



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

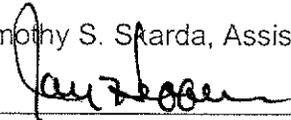
Date: October 14, 2004
To: Ways & Means/Budget Committee
Referral to: None

Subject: Helen J. M Bassett v. City of Minneapolis, Federal District Court File no. 03-3533 JMR/FLN

Recommendation: That the City Council approve settlement of all claims filed by Helen J. M. Bassett in the amount of \$22,500.00, payable to Helen J. M. Bassett and her attorney Andrea F. Rubenstein and authorize the City Attorney to execute any documents necessary to effectuate the settlement and release of claims, payable from Fund/Org. 6900 150 1500 8150

Previous Directives: None.

Prepared by: Timothy S. Starda, Assistant City Attorney, 673-2553

Approved by: 
 Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

<p>Financial Impact (Check those that apply)</p> <p><input type="checkbox"/> No financial impact - or - Action is within current department budget. (If checked, go directly to Background/Supporting Information)</p> <p><input type="checkbox"/> Action requires an appropriation increase to the Capital Budget</p> <p><input type="checkbox"/> Action requires an appropriation increase to the Operating Budget</p> <p><input type="checkbox"/> Action provides increased revenue for appropriation increase</p> <p><input type="checkbox"/> Action requires use of contingency or reserves</p> <p><input checked="" type="checkbox"/> Other financial impact (Explain): Payment from Fund/Org. 6900 150 1500 8150</p> <p><input type="checkbox"/> Request provided to the Budget Office when provided to the Committee Coordinator</p>

<p>Community impact: Build Community</p>

Background/Supporting Information

Helen Bassett is a former employee of the City who was recommended for discharge on June 5, 1995. The discharge recommendation resulted in extensive litigation, including allegations of discrimination and a lawsuit in federal district court. Ms. Bassett and the City settled the prior litigation in September, 2000. The settlement agreement did not prohibit Ms. Bassett from re-applying for employment with the City.

In April, 2001, Ms. Bassett applied for employment as a Health Program Analyst I. On her application Ms. Bassett indicated that she left her previous employment with the City for "personal" reasons. When asked at a separate location on the application if she had been discharged or asked to resign from any position for

misconduct or unsatisfactory service, Ms. Bassett did not answer in either in the affirmative or in the negative. However, in the space provided for explanation, she stated that she was "discharged and a dispute ensued which is now resolved." She did not indicate that the dispute was with the City.

Minneapolis Civil Service rules provide that the Human Resources Department may disqualify an applicant who has been dismissed for cause; or has knowingly made a false statement or has attempted to practice deception or fraud in the application process. Disqualification is mandatory under provisions of the Minneapolis Charter for knowing false statements on an application.

Staff processing the application was aware of the prior lawsuit, but not the specifics of the litigation, settlement agreement or termination. Because of an error by staff, while the application may have been disqualified because of the prior termination, Ms. Bassett's application was forwarded for further processing. In November 2001, Ms. Bassett was informed by the Health Department that she had been selected for the position of Health Program Analyst I. After Ms. Bassett had been offered the position, Ann Eilbracht, former Director of Human Resources, learned that Ms. Bassett had previously been terminated and had believed that she had failed to identify that fact in her application. The offer of employment was withdrawn and Ms. Bassett's name removed from the eligible list.

Ms. Bassett asserts that the application she submitted was accurate and that she did not make any knowing misrepresentations. She has testified that of the reasons stated on the application were her understanding of the resolution of the prior lawsuit. When Ms. Bassett applied for the position with the City she was employed by the University of Minnesota. When she was offered the position with the City, she resigned from the University, but was allowed to retract the resignation after the City rescinded its job offer. She is currently employed by the State of Minnesota and had no gap in employment between that employment and her previous job at the University.

Ms. Bassett filed a charge of discrimination with the Equal Employment Opportunity Commission alleging that the job offer had been withdrawn in retaliation for her prior complaints of discrimination related to her discharge from employment. She subsequently withdrew the charge of discrimination and filed the federal discrimination lawsuit now under consideration.

Discovery has been completed and the City brought a motion for summary judgment seeking dismissal of the lawsuit. On August 27, 2004, Judge James Rosenbaum denied the City's motion indicating that a factual issue remained for trial regarding the alleged misrepresentations on the job application and the reason for the withdrawal of the job offer.

Ms. Bassett alleges that there is a salary differential that is ongoing between the job she was offered with the City and her current employment of approximately \$26,000.00. Ms. Bassett also alleges psychological and emotional distress related to actions by the City in an undetermined amount, although she required no professional treatment. Finally, based upon the fees and expenses incurred in defending the lawsuit, we estimate that Ms. Bassett's attorney's fees claim at approximately \$25,000.00.

A final settlement conference was scheduled for October 12, 2004, before Magistrate Judge Franklin Noel attended by Council Member Barret Lane, Assistant City Attorney Timothy S. Skarda; and Director of Human Resources, Pamela French. The case had an extensive settlement history prior to the October 12th conference. The current settlement conference resulted in an impasse. The settlement conference was adjourned and a jury trial scheduled for November 16, 2004. The court ordered a third settlement conference for November 9, 2004. On October 13th the Plaintiff agreed to accept \$22,500.00 in full settlement of all claims, including costs and attorney's fees, and agreed not to apply for employment with the City of Minneapolis in the future. The parties involved in the settlement conference believe that the proposed settlement is in the best interest of the City of Minneapolis and recommend its approval.