

March 15, 2006

To the Honorable Committee on  
Judiciary & Legislation of the Common Council  
of the City of Milwaukee  
Room 205, City Hall

Re: Substitute Resolution Authorizing the Settlement of Lawsuit  
*Options for Community Growth, Inc., et al., v. City of Milwaukee*  
Case No. 03-C-1275

Dear Members of the Committee:

As you are aware, the above-noted lawsuit relates to the claimed invalidity of the City's previous 2,500 foot distance regulation for community living arrangements serving the disabled. As a part of a settlement of the above-noted lawsuit, the Common Council has recently passed legislation repealing that distance regulation.

The settlement of this lawsuit, however, has another financial component. The plaintiffs in this case consist of four group homes. Three of those group homes claimed financial damages relating to the delay that they incurred in obtaining accommodations to the previously-effective 2,500 foot regulation. They also claimed under federal law an entitlement to attorney's fees.

With regard to their claims for damages, one group home suffered a one year delay in opening its residence. Another plaintiff claims to have suffered a two year delay because it took approximately one year to obtain the accommodation, however, that operator is also part of a two-year funding cycle, and therefore claims a loss of income for two years. The final plaintiff also claims a two-year loss of income.

The combined total of the three plaintiffs' claimed loss of income is approximately \$220,000. The plaintiffs also submitted a claim for attorney's fees of approximately \$170, 000. That attorney's fees claim includes only that time up to the summer of 2005. Counsel for these parties

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has been engaged in numerous settlement discussions with our office, other representatives of the City, and involved in various council proceedings since that date. No additional demand has been made for any of those attorney's fees.

The total demand for claimed financial losses and attorney's fees, therefore, was \$390,000. The plaintiffs are willing to settle all of their claims for damages and attorney's fees for an amount of \$194,000.

Because settlement of this matter is deemed expeditious to the City of Milwaukee, we recommend payment of this settlement amount, and have enclosed an appropriate substitute resolution for your convenience.

Very truly yours,

GRANT F. LANGLEY  
City Attorney

JAN A. SMOKOWICZ  
Assistant City Attorney

JAS:sf

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