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City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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2009-0158 Claim Claim Report

Ziklag Global Investments, Inc. communication requesting a refund of the parking lot construction \$41,000 payment relative to the Paradise Theater Building located at 6227-6229 W. Greenfield Avenue.

Introduced: 3/17/2009

Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION POF

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>APR 21 2009</u>			Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
		X	Narlock	✓			
			Reinke	✓			
			Roadt				
			Sengstock				
			Vitale	X	✓		
		Weigel					
		TOTAL		5			

SIGNATURE OF COMMITTEE MEMBER

Kurt Kopplin _____ _____
Chair Vice-Chair Member

COMMON COUNCIL ACTION PLACE ON FILE

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>APR 21 2009</u>		✓	Barczak	✓			
			Czaplewski	✓			
			Kopplin				
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt	✓			
			Sengstock				
		✓	Vitale		✓		
		Weigel		✓			
		TOTAL	K	9			1

**STANDING COMMITTEES OF THE
CITY OF WEST ALLIS COMMON COUNCIL**

ADMINISTRATION & FINANCE

Chair: Kurt E. Kopplin
Vice-Chair: Vincent Vitale
Thomas G. Lajsic
Richard F. Narlock
Rosalie L. Reinke

PUBLIC WORKS

Chair: Gary T. Barczak
Vice-Chair: Martin J. Weigel
Michael J. Czaplewski
Daniel J. Roadt
James W. Sengstock

SAFETY & DEVELOPMENT

Chair: Thomas G. Lajsic
Vice-Chair: Richard F. Narlock
Kurt E. Kopplin
Rosalie L. Reinke
Vincent Vitale

LICENSE & HEALTH

Chair: Michael J. Czaplewski
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Chair: Rosalie L. Reinke
Vice-Chair: Daniel J. Roadt
Kurt E. Kopplin
Richard F. Narlock
Vincent Vitale



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

Sheryl L. Kuhary
Jeffrey J. Warchol
Jenna R. Merten
Assistant City Attorneys

April 1, 2009

Common Council
City of West Allis

RE: City Attorney's Report of Claim

Dear Council Members:

The enclosed claim has been referred to this office in accordance with Section 3.05(8) of the Revised Municipal Code. This office has examined the facts of the claim and the applicable law. Our Opinion regarding liability is as follows:

It is the recommendation of this office that the following claim be paid and placed on file:

Ziklag Global Investments, Inc.– Amount \$41,000.00

This is a claim for repayment of monies paid to the City of West Allis under an agreement by the claimant and the City whereby, as one of the conditions of the granting of a Special Use Permit, the City would construct a parking lot, upon payment by the claimant of \$111,000.00, to be used by the claimant in its operation of a church and restaurant in the Paradise Theater building located at 6227-29 West Greenfield Avenue, West Allis, WI. The claimant contributed only \$41,000.00 of the original amount agreed upon of \$111,000.00 and further failed to comply with other contingencies of the Special Use Permit resulting in the City revoking said Special Use Permit. Thus, the planned parking lot was never constructed. On or about March 2nd, 2009, the claimant filed a claim against the City requesting a reimbursement of the \$41,000.00 stated herein.

Our investigation into this matter did confirm the facts as stated above, as well as the fact that the City had retained the \$41,000.00 paid towards the construction of the parking lot. Because the parking lot arrangement was a contingency of the Special Use Permit, upon revocation of the Permit, the City really had no legal basis upon which to retain the \$41,000.00. Due to the amount of the claim, this matter came before the Safety and Development Committee of the City of West Allis on March 17th, 2009, at which time authorization was granted to pay back the \$41,000.00 to the claimant.

To date, the City Attorney's Office paid the \$41,000.00 back to the claimant and obtained a Release signed by the claimant for said amount. Based upon the above, it is the recommendation of the City Attorney's Office to place this claim on file.

Respectfully submitted,


Jeffrey J. Warchol
Assistant City Attorney

JJW:da

RELEASE OF ALL CLAIMS

FOR AND IN CONSIDERATION of the payment to ZIKLAG GLOBAL INVESTMENTS, INC. of the sum of Forty-one Thousand and 00/100 Dollars (\$41,000.00), the receipt of which is hereby acknowledged, I hereby release, acquit, indemnify and forever discharge The City of West Allis, Wisconsin, a Municipal Corporation, Its Departments, Commissions, Officials, Agents and Employees, his, her, its or their successors and assigns and all other persons, firms or corporations who are or might be liable from any and all claims, demands, damages, costs, actions and causes of action of whatever kind or nature may now have or may hereafter have, on account of, or in any way growing out of, any and all known and unknown personal injuries, monetary losses, contractual damages and property damage, including those claimed by subrogated parties, whether developed or undeveloped, resulting or to result from a claim filed by Ziklag Global Investments, Inc. on or about February 20th, 2009, demanding repayment of the cash funds paid to the City of West Allis in February, May and July of 2006, which were to be used for the construction of a parking lot by the City and was a provision of the granting of a Special Use Permit to Ziklag Global Investments, Inc. allowing it to function as a church and restaurant in the Paradise Theater building located at 6227-29 West Greenfield Avenue, West Allis, WI. Due to various disputes between the parties, the parking lot was never built and the City revoked the Special Use Permit of Ziklag Global Investments, Inc. I hereby declare and represent that in making this Release and Agreement it is understood and agreed that I rely wholly upon my own judgment, belief, and knowledge of the nature, extent and duration of said damages, and that I have not been influenced to any extent whatever in making this Release by any representations or statements regarding said damages, or regarding any other matters, made by the persons, firms or corporations who are hereby released, or by any person or persons representing him or them.

It is further understood and agreed that this settlement is the compromise of doubtful and disputed claims and that the payment of said amount is not to be construed as an admission of liability upon the part of said persons, firms, or corporations released; liability being by it, him or them expressly denied.

It is further understood and agreed that this Release and payment pursuant thereto is not be construed as a waiver by or estoppel of any party released to prosecute a claim or action for any damages sustained.

This Release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this Release are contractual and not a mere recital. By signing this Release, Ziklag Global Investments, Inc. acknowledges payment in full.

I HAVE READ THE FOREGOING RELEASE AND FULLY UNDERSTAND IT. I FURTHER UNDERSTAND THAT I HAVE THE OPPORTUNITY TO DISCUSS AND NEGOTIATE THE TERMS OF THIS RELEASE WITH THE WEST ALLIS CITY ATTORNEY AND SPECIFICALLY WAIVE SUCH OPPORTUNITY.


AS CLARIFICATION, ZIKLAG HEREBY AGREES THAT IT RELEASES ANY AND ALL CLAIMS IT HAS REGARDING THE \$41,000.00 PAYMENT TO THE CITY OF WEST ALLIS FOR THE REFERENCED PARKING LOT.

Dated: March 27, 2009

By: Fred C. Genrich
Fred C. Genrich, C.F.O.
Ziklag Global Investments, Inc.

Subscribed and sworn to before me on this 27th day of March, 2009, at West Allis, WI.

[Signature]
Notary Public, State of Wisconsin
My Commission: 5/1/08
JJW:da





Ziklag Global Investments, Inc.

6229 W. Greenfield Ave.
West Allis, WI 53214

(414) 453-6922
(414) 453-6921 Fax

RECEIVED
MAR 2 2009
WEST ALLIS
CITY ATTORNEY

MAR 03 2009
CITY OF WEST ALLIS
CLERK/TREASURER

February 20, 2009

Mr. John F. Stibal, Director
City of West Allis Department of Development
7525 West Greenfield avenue
West Allis, Wisconsin 53214

Dear Mr. Stibal,

In January, 2005, the City of West Allis adopted resolutions (including # R-2005-0007) in which the city agreed to grant Mr. Thomas D. Redlich, d/b/a Ziklag Global Investments, Inc. (hereafter referred to as "Ziklag") special use permits to establish both a church (Ziklag World Ministry) and a restaurant (Paradise Café) in the Paradise Theater Building located at 6227 – 6229 West Greenfield avenue, West Allis Wisconsin 53214 (TAX KEY NO. 454-0001-000). These special use permits were granted subject to certain conditions including the requirement that "Ziklag" provide \$111,000 of cash funds for the construction of a parking lot on a nearby plot of land owned by the city. In regards to the construction of this parking lot, "Ziklag" had previously requested that the city consider one of the following alternative options:

- 1) "Ziklag" would lend the money to the city for the immediate construction of this parking lot and that the city would later repay "Ziklag" for these parking lot construction costs when budget funds for this purpose became available in future years, or
- 2) The city would sell the land earmarked for this parking lot site to "Ziklag" who would then construct the parking lot using Ziklag's own funds, or
- 3) "Ziklag" would lease the parking lot site from the city and construct the parking lot using Ziklag's own funds.

The City of West Allis rejected all of these three options outlined above and insisted that "Ziklag" pay \$111,000 to the City of West Allis for the construction of the parking lot (as specified in the January, 2005 special use permit resolutions referred to above) to be owned exclusively by the city. Subsequently, in early and mid 2006, "Ziklag" paid the city cash funds totaling \$41,000 to be applied to the construction of this parking lot as required of "Ziklag" in order to obtain the special use permits that we were seeking. In 2007, "Ziklag" met all of the requirements for the church special use permit, and the city issued a permit which allowed Ziklag World Ministry to operate as a church in the Paradise Theater Building.

Shortly after "Ziklag" made the \$41,000 of parking lot payments to the City of West Allis, the city leased the parking lot site to certain contractors involved in the construction of a condominium project located across the street from our building. Construction of the parking lot that "Ziklag" has partially paid for was never begun (even through today's date).

In the summer of 2006, we attempted to begin installation of beautiful glass windows on the east end of our building for our restaurant site (checks were actually written to our window contractor) but construction was halted because of objections the city raised stating that colors, etc. of glass and frames did not meet certain "historical standards" for a building the age of ours. Previously we had told the city that we were not interested in obtaining any type of historical designation and the city responded that we would not be held to any such "historical standards." This sudden change in the city's historical standards requirements (and other requirements changes), and the following delays that ensued during the next 9 months delayed the opening of our restaurant, wiped out our projected cash flow, and ultimately delivered a death blow to the orderly completion of our project.

Later, when the city was threatening to revoke our church and restaurant special use permits, we had a meeting in your office at which we were told that all the city requires of us is that the restaurant windows be installed and we would then have no problem with our church permit. When we asked you if we could temporarily borrow the \$41,000 we paid toward the parking lot to put our windows in and remove the threat of our church permit being revoked, you told us that such a request was out of the question and that, "The money has already been spent."

At a city council meeting in October, 2008, we advised the city that funds had come in to begin installation of our windows, but were rebuffed told that our church special use permit was being revoked, even if we were able to put up a funding bond to insure completion of the project as requested by one of the residents who spoke at the hearing. When the city unfairly revoked our special use as a church, all remaining sources of funding for our project were cut off.

Given all of the above facts and circumstances, we are hereby request that the City of West Allis immediately return the \$41,000 down payment we made for the construction of a city parking lot as part of an agreement that the city grant our special use permits (especially for the church) for the Paradise Theater Building. As we see it, the payment was made in conjunction with obtaining the special use permits which the city refused to allow Ziklag to complete, despite Ziklag's presentation of evidence of a contractor who was willing and able to install the windows that would have prevented the city from revoking the special use permits. Moreover, the city's failure to comply with the request to return the \$41,000 paid for the parking lot the city required for the issuance of the special use permits is nothing short of a "conversion" of Ziklag Funds. This is especially so when considering the construction of the parking lot was not even started before the special use permits were withdrawn.

As such, we request that this payment be made in the form of a cashier's check made payable to Ziklag World Ministry which initially loaned the funds to Ziklag Global Investments, Inc. to provide the cash for these parking lot payments as well as other aspects of our building project. A failure to comply with this demand will cause Ziklag to consider their legal options.

Sincerely,



Fred C. Genrich
C.F.O.

CC: Mayor Dan Devine

City Attorney Scott E. Post





OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

Sheryl L. Kuhary
Jeffrey J. Warchol
Jenna R. Merten
Assistant City Attorneys

April 3, 2009

Common Council
City of West Allis

RE: City Attorney's Report of Claims/Lawsuits

Dear Council Members:

The enclosed claims/lawsuits have been referred to this office in accordance with Section 3.05(8) of the Revised Municipal Code. This office has examined the facts of each claim/lawsuit and the applicable law. Our Opinion regarding liability is attached to each claim/lawsuit.

The following claims/lawsuits have been paid and placed on file:

Ziklag Global Investments, Inc. (\$41,000.00)
Dianne Kerzner (\$242.88)
Jeffrey Jasniewski (\$1,562.16)
Stephanie Wisneski (\$131.58)

Respectfully submitted,

Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC