



**Request for City Council Committee Action
From the City Attorney's Office**

Date: August 1, 2002
To: Ways & Means/Budget Committee
Referral to: None

Subject: Eleanor Hyatt v. City of Minneapolis, et al.

Recommendation: That the City Council approve the settlement of this case by payment of \$15,000.00 payable to Eleanor Hyatt and her attorney, Larry Reed, from Fund/Org. 6900 150 1500 4000.

Previous Directives: None

Prepared by: Scott Reeves, Assistant City Attorney Phone: 673-2066

Approved by: _____
Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): Fund/Org. 6900 150 1500 4000
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:

City Goals: Build Community

Background/Supporting Information

Eleanor Hyatt is a 71 year old black female. On 11/8/00, officers of the Juvenile Division executed a search warrant at her home at 1227 Oliver Avenue North seeking her grandson, Deangelo Rogers, and firearms and ammunition involved in a drive-by shooting. Plaintiff contends that her grandson did not live there, and that the officers should have known he would not be found there. Neither Rogers nor any firearms were found during the search.

An ERU entry team was used to enter the premises. Plaintiff claims that when they entered her living room, she tried to get up from the couch and comply with orders to get down on the floor. She alleges she was

struck twice on the head with a flashlight. She alleges she was then made to lie on the floor, and that an officer stomped on her right shoulder.

An officer shot Plaintiff's rottweiler dog on the second floor. Plaintiff alleges that she heard another officer say that shooting the dog was not necessary.

The officers involved in the incident state that they had ample evidence to believe Deangelo Rogers would be found at the premises. Entry team officers state that when they entered, the Plaintiff refused their orders to get on the floor, and began swinging her fists at the officer trying to restrain her. An officer struck her forearms with a flashlight in an attempt to stop her resistance, but the flashlight deflected and accidentally struck her head once. The officer who shot Plaintiff's dog states that the dog approached him snarling and growling, and that he believed it was about to attack him.

Plaintiff sustained a black eye and a lump on her forehead, for which she received treatment at HCMC later during the day. She also sustained a right shoulder strain for which she received about six physical therapy sessions at Pilot City. Plaintiff claims that her shoulder still bothers her and keeps her awake at night, and that she still has headaches.

Although there are factual issues in dispute regarding the reasonableness of the force used upon the Plaintiff, a jury may conclude that the force used was unreasonable given her age and physical condition. A jury may also conclude that the shooting of her dog was not reasonably necessary to protect officers from harm.

This matter is a lawsuit in United States District Court. It is scheduled for trial on September 3, 2002 if not settled.

The parties have reached a settlement in the amount of \$15,000.00, subject to approval by the City Council and Mayor. We believe the settlement is reasonable given the risks of a higher award if the case proceeded to trial, coupled with the possibility of an award of attorneys' fees to Plaintiff if she prevailed. This settlement is within the limits of authority discussed at a closed City Council meeting on July 26, 2002.

We recommend approval of a settlement in the amount of \$15,000.00, which would include a release of all claims against the City, Chief Olson, and all officers involved in the incident.