

Settlement Agreement and Release

This Settlement Agreement and Release (“Agreement”) is jointly entered into by the Plaintiffs, Buckeye Community Hope Foundation and Buckeye Community Sixty Nine, LP (collectively, “Plaintiffs”), on the one hand, and the Village of Tinley Park (the “Village” or “Defendant”) (Plaintiff and the Village are referred to as the “Parties”), on the other, to resolve the lawsuit captioned *Buckeye Community Hope Foundation, et al. v. Village of Tinley Park, et al.*, No. 16-cv-04430 (N.D. Ill., filed Apr. 19, 2016, and amended on June 15, 2016), and any and all allegations and claims that could have been brought by the Parties (the “Lawsuit”).

RECITALS

A. In the Lawsuit, Plaintiffs allege that the Village constructively denied Plaintiffs’ site plan application to build an affordable housing development, The Reserve, at the northeast corner of 183rd Street and Oak Park Avenue in the downtown corridor of Tinley Park, in violation of the federal Fair Housing Act and other federal and state laws;

B. The Village claims that there was no violation of law because the Village did not constructively deny Plaintiffs’ site plan application, but rather informed Plaintiffs that the Reserve development needed to include street level commercial units prior to it being approved and built;

C. Further, the Village disputes that Plaintiffs are entitled to the relief sought in the Lawsuit;

D. By entering into this Agreement, the Parties desire to avoid the substantial time, effort, expense and uncertainty of further litigation proceedings relating to, among other things, whether The Reserve was required to be built with first floor commercial units, as argued by the Village, or whether The Reserve should be allowed to proceed as proposed by the Plaintiffs in their site plan application; and

E. The Parties declare that this Agreement is a compromise of all claims, disputed or otherwise, known and unknown, which the Parties may have.

AGREEMENT

In reliance upon the above Recitals, which are incorporated into this Agreement, and in consideration of the mutual promises, covenants contained herein, the sufficiency of which are hereby acknowledged, and in full satisfaction and settlement of the rights and obligations relating to or arising out of the claims in the Lawsuit, the Parties hereby agree to as follows:

- I. DENIAL OF ALLEGATIONS IN THE LAWSUIT. This action has been brought by Plaintiffs in an Amended Complaint alleging numerous causes of action, including but not limited to the Fair Housing Act and state law claims. The Defendant has denied each and every allegation of wrongdoing, and further has denied liability and damages.

2. NO ADMISSION OF LIABILITY. The Parties acknowledge and agree that this settlement is made to avoid the uncertainty of the outcome of litigation and the expense in time and money of further litigation and for the purpose of judicial economy. The Parties acknowledge and agree that the settlement of this claim is not an admission of liability or wrongful conduct by or on the part of Defendant or the Village's future, current or former Board of Trustees members, officers, agents and employees, and is not evidence or notice of any wrongdoing by or on the part of the Village or its Board of Trustee members, officers, employees or agents.

3. CONSIDERATION AND SETTLEMENT.

a. Single Payment. Defendant Village of Tinley Park agrees to pay a gross lump sum of \$2,450,000 (the "Payment") to Plaintiffs, to forever settle and resolve the Lawsuit. Payment will be made by the Village's insurer, the Intergovernmental Risk Management Agency, in the form of one single payment in a check made payable to "Relman, Dane & Colfax PLLC IOLTA Trust Account" c/o Reed N. Colfax. The Payment shall be hand-delivered on April 19, 2017 to Plaintiffs' counsel at the following address:

Steven M. Elrod
Holland & Knight LLP
131 South Dearborn Street, 30th Floor
Chicago, IL 60603

A form 1099 will be issued to payee.

b. Fees and Costs. The Parties agree that each is responsible for its own attorney's fees and costs.

c. Third Party Liens. Plaintiffs state that no third party liens need to be paid from the proceeds.

4. PLAINTIFFS' AGREEMENT TO DISMISS. In consideration of the payment indicated in Paragraph 3, Plaintiffs agree that it will no longer seek to build The Reserve, and will dismiss with prejudice the Lawsuit against the Village of Tinley Park once this Agreement has been signed and the payment referenced in Paragraph 4 has been made, by filing a joint stipulation of dismissal in the District Court pursuant to Fed. R. Civ. P. 41(a)(1), and acknowledge that the application to the Village for The Reserve is formally withdrawn.

Via a separate mutual release agreement, contemporaneously signed with this Agreement, the Plaintiffs agree to dismiss the individually named defendants from the Lawsuit by filing a separate joint stipulation of dismissal pursuant to Fed. R. Civ. P. 41(a)(1), immediately prior to filing the stipulation of dismissal against the Village.

5. MUTUAL RELEASE OF CLAIMS. In exchange for performance and satisfaction of the respective obligations assumed by the Parties pursuant to this Agreement, the

Parties, on behalf of themselves, their affiliates, predecessors, successors, subsidiaries, members, stockholders, trustees, directors, officers, employees, attorneys, beneficiaries, assigns, insurers, agents, and family members, hereby and forever release each and every other Party, and each Party's affiliates, predecessors, successors, subsidiaries, members, stockholders, directors, officers, employees, attorneys, beneficiaries, assigns, insurers, agents, and family members, from any and all existing claims that any Party has against any other Party, whether or not raised in the Litigation.

6. MISCELLANEOUS.

- a. Governing Law. The Parties stipulate that the law of the State of Illinois will govern this Agreement.
- b. Amendment. This Agreement may be amended only by a written agreement executed by the Parties in interest at the time of the amendment.
- c. Captions and Interpretation. Section titles or captions contained herein are inserted as a matter of convenience and for ease of reference, and in no way, define, limit, extend, or describe the scope of this Agreement or any provision thereof. This Agreement is mutually drafted, and no provision in this Agreement is to be interpreted for or against any Party because that Party or its legal representative drafted such provision.
- d. Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and fully supersedes any and all prior understandings, representations, warranties, and agreements between the Parties pertaining to the subject matter hereof. The consideration recited herein is the sole, complete, and entire consideration for the releases, and there is no agreement, oral or written, express or implied, whereby the undersigned are to receive at any time or in any event or upon the happening of any contingency or upon the development or discovery of any fact, circumstance, or condition, any further consideration of any kind whatsoever from any Party hereto.
- e. Severability. If any portion of this Agreement is held to be void, invalid, or otherwise unenforceable, in whole or in part or for any reason, the remaining portions of this Agreement shall remain in full force and effect.
- f. Independent Advice of Counsel. Each Party represents and declares that in executing this Agreement it has relied solely upon its own judgment, belief, and knowledge, and the advice and recommendations of its own independently selected counsel, concerning the nature, extent, and duration of the Party's rights and claims, and that it has not been influenced to any extent whatsoever in executing the same by any representations or statements made by any other Party or by any person representing any other Party.

- g. Sufficient Information. The Parties hereby represent and warrant that they have sufficient information regarding the terms of the Agreement, the scope and effect of the releases set forth herein, and all other matters encompassed by this Agreement, to make an informed and knowledgeable decision with regard to entering into this Agreement, and that they have independently and without reliance on any other Party made their own analysis and decision to enter into this Agreement.
 - h. Representation. Each Party acknowledges and represents that it (1) has read fully and carefully this Agreement prior to execution and fully understands it, (2) has had the opportunity to make whatever investigation or inquiry is deemed necessary or appropriate in connection with this Agreement, including the opportunity to consult with counsel, (3) has been afforded the opportunity to negotiate as to any and all terms hereof, and (4) is executing this Agreement voluntarily, free from any undue influence, coercion, duress, menace, or fraud of any kind.
 - i. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument.
7. EFFECTIVE DATE. This Agreement is not binding until it is signed by the Parties and formally approved by a vote of the Village of Tinley Park Board of Trustees. The Agreement shall be executed on or before April 18, 2017.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of April 18, 2017.

DEFENDANTS:

VILLAGE OF TINLEY PARK

By: _____

Printed Name: _____

Title: _____

Date: _____

PLAINTIFFS:

BUCKEYE COMMUNITY HOPE
FOUNDATION

By: [Signature]

Printed Name: Steven J. Boone

Title: President

Date: 4/18/17

BUCKEYE COMMUNITY SIXTY NINE, LP

By: [Signature]

Printed Name: Steven J. Boone

Title: President of the General Partner

Date: 4/18/17

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of April 18, 2017.

DEFENDANTS:

VILLAGE OF TINLEY PARK

By: 

Printed Name: David B. Seaman

Title: Mayor

Date: April 18, 2017

PLAINTIFFS:

BUCKEYE COMMUNITY HOPE
FOUNDATION

By: _____

Printed Name: _____

Title: _____

Date: _____

BUCKEYE COMMUNITY SIXTY NINE, LP

By: _____

Printed Name: _____

Title: _____

Date: _____

Mutual Release

This Mutual Release Agreement (“Agreement”) is jointly entered into by the Plaintiffs, Buckeye Community Hope Foundation and Buckeye Community Sixty Nine, LP (collectively, “Plaintiffs”), on the one hand, and Defendants David Seaman, Jacob Vandenberg, Michael Pannitto, and Brian Younker (collectively, “Individual Defendants”), on the other, (with the Plaintiffs and Individual Defendants each being a “Party” or collectively referred to as the “Parties), to resolve *Buckeye Community Hope Foundation, et al. v. Village of Tinley Park, et al.*, No. 16-cv-04430 (N.D. Ill., filed Apr. 19, 2016) (the “Lawsuit”).

RECITALS

- A. Plaintiffs brought the Lawsuit against the Village of Tinley Park and the Individual Defendants;
- B. Plaintiffs and the Village of Tinley Park are settling the Lawsuit, and are entering into a settlement and release agreement, separate from this Agreement;
- C. The Plaintiffs and the Individual Defendants declare that each is releasing the other from all claims that were brought, or could have been brought, as part of the Lawsuit.

AGREEMENT

In reliance upon the above Recitals, which are incorporated into this Agreement, and in consideration of the mutual promises, covenants contained herein, the sufficiency of which are hereby acknowledged, and in full satisfaction and settlement of the rights and obligations relating to or arising out of the claims in the Lawsuit, the Parties hereby agree to as follows:

1. DENIAL OF ALLEGATIONS IN THE LAWSUIT. This action has been brought by Plaintiffs in an Amended Complaint alleging numerous causes of action, including but not limited to the Fair Housing Act and state law claims. The Individual Defendants deny each and every allegation of wrongdoing, and further have denied liability and damages.
2. PLAINTIFFS’ AGREEMENT TO DISMISS. Upon the settlement payment being made, as indicated in Paragraph 3 of the Settlement and Release Agreement between the Plaintiffs and the Village of Tinley Park, Plaintiffs agree to dismiss the Individual Defendants, with prejudice, from the Lawsuit, by filing a joint stipulation of dismissal pursuant to Fed. R. Civ. P. 41(a)(1), immediately prior to filing the stipulation of dismissal against the Village.
3. MUTUAL RELEASE OF CLAIMS. In exchange for performance and satisfaction of the respective obligations assumed by the Parties pursuant to this Agreement, the Parties, on behalf of themselves, their affiliates, predecessors, successors, subsidiaries, members, stockholders, directors, officers, employers, employees, attorneys, beneficiaries, assigns, insurers, agents, and family members, hereby and

forever release each and every other Party, and each Party's affiliates, predecessors, successors, subsidiaries, members, stockholders, directors, officers, employees, employers, attorneys, beneficiaries, assigns, insurers, agents, and family members, from any and all existing claims that any Party has against any other Party, whether or not raised in the Litigation.

4. MISCELLANEOUS.

- a. Governing Law. The Parties stipulate that the law of the State of Illinois will govern this Agreement.
- b. Amendment. This Agreement may be amended only by a written agreement executed by the Parties in interest at the time of the amendment.
- c. Captions and Interpretation. Section titles or captions contained herein are inserted as a matter of convenience and for ease of reference, and in no way, define, limit, extend, or describe the scope of this Agreement or any provision thereof. This Agreement is mutually drafted, and no provision in this Agreement is to be interpreted for or against any Party because that Party or its legal representative drafted such provision.
- d. Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and fully supersedes any and all prior understandings, representations, warranties, and agreements between the Parties pertaining to the subject matter hereof. The consideration recited herein is the sole, complete, and entire consideration for the releases, and there is no agreement, oral or written, express or implied, whereby the undersigned are to receive at any time or in any event or upon the happening of any contingency or upon the development or discovery of any fact, circumstance, or condition, any further consideration of any kind whatsoever from any Party hereto.
- e. Severability. If any portion of this Agreement is held to be void, invalid, or otherwise unenforceable, in whole or in part or for any reason, the remaining portions of this Agreement shall remain in full force and effect.
- f. Independent Advice of Counsel. Each Party represents and declares that in executing this Agreement it has relied solely upon its own judgment, belief, and knowledge, and the advice and recommendations of its own independently selected counsel, concerning the nature, extent, and duration of the Party's rights and claims, and that it has not been influenced to any extent whatsoever in executing the same by any representations or statements made by any other Party or by any person representing any other Party.
- g. Sufficient Information. The Parties hereby represent and warrant that they have sufficient information regarding the terms of the Agreement, the scope and effect of the releases set forth herein, and all other matters encompassed by this Agreement, to make an informed and knowledgeable decision with

regard to entering into this Agreement, and that they have independently and without reliance on any other Party made their own analysis and decision to enter into this Agreement.

- h. Representation. Each Party acknowledges and represents that it (1) has read fully and carefully this Agreement prior to execution and fully understands it, (2) has had the opportunity to make whatever investigation or inquiry is deemed necessary or appropriate in connection with this Agreement, including the opportunity to consult with counsel, (3) has been afforded the opportunity to negotiate as to any and all terms hereof, and (4) is executing this Agreement voluntarily, free from any undue influence, coercion, duress, menace, or fraud of any kind.
 - i. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument.
5. EFFECTIVE DATE. This Agreement is not binding until it is signed by the Parties, and until the Settlement and Release Agreement between the Plaintiffs and the Village of Tinley Park is formally approved by the Village of Tinley Park Board of Trustees. The Agreement shall be executed on or before April 18, 2017.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of April 18, 2017.

DAVID G. SEAMAN

MICHAEL J. PANNITTO

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Date: _____

Date: _____

JACOB C. VANDENBERG

BRIAN H. YOUNKER

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Date: _____


Date: _____

PLAINTIFFS:

BUCKEYE COMMUNITY HOPE
FOUNDATION

BUCKEYE COMMUNITY SIXTY NINE, LP

By:  _____

By:  _____

Printed Name: Steven J. Boone

Printed Name: Steven J. Boone

Title: President

Title: President of the Gemery Partner

Date: 4/18/17

Date: 4/18/17

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of April 18, 2017.

DAVID G. SEAMAN

By: [Signature]

Printed Name: David G Seaman

Date: 4/18/2017

MICHAEL J. PANNITTO

By: [Signature]

Printed Name: Michael Pannitto

Date: 4/18/17

JACOB C. VANDENBERG

By: [Signature]

Printed Name: Jacob Vandenberg

Date: April 18 2017

BRIAN H. YOUNKER

By: [Signature]

Printed Name: Brian H Younker

Date: April 18, 2017

PLAINTIFFS:

BUCKEYE COMMUNITY HOPE
FOUNDATION

By: _____

Printed Name: _____

Title: _____

Date: _____

BUCKEYE COMMUNITY SIXTY NINE, LP

By: _____

Printed Name: _____

Title: _____

Date: _____