



December 8, 2022

RESOLUTION #2022-2323 _ 22-398

Sponsored By: Gwen Markham

Corporation Counsel - Budget Amendment Settlement of Bowles v Oakland County and Dover Glen Condominium Assn v Oakland County

Chairperson and Members of the Board:

WHEREAS in *Rafaeli v Oakland County*, 505 Mich 429 (2020), the Michigan Supreme Court held that surplus proceeds from a property tax foreclosure auction must be returned to the former property owner; and

WHEREAS two class action lawsuits entitled *Bowles v County Of Oakland, et al.*, Case No 20-12838 and *Dover Glen Condominium Association v Oakland County, et al*, Case No. 22-11468 were filed in the US District Court, Eastern District of Michigan (individually the “*Bowles Class Action*” and the “*Dover Glen Class Action*” and collectively the “*Class Actions*”) in which former property owners and lienholders seek to recover surplus proceeds from property tax foreclosure auctions under the *Rafaeli* decision; and

WHEREAS although the US District Court has not decided who is right or wrong in the Class Actions and Oakland County denies liability because it was following state law in effect at the time, the plaintiffs in the Class Actions and Oakland County have reached a tentative settlement (the “*Settlement*”) to avoid the risk, uncertainty and costs of further litigation; and

WHEREAS the terms of the Settlement are described in greater detail in the parties’ Joint Motion for Preliminary Approval of Settlement which was filed in the *Bowles* case at ECF Docket Entry No. 61 and in the *Dover Glen* case at ECF Docket Entry No. 10 which terms are incorporated here by reference; and

WHEREAS the Finance Committee of the Oakland County Board of Commissioners previously approved the terms of the Settlement upon Corporation Counsel’s recommendation.

NOW THEREFORE BE IT RESOLVED that the Oakland County Board of Commissioners appropriates \$39,840,000.00 (Thirty-Nine Million Eight Hundred Forty Thousand Dollars and zero cents) from the General Fund Property Tax Forfeiture Activities Assigned Fund Balance (GL Account 383470) (“*Account 383470*”) of which \$38,000,000.00 is being used to fund the Settlement of the *Bowles Class Action*, of which \$940,000.00 is being used to fund the Settlement of the *Dover Glen Class Action* and of which the remaining \$900,000.00 is being used to fund outside counsel legal costs, third party administrator costs and other associated administrative costs of implementing the Settlement of the Class Actions.


BE IT FURTHER RESOLVED that a budget amendment is required and is included in Schedule A to the resolution.

Chairperson, the following Commissioners are sponsoring the foregoing Resolution: **Gwen Markham.**



David Woodward, Commissioner

Date: December 09, 2022



David Coulter, Oakland County Executive

Date: December 09, 2022



Lisa Brown, County Clerk / Register of Deeds

Date: December 13, 2022

COMMITTEE TRACKING

2022-11-30 Finance - Recommend to Board

2022-12-08 Full Board - Approved

VOTE TRACKING

Motioned by Commissioner Penny Luebs seconded by Commissioner Karen Joliat to adopt the attached Budget Amendment: Settlement of Bowles v Oakland County and Dover Glen Condominium Assn v Oakland County.

Yes: David Woodward, Michael Gingell, Michael Spisz, Karen Joliat, Kristen Nelson, Eileen Kowall, Christine Long, Philip Weipert, Gwen Markham, Angela Powell, Chuck Moss, Marcia Gershenson, William Miller III, Yolanda Smith Charles, Charles Cavell, Penny Luebs, Janet Jackson, Gary McGillivray, Robert Hoffman, Adam Kochenderfer (20)

No: None (0)

Abstain: None (0)

Absent: (0)

Passed

ATTACHMENTS

1. Copy of Rafaeli Budget Amendment Schedule A

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

I, Lisa Brown, Clerk of the County of Oakland, do hereby certify that the foregoing resolution is a true and accurate copy of a resolution adopted by the Oakland County Board of Commissioners on December 8, 2022, with the original record thereof now remaining in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the Circuit Court at Pontiac, Michigan on Thursday, December 8, 2022.

A handwritten signature in blue ink that reads "Lisa Brown". The signature is written in a cursive style with a small dot above the 'i' in "Lisa".

Lisa Brown, Oakland County Clerk / Register of Deeds