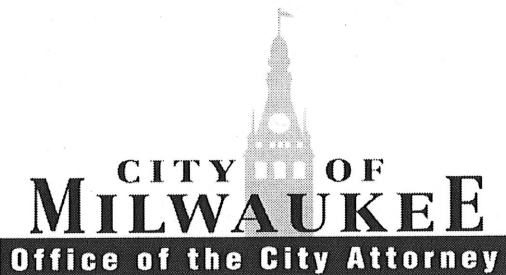


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February 6, 2018

Honorable Common Council
City Hall, Room 205

Re: Communication regarding Settlement
Donald Mulder, et al. v. City of Milwaukee, U.S.D.C.
Case No. 17C0732

Dear Council Members:

Enclosed please find a proposed resolution. We ask that it be introduced and referred to the Committee on Judiciary & Legislation, with the following background and recommendation.

On May 25, 2017, six plaintiffs sued the City of Milwaukee in federal court on claims that MCO 106-51 (residency restrictions for sex offenders) was unconstitutional on three grounds: ex post facto, equal protection and procedural due process. On August 4, 2017, Plaintiffs filed an Amended Complaint seeking a class action as well as a motion for a preliminary injunction. It also added five more named plaintiffs.

In September 2017, the Common Council amended MCO 106-51. The amendment effectively mooted Plaintiffs' claim for injunctive relief and they withdrew their motion for a preliminary injunction. As such, the only outstanding issue left in the case is damages, costs and attorney's fees.

In the *Hoffman* case, a similar action in the Eastern District from April 2017, Pleasant Prairie attempted to argue that the amendment of its residency restrictions during the pendency of the lawsuit effectively mooted all claims, including damages. In addressing Pleasant Prairie's motion for summary judgment, the court recognized that the amendment mooted the claim for injunctive relief. However, in denying the motion for summary judgment the court specifically found that the amendment failed to address the plaintiffs' claims for money damages. *See*



Honorable Common Council
City Hall, Room 205
February 6, 2018
Page Two

Hoffman v. Vill. of Pleasant Prairie, 249 F. Supp. 3d 951, 957 (E.D. Wis. 2017). Accordingly, Pleasant Prairie paid significant money damages to settle its case.

After various settlement discussions with opposing counsel in this matter, the pending settlement offer is as follows: (1) paying \$2,000.00 in damages to each of the eleven named plaintiffs for a total of \$22,000.00; (2) suspending sentence on any outstanding judgments for MCO 106-51 ordinance violations, vacating any municipal court payment plans and allowing the repayment of previously paid judgments through our claims process (approximately \$36,761.78 if every defendant pursued this process); and (3) paying \$52,000.00 for attorney's fees and \$400.00 for costs. The total amount is \$74,400.00 plus the sum of any claims that are pursued by individuals who have previously paid judgments on their MCO 106-51 citation(s).

We recommend settlement on these terms.

Very truly yours,



GRANT F. LANGLEY
City Attorney



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/EBC

Enclosure

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