

SETTLEMENT AGREEMENT

This Agreement is entered into by and between the CITY OF AUBURN, Washington, a municipal corporation of the State of Washington (“the City”), YUHUA WU and ZHAOWEN LIANG (“the Claimants”), and FRANK BARON, HONG FAMILY TRUST, AND DAVID ROSE, LLC (“Lender”).

RECITALS

Yuhua Wu owns real property located at 25322 Cumberland Way in Black Diamond, Washington (King County Tax Parcel No. 563600-0020 (“Property”).

On or about December 11, 2018, the Auburn Police Department executed a search warrant at the above-referenced property under APD case number 18-13348.

On February 20, 2019, the City filed a civil action in the King County Superior Court to seize the Property, which action is currently pending under Cause No. 19-2-04606-6KNT.

The City, Claimants, and Lender desire to settle this matter and have agreed to the disposition of the real property in consideration of the uncertainty of litigation, and the time and expense associated with proceeding to a trial.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, the City and Claimants agree as follows:

1. Good Faith Seizure. There was probable cause sufficient for the seizure of the above described real property. Seizure of the property was lawful, and notice of the seizures followed due process. It is undisputed that the Auburn Police Department acted in good faith in pursuing the seizure and intended forfeiture of the real property.

2. Property Awarded to the City. The City is awarded real property located at 25322 Cumberland Way in Black Diamond, WA (King County parcel number 563600-0020) through operation of this Settlement Agreement. The Property legal description is as follows:

LOT 37, MORGAN CREEK I AND IV, ACCORDING TO THE PLAT
THEREOF RECORDED IN VOLUME 166 OF PLATS PAGES 98
THROUGH 101, INCLUSIVE, RECORDS OF KING COUNTY,
WASHINGTON
SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON

Claimants agree to forfeit to the City their right, title, and interest to the property, including all fixtures appliances, and appurtenances to the Property existing on the date of

seizure, and simultaneous to execution of this Agreement execute an agreed motion and order to dismiss superior court cause number 19-2-04606-6 KNT. Claimants agree to provide and execute any document reasonably necessary to facilitate a transfer of the property. City agrees to take said property in "as-is" condition and claimants give no warranties and makes no representations regarding the condition or habitability of the property.

3. Property Access. On the date of Claimants' signature of this Agreement, Claimants shall deliver to Plaintiff at 25 West Main Street, Auburn, WA, 98001, all of the following that are in their possession: house keys, garage door openers, garage door codes, all other security codes, and any written manuals or warranties for appliances, equipment, or fixtures for the Property. On the date of Claimants' signature of this Agreement, the Claimants will provide the City access to the Property for a full inspection.

3.1 Claimants will have one opportunity to enter into the home after execution of the Settlement Agreement to retrieve personal property (such as clothing, suitcases, and hygiene items) within five days after execution of this Agreement. Claimants will be required to provide at least two business days' notice to the City of the request to visit the home, limit the home visit to retrieve personal belongings to a two hour window during normal business hours, and to be accompanied at all times on the Property by two agents of the City's choosing including one Police Officer to secure the Property.

4. Division of Gross Proceeds After Sale of the Property. The parties agree that upon execution of this settlement agreement, the City will sell the Property. Upon the City's sale of the Property, the division of proceeds will be applied as follows:

4.1 Any taxes due and owing will be paid in full;

4.2 Any real estate commissions or closing costs will be paid in full;

4.3 Any utility liens, assessments including all Home Owners Association dues and assessments, or bills due and owing will be paid in full;

4.4 Any other costs or liens secured by the property will be paid in full including any outstanding mortgage payoff amount;

4.5 The costs, if any, of removing personal property from the home will be paid in full, including but not limited to the cost of hiring contractors to remove personal property and the cost of delivering and destroying personal property;

4.6 Any proceeds required to be remitted to the State Treasurer on behalf of the seizing agency;

4.7 Legal fees incurred by Doris Eslinger, counsel representing mortgaging entities, including Frank Baron, Hong Family Trust, and David Rose, LLC, the holder of a Promissory Note secured by a Deed of Trust on the Property ("Lender"), as a result of the negotiation with Parties and the sale of the Property in the amount of \$1,749.35

as of July 31, 2019, plus an additional amount to be paid consistent with Section 9(b) of the Promissory Note;

4.8 Fifty (50) percent of the net sale will be retained by the City and fifty (50) percent of the net sale will be retained by Claimants after Clauses 4.1 through 4.7 are satisfied, but in no event will Claimants sale proceeds exceed one hundred thousand dollars (\$100,000).

The City shall not accept any purchase offer without Lender's prior written consent if the City anticipates the proceeds of the sale is insufficient to fully satisfy the total payment owed to Lender (i.e., outstanding principal and other costs incurred relating to the loan). Lender agrees to forbear declaring the Deed of Trust in default for six months after the date of the signatures on this Settlement Agreement.

5. Encumbrances. Claimants agree to be in compliance with the terms in the Deed of Trust and Promissory Note prior to transferring the title of the said property to the City. If Claimants are out of compliance with any term(s) in the Deed of Trust or Promissory Note, any amount required to cure will be deducted from Claimants portion of the sale proceeds including but not limited to, outstanding mortgage or interest payments, hazard insurance, property insurance, lienable utilities, etc.

6. Dismissal of Lawsuit and Release of Lis Pendens. Within five (5) business days following execution of this Agreement by all parties, the City will file a Motion and Order of Dismissal with prejudice and without costs in King County Cause No. 19-2-04606-6 KNT. The City will also release the recorded lis pendens under King County recording no. 20190225000753 against the Property. The City and Claimants shall pay their own attorneys' fees, costs, and expenses in connection with this matter.

6. Indemnification. The Claimants shall indemnify, defend, and hold harmless the City, its agents, and employees from and against any and all liability arising from this forfeiture action and sale of the Property. In the event that the City shall elect to defend itself against any claim or suit arising from this agreement, the Claimant shall, in addition to indemnifying and holding the City harmless from any liability, indemnify the City for any and all expenses incurred by the City in defending such claim or suit, including reasonable attorneys' fees.

7. Reliance Upon Own Judgment and Counsel. The City, Claimants, and Lender have read this agreement and have knowingly, intelligently, and voluntarily entered into said agreement with full knowledge of the consequences of such agreement. The City, Claimants, and Lender agree that each of them was represented by counsel, or had the opportunity to independently consult with counsel of their choosing. As such, this agreement shall not be construed against any party as the drafter.

8. Release. The City hereby does completely and fully release, discharge, and hold harmless Claimants from any and all demands, claims, causes of action, or potential demands, claims, or causes of action, in law or equity, whether accrued or not and whether

now known or unknown, which relate to the set of facts that give rise to King County Superior Court Case No. 19-2-04606-6 KNT, meaning that the City agrees not to file any further demands, claims, or causes of action against Claimants arising out of the facts that led to the seizure and forfeiture of the real property.

9. No Admission of Liability. The Parties agree that this Agreement is a compromise and settlement of potential and/or disputed claims, and neither this Agreement nor any action taken to carry out this Agreement may be construed as, or used as an admission or concession of, or constitute a finding of, civil or criminal liability, fault, wrongdoing, or culpability by either party. Claimants deny all of the allegations contained in King County Superior Court Case No. 19-2-04606-6 KNT, but for purposes of this Agreement, agree that Claimants are entering into this Agreement knowingly, voluntarily and intelligently.

10. Entire Agreement. This Agreement and the Promissory Note incorporated in Exhibit A contains the entire agreement between the parties, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties. Either party may request changes to the Agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

11. Binding on Successors and Assigns. All the terms and conditions of this Settlement Agreement and its exhibits shall be binding upon and inure to the benefit of the Claimants and the City and their respective heirs, successors, agents, and assigns.

12. Counterparts. This Settlement Agreement may be executed by multiple counterparts, each of which shall be deemed an original, binding on the parties to the Agreement, and all of which shall constitute one final agreement.

//

//

//

//

//

//

//

//

13. Attorneys' Fees. In the event of a breach or a default under this Settlement Agreement, the breaching or defaulting party agrees to pay all attorneys' fees and costs incurred by the prevailing party in collecting amounts owed, or enforcing the agreement.

NANCY BACKUS, MAYOR

DATE

State of Washington)
)ss.
County of King)

I certify that I know or have satisfactory evidence that NANCY BACKUS is the person who appeared before me, and said individual acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the MAYOR OF THE CITY OF AUBURN to be the free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: _____

Notary Public in and for the State of Washington
Residing at _____
My appointment expires _____

APPROVED AS TO FORM:

Steven Gross, WSBA 24658
City Attorney

Date

YUHUA WU

DATE

State of Washington)
)ss.
County of _____)

I certify that I know or have satisfactory evidence that Yuhua Wu is the person who appeared before me, and said individual acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: _____

Notary Public in and for the State of Washington
Residing at _____
My appointment expires _____

ZHAOWEN LIANG

DATE

State of Washington)
)ss.
County of _____)

I certify that I know or have satisfactory evidence that Zhaowen Liang is the person who appeared before me, and said individual acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: _____

Notary Public in and for the State of Washington
Residing at _____
My appointment expires _____

EMILY TYSON-SHU, WSBA 51350
ATTORNEY FOR CLAIMANTS

DATE

DORIS ESLINGER, WSBA 41804
ATTORNEY FOR FRANK BARON,
HONG FAMILY TRUST, AND
DAVID ROSE, LLC

DATE

State of Washington)
)ss.
County of)

I certify that I know or have satisfactory evidence that DORIS ESLINGER is the person who appeared before me, and said individual acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the ATTORNEY FOR FRANK BARON, HONG FAMILY TRUST, AND DAVID ROSE, LLC to be the free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: _____

Notary Public in and for the State of Washington
Residing at _____
My appointment expires _____