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CITY AND COUNTY OF SAN FRANCISCO and
PEOPLE OF THE STATE OF CALIFORNIA

ENDORSED
FILED
San Francisco County Superior Court

MAR 17 2009

GORDON PARK-LI, Clerk
BY: CAROLYN BALISTRERI
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

CITY AND COUNTY OF SAN FRANCISCO, a Municipal Corporation, and the PEOPLE OF THE STATE OF CALIFORNIA, by and through DENNIS J. HERRERA, City Attorney for the City and County of San Francisco, Plaintiffs, vs. SKYLINE REALTY INC., CITIAPARTMENTS INC., GAYLORD HOTEL LLC, TROPHY PROPERTIES V LLC, TROPHY PROPERTIES V DE LLC, PRIME APARTMENT PROPERTIES LLC, LSL PROPERTY HOLDINGS II DE LLC, 737 PINE DE LLC, TROPHY PROPERTIES VI LLC, TROPHY PROPERTIES IV DE LLC, NOB HILL TOWER DE LLC, AND DOE ONE THROUGH DOE FIFTY, Defendants.	Case No. CGC 06-455-241 **JOINT CASE MANAGEMENT CONFERENCE STATEMENT** DATE: March 20, 2009 TIME: 3:00 p.m. DEPT: 305 JUDGE: Hon. John E. Munter Date Action Filed: August 16, 2006 Trial Date: Not Yet Set

PARTIES

The CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, and the PEOPLE OF THE STATE OF CALIFORNIA, by and through San Francisco City Attorney DENNIS J. HERRERA, ("Plaintiffs") filed this matter against Defendants SKYLINE REALTY INC., CITIAPARTMENTS INC., GAYLORD HOTEL LLC, TROPHY PROPERTIES V LLC, PRIME APARTMENT PROPERTIES LLC, PRIME APARTMENT PROPERTIES B10 DE LLC, LSL PROPERTY HOLDINGS II DE LLC, 737 PINE DE LLC, 737 PINE B10 DE LLC, TROPHY PROPERTIES V DE LLC, TROPHY PROPERTIES VI LLC, TROPHY PROPERTIES IV DE LLC, TROPHY PROPERTIES B10 DE LLC, TROPHY PROPERTIES IV B8A LLC, NOB HILL TOWER DE LLC, CITI FUNDING, INC., CITISUITES, LLC, LSL PROPERTIES B14 DE LLC and DOE EIGHT through DOE FIFTY ("Defendants").

PROCEDURAL HISTORY SINCE LAST CASE MANAGEMENT CONFERENCE

On February 10, 2009, the parties appeared before this Court for a Case Management Conference ("CMC"). At the CMC, Plaintiffs informed the Court that Defendants' discovery responses were still inadequate and requested a hearing date for a Motion to Compel. Plaintiffs also requested a hearing date for Plaintiffs' Motion For Leave To File Third Amended Complaint.

Pursuant to Plaintiffs' requests, this Court set March 20, 2009 as the hearing date for the Motion For Leave To File Third Amended Complaint. The Court also set the next Case Management Conference for the same date. The Court ordered the following briefing schedule for the Motion: Plaintiffs to file their Motion by February 19, 2009, Defendants to file their Opposition by March 5, 2009, and Plaintiffs to file their Reply by March 12, 2009.

The Court also set May 20, 2009 as the hearing date for Plaintiffs' Motion to Compel. The Court ordered the following briefing schedule for this Motion: Plaintiffs to file their Motion by March 30, 2009, Defendants to file their Opposition by April 20, 2009, and Plaintiffs to file their Reply by May 4, 2009. The Court asserted that the parties need not meet and confer before the papers for the Motion to Compel were filed. The Court also found that should Plaintiffs decide to

take the May 20, 2009 hearing on their Motion to Compel off calendar, this would not prevent Plaintiffs from re-setting the Motion for a future date.

On February 19, 2009, Plaintiffs filed a Motion For Leave To File Third Amended Complaint.

Defendants failed to file an Opposition to Plaintiffs' Motion For Leave To File Third Amended Complaint.

On March 12, 2009, Plaintiffs filed a Reply Brief to the Motion For Leave To File Third Amended Complaint.

WHAT HAS BEEN DONE SINCE THE LAST CASE MANAGEMENT CONFERENCE?

This is the seventh case management conference before this Court.

On February 12, 2009, Plaintiffs issued subpoenas for the business records of Defendants and non-parties (to be added as Defendants via Third Amended Complaint) from Morgan Stanley, JP Morgan Chase, Wachovia Bank, UBS Financial Services, Inc., Nomura Holding America, Inc. and Credit Suisse Securities USA, LLC.

On February 20, 2009, attorney Edward Singer, Jr. filed a Substitution of Counsel with the Court, substituting in as counsel for all Defendants. Mr. Singer has served as in-house counsel for Defendants since early 2006.

On March 6, 2009, Defendants served the following document on Plaintiffs: "Non-Party Objections of Walter Lembi, Frank Lembi, Taylor Lembi, David Raynal, Billie Salevouris, Frank Lembi as Trustee of the Olga Lembi Residual Trust, Walter Lembi as Trustee of the Walter and Linda Lembi Family Trust, and Billie Salevouris as Trustee of the [sic] Sillie Salevouris Revocable Trust to Deposition Subpoenas for Production of Business Records."

On March 16, 2009, counsel for all parties met and conferred to discussing the outstanding discovery and other issues.

DISCOVERY ISSUES

I. Defendants' Outstanding Written Discovery Responses And Documents

Plaintiffs' Position

At the time of Mr. Singer's substitution, Defendants had the following discovery deadlines: (1) Defendants' Responses to Plaintiff's Request for Admissions, Set One ("RFA's") and Form Interrogatory No. 17.1 were due on February 23, 2009, (2) Defendants' Amended Responses to Plaintiffs' discovery request via letter (otherwise labeled Special Interrogatories, Set Two) was due on February 27, 2009, (3) Defendants' Amended Response to No. 15.1 of the Form Interrogatories, Set One, were due on February 27, 2009, and (4) Defendant LSL Properties B14 DE LLC's Responses to Form Interrogatories, Set One were due on March 9, 2009.

Upon his substitution, Mr. Singer requested an extension of time to provide Responses to the RFA's. Plaintiffs' counsel agreed to an extension to March 9, 2009. On March 9, 2009, Mr. Singer provided unverified Responses to the RFA's and Form Interrogatory No. 17.1. Defendants have yet to provide responses to the other outstanding discovery.

On March 16, 2009, counsel for Plaintiffs and Defendants met to discuss the outstanding discovery and other issues.

As for the outstanding written discovery, counsel for Defendants agreed to provide verifications to Defendants' Responses to the RFA's and Form Interrogatory No. 17.1 by March 17, 2009. Counsel for Plaintiffs agreed to provide Defendants with a two-week extension of time to respond to the remaining outstanding discovery. As such, counsel for Defendants are to provide the following by March 30, 2009:

- Each Defendant's Amended Response to Special Interrogatories, Set Two, including responses to the additional categories of information and documents requested since January 2, 2009. Defendants agreed to draft a Response for each separate entity.
- Each Defendant's Amended Response to Form Interrogatory No. 15.1.
- Defendant LSL Properties B14 LLC's Response to Form Interrogatories.
- Each Defendant's Amended Response to Form Interrogatory No. 17.1.
- Additional responsive documents, if they exist.

Given the time extensions for discovery, counsel for all parties agreed to move the filing of papers and hearing dates for the May 20, 2009 Motion to Compel hearing. The parties proposed a hearing date in late June 2009, subject to the Court's availability.

Counsel for the parties also tentatively set April 13, 2009 and April 15, 2009 to resume the depositions of Skyline's and CitiApartments' Person Most Knowledgeable, subject to their availability.

Should Defendants fail to provide the responses by March 30, 2009, or fail to provide adequate and complete responses, Plaintiffs will need to proceed with a Motion to Compel.

Defendants' Position

New counsel for Defendants have only just recently received copies of document productions, discovery responses and other pleadings in this matter. Though it has been pending for quite some time, new counsel is just that – "new" – to this matter and making every reasonable effort to get up to speed quickly to avoid delaying this matter. While there is a significant amount of discovery that has been handed off to new counsel in various phases of being responded to, new counsel has agreed to provide amended, supplemental, and other outstanding responses to Plaintiffs no later than March 30, 2009.

II. Subpoenaed Financial Records

Plaintiffs' Position

On February 12, 2009, Plaintiffs issued subpoenas for the business records of Defendants and non-parties (to be added as Defendants via Third Amended Complaint) from Morgan Stanley, JP Morgan Chase, Wachovia Bank, UBS Financial Services, Inc., Nomura Holding America, Inc. and Credit Suisse Securities USA, LLC. On March 6, 2009, the non-parties served a written objection to the subpoena.

At the March 16, 2009 meeting, counsel for all parties discussed this issue. Given that many, if not all, of the non-parties would likely become parties after the March 20, 2009 hearing on Plaintiffs' Motion for Leave to File Third Amended Complaint, counsel for all parties agreed to toll any deadlines for responsive motions to the Objection until the status of the non-parties becoming

parties is resolved. If and when the non-parties become parties, Defendants have agreed that any objections to the subpoenas will be the subject of a Motion to Quash, pursuant to CCP §1985(g). Counsel for all parties agreed to circulate and review a protective order for the financial records of Defendants.

Defendants' Position

Non-party individuals and trusts timely objected to Plaintiffs' subpoenas to banks and other financial institutions. Defendants otherwise agree with Plaintiffs' position as stated above.

WHERE ARE WE TO GO?

A. Discovery Issues

Given that Plaintiffs have given Defendants additional extensions of time to provide responses, Plaintiffs will not be prepared to file a Motion to Compel by March 30, 2009. The parties, therefore, request that the filing and hearing dates for the Motion to Compel be moved one month to June 2009 to allow Plaintiffs an opportunity to review any responses to determine whether a Motion to Compel is required.

Should the non-parties become parties, Defendants may request a hearing date for a Motion to Quash related to the bank records subpoenaed by Plaintiffs.

B. Mediation

The parties met on February 9, 2009 for an informal settlement conference. The parties have since exchanged offers and demands, but have not reached a settlement.

C. Scope of Discovery

Once the outstanding written discovery issues are resolved, Plaintiffs will request an opportunity to present evidence in order to expand the scope of discovery to reflect the allegations contained in Complaint.

IS ACTION NECESSARY BY THE COURT AT THIS TIME?

Given the additional extensions of time given to Defendants to respond to outstanding discovery, the parties request that the Court move the filing and hearing dates for Plaintiffs' Motion to Compel one month into June 2009.

HOW MAY THE CASE BEST BE MOVED ALONG?

Plaintiffs' Position

After well over a year of discovery gamesmenship on the part of Defendants, new counsel has indicated that they will be more forthcoming in discovery. If this is true, Plaintiffs are hopeful that productive discovery will progress over the next few months without the need for intervention.

Defendants' Position

New counsel for Defendants are making every effort to get up to speed as quickly and efficiently as possible to move the discovery, and therefore the case, forward. New counsel for Defendants has requested the cooperation of Plaintiffs' counsel in this process.

Dated: March 17, 2009

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CITY ATTORNEY

By: _____
JENNIFER CHOI
JILL CANNON
YVONNE R. MERE
Attorneys for Plaintiffs

Dated: March 17, 2009

By: _____
EDWARD SINGER, JR.
TARA L. CONDON
Attorney for Defendants

PROOF OF SERVICE

I, SAUNDRA YAN, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, Sixth Floor, San Francisco, CA 94102.

On March 17, 2009, I served the following document(s):

JOINT CASE MANAGEMENT CONFERENCE STATEMENT

on the following persons at the locations specified:

Edward Singer, Jr., Esq.
Tara L. Condon, Esq.
2099 Market Street
San Francisco, CA 94114

in the manner indicated below:

☒ **BY UNITED STATES MAIL**: Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed March 17, 2009, at San Francisco, California.

SAUNDRA YAN