



Legislation Text

File #: 991561, Version: 3

991561
SUBSTITUTE 3
991560

ALD. HINES, RICHARDS, MURPHY, FRANK and D'AMATO

Substitute resolution directing the City Attorney to enter into an agreement with the law firm of Loeff, Cabraser, Heimann & Bernstein, LLP, to analyze possible City litigation against the lead paint and pigment industry and make a recommendation to the Common Council concerning commencement of such litigation.

- Analysis -

This resolution authorizes and directs the City Attorney to enter into an agreement with the law firm of Loeff, Cabraser, Heimann & Bernstein, LLP, to investigate and analyze the possibility of City litigation against the paint and lead pigment industry, and to make recommendations to the Common Council as soon as is practicable as to whether it is in the City's interest to proceed with such litigation.

Whereas, The Common Council passed Common Council File No. 990434 on October 19, 1999, which directed the City Attorney to enter into an agreement with a law firm or firms to investigate possible litigation on behalf of the City against the paint and lead pigment industry; and

Whereas, By letter dated February 7, 2000, submitted to the Common Council as a communication in Common Council File No. 991560, the City Attorney has responded by notifying Common Council President Kalwitz that 3 law firms or groups of law firms have expressed interest in representing the City in such a lawsuit and there appears to be sufficient interest among law firms to justify proceeding with the process; and

Whereas, The City Attorney's letter has also informed President Kalwitz that the City Attorney expects to be able to come to an agreement with one of the groups of firms submitting proposals; and

Whereas, It is therefore appropriate to now move forward with investigation and analysis of whether it is in the City's interest to commence litigation against the paint and lead pigment industry; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the City Attorney is authorized and directed to enter into an agreement with the law firm of Loeff, Cabraser, Heimann & Bernstein, LLP, to investigate and analyze the possibility of City litigation against the paint and lead pigment industry, specifically including but not limited to investigation and analysis of all of the following:

1. All potential claims the City of Milwaukee could raise against the former manufacturers of lead paint or lead pigment and whether such claims have been successful in previous litigations.
2. Other sources of lead exposure in addition to lead paint, including, but not limited to, lead plumbing.
3. All conduct by the City of Milwaukee, any City department or agency, the Housing Authority of the City of Milwaukee (HACM), the State of Wisconsin or the United States government, or any agency or entity of the United States government, that has contributed to lead hazards in the City of Milwaukee including, but not limited to, the specification that lead paint be used in public buildings and other public facilities or structures.
4. All legal claims for lead-related injuries or costs that the lead paint or pigment industry defendants or third parties could bring against the City, any City department or agency or the Housing Authority of the City of Milwaukee (HACM), and the potential liability of the City, its departments and agencies for such injuries and costs.
5. All third parties that could be drawn into litigation against the lead paint or pigment industry.
6. All potential direct and indirect costs to the City of Milwaukee of proceeding with the litigation, including all City documents that will need to be provided, depositions and interviews of current and former City employees and involvement of the City Attorney's office in overseeing the litigation.
7. The likelihood of success of a City lawsuit against the lead paint and pigment industry after consideration of these factors.

; and, be it

Further Resolved, That the City Attorney shall oversee the investigation and may direct the law firm to investigate any additional issues the City Attorney deems relevant; and, be it

Further Resolved, That, upon completion of the investigation, the law firm shall make recommendations to the Common Council as soon as is practicable as to whether it is in the City's interest to proceed with such litigation; and, be it

Further Resolved, That no such litigation shall be commenced unless the Common Council has first authorized that litigation by resolution; and, be it

Further Resolved, That the recommendations to the Common Council concerning such litigation shall address the legal theories underlying the litigation, probable defendants, litigation costs, the potential liability of the City and its departments, agencies and the Housing Authority of the City of Milwaukee (HACM) for lead-related injuries and costs, damages or remediation, all other issues investigated pursuant to this Resolution and all other factors that are relevant to determining whether such litigation would be in the City's interest.

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CW
2/28/2000