



## **Agenda Item 8h**

October 21, 2015

**ITEM NAME:** Proposed Decision – In the Matter of the Calculation of Final Compensation of CHRISTINE F. LONDO, Respondent, and CITY OF WALNUT, Respondent.

**PROGRAM:** Employer Account Management Division

**ITEM TYPE:** Action

### **PARTIES' POSITIONS**

Staff argues that the Board of Administration should decline to adopt the Proposed Decision.

Respondent Christine F. Londo (Respondent Londo) and Respondent City of Walnut (City) argue that the Board of Administration should adopt the Proposed Decision.

### **STRATEGIC PLAN**

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

### **PROCEDURAL SUMMARY**

Respondent Londo submitted an application for service retirement. CalPERS determined that a temporary increase of \$5,000 per month paid by the City to Respondent Londo from November 2005 through November 2006 should not be included in the calculation of Respondent Londo's final compensation. Respondent Londo and the City appealed this decision and the matter was heard by the Office of Administrative Hearings (OAH) on November 5, 2014. A Proposed Decision was issued on January 14, 2015, granting Respondent Londo and the City's appeals. On April 20, 2015, CalPERS remanded the matter to the Administrative Law Judge (ALJ) for the purpose of taking additional evidence. The hearing on remand was held by the OAH on July 31, 2015. A Proposed Decision After Remand was issued on August 28, 2015, granting Respondent Londo and the City's appeals.

### **ALTERNATIVES**

- A. For use if the Board decides to adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own Decision the Proposed Decision dated August 28, 2015, concerning the appeals of Christine F. Londo and City of Walnut; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- B. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated August 28, 2015, concerning the appeals of Christine F. Londo and City of Walnut, hereby rejects the Proposed Decision and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

- C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated August 28, 2015, concerning the appeals of Christine F. Londo and City of Walnut, hereby rejects the Proposed Decision and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

- D. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System requests the parties in the matter concerning the appeals of Christine F. Londo and City of Walnut, as well as interested parties, to submit written argument regarding whether the Board's Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeals of Christine F. Londo and City of Walnut.

**BUDGET AND FISCAL IMPACTS:** Not applicable

**ATTACHMENTS**

- Attachment A: Proposed Decision
- Attachment B: Staff's Argument
- Attachment C: Respondent's Argument

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DONNA RAMEL LUM  
Deputy Executive Officer  
Customer Services and Support