

11-4-14
WALK-ON
RESOLUTION



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#14-1461

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Cynthia A. Everett, City Attorney

DATE: November 4, 2014

TITLE: WALK-ON - Resolution authorizing the City Manager to enter into an agreement with American Traffic Solutions, Inc. (ATS) and its Counsel, Carlton Fields Jordan Burt, P.A., to undertake and completely fund the representation of the City in seeking and obtaining judicial review of the Fourth District Court of Appeal's decision in City of Fort Lauderdale v. June Dhar, Case No. 4D-13-1187, and appointing Carlton Fields Jordan Burt, P.A., as Special Counsel

Recommendation

It is recommended that the City Commission adopt the attached resolution authorizing the City Manager to enter into an agreement with American Traffic Solutions, Inc. (ATS) and its counsel, Carlton Fields Jordan Burt, P.A., to undertake and completely fund the representation of the City of Fort Lauderdale, for purposes of seeking and obtaining judicial review of the Fourth District Court of Appeal's decision in City of Fort Lauderdale v. June Dhar, Case No. 4D13-1187, which concerns traffic citations issued for red light camera violations. Based upon the foregoing, it is further recommended that the City Commission appoint Carton Fields Jordan Burt, P.A., as Special Counsel for the limited purposes set forth in the attached resolution.

Background

On October 22, 2014, the Fourth District Court of Appeals issued a decision in the appeal entitled City of Fort Lauderdale v. June Dhar, Case No. 4D13-1187. Therein, the City appealed a final order issued by the County Court for the Seventeenth Judicial Circuit, in and for Broward County, Florida, which dismissed a traffic citation issued to June Dhar, a short-term renter of a vehicle Dollar Rent-A-Car, for a red light violation, on the grounds that §316.0083(1)(d)(3), Fla.Stat. (2012) of the Mark Wandall Traffic Safety Act, violated June Dhar's equal protection and due process rights under the Constitution of the United States. Notably, the Florida Legislature amended §316.0083(1)(d)(3), Fla.Stat., effective July 2, 2013, to allow all individuals charged with committing a red light camera violation to pay \$158.00 through the issuance of a notice of violation. However, prior to the foregoing amendment, and with regards to short-term

renters, a notice of violation would only issue to the car rental company, who would thereafter identify the person having care, custody, or control of the vehicle at the time of the violation. Such persons would then be issued a uniform traffic citation, which includes a higher statutory penalty for the violation than the \$158.00 penalty paid pursuant to notices of violation. Notably, and contrary to the Court's decision, the issuance of the violation, comported with §316.0083(1)(d)(3), Fla. Stat., prior to its amendment effective July 2, 2013, and was therefore not subject to dismissal. Notwithstanding, the Court agreed with the county court that the Florida Legislature's "initial failure to address the situation of short-term renters in the statute was likely a mere oversight which has now been corrected."

Based upon the legality of the traffic citation issued to June Dhar, in accordance with §316.0083(1)(d)(3), Fla. Stat, prior to its amendment, the City has a good faith basis to seek rehearing, rehearing *en banc*, a direct appeal, and/or discretionary review of the Fourth District Court of Appeal's decision of October 22, 2014. Furthermore, the Court's decision has a substantial impact upon the operation and effectiveness of ATS's automated red light traffic systems throughout the State of Florida, including within the City of Fort Lauderdale. Consequently, ATS and its counsel, Carlton Fields Jordan Burt, P.A., have agreed to fully fund and undertake the representation of the City of Fort Lauderdale with regards to it seeking and obtaining judicial review of the Fourth District Court of Appeal's decision of October 22, 2014.

Resource Impact

No budgetary impact.

Attachments: Exhibit 1: City of Fort Lauderdale v. June Dhar, Case No. 4D13-1187
Exhibit 2: Proposed Resolution

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Charter Officer: Cynthia A. Everett, City Attorney