

**CITY OF WAUKESHA****Administration**

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Source: City Attorney	Date: 10/18/2016
Common Council Item Number: ID# 16-1564	Date: 10/18/2016
Submitted By: Brian Running, City Attorney	City Administrator Approval: Kevin Lahner, City Administrator
Finance Department Review: Rich Abbott, Finance Director RA	City Attorney's Office Review: Brian Running, City Attorney BER
Subject: Notice of Claim against City by CFT NV Developments, LLC (Panda Express).	

Details:

A notice of claim has been filed against the City by the Panda Express developer, alleging that as a result of the Plan Commission's denial of SPAR and CUP, the parcel is not usable. Therefore, it is a taking or inverse condemnation. Claimant seeks \$3,000,000 in damages. City Attorney's opinion is that claim is without merit.

Options & Alternatives:

Disallow the claim, and thereby shorten the time period for filing a lawsuit against the city to 6 months – or – not formally disallow, after the passage of 120 days the claim is deemed disallowed anyway, but the time period for filing a suit against the city is not shortened.

Financial Remarks:

Disallowance has no financial implications for the City.

Staff Recommendation:

City Attorney recommends formal disallowance.

Executive Recommendation:

Authorize formal disallowance of claim, direct City Attorney to issue disallowance.