



Legislation Details (With Text)

File #: 190839 **Version:** 2

Type: Resolution **Status:** Passed

File created: 9/4/2019 **In control:** COMMON COUNCIL

On agenda: **Final action:** 3/24/2020

Effective date:

Title: Substitute resolution indemnifying the 4th District Alderman from damages resulting from litigation in the matter of Milwaukee County Circuit Court Case No. 2007CV13965.

Sponsors: ALD. BAUMAN

Indexes: COMMON COUNCIL MEMBERS, SUITS

Attachments:

Date	Ver.	Action By	Action	Result	Tally
9/4/2019	0	COMMON COUNCIL	ASSIGNED TO		
3/16/2020	1	JUDICIARY & LEGISLATION COMMITTEE	AMENDED	Pass	4:0
3/16/2020	2	JUDICIARY & LEGISLATION COMMITTEE	RECOMMENDED FOR ADOPTION AND ASSIGNED	Pass	4:0
3/18/2020	2	FINANCE & PERSONNEL COMMITTEE	RECOMMENDED FOR ADOPTION	Pass	4:0
3/24/2020	2	COMMON COUNCIL	ADOPTED	Pass	13:0
4/2/2020	2	MAYOR	SIGNED		

190839
SUBSTITUTE 2
THE CHAIR

Substitute resolution indemnifying the 4th District Alderman from damages resulting from litigation in the matter of Milwaukee County Circuit Court Case No. 2007CV13965.

This substitute 2 resolution indemnifies the 4th District Alderman from damages resulting from litigation in the matter of Milwaukee County Circuit Court Case No. 2007CV13965.

Whereas, In 2007, Wisconsin Housing and Economic Development Authority (WHEDA) commenced a lawsuit against Tri-Corp Housing, Inc. for a foreclosure action (Wisconsin Housing and Economic Development Authority v. Tri-Corp Housing Inc.); and

Whereas, Tri-Corp Housing, Inc. counterclaimed against WHEDA and joined as an additional party the 4th District Alderman, Robert J. Bauman, who has been defended by the City through the office of the City Attorney; and

Whereas, At a point in the proceedings, Ald. Bauman removed the case to federal court, and Judge Easterbrook writing for the United States Court of Appeals for the Seventh Circuit stated in Tri-Corp Housing Incorporated v. Robert Bauman (No. 14-1358), "Public officials such as aldermen enjoy the

right of free speech under the First Amendment, applied to the states through the Fourteenth. Speech is a large part of any elected official's job, in addition to being the means by which the official gets elected (or re-elected)."; and

Whereas, On remand from the federal court, a trial on the remaining stat court claims is pending in Milwaukee County Circuit Court (Case No. 2007CV13965); and

Whereas, Wis. Stat. sec. 893.80(3) explicitly limits the amount recoverable by a person for damages in any tort action against any officer or official of any Wisconsin municipality and which, with respect to officers and officials of the City of Milwaukee, is \$50,000; and

Whereas, After protracted litigation, and the trial court having dismissed all of Tri-Corp's third-party claims except for two claims against Ald. Bauman - one for tortious interference with business relations and the other for defamation; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that Ald. Bauman was acting within the scope of his employment as an alderman and member of the Milwaukee Common Council at the time relevant to the events described in this litigation; and, be it

Further Resolved, That the City of Milwaukee shall defend, indemnify and hold harmless the 4th District Alderman, Robert J. Bauman, from and against all losses or damages and, in the event that the jury or court determines him to be within the scope of employment, shall pay any judgment up to the amount permitted under Wis. Stat. sec. 893.80(3), that is, up to \$50,000, resulting from any and all litigation related to Milwaukee County Circuit Court Case No. 2007CV13965; and, be it

Further Resolved, That the City of Milwaukee shall defend, indemnify and hold harmless the 4th District Alderman, Robert J. Bauman, from and against all losses or damages and, in the event that the jury or court determines him to be outside the scope of employment, shall pay any judgment resulting from any and all litigation related to Milwaukee County Circuit Court Case No. 2007CV13965.

City Attorney

JAS:

March 16, 2020

1033-2008-967:267586