

Law Offices of
MARTIN & MARTIN, LLP
A Limited Liability Partnership

3530 Wilshire Boulevard, Suite 670
Los Angeles, CA 90010
Office: 213.388.4747 Fax: 213.388.6655
www.martin-martin.net

July 13, 2023

Via Email Only

Jeffrey S. Ballinger
Best Best & Krieger LLP

Re: Settlement Proposal and Considerations for Resolving Section 14 Claims

Dear Mr. Ballinger:

I write in follow-up to the July 11 meeting with you, the Palm Spring City manager, assistant city manager and Councilmember Lisa Middleton, Mayor Grace Gardner and representatives from my client group. The purpose of the meeting was to discuss a pathway forward for settling the claims for damages my clients have enumerated in their government tort claim filed against the city on or about November 2022 related to the burning and demolition of their homes, personal property and businesses on the one square mile in downtown Palm Springs commonly referred to as Section 14.

1. Recap of Meeting

As I indicated during our July 12, 2023 phone call regarding the meeting, my clients are incredibly frustrated and outraged by the city's refusal to make a firm commitment to negotiate resolution of their specific claims. It has been approximately two years since the city acknowledged the harm caused to my clients by the burning out of Section 14 and since the city council directed its staff to develop a program to compensate them for their harm. Despite that clear directive and the city's repeated assertions affirming their desire to resolve my clients' claims, the city has not taken any concrete steps to make them whole. To the contrary, when provided an opportunity to retain reparations specialists that the city's own staff recommended, the city council rejected them.

Also, my clients were shocked to hear for the very first time that the city is refusing to accept its own April 28, 2021, Human Rights Commission (HRC) report as a basis for resolving this matter. This is an outrageous position on the part of the city, a position that will prove extremely problematic for them if this matter proceeds to trial, formal mediation or arbitration. Moreover,

Jeffrey S. Ballinger
Settlement Proposal
July 13, 2023
Page 2

given that that report was never rejected or disavowed by the city and was written by former Human Rights Commission chair and current city councilmember Ron deHarte, any efforts to distance the city from the report will be not only embarrassing to the city and the councilmember, but also fatal to the city's defense on the merit of my clients' claims.

As you know, the city's Human Rights Commission initiated its investigation of the city's actions under former Mayor Frank Bogert during the summer of 2020 as the entire country was reeling from the brutal murder of George Floyd. The world-wide protests that ensued and the focus on systemic racism and decades of racial horror that African Americans suffered in America became the focus of conversations all over the world, including in Palm Springs. This "racial reckoning" was the catalyst for the HRC's investigation and ultimate findings.

The HRC's extensive 400-page report includes an in-depth review of the historical record related to the city's relationship with its marginalized populations including African Americans, Latinos and members of the LGBTQ community. Its findings served as the basis for the city council's vote to remove the statue of former Mayor Frank Bogert from the plaza in front of city hall. The city council deemed Bogert's homophobic and racist attitudes reprehensible and incongruent with the values and principles of the Palm Springs of today (I provide more information about the HRC report below).

Many of my African American and Latino clients worked in collaboration with the HRC and supported the efforts to remove Bogert's statue as they recognized that the statue was a symbol of a painful time in the city's history. They too were experiencing the deep pain that so many Americans felt following George Floyd's murder. They, like the HRC, turned that pain into purpose and acted to chart a new course for the city—one where people of color were not discriminated against and othered.

To now suggest that the findings in the HRC report are invalid for the purposes of resolving my clients' race-based claims is tantamount to admitting that George Floyd's murder, the racial reckoning and my clients' pain were all used and leveraged for the purpose of accomplishing a goal of the white LGBTQ community, without a total disregard for the racial trauma my clients experienced and which is so vividly outlined in the HRC report.

This flies in the face of the values and image that the city projects to its residents and to the international tourist community who provide more than 70 percent of the revenue to the city. As I stated during our call, if this is the "story" the city is committed to, my clients strongly believe it's a "story that must be shared publicly with the tourist community, local and national media and the residents of Palm Springs. They are unwilling to continue to be used as pawns in the city's whitewashing of its history and its duplicity.

As a professional courtesy to you, I agreed to give you a few days, through Friday July 14, 2023, to discuss this matter with your clients and respond to me before my clients proceed with respect to this issue.

As I await your response on this issue, I provide you with my assessment of this matter and recommendations for moving forward.

2. Current Status of Matter

As reflected in official city council meeting minutes, on September 29, 2021, the city issued a formal apology for the destruction of Section 14 and directed city staff to discuss and develop a reparations program with the victims. Consistent with that directive, city staff held one meeting with several representatives from my client group and their former attorneys.¹ That meeting did not yield an agreement.

Notwithstanding the lack of agreement, the directive from the city has never been rescinded. Therefore, there remains an acknowledgement of the harm and an agreement in principle that the victims are entitled to reparations. You have reiterated this commitment in several public statements which my clients have relied on. The parties have entered into a tolling agreement to give the parties an opportunity to continue the discussions that ensued as a result of the directive.

I am providing below a narrative of the undisputed facts as well as my clients' recommendations for resolution.

3. Palm Springs has a Well-Established Role in America's History of Racial Terror

America has a long and documented history of racially terrorizing African Americans to take their property and destroy their political power. In some cases, they have been actively involved as planners and perpetrators. Oklahoma² and Florida are just two of the states that have acknowledged the complicity of government officials and public servants in these acts of ethnic cleansing. In Palm Springs, an investigation by the State of California found that the city engaged in a "city-engineered holocaust."³

The historical record of America's so-called race riots is regularly manipulated by private, municipal, and state entities that seek to misrepresent the origin of their wealth and success.⁴ Historians have often missed major events from their assessment of the nature and extent of anti-Black racial violence, focusing for the most part on the early 1900s through the mid-1940s. (The National Association for the Advancement of Colored People was founded in response to the

¹ City Council Staff Report, Justin Clifton, City Manager, April 21, 2022.

² 74 Okl. Stat. Ann. §8000.1 (discussing government complicity in the Tulsa Race Massacre of 1921); Fla. HB 591 (1994) (discussing government complicity in the Rosewood Massacre of 1923).

³ Loren Miller, Jr., "Palm Springs Section 14 Demolition" (report by California Department of Justice, Office of the Attorney General), May 31, 1968.

⁴ See, e.g., 74 Okl. Stat. Ann. §8000.1 (discussing the "conspiracy of silence" between the City of Tulsa, the Tulsa Chamber of Commerce, and the State of Oklahoma).

Springfield, Illinois riot of 1908 and spent its first 20 years focused on publicizing the truth about racially motivated lynching and riots.) This timeline, which has the period ending around the conclusion of the second World War, casts the brutality as an issue of a different time, taking place in a very different, distant past.

A closer look, however, reveals flaws in this historical narrative. As recently as 2001, historians rediscovered the Tulsa Race Massacre of 1921 and added it to the better-known episodes of municipal-sponsored anti-Black violence, the 1923 Rosewood, Florida massacre, and dozens of others occurring in the "Red Summer" of 1919; examples of race riots terrorizing Blacks date back to the early 1800s.

Perhaps more tellingly, the government-led destruction of Palm Springs, California, Section 14 in the 1950s and 1960s is a prime example that extends the timeline well into the second half of the last century; the facts around the event place it clearly in the pantheon of terrorist attacks in America executed to drive Blacks out of their homes, neighborhoods, and communities.

As you are aware, accounting for Section 14 in the historical narrative means there are numerous survivors still contending with the event's aftermath today, alive and willing to share firsthand accounts.

A. African Americans Migration to Palm Springs

Black Americans moved into Palm Springs in 1940s and 1950s to escape the violence and oppression of the Jim Crow of the South. (The South had enacted the first segregation, or Jim Crow, laws in the 1880s—laws upheld by the May 1896 Supreme Court's ruling in Plessy v. Ferguson establishing the "separate but equal" doctrine.) They believed a move to Palm Springs was their chance to follow the American dream in a land that was shimmering with opportunity—but, it turned out, only for the privileged white elite. Blacks instead found themselves confronting the Jim Crow of the West.

While other communities that ultimately endured devastating race riots, like East St. Louis, tried hard to prevent Blacks even from arriving, Palm Springs knew it needed their labor to build a desert destination for the wealthy, and put the newly arrived Southerners to work. These newly arrived workers were integral to building the city into a resort destination for the Hollywood elites as well as global tourists. My clients have vivid memories of their parents and grandparents working as maids, chauffeurs, cooks, construction workers and more.

During this era, the city's racially restrictive covenants in housing and banking prohibited Black and brown residents from living among the white population they worked for and from securing loans to purchase land. A much-later investigation by the city itself would later find that, although the Supreme Court outlawed restrictive covenants in 1948, "the isolated community of Palm Springs escaped the scrutiny of civil rights groups that might have challenged such discriminatory practices. Consequently, service workers were the fastest growing population of

Palm Springs and during this period their only local option for housing was to rent a parcel of land on Section 14."⁵

It is well documented that, even as the city employed Black and brown workers, the city resented and discriminated against them,⁶ relegating them to one severely neglected square mile of land on the reservation owned by the Aqua Caliente tribe. The families were able to lease land from the tribe on which they built their own homes, and many built beautiful single-family homes. Section 14 homeowners had high hopes and expectations that eventually the racially discriminatory financial and banking policies which prohibited them from being landowners would be deemed illegal, thereby making it possible for them to purchase land and if necessary, relocate the homes they had built. At its height, Section 14 grew to more than 5,000 residents.⁷ Consistent with its resentment, the city continued to refuse to provide services or accept offered federal funding to build housing that would have alleviated the housing crisis⁸—strategies which we now know were a part of a well-developed plan to eventually rid the city of its Black and brown residents.⁹

My clients have vivid memories and can testify to the fact that, despite the oppressive policies of the city, the residents built a thriving community where the families lived in racial harmony, a community which included not only homes, but cultural and religious institutions and businesses.

B. The Destruction of Section 14

As has been extensively reported, once the desert escape was sufficiently established—and the value of the land beneath Section 14 apparent—Palm Springs executed a long-hatched plan to rid "California's white spot" of the now unneeded laborers. Planned intentionally and methodically, the attack on Section 14 was carried out by city agencies and agents who were executing the city's plan of an ethnic cleansing in furtherance of white homogeneity.¹⁰

The plan began with the city's starving of the community of basic city services including water, sewage, trash pickup, street paving and emergency services. Area hotels used the land as a dumping ground for their trash. The city over-policed, racially profiled, and racially harassed those living on Section 14.¹¹

⁵ City of Palm Springs Human Rights Commission City Monument Report, Apr. 28, 2021, citing "Who's Sorry Now? NAACP demands apology," Palm Springs Desert Post Weekly, December 21, 2000, p. 13, as cited by Kray, 2004.

⁶ City of Palm Springs Human Rights Commission City Monument Report, p. 106

⁷ Desert Sun, "It was beautiful for the white people: 1960s still cast a shadow of distrust over Palm Springs," Denise Goolsby and Rosalie Murphy, Aug. 24, 2022.

⁸ Officials See Conflict In Building Provisions," Limelight, Aug. 30, 1945, p. 2.

⁹ City of Palm Springs Human Rights Commission City Monument Report, p. 110

¹⁰ City of Palm Springs Human Rights Commission City Monument Report, p. 110

¹¹ "Tough Going for Village Vagrants," Limelight, Dec. 12, 1936, p. 3. "Housing Shortage Faces Village When Hospital Opens," Palm Springs Desert Sun, May 15- May22, 1942, p. 8.

The plan worked to drive out some people, but the majority of residents stayed and weathered the abuse, with nowhere else to go. This caused city leaders to recalibrate their plan and kick it into high gear. The escalated strategy would use force and terror.¹²

The city hired private contractors and **deployed its own city fire department**¹³ to burn and bulldoze the property of the thousands of residents that remained, destroying single family homes, trailers, businesses, and churches including First Baptist church.

Many of my clients can testify to witnessing their homes and personal belongings burned to the ground as they breathed in smoke-filled air from the fires. Clients can testify to being traumatized and fearful.

4. The City of Palm Springs' Liability is Well Documented in the CA Attorney General Report and the Palm Springs Human Rights Commission Report

A. California Attorney General Report

Despite the consequent emotional trauma and fear, some residents were able to file a complaint with the state reporting the city's egregious conduct. In July 1966, the California State Attorney General's Office initiated a criminal investigation into the actions of Palm Springs officials. Along with a special agent from the U.S. Department of Justice, Deputy Attorney General Loren Miller, Jr. interviewed city officials, contractors involved in the property destruction, conservators for the tribe, and residents of Section 14.

A report¹⁴ issued May 31, 1968. Among the findings:

"Housing discrimination and other race-connected problems which are prevalent throughout California seem exacerbated in the somewhat isolated resort atmosphere of Palm Springs. At the same time, there seems to be a civic attitude that such racial problems are of less concern in this exotic locale....Perhaps the most conclusive evidence of the city's attitude is the fact that the City of Palm Springs kept no official record of the persons displaced and the residences destroyed in Section 14, and could offer no evidence at any attempt at determining that each homeowner and resident had been properly served with eviction notices."

The investigation further concluded that "Homes were destroyed with no real concern on the part of the city that families were properly notified" and cited the "city's continuing disconcern for the

¹² City of Palm Springs Human Rights Commission City Monument Report, p. 108

¹³ City of Palm Springs Human Rights Commission City Monument Report, p. 110

¹⁴ Loren Miller, Jr., "Palm Springs Section 14 Demolition" (report by California Department of Justice, Office of the Attorney General), May 31, 1968.

relocation of these citizens" and the fact that many citizens were forced to live 25-35 miles from their jobs while others moved to a formerly defunct housing tract in a desolate, windswept area North of Palm Springs.

The report¹⁵ described the events as a "city-engineered holocaust:"

"The City of Palm Springs not only disregarded the residents of Section 14 as property-owners, tax-payers, and voters; Palm Springs ignored that the residents of Section 14 were human beings."

The California State Attorney General report demonstrates that the city acted in violation of established legal process. There were no court orders. There was no due process. In the simplest terms, the findings demonstrate a rank unconstitutional taking of property.

B. The Trauma Continues with the City's Intentional and Unlawful Concealment

During the period immediately following the city's actions, families were scattered, upended, traumatized, unaware they had rights that had been violated, and fearful of retaliation. They were left powerless and in the dark, and were intentionally kept ignorant of the facts.

In the 60-plus years that followed the destruction of Palm Springs, the city engaged in a scheme to distort, deny and conceal the facts surrounding the true history of Section 14. Psychologically traumatized, the erasure of the victims included the city's revisionism. Despite the findings of the Attorney General to the contrary—findings which the displaced victims were not made aware of at the time—the city's position that they were not responsible became the official and oft-repeated narrative that was passed on for decades.¹⁶

In the 1960s and 1970s, the discriminatory laws and practices that Blacks and other minorities had long experienced remained on the books. As the city distorted the facts and concealed their actions, the victims feared further retaliation and violence. Meanwhile, the city continued with the erasure of Section 14, renaming streets and redefining the neighborhood to eliminate the last vestiges or any remnants of the community's existence.

Fifty-plus years later, efforts to unearth truth and seek reparative justice gained renewed traction after the May 2020 murder of George Floyd by Minneapolis police. The protest movement that followed George Floyd's killing was an inflection point for the entire country. The racial reckoning that came in the wake of his murder reverberated around the world. The countless communities that committed—at least initially—to confront their racist histories included the City of Palm Springs.

¹⁵ Loren Miller, Jr., "Palm Springs Section 14 Demolition" (report by California Department of Justice, Office of the Attorney General), May 31, 1968.

¹⁶ City of Palm Springs Human Rights Commission City Monument Report, citing Ryan Kray, *Pacific Historical Review*, Vol.73, No. 1, Feb 2004, pp 185-126.

C. Palm Springs Human Rights Commission Report

Leveraging the movement for racial justice and racial reckoning that was happening around the country, the City of Palm Springs Human Rights Commission (HRC) launched its own investigation into the city's history with its minority populations. The commission issued a jaw-dropping 400-page report of its findings and recommendations on April 28, 2021, written by Ron deHarte, who was then chair of the HRC and who is currently an elected member of the city council, on the actions of Frank Bogert, Palm Springs Mayor, and other city leaders' "undeniable role in razing Section 14."

The introduction explains, "This report is centered on governance, actions and ethical principles of civic leaders, and how those with disproportionate power and political influence, perpetuated a culture of privilege and disadvantages associated with 'color' and the 'poor.'" -Report of the Human Rights Commission, p. 6.

The report builds on the original Attorney General's report, and goes even further. The investigation's findings quote then-Mayor Bogert as saying, "I was scared to death that someone from Life magazine was going to come out and see the poverty, the cardboard houses, and do a story about the poor people and horrible conditions in Palm Springs just half a mile from the Desert Inn, our high-class property."-Report of the Human Rights Commission pp. pp 13-14, citing The Salt Lake Tribune.

The report is the first time the city's actions were revealed in their entirety, in words even more scathing and blistering than the Attorney General's report. The findings fully contradict the six-decade long narrative the city had insisted upon.

"In fashioning our exclusive community in the 1950s, Palm Springs city officials implemented a locally funded urban renewal/"Negro removal" campaign." Report of the Human Rights Commission, p.14.

"Then came the '60s. Judge McCabe, together with some individuals in Palm Springs, felt they had hit a gold mine by coming up with the scheme to, how do I put it, separate the property from the members. So they formed the conservatorship program – they deemed all the tribal members incapable of managing their own affairs." -Report of the Human Rights Commission p. 6.

"During the late 1950's and mid-1960's, and after changes in Federal Law allowed for longer term leases of Indian Land, the City of Palm Springs facilitated the eviction of Section 14 residents, including the destruction of homes and personal property, so that the Section 14 property could be developed commercially." -Report of the Human Rights Commission

Acting on the report, the Human Rights Commission recommended the removal of the Frank Bogert Monument from in front of Palm Springs City Hall, calling it a "hurtful symbol of systemic racism." In making that recommendation, the report references this quote from Bogert: "When we've got a Tortilla Flat developing in our front yard, it looks like we should do something to develop it properly," -Frank Bogert, Report of the Human Rights Commission p. 11

After a vote by the Palm Springs City Council, the statue of Frank Bogert was removed, the city issued a formal apology for the destruction of Section 14, and the city council directed staff to continue discussions of potential reparations programs.¹⁷

"The chapter of civic service from 1958 to 1966 may have ended for Frank Bogert but the razing and burning of homes in the downtown center and the removal of minority residents from the city will forever be the bedrock of structural racism impacting life today for Black, Indigenous and people of color in Palm Springs." –Report of the Human Rights Commission, p. 17.

5. Damages

The story of Section 14 has parallels with many of the other known episodes of whites racially terrorizing Black neighborhoods, but certain facts of the case make it unique—and uniquely devastating.

The racial terror inflicted on the Section 14 victims in 1950s and 1950s was magnified by the city's distortion of the truth and intentional concealment in the six decades that followed. Today, more than 300 living survivors of the trauma remain, ranging in age from 62 to 94 years old. Approximately 700 direct descendants have been identified throughout Coachella Valley, Los Angeles, the neighboring city of Banning, California and cities throughout the country.

It is undeniable that Palm Springs officials showed no concern for sheltering the Section 14 victims or rebuilding their homes, restoring their personal property or addressing the trauma of destroying their community. There was never even a moment of consideration that the city would find adequate shelter for the victims, or that Section 14 might be rebuilt for Black and brown residents to return.

Through the period of destruction, the city forced Black and brown families apart. Residents scattered as their close-knit community was up ended. Many fled to windswept, largely uninhabitable outskirts of town. Thus began a recurring cycle of pathology as a manifestation of racial trauma.

To date, the victims, survivors, and descendants of Section 14 have suffered and continue to suffer past, present, and future physical injuries, mental, psychological and emotional distress, loss of personal property, economic opportunity, equity, homeownership, generational wealth,

¹⁷ City Council Staff Report, Justin Clifton, City Manager, April 21, 2022.

earnings, wages, profits and business opportunities. Their losses were and are continuing and are caused directly by the city's illegal forcible removal from Section 14 and by its decades of denying, concealing, and conspiring to deny responsibility and make the victims and their families whole. The city's actions in minimizing and denying the harm exacerbated the emotional distress, trauma, pain, suffering, anguish, fright, horror, grief, anguish, shock, humiliation, and shame.

A preliminary economic assessment estimates the harm caused by the city of Palm Springs to survivors and descendants to be upwards to \$2 billion dollars.

6. Pathway to Settlement

As I have repeatedly stated, I believe the city has an opportunity to create a first-of-its kind and historic model of how a city with a well-documented history of racial animus towards African Americans and other minorities can work in a collaborative fashion with victims to repair the harm and to advance the interest of all Palm Springs residents. However, the city continues to affirm in public that it wants to settle this matter without costly and protracted litigation, but its actions speak to the contrary. As stated above, the city rejected experienced reparations specialists who could have helped to fashion a remedy for my clients; it has indicated that it is rejecting the HRC report that squarely establishes its culpability; and it insists on hiring a researcher with no experience in resolving race-based claims to research events that have been studied exhaustively by its own commission and other historians and academicians. None of this speaks to a good faith desire to resolve this claim.

My clients are frustrated and ready to take action. They have waited for more than 60 years for justice. They refuse to wait much longer and to rely to their detriment on false promises. As such, please communicate the following information to your clients in advance of their closed session meeting on July 24, 2023. From our perspective, the outcome of that meeting will reveal the city's true intent and inform our next steps.

a. Claimants Have Assembled Experienced Trial Team

As indicated during the meeting, I have expanded my legal team to include Loyola Law School Professor Eric Miller. He is an expert in legal matters involving racially motivated attacks on African Americans. He brings with him the resources of an entire law school. I am poised to associate in as co-counsel additional experienced and well-resourced trial lawyers and litigators from the nation's leading corporate law firms. This newly formed legal team provides my clients with the legal fire power to take this action from trial through appeals to the Supreme Court, if necessary.

b. The Statute of Limitations Defense is Not a Clear Winning Defense for the City

In the meeting with the city on July 11, you indicated to the group that you believed that the city had a clear winning defense to my clients' claims based on the statute of limitations. This is hardly a simple and clear winning defense for the city. The facts of this case lend themselves to not only exceptions to the statute of limitations, but also to causes of action that are not time barred. My clients are prepared to vigorously fight this issue not only at the trial court level, but through appeal.

Also, as indicated, we are in discussions with California legislators to sponsor legislation to open up the statute for race-based attacks such as these. We have concrete examples of this kind of legislation passing in other Blue states, such as New York and Nevada where in an effort to provide a window for sexual assault victims to file claims that happened decades prior, legislators amended statute of limitations. Given Governor Gavin Newsome and the California legislature's commitment to reparations in general, we feel confident that California is committed to leading on this issue.

We are also meeting with the California Attorney General Rob Bonta about reopening its criminal investigation into the city as we believe the ultimate conclusion in its 1966 report regarding "no criminal actions" was inconsistent with the findings throughout the report and may have been influenced by anti-Black sentiments.

c. Nuclear Jury Verdicts Are Real

As I am sure you have already advised your clients, there are tangible risks associated with refusing to resolve this matter and proceeding with litigation. California is the home of nuclear jury verdicts. Given the size of the survivor class, the findings from the California Attorney General, the HRC report, the anticipated favorable testimony from not only my clients, but also that of city council members and other city officials and the well-documented harm to my clients, if this matter is tried before a jury, an award of one billion dollars is not out of the realm of possibility.

d. My Clients will Not Participate in a Generic Stakeholder Process

My clients are more than willing to participate in a community stakeholder process and testify about their experiences living on Section 14 and other pertinent matters in a forum specifically designed to address their harm and resolve their claims. However, they are not willing to, nor would I recommend, they participate in a generic stakeholder process or give statements about this case given the pending litigation to an "objective" consultant with no experience in resolving race-based claims or whose directive is not to help negotiate resolution of the Section 14 claims. The city's insistence on retaining a generic researcher to provide a historical narrative of the city's racist past actions wrecks of a disingenuous effort to further stall resolution of my clients' claims and to further traumatize them.

Also, note that approximately 18 months ago, the city manager in a meeting with a group of my clients discussed resolving this claim by providing them with 12 acres of land on the North End of Palm Springs. This offer was made without a generic historical account as the city had all the facts it needed based on the HRC and Attorney General reports. Nothing has changed about the facts of this case since that report was written and relied on by the city.

If the city insists on unilaterally retaining an “objective researcher” rather than a collaborative process to retain an experienced reparations specialist, that researcher’s findings by definition will be severely limited, biased and essentially useless as they will be based on hearsay and secondhand accounts from individuals who have no personal knowledge of Section 14. As such, will vehemently object to the use of this generic report in the litigation or settlement of my clients’ claims. Given the clear record on the demolition and burning of Section 14, this entire process is tantamount to “expert shopping.”

e. My Clients Are Demanding a Narrowly Tailored Proceeding

As you know, my clients’ claims are separate and unique, thus they must be resolved in a process that is bifurcated from any efforts on the part of the city to address more generic claims of racial harm caused by the city’s past leaders and policies. My clients are demanding that the city commit to continue settlement discussions with Section 14 survivors and descendants in a narrowly tailored proceeding specifically designed to address their claims. To do this, the parties need to develop a process for exchanging information, and developing a set of stipulated facts and an expedited timeline to address their specific damages claim. This process includes providing testimony, discovery, documents, expert opinions, etc. related to their claims and selecting a forum, i.e., formal mediation. Once the city commits to this process, I will provide it with a comprehensive settlement proposal outlining my clients monetary and non-monetary settlement demands.

f. The City Has Everything to Gain from Settlement and a Tremendous Amount to Lose by Stonewalling

Refusing to settle this matter will only increase scrutiny of the city by a range of agencies from state agencies to academicians to the media. As I indicated in the meeting, the city and some of the local newspapers have been effective in burying or telling the story through the lenses of those who are in some ways committed to maintaining the status quo and literally making “Palm Springs great again.” Those voices were the loudest and most prominent. Things have changed. My clients have found their voices. They are no longer afraid of retaliation and retribution. They are proud of the contributions they made to the building of the city, contributions which continue to pay huge benefits to all of the city’s residents. And although what happened to them is still very raw, they are speaking out about the indignities and brutality they experienced along with the generations of trauma and loss. And they are being heard.

Jeffrey S. Ballinger
Settlement Proposal
July 13, 2023
Page 13

National and international news outlets are listening. Tourists, developers and businesses in Palm Springs whose dollars are critical to the city's revenue base are listening. Civil rights groups, local and national law firms, LGBTQ organizations, influencers, celebrities and elected officials are all listening and offering their support.

In closing, my clients are not asking for a handout or for the city to do what is "morally right." They are seeking redress in the same way that others who are harmed by the city sue for correction, compensation and pain and suffering. The city can continue to stall, stonewall and obfuscate and risk costing the taxpayers millions of dollars in litigation cost, loss of tourism dollars, and loss of brand equity or it can get serious about minimizing its risks while seizing a unique opportunity to lead on one of the most consequential civil and human rights issue of this era and make the "Valley of the Sun," a true bright spot in the desert.

I look forward to your response.

Very truly yours,

Areva Martin, Esq.

cc: Pearl Devers
Professor Eric Miller