environmental review related to the Master Developer, parcel maps, coal-related issues and ongoing advice relating to implement of various standard conditions/mitigation measures.
- Assisted in defending against legal challenge to the AMG Senior Housing Project (115 units) at High/McArthur

- Advised on legal issues regarding development at the Claremont Hotel property.
- Advised on code compliance and other legal issues regarding Suprema Meats.
- Advised on legal issues regarding development of mandatory seismic strengthening requirements.
- Advised on adoption and implementation of temporary moratorium prohibiting the conversion, demolition, and rehabilitation and reconfiguration of residential hotels.
- Advised on the implementation of State Density Bonus Law to comply with State law (AB 1934, AB 2442, AB 2501, AB 2556).
- Advised on the adoption and implementation of the City's Development Impact Fee Program to obtain funding for infrastructure improvements and affordable housing.
- Advised on implementation of 3100 unit Brooklyn Basin (Oak to Ninth) redevelopment project.
- Advised on successful resolution of code compliance complaint and land use approvals associated with operation of Head Royce School.
- Advised on new land use approvals under the Jack London Square development agreement.
- Advised on land use approvals to renovate the historic Tapscott Building and constructing new housing at 1900 Broadway.
- Advised land use issues regarding the Jack London District development at 4th and Madison Street.
- Advised on environmental issues related to cleanup and demolition of a former General Electric factory at 5441 International Boulevard.
- Advised on the environmental review and approval of federally-funded projects requiring review under the National Environmental Policy Act (NEPA) and National Historic Preservation Act Section 106 review.
- Advised on permanent legislation and litigation regarding regulations for crematories in the City.
- Advised preventing resumption of alcohol sales in locations that had discontinued operations ("Loss of Deemed Approved Status" letters).
- Advised on proposal for implementation of high-rise development for the Uptown area
- Advised on the approved Bentley School (increase student enrollment to 360) and ongoing monitoring/enforcement.

- Assisted in preparation of various City protocols implementing the California Environmental Quality Act (CEQA) to promote infill development, including and the transition from Level of Service (LOS) to Vehicle Miles Travelled (VMT) transportation analysis.
- Advised in updating and streamlining provisions of the Oakland Planning Code.
- Advised in development and adoption of the new 2015-2023 Housing Element, including environmental review.
- Advised on development and adoption of a comprehensive update of citywide mobile food vending regulations and mobile food vending regulations for a portion of 85th Avenue.
- Advised on legal issues relating to a comprehensive update of citywide parking and loading regulations.
- Advised on development and adoption of Local Hazard Mitigation Plan (2016-2021) and related environmental review.
- Advised on legal issues relating to Housing Element Annual Progress Reports.
- Advised on development of secondary unit regulations to comply with State law (AB 2299, SB 1069).
- Advised on development and adoption of emergency shelter regulations and transitional and supportive housing regulations to comply with State law
- Advised on development and adoption of local amendments to the building standards in the State Building Standards Code (Cal. Code Regs., Tit. 24), including Plug-In Vehicle Readiness requirements.
- Advised on land use and environmental issues relating to the International Boulevard Transit Oriented Development plan.
- Advised on implementation of AB 2245 and 417, which created new CEQA exemptions for bicycle lanes and provided ongoing advice on various “road diet” projects.
- Advised on authority relating to telecommunications projects under federal, state and local telecommunications law, including implementation of FCC regulations implementing Section 6409 of the Middle Class Tax Relief Act and AB 57, as well as applicability of CEQA exemptions.
- Advised on federal, state and local laws relating to medical cannabis, including the recently adopted Medical Marijuana Regulation & Safety Act.
- Staffed all City Planning Commission meetings and provide ongoing legal advice to Commissioners and planning staff.
- Advised on the award of Mills Act contracts, which provides historic preservation tax incentives.

- Advised on various activities related to the MacArthur BART Transit Village, including Phases 1 & 2 of the Final Development Plan and Final Subdivision Map.
- Advised on environmental review and approval of modifications to Wood Street development project in West Oakland.
- Advised on issues relating to local condominium conversion regulations; assisted in drafting amendments to Oakland's condominium conversion ordinance.
- Advised the Landmarks Preservation Advisory Board.
- Advised on conditions of approval regarding the Oakland Area Geologic Hazard Abatement District.
- Advised on environmental review and land use issues for improvements to Mountain View Cemetery.
- Advised on numerous on-call building plan check consulting contracts.
- Advised on developing a short term rental policy.
- Advised on a variety of Subdivision Map Act issues, including review of Subdivision Improvement Agreements, parcel map waivers, adequacy of security, certificates of compliance and other issues relating to tentative and final tract maps.
- Advised on environmental review for FEMA and State pre-disaster mitigation funding relating to the Wildfire Assessment District area located in the Oakland hills. Assisted in defending against legal challenges to FEMA's Environmental Impact Statement.
- Advised on legal issues related to development of Vegetation Management Plan and related environmental review.
- Assisted in the defense of the public art ordinance and advised on developing amendments to public art requirement for private development.
- Advised on developing policy guidance on when secondary access roads are required.
- Advised on adoption of permanent regulations for the placement of unattended donation/collection boxes (UDCBs) and assisted in defending the adopted regulations in federal court.

Table 13: Labor & Employment Unit

Practice Areas & Responsibilities	
<ul style="list-style-type: none">• Community & Economic Development Committee• Real Estate & Land Use• Redevelopment Successor Agency• Oakland Army Base Project• Oakland Base Reuse Authority (OBRA)• Economic & Workforce Development• Building Services• Neighborhood Preservation	<ul style="list-style-type: none">• Planning & Building• Environmental Remediation• Environmental Laws (CEQA/NEPA)• Port of Oakland• Eminent Domain• Zoning• Natural resources/creeks/species• Innovation

LABOR & EMPLOYMENT UNIT HIGHLIGHTS

- Reviewed staff reports, resolutions and legislation related to personnel issues.
- Assisted and advised in the drafting and submittal, as well as initial implementation, of ballot Measure LL, which was approved by over 83% of Oakland's voters and established a Police Commission ("Commission") to oversee OPD's policies and procedures and a Community Police Review Agency ("Agency") to investigate complaints of police misconduct and recommend discipline.
- Helped implement and interpret Oakland's minimum wage and sick leave initiative (Measure FF).
- Advised City Administration and numerous City Departments (including Police, Fire, Public Works, Employee Relations, Human Resources, and Equal Opportunity Programs Division) on various personnel and labor issues, including leaves of absence, disability accommodations, workplace threats, drug testing, and workplace discrimination.
- Advised OPD Internal Affairs on investigations into police misconduct and reviewed resulting investigative reports, including an in-depth and interactive training for IAD investigators on important aspects of the investigation process.
- Developed and administered multiple trainings for the managers and commanders at both OPD and OFD who handle those department's Skelly hearings.
- Attended Skelly due process hearings on behalf of the City in cases involving serious employee misconduct and advised Skelly officers regarding their recommendations.
- Provided personnel advice to Fire Chief at biweekly meetings and advised the Chief on responses to union grievances.
- Advised City Administration and City Departments on "meet and confer" issues, participated in resulting bargaining sessions, and drafted resulting polices and agreements.
- Managed and resolved disputes with various unions over employee discipline and contract (MOU) interpretation by negotiating settlements and by representing the City at binding, labor arbitration hearings.
- Represented and defended the City before the California's Public Employment Relation Board.
- Represented and defended the City before Oakland's Civil Service Board.
- Reviewed, edited and approved numerous contracts for professional services.
- Advised City Administration and City Departments on numerous Public Records Act requests.

Special Programs, Initiatives & Litigation

In addition to representing the City's interests in court and providing legal advice, the City Attorney takes a proactive role promoting economic, environmental and social justice in our town and improving the quality of life for all Oaklanders.

These actions generally fall into three categories: special programs, initiatives/legislation and affirmative litigation.

Some of these programs and actions are longstanding and continued in FY 2015-16, and others launched in this fiscal year.

City Attorney Initiatives & Legislation

OAKLAND CITY COUNCIL PASSES GUN SAFETY LAWS

In January 2016, the City Council approved final passage of three new gun safety measures designed to (1) reduce the number of guns that are stolen from vehicles and homes and fall into the hands of criminals and (2) ban the possession of large capacity magazines that often have been used in mass shootings, including Newtown, Connecticut and Aurora, Colorado.

The City Attorney co-sponsored one of the ordinances to the theft of firearms from vehicles. The ordinance makes it a crime to leave firearms, magazines or ammunition unsecured in unattended vehicles on city streets and in other public places. The law requires storage of firearms in locked boxes or a locked glove compartment.

The ordinance was a direct response to the murder of an Oakland artist who was working on an antiviolence mural on West Street when he was killed. The gun that was used to murder the artist was stolen from a vehicle.

PREGNANCY INFORMATION DISCLOSURE AND PROTECTION ORDINANCE

In June 2016, the City Attorney co-sponsored an ordinance that makes it illegal for so-called crisis pregnancy centers to misrepresent themselves as medical clinics or objective health care counselors when in reality they are fronts for anti-abortion activists. In recent years, it has become common for anti-choice activists to establish facilities – often called crisis pregnancy centers or limited services pregnancy centers – that are advertised as reproductive health care clinics or objective health care counselors. Women seeking these services instead find themselves at a facility run by activists whose sole purpose is to delay and obstruct women's ability to exercise their constitutional right to abortion.

Vice Mayor Annie Campbell Washington, City Attorney Barbara J. Parker and City Councilmembers Abel Guillen and Rebecca Kaplan co-sponsored the Pregnancy Information Disclosure and Protection Ordinance to prevent crisis pregnancy centers from deceiving pregnant women about the services they provide.

Some crisis pregnancy centers are licensed to provide some medical services to pregnant women, and some openly acknowledge their anti-abortion mission. However, many are not licensed to provide medical treatment, and seek to mislead potential clients into believing that their facilities offer abortion services and unbiased counseling.

This misleading of pregnant women seeking medical advice and/or care has the potential to be extremely harmful, as even slight delays can have serious impacts on a patient's health care options.

The Council unanimously passed the ordinance in July 2016. In December 2016, NARAL Pro-Choice California named City Attorney Parker and City Councilmember Campbell Washington “2016 California Champions of Choice” for their work on the measure.

ADVOCATING FOR EQUAL ACCESS TO JUSTICE FOR LOW-INCOME RESIDENTS AND RENTERS

In 2016, the City Attorney’s Office advocated against the Superior Court’s decision to move all eviction cases and the Court’s Self-Help Center to Hayward. This move meant that low-income residents in Oakland and other northern Alameda County cities would no longer be able to access these services in Oakland’s courthouses.

Unfortunately, the Hayward Courthouse is not close to public transportation. Renters and low-income persons were adversely affected by placing all unlawful detainers and self-help services in Hayward. They are most likely to have public transportation as their only viable option to reach the Hayward Courthouse, which is not readily available by BART (unlike Oakland’s downtown courthouses).

The difficulties in reaching the Hayward Courthouse increase the likelihood that many low-income residents and tenants will not be able to adequately defend actions against them and will incur wage losses by having to take more time off from work to attend case management conferences, hearings and trials.

The City Attorney lobbied the Governor, state Attorney General, Supreme Court Chief Justice and others to oppose the move. Unfortunately, the Superior Court did not reconsider its decision.

We have not given up, however, and plan to continue to fight for access to justice by providing these services in Oakland where the courts are accessible by public transportation, such as BART and downtown free shuttle.

Affirmative Litigation

ANTITRUST LITIGATION AGAINST BIG BANKS

To date, the City Attorney's Office has secured more than \$1 million in settlements with big banks and financial companies in the case *City of Oakland v. AIG Financial Products Corp.* (United States District Court Case No. C 08-2116 MMC), and the litigation continues against other institutions.

In October 2015, the City Council approved a \$200,000 settlement of antitrust litigation with JPMorgan.

Oakland and other government entities filed this class action lawsuit in 2008 against a number of banks and financial institutions for egregious antitrust violations.

The defendants engaged in bid rigging and price fixing in the municipal derivatives industry. The banks' conspiracy gouged cities across the country, literally stealing millions of dollars – money that the cities would not have paid under normal market conditions.

In 2012, attorneys for the nationwide class settled with JPMorgan for \$45 million, to be split among some 65,000 potential claimants. Oakland opted out of the class settlement, and continued to pursue individual negotiations with JPMorgan for a larger settlement. Those negotiations led to the \$200,000 settlement approved by the Council – nearly 300 times the \$692 Oakland would have received under the nationwide class settlement.

Oakland previously has secured settlements with other defendants including but not limited to a \$281,750 settlement with GE Funding Capital Market Services and its subsidiaries and a \$200,000 settlement with Wachovia.

Collusion among these competitors is a clear and flagrant violation of federal and state antitrust laws, which prohibit any agreement by companies to fix prices and rig bids.

The settlement amounts that individual plaintiffs secured are not large considering these entities' earnings; however, the class settlement amounts are significant. And the lawsuit sends a message to these companies that Oakland and other municipalities will not tolerate predatory schemes, and we will invoke the legal remedies available to us to ensure these institutions are held accountable.

CITY ATTORNEY SUES WELLS FARGO FOR DAMAGES CAUSED BY PREDATORY AND RACIALLY DISCRIMINATORY MORTGAGE LENDING

In September 2015, the City Attorney filed a federal lawsuit against Wells Fargo to recover damages caused by the bank's widespread predatory and discriminatory lending practices against African American and Hispanic borrowers.

The Court denied Wells Fargo's motion to dismiss the case in April 2016.

The ongoing lawsuit asks the court to stop Wells Fargo's targeting of African American and Hispanic borrowers, including minority churches and congregations, for predatory mortgage loans in violation of the federal Fair Housing Act and California's Fair Employment and Housing Act.

Evidence shows that Wells Fargo issued more expensive and higher risk loans to African American and Hispanic borrowers despite the fact that they qualified for more favorable loans that the bank regularly issued to white borrowers.

The lawsuit asks the Court to order Wells Fargo to cease its discriminatory practices and compensate the City of Oakland for the great financial harm the foreclosure crisis caused the City and its residents. In addition to losing millions in tax revenues, which necessitated police layoffs and other cuts in vital City services such as park and library services and street and sidewalk maintenance, the bank's predatory actions saddled the City and its taxpayers with the massive costs of addressing blight, vandalism and crime associated with foreclosed properties.

Thousands of homes went into foreclosure and remain in poor condition costing cities significant sums of money due to the loss of property taxes and increased out-of-pocket expenditures to remedy the resulting blight throughout minority communities. Wells Fargo's conduct also frustrates the efforts of municipalities to provide the benefits of an integrated community when minority homes result in foreclosure. The rising cost of housing virtually guarantees that these minority homeowners who lost their homes will never be able to re-enter the Oakland housing market as homeowners, or even as renters.

Oakland has suffered substantial damages resulting from banks' unlawful conduct, which reduced available resources to deliver municipal services to all residents of our community. These damages include a reduction in property taxes the City collected due to the decrease in value of the foreclosed properties themselves and those located nearby, as well as the increased costs of City services that were required to address a multitude of problems at the foreclosed residences.

Additionally, the City had to divert resources that otherwise could have been deployed in a more productive manner. While these banks were generating substantial revenue from the issuance of predatory and discriminatory mortgages, Oakland was losing significant revenue and incurring costs that have not been reimbursed.

CITY ATTORNEY SUES MONSANTO FOR CONTAMINATING OAKLAND WATERWAYS AND THE SAN FRANCISCO BAY WITH PCBs

In November 2015, the City Attorney filed a lawsuit to hold the Monsanto chemical company accountable for its long-standing contamination of Oakland's storm water and the San Francisco Bay with highly toxic Polychlorinated Biphenyl (PCBs).

Monsanto produced PCBs for approximately 50 years until the U.S. Congress banned them because they endanger human and environmental health. Despite the 1979 ban, today PCBs are a common environmental contaminant that is found in all natural resources including water and plants as well as the tissues of marine life, animals and humans. PCBs can destroy fish habitats and are associated with illnesses and cancer in humans.

During the five decades prior to the 1979 ban, Monsanto's PCBs were incorporated into a wide variety of products and applications including power transformers, electrical equipment, paints, caulks and other building materials. Monsanto knew that PCBs were toxic and could not be contained as they readily escaped into the environment, finding their way into bays, oceans, lakes, rivers, streams, soil and air. Although evidence confirms that Monsanto recognized that PCBs were becoming "a global contaminant," well before the 1979 ban, it concealed this information and increased production of these profitable compounds.

The lawsuit was filed after a State Water Resources Control Board decision that the presence of PCBs in Oakland's storm water threatens San Francisco Bay as a habitat for fish and wildlife and interferes with the Bay's use and enjoyment by the people of the State of California. The Board issued a tentative order that affects the City's storm water operations and may require a reduction in the maximum daily load of PCBs that flow from Oakland waterways into the Bay. Other California cities are subject to similar storm water orders related to the reduction of PCBs prior to discharge into the ocean or other waterways.

Oakland will incur significant costs to remove PCBs from storm water flowing into San Francisco Bay if Monsanto is not held accountable. County-wide costs could reach \$1 billion.

The complaint emphasizes that the clean-up costs should not be borne by taxpayers, but by the company that knew its product caused contamination.

Monsanto's motion to dismiss the case was denied by the court.

DEFENDING OAKLAND'S RIGHT TO REGULATE AND LICENSE MEDICAL CANNABIS DISPENSARIES

Three and a half years after our Office and pro bono outside counsel filed a lawsuit against the U.S. Attorney General and U.S. Attorney to stop the federal government's seizure of the building in which one of Oakland's permitted medical cannabis dispensaries operates, the federal government dismissed its lawsuit with prejudice and without any public explanation. This means that the dispensary, Harborside Health Center, is free to continue operating under California and Oakland laws.

Oakland's lawsuit kept the dispensaries open until the feds wisely dismissed their lawsuit.

The City Attorney first sued the federal government in 2012, just a few months after federal authorities raided and shut down Oaksterdam, one of the pioneers of the industry in Oakland. President Obama and other officials had announced that medical marijuana was not a law enforcement priority, yet the government was still aggressively prosecuting medical cannabis dispensaries operating under California law, resulting in the closure of hundreds of dispensaries across the state.

The City Attorney filed the lawsuit to protect Oakland's right to regulate and license medical cannabis dispensaries under state law, and performing our duty to protect the health and safety of our citizens who rely on these dispensaries to alleviate pain and suffering from serious illnesses.

Although the federal trial court ruled against us, holding that Oakland did not have standing to pursue our lawsuit against the federal government, the Court granted the City's request to stay (i.e., hold in abeyance) the forfeiture proceedings against Harborside and its sister dispensary in San Jose until the City completed the appeals process.

That process concluded in 2016 when the U.S. Supreme Court denied Oakland's petition for review. However, as a consequence of our lawsuit and the stay, Harborside's two dispensaries were able to continue operating for nearly four years after the government filed its forfeiture action.

LANDMARK RULING REHABILITATES NOTORIOUS APARTMENT BUILDING, GUARANTEES LONG-TERM LOW-INCOME HOUSING IN DOWNTOWN OAKLAND

In March 2016, the U.S. Bankruptcy Court has issued a landmark order authorizing sale of the notorious Empyrean Towers in downtown Oakland to an affordable housing developer to rehabilitate the building as long-term low-income housing. The Court's order was a landmark decision because it was not based simply on compensating creditors; the ruling recognized the principle of "social responsibility" in bankruptcy law and guaranteed that the building will be maintained as affordable housing for at least 55 years.

In April 2015, the City Attorney, on behalf of the people of the City of Oakland and the State of California, sued the owners of the Empyrean in the Alameda County Superior Court for maintaining the property in an uninhabitable condition, for violating Oakland's Tenant Protection Ordinance and for operating the property as a public nuisance. The lawsuit prosecuted by City Attorney's Neighborhood Law Corps unit asked that the Superior Court order the owners to bring the building into compliance with applicable building codes and appoint a receiver to manage the property and oversee the repairs. The property required major renovations including structural, electrical, mechanical and plumbing systems.

The Court's decision was a major milestone in the City's long battle to improve deplorable and inhumane conditions at the Empyrean Towers, a more than 90-unit building located at 13th and Webster streets.

AMICUS BRIEFS

Texas v. U.S.

Unfortunately, the U.S. Supreme Court missed a historic opportunity in 2016 to move the country forward on immigration reform.

The high Court deadlocked in *Texas v. United States*, a lawsuit spearheaded by Republican governors to block implementation of President Obama's important 2014 executive actions on immigration. The tie means the lower court's ruling blocking the reforms stands for now.

The City Attorney signed three amicus briefs in the federal courts on behalf of the City of Oakland supporting President Obama's actions, which would have offered protection from deportation and work permits to millions of immigrants who have been living in the U.S. for at least five years, have no criminal records and have a child who is a citizen or permanent resident.

The President's actions would have kept families together, strengthened local economies and improved public safety in communities across the country, to name just a few benefits. Most importantly, the reforms would have changed the status quo that forces so many of our neighbors, friends and family members to live on the margins of society.

A path to citizenship for immigrant families has been a founding ideal of our country from the beginning. President Obama's actions honored this ideal by protecting law-abiding members of our communities who are contributing to the national good and working to make a better life for their children. In contrast, the current federal administration is focused on anti-immigrant posturing, deportations and building a useless East Berlin-style wall on the southern border of the U.S.

Friedrichs v. California Teachers Association

At issue in this case was whether employers can require that workers who do not want to join the union pay union "agency fees." Unions rely on those fees to fight for all workers, including those who decline to join. In fact unions have a duty to represent all workers regardless of whether they are union members.

The plaintiff in *Friedrichs* argued that it was unconstitutional (i.e., a violation of the First Amendment free speech rights) to require an employee to pay agency fees if s/he does not want to support the union.

However, employees who decline to join the union still enjoy the same rights, benefits and protections as union members. The union has a legal obligation to advocate for them if they are treated unfairly by their employers. If a teacher is fired unjustly – as an example for teaching a lesson about evolution in a conservative school district – the union will defend her, whether or not she is a member. Teachers and other workers already have the right to decline to join the union, but they should pay their fair share of the costs of union representation and advocacy on their behalf.

Oakland joined cities such as Fairbanks, Alaska and Los Angeles in an amicus brief supporting the teachers in this case. The Court ultimately tied on the case, meaning agency fees are intact for now.

Special Programs

OPEN GOVERNMENT PROGRAM

The City Attorney's Open Government Program enforces transparency and accountability in City government. The program provides technical and legal assistance to City departments regarding public records requests. It also oversees compliance and provides trainings about the California Public Records Act, Sunshine Ordinance and Brown Act. The Open Government Coordinator addresses constituent issues and helps facilitate responses to requestors seeking public records and documents. In FY 2014-15, the Open Government Coordinator reviewed, responded to and facilitated more than 1,000 public records requests involving thousands of pages of documents.

ILLEGAL DUMPING ENFORCEMENT PROGRAM

This year, the City of Oakland continued its campaign to go after individuals who are responsible for one of the worst sources of civic blight in Oakland: illegal dumping.

The Illegal Dumping Enforcement Action initiative – a joint effort by Oakland City Attorney Barbara Parker, the Public Works Agency and the City Administrator's Office – uses photos, videos and other evidence submitted by members of the public to track down illegal dumpers and make them pay for disrespecting Oakland's residents, businesses and taxpayers.

Dumping old mattresses, furniture, construction debris, garbage and other items on sidewalks, in parks and under freeways is a major source of blight in neighborhoods across Oakland. An increasing number of Oakland citizens, many using camera phones, are taking photos and videos of illegal dumping incidents and reporting violators to the Public Works Agency using the Agency's on line service request page or the SeeClickFix mobile application for Oakland. The City Attorney's Neighborhood Law Corps uses that evidence to build cases against dumpers, and the City Administrator's Office issues citations.

Table 14: Illegal Dumping Administrative Enforcement by Year

	2013	2014	2015	2016
# of Citations	43	64	81	51
# of Warning Letters	13	131	231	128
Amt. of \$ Cited	99,005.33	184,749.50	286,921.28	158,224.95
Amt. Collected	0	30,336	25,346.41	14,110.32
Hours of Community Service	0	38 hrs	101.80 hrs	74.70 hrs
Amt. to be Collected	0		4,690.55	3,879.75
# of Cases Rescinded/Dropped	14	17	15	4
Amt. of Fines Rescinded/Dropped	46,193.31	39,386.50	58,638	7,495.05
Amt. of Fines Referred to Collections	61,637.83	44,374	61,326.01	29,492.57
Amt of Fines Resc/Dropped or Reduced at Hearing	7,925	5,347	10,410.50	0.00
Amt. of Fines Waived via Settlement	22,998.25	75,517	71,784.81	43,730.02
Amt. of Cases with Pending Actions	0.00	3,036	84,189.08	71,472.51

Table compiled by the City Administrator's Office

Conclusion

I am honored and very proud to serve as City Attorney for our enlightened, progressive and innovative City. The law is a powerful tool to improve, empower, protect and advance the interests of our community. I and my team are dedicated to vigorously and astutely defending Oakland's policies and laws in court, and to initiating legal action and other initiatives to uphold the rights, and improve the quality of life of all Oaklanders. Our faithfulness to accountability, fiscal responsibility and fair, honest and open City government continues to provide the framework for our mission.

ABOUT BARBARA J. PARKER

Barbara Parker is the City Attorney for Oakland, California. An Oakland resident for more than three and one-half decades, Parker is an advocate for civil rights, women's empowerment and children's issues.

In January 2013, Parker began her first four-year term as Oakland's second elected City Attorney. Voters elected her to a second four-year term in November 2016.

In an award-winning legal career spanning more than four decades, Parker has developed extensive expertise as an attorney in the private sector and at all levels of government, including work in the private sector for two major law firms and two major corporations, five and one-half years as an Assistant United States Attorney for the Northern District of California, and more than 10 years as Chief Assistant City Attorney (second in command in the Oakland City Attorney's Office).

Parker was born and raised in Seattle, Washington, where her parents migrated to escape the grinding poverty and legalized oppression of sharecropping in the rural, segregated South. Parker received her B.A. in Economics from the University of Washington. She graduated from Harvard Law School in 1975 determined to use the law as a tool to work to make justice and equality a reality.

Parker resides in Oakland's Haddon Hill neighborhood near Lake Merritt and she has lived in Oakland for more than 35 years. Parker is the proud parent of Savannah Parker, a 2012 graduate of Spelman College, and the proud grandparent of Samuel Koda Clement.

Contact Information

OAKLAND CITY ATTORNEY'S OFFICE

1 Frank Ogawa Plaza, 6th Floor, Oakland, CA 94612

Tel (510) 238-3601

Fax (510) 238-9500

Email info@oaklandcityattorney.org

Online www.oaklandcityattorney.org



CITY OF OAKLAND