



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

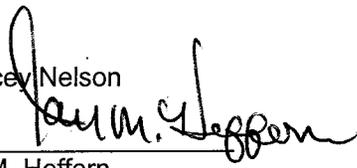
Date: July 17, 2007
To: Ways & Means/Budget Committee
Referral to:

Subject: Shauna Vega v. City of Minneapolis

Recommendation: That the City Council approve the settlement of this case by payment of \$17,500.00 payable to Shauna Vega and her attorney, Ana Marie Reyes Kolden, from Fund/Org. 6900 150 1500 4000 and authorize the City Attorney's Office to execute any documents necessary to effectuate settlement.

Previous Directives:

Prepared by: Tracey Nelson Phone: (612) 673-2254

Approved by: 
 Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact:(Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
 Action requires an appropriation increase to the ____ Capital Budget or ____ Operating Budget.
 Action provides increased revenue for appropriation increase.
 Action requires use of contingency or reserves.
 Business Plan: ____ Action is within the plan. ____ Action requires a change to plan.
 Other financial impact (Explain): \$17,500 from Fund/Org. 6900 150 1500 4000
 Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact: Other

Background/Supporting Information:

On July 27, 2006, members of the Minneapolis Police Department's high-risk entry team executed search warrants at two apartment units in Plaintiff Shauna Vega's apartment building at 3040 Park Avenue South. The warrants were directed at two of her tenants who had been selling narcotics out of the two apartment units. Because of the potential danger to the warrant team, the entry team used a dynamic entry to the building and the apartment units, which included the use of an incendiary device and breaking windows as distraction techniques. Because the front door to the building would not open with a ram, shots were fired into the lock, which caused glass to break and become imbedded in the carpet. The entry caused extensive damage to the apartment building foyer, and to the two apartments searched. Several doors and windows, as well as carpet, tile floors, woodwork, and a range from one of the kitchens were damaged and replaced. Vega incurred \$26,408.78 in damages.

It is well-settled law that an innocent third-party is entitled to compensation for damage to property incurred during the execution of a search warrant. The Minnesota Supreme Court has held that in those circumstances, the burden of safeguarding the public is properly borne by the community in its entirety, rather than by an innocent individual. Such claims are actionable as "takings" under the Minnesota Constitution. Here, the facts support the conclusion that Vega is an innocent third-party. The men had moved into the apartment within a few months before the execution of the

search warrant. Vega also commenced an unlawful detainer to evict the two men before the search warrant was executed. Additionally, she was cooperative with the police and provided the lay-out of the apartments. Thus, there is no evidence that there was a long standing problem that she ignored, nor that she was involved in the criminal activity at the apartment building. Moreover, the police records do not show a history of problems at the building in general.

After negotiations, a proposed settlement was reached in the amount of \$17,500.00. The settlement amount has been reviewed and approved by the City Attorney Litigation Committee. Chief Dolan has reviewed the proposed settlement and recommends its approval. Therefore, staff recommends approval of the settlement.