



Sean Rogan
Executive Director

**HOUSING AUTHORITY
of the County of Los Angeles**

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Gloria Molina
Mark Ridley-Thomas
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Commissioners

ADOPTED

BOARD OF COMMISSIONERS
HOUSING AUTHORITY

1-H September 7, 2010

September 07, 2010

The Honorable Board of Commissioners
Housing Authority of the
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Commissioners:

**APPROVE SETTLEMENT OF TORT LIABILITY CASE ESTATE OF ENEDINA DE LOZA ACEVES,
ET AL. VS. HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES, ET AL.
(ALL DISTRICTS) (3 VOTES)**

SUBJECT

This letter recommends approval of a settlement in the amount of \$75,000 for a lawsuit filed by the Estate of Enedina De Loza Aceves against the Housing Authority of the County of Los Angeles. The lawsuit arose out of a February 8, 2009 accident where Ms. Enedina de Loza Aceves was struck by a vehicle on her way to her unit and died at the scene. The Estate of Enedina de Loza Aceves claims Ms. Aceves would not have been crossing the street if her request for reasonable parking had been accommodated.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and authorize the Executive Director to execute a settlement agreement in the amount of \$75,000, to be paid from \$37,500 in Housing Management Administrative Funds and \$37,500 in Public Housing Operating Funds, to the Estate of Enedina De Loza Aceves, Lillian Gutierrez and Jesse Aceves in settlement of Estate of Enedina De Loza Aceves, et al. vs. Housing Authority of the County of Los Angeles, et al., following approval as to form by County Counsel.
2. Find that approval of the settlement is not subject to the provisions of the California Environmental Quality Act (CEQA) because the activity is not defined as a project under CEQA.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of this action is to approve a settlement of this case in the amount of \$75,000 in lieu of

proceeding to litigation. As part of the settlement, the Plaintiffs will also withdraw their American's with Disabilities Act (ADA) complaint with the U.S. Department of Housing and Urban Development (HUD) Office of Fair Housing and Equal Opportunity (FHEO) Department.

FISCAL IMPACT/FINANCING

There is no impact on the County general fund. The financing of the proposed settlement agreement will be paid using \$37,500 in administrative and \$37,500 in operating funds included in the Housing Authority's approved Fiscal Year 2010-2011 budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Estate of Enedina de Loza Aceves claims that on January 20, 2009, Ms. Enedina de Loza Aceves submitted to the Housing Authority a reasonable accommodation request for a parking space near her unit at the senior complex. Although the Housing Authority did meet with Ms. Aceves and provided her a parking space in the development's family complex area, the Estate alleges the Housing Authority failed to properly respond to Ms. Aceves' reasonable accommodation request by not providing her an assigned parking space in the senior complex area. The Estate alleges Ms. Aceves was disabled and unable to walk long distances due to a knee injury.

On February 8, 2009, Ms. Aceves died when she was struck by a vehicle on Mednik Avenue. She was crossing the street from the western side of Mednik Avenue to her building at night, failing to use the designated pedestrian crosswalk. Signs were posted both at the curb where Ms. Aceves entered the street, and at the point on the opposite curb she had intended to reach, indicating that pedestrians were not to cross the street at that location. The police report of the incident places the blame for the accident upon decedent.

In addition to presenting a claim to the Housing Authority, Ms. Aceves' heirs filed an ADA complaint with HUD's FHEO Department.

If the matter proceeds to trial, the Estate and adult children will seek in excess of \$500,000 for General Damages, including pain and suffering, emotional distress, and non-economic damages. Further, the Housing Authority risks penalties from any negative HUD decision.

Expenses incurred by the Housing Authority in defense of this matter include attorneys' fees in the amount of \$24,660 and other fees and costs in the amount of \$2,220. The Housing Authority estimates approximately \$135,000 in additional costs and expenses if the case proceeds to trial.

The proposed settlement of this case in the amount of \$75,000 and retraction of the HUD complaint was achieved following several informal settlement discussions and formal mediation. The settlement will prevent further litigation expenses and potential jury verdicts substantially in excess of the settlement amount. The Plaintiffs have approved and executed the settlement agreement. On August 25, 2010, the Housing Commission recommended approval of the proposed settlement.

ENVIRONMENTAL DOCUMENTATION

This action is exempt from the provisions of the National Environmental Policy Act pursuant to 24 Code of Federal Regulations, Part 58, Section 58.34 (a)(3) because it involves administrative

The Honorable Board of Supervisors

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activities that will not have a physical impact on or result in any physical changes to the environment.

This action is not subject to the provisions of CEQA pursuant to State CEQA Guidelines 15060(c)(3) and 15378 because it is not defined as a project under CEQA and does not have the potential for causing a significant effect on the environment.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

This settlement will avoid further litigation expenses, and conclude this lawsuit. Furthermore the Estate of Enedina De Loza Aceves will withdraw the ADA complaint with HUD's FHEO Department.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sean Rogan", with a horizontal line extending to the right.

SEAN ROGAN

Executive Director

SR:by

Enclosures

SUMMARY CORRECTIVE ACTION PLAN HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES

CLAIM: The Estate of Enedina Aceves; Lilian Gutierrez; Jesse Aceves v. Housing Authority of the County of Los Angeles, Erik Mejia, et al.

DATE OF INCIDENT/EVENT: February 5, 2009

BRIEFLY PROVIDE A DESCRIPTION OF THE INCIDENT(S) / EVENT(S):

This is a claim brought by the Estate of Aceves claiming injuries to decedent Aceves, arising out of a pedestrian vs. automobile collision wherein Ms. Aceves was struck by a vehicle while jay-walking across Mednick Blvd. The Estate is claiming violation of the Americans with Disabilities Act ("ADA").

1. **Briefly describe the root cause of the claim/lawsuit:**

Decedent caused the accident by crossing the street illegally. However staff did not appropriately interpret decedent's previous request for a reasonable accommodation and thus did not employ the agencies established protocols for handling such requests.

2. **Briefly describe recommended corrective actions: (Include each corrective action, due date, responsible party, and any disciplinary actions, if appropriate)**

One of the complaints by the Estate was that there was insufficient parking for Ms. Aceves, thereby requiring her to park on the street and walk across the street, whereby she got struck by a vehicle. The Housing Authority of the County of Los Angeles has been aware of a shortage of parking spaces at this facility and had already identified the need to add parking in its Long Range Repair Plan. Under new monies available through the American Recovery and Reinvestment Act, the project schedule was moved up and the construction which began in November of 2009, was completed in April, 2010. The number of parking spaces was nearly doubled for a total of 70 parking spaces available for the senior complex.

Further, in addressing the complaint of improper handling of a reasonable accommodation request, HACoLA provided updated training for all appropriate Housing Authority employees, including employees located at the Nueva Maravilla housing site on April 28th and 29th, 2010. This training reinforced established protocols for the proper handling of reasonable accommodation requests. In addition, the ADA coordinator for the Housing Authority attended a HUD sponsored training on June 16th & 17, 2010, and staff will undergo

additional fair housing training on August 19th 2010, as part of our ongoing efforts to educate staff on this sensitive and critical matter.

3. State if the corrective actions are applicable to only your department or other County departments: (If unsure, please contact the Chief Executive Office, Risk Management Branch for assistance)

- Potential for County-wide implications
- Potentially implicates other departments
- Does not appear to have either County-wide or other departmental implications

DATED: _____

Sean Rogan, Executive Director
HOUSING AUTHORITY OF THE
COUNTY OF LOS ANGELES