



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

Date: August 18, 2005

To: Ways & Means/Budget Committee

Subject: Larry O'Neal v. City of Minneapolis, et al.

Recommendation: That the City Council authorize settlement of Larry O'Neal v. City of Minneapolis, et al. in the amount of \$18,500.00 payable to Larry O'Neal and his attorney, Roy Don Hawkinson, from Fund/Org. 6900 150 1500 4000, and that the City Attorney be authorized to execute any documents necessary to effectuate this settlement.

Previous Directives:

Prepared by: C. Lynne Fundingsland/Sydney N. Woods, Assistant City Attorneys Phone: 673-2625

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): \$18,500.00 from 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

On April 28, 2002, at approximately 6:30 pm, Third Precinct Police Officers William Woodis and Dan Anderson responded to a theft complaint at 3133 Columbus Avenue in South Minneapolis. Upon arrival, Woodis and Anderson met with landlord Randall Werner. Werner stated that earlier in the evening he had argued with Plaintiff, Larry O'Neal, his tenant, and notified O'Neal he was being evicted. After Plaintiff returned to his own apartment, Werner realized a folder containing important building and tenant documents was missing.

Upon receipt of this information, the officers went to the front of the building and knocked on Plaintiff's door. Plaintiff appeared at the landing bare-chested and announced he would return after putting on a shirt. He did not open the door, nor did he return. After repeated knocking with no response, the officers went to Plaintiff's back door. While continuing to knock, Woodis heard papers being crumpled up, and then the toilet flushing time after time. At this point,

the landlord offered the officers a key to open the back door of Plaintiff's apartment. They used the key to enter Plaintiff's apartment. As they did so, Plaintiff attempted to flee through the front door. The officers caught him, sat him on the floor, and began questioning him. Plaintiff alleges the officers "jimmied" his door open and entered with guns drawn. He stated they immediately handcuffed him and beat and kicked him while he was seated on the floor. He also alleges they cursed and swore at him during the entire incident. The officers state they patted Plaintiff down and questioned him about the missing folder. They then looked around the apartment (glancing only at things in plain view), but did not see the folder. Plaintiff alleges they conducted an exhaustive search of all the belongings in his apartment.

The officers then returned to the back door landing to speak with the landlord. They then went to their vehicle to run Plaintiff's name, at which point they learned he had an outstanding DUI warrant. They returned to arrest Plaintiff, who, upon hearing the officers at the back door, fled through the front. As Plaintiff was already down the block by the time the officers realized he had fled, they did not chase him.

Plaintiff turned himself in the following day. Approximately two months later, on July 24, 2002, Plaintiff filed a complaint with CRA alleging Excessive Force, Harassment, Inappropriate Conduct and Inappropriate Language. He alleged that two days after the April 28, 2002, incident, he presented at HCMC with "30 to 40 rib black bruises" and a concussion. He also told CRA that he was being treated at HCMC for migraines.

CRA found no evidence of Plaintiff's claims regarding excessive force, but sustained a finding that the officers made an inappropriate warrantless entry of Plaintiff's apartment. Chief McManus also sustained the finding of warrantless entry.

Plaintiff filed this case in federal court on November 23, 2004. He made an initial demand of \$150,000, alleging numerous back, head and knee injuries. Plaintiff's claim is that the officers' entry into the home violated Plaintiff's 4th Amendment right to be free from warrantless search and seizure.

Based upon the above facts, it is possible Plaintiff would prevail on this claim. If he were to prevail, the City would be liable for all of Plaintiff's attorneys fees. For these reasons, we entered into negotiations with Plaintiff's attorney to attempt to reach an early resolution of this matter. Plaintiff has now agreed to accept \$18,500.00 for full and complete settlement of this matter, including attorneys fees. For the reasons set forth above, we believe this is a prudent settlement which is in the best interests of the City.