

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING	)	RESOLUTION NO. 90-1203
THE APPEARANCE BY METRO IN	)	
ESTATE PROCEEDING -- IN THE	)	Introduced by Rena Cusma,
MATTER OF THE ESTATE OF	)	Executive Officer
STANLEY L. SMITH, TILLAMOOK	)	
COUNTY CIRCUIT COURT	)	
DOCKET NO. 4454	)	

WHEREAS, Pursuant to Section 2.05.040(e) of the Metro Code, the Executive Officer is requesting authorization for the Office of General Counsel to appear in the above-referenced proceeding; and

WHEREAS, Metro's appearance in the proceeding would be by a Petition for an Order for Partial Distribution; and

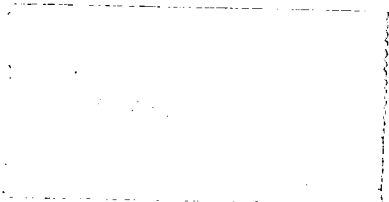
WHEREAS, Petitions of this nature are authorized by ORS 116.013; and

WHEREAS, By filing this Petition, Metro may be able to obtain distribution of some, if not all, of the monies paid under the land sale contract; and

WHEREAS, Metro will also request that the Court order assignment of the trust deed from the estate to Metro; now, therefore,


BE IT RESOLVED,

That the Council of the Metropolitan Service District concurs in the appearance by Metro in Estate Proceeding -- In The



Matter of the Estate of Stanley L. Smith, Tillamook County  
Circuit Court Docket No. 4454.

ADOPTED by the Council of the Metropolitan Service  
District this 25th day of January, 1990.

  
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Presiding Officer

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STAFF REPORT

CONSIDERATION FOR THE PURPOSE OF  
APPROVING THE APPEARANCE BY METRO  
IN ESTATE PROCEEDING IN THE MATTER  
OF THE ESTATE OF STANLEY L. SMITH,  
TILLAMOOK COUNTY CIRCUIT COURT  
DOCKET NO. 4454

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Date: January 11, 1990

Presented by: Daniel B. Cooper,  
General Counsel

BACKGROUND AND FACTUAL ANALYSIS

Pursuant to Section 2.05.040(e) of the Metro Code, the Executive Officer is requesting authorization for the Office of General Counsel to appear in the above-referenced proceeding.

Decedent, Mr. Stanley L. Smith, gave a parcel of real property to the governmental body which operates the "Portland Zoo." The property was sold in 1985 for the sum of \$60,000. The terms of the sale were a down payment of \$12,000, with a \$48,000 note for the balance secured by a trust deed on the property.

Distribution of the proceeds of the sale of the property was delayed by the fact that the attorney who initially represented the estate, Fred Young, absconded with approximately \$17,673.23 from the estate. Mr. Young subsequently took his own life. Metro did not become aware of this bequest until after Mr. Young's death.

Attorney Peter O. Hansen has been representing the estate since Mr. Young's demise. Mr. Hansen filed a claim with the Oregon State Bar Client Security Fund to try to replace the funds converted by the estate's former attorney. In August 1989, the Board of Bar Governors adopted the Client Security Fund Committee's recommendation that the Client Security Fund reimburse the Smith estate in the amount of \$25,000.

Mr. Hansen has advised the Personal Representative of the estate that disbursement of monies collected pursuant to the land sale contract, as well as assignment of the trust deed, should not be made until administration of the estate is complete and the court orders distribution. Mr. Hansen has not given any indication as to when he anticipates closing the estate.

Metro's appearance in the proceeding would be by a Petition for an Order for Partial Distribution. Petitions of this nature are authorized by ORS 116.013. By filing this petition, Metro may be able to obtain distribution of some, if not all, of the monies paid under the land sale contract. General Counsel will

also request that the court order assignment of the trust deed from the estate to Metro.

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CONVENTION, ZOO & VISITORS  
FACILITIES COMMITTEE REPORT

RESOLUTION NO. 90-1203, FOR THE PURPOSE OF APPROVING THE  
APPEARANCE BY METRO IN ESTATE PROCEEDING -- IN THE MATTER OF  
THE ESTATE OF STANLEY L. SMITH, TILLAMOOK COUNTY CIRCUIT COURT  
DOCKET NO. 4454

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Date: January 11, 1990

Presented By: Councilor Knowles

COMMITTEE RECOMMENDATION: At the January 9, 1990 Convention, Zoo & Visitors Facilities Committee meeting, all members were present and voted unanimously to recommend Council adopt Resolution No. 90-1203.

COMMITTEE DISCUSSION/ISSUES: Metro General Counsel Dan Cooper presented the resolution which would authorize the Office of the General Counsel to appear in the estate proceeding of Stanley L. Smith. In his will, Mr. Smith gave a land parcel to the "governmental body which operates the Portland Zoo." As described in the Staff Report, the estate's settlement was delayed because the initial attorney absconded with approximately \$17,673 and then committed suicide. The estate was reimbursed for \$25,000 by the Oregon State Bar Client Security Fund. The attorney now representing the estate, Mr. Hansen, has not indicated when it will be closed and has taken no action to disburse the monies collected or assign the trust deed. Mr. Cooper explained Metro's only remedy to obtain monies paid under the land sale contract is to file a "Petition for an Order for Partial Distribution" with the Client Security Fund. To file this claim, the Code requires concurrent approval of the Executive Officer and the Metro Council (Section 2.05.040(e)).

General Counsel advised it is important to file the claim; otherwise, the costs of administering the estate will continue to grow. Councilor Van Bergen recommended Metro act to assume the role of the estate's Personal Representative and thereby gain control over payments to Mr. Hansen. Mr. Cooper indicated he would follow the Councilor's suggestion. No additional questions or issues were raised.

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