

ROBINSON & WOOD, INC.

ATTORNEYS AT LAW

227 N 1st Street
San Jose, California 95113
(408) 298-7120 Telephone
(408) 298-0477 Facsimile
www.robinsonwood.com

JON B. ZIMMERMAN
(408) 792-5909
jbz@robinsonwood.com

August 25, 2015

Via Electronic Service

ALL COUNSEL

Re: *Cilker Apartments, LLC v. Western National Construction, et al.*
Our Matter No. 18079

DEFENSE VISUAL INSPECTIONS ON AUGUST 28, 2015

Dear Counsel:

As you are all aware, the Special Master has ordered that further Defense Inspections of the Property will occur as previously agreed on August 28, 2015. **Sign-in will commence at 9:00 a.m. and go until 9:30 a.m.** Inspections will commence at 9:30 a.m. There will be a lunch break from 12:00 p.m. to 1:30 p.m. Inspections will conclude at 4:30 p.m., unless completed earlier. As requested, these inspections will be visual inspections only. Modification of the site, removal of any building component or any type of testing of the property will not be allowed.

Please do not speak with any management personnel or tenants at the Property unless specifically authorized to do so by my office on the date of the inspection.

Plaintiff's lead consultant on site will be Richard Avelar & Associates. A representative from my office will also be present.

Access will be allowed to all parties, their experts and consultants who sign in and execute the Sign-In and Indemnity Agreements. Those documents are attached. Sign-In will NOT be continuous throughout the day. If you cannot be at the property to sign in before 9:30 a.m., you are respectfully requested to send the executed documents to me ahead of time so that you are not prohibited from accessing the site on the date of the inspection.

I believe that no more than 30 minutes of access time will be required for each unit. At this time the following schedule has been set up for inspection as requested:

Building A: Units 101, 103, 202, 211, 304 and 315

Building B: Units 103, 109, 202, 211, 309, 332

ALL COUNSEL

Cilker Apartments, LLC v. Western National Construction, et al.

Defense Visual Inspections on August 28, 2015

August 25, 2015

Page 2

Access to these units will be made as a group. We anticipate approximately 30 minutes per unit. Once complete, the group will proceed in unison to the next unit.

In addition to the above, the remainder of the visual site inspections will be also run as groups of experts each being led by an Avelar representative. We ask that as to each group of inspections, that the groups stay as a unit. Experts are not authorized to walk all around the project looking at issues without Avelar or another Plaintiff representative being present. Anyone who fails to comply with this requested protocol will be asked to leave.

Based on the areas of inquiry, the requested defense inspections will be performed in 4 overall groups, not including the roofs.

- Group 1: 12 unit interior/balcony/patio inspections
- Group 2: Building B podium inspections, including perimeter, planters, and area/planter drains, and Building B perimeter survey
- Group 3: Building B catwalk, visual and slope survey
- Group 4: Building A catwalk, visual and slope survey; Building A courtyard and column survey, Building B garage survey

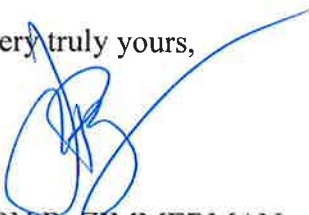
The roof access will be coordinated by Mr. Peterson's office. That group will inspect the roof systems as required and requested.

Finally, Anderson Truss has requested access to the attic space and this is also being coordinated on a separate track.

All safety equipment (e.g., safety fall prevention harnesses, and helmets, etc.) is needed and they must be supplied by the attending visitors/experts/attendees.

Thank you for your attention to the above. As always, I appreciate your ongoing cooperation in this case.

Very truly yours,



JON B. ZIMMERMAN

JBZ:jkt

Encl.

RELEASE AND INDEMNITY AGREEMENT

(Defense Visual Inspections of August 28, 2015)

*Cilker Apartments, LLC v. Western National Construction, et al.
Santa Clara County Superior Court, Case No. 113CV258281*

One Pearl Place Apartments
One Pearl Place, San Jose, California

In exchange for access to the One Pearl Place Apartments (hereinafter the "Property") for Defense Visual Inspections (hereinafter "Defense Visuals") on August 28, 2015 the person signing below hereby voluntarily and knowingly expressly releases, discharges, waives and relinquishes any and all actions and assumes the risk for personal injury, property damage or wrongful death occurring to him/herself arising as a result of attending the Defense Visuals or any activities associated with, arising out of (broadly interpreted), or incidental to the Defense Visuals, wherever or however the same may occur and for whatever period the Defense Visuals may occur on site, and each undersigned does for him/herself, his/her heirs, his/her company or principals, executors, administrators and assigns hereby releases, waives, discharges, and relinquishes any action, aforesaid, which may hereafter arise for him/herself, his/her company or principals, and for his/her estate, and agrees that under no circumstances will he/she or his/her heirs, company, principals, or assigns prosecute or present any claim for personal injury, property damage or wrongful death against CILKER APARTMENTS, LLC, or any of its managers, owners, officers, directors, agents, parents, subsidiaries, holding companies, servants or employees, or its management company or managers, or any person in its employ, including consultants, contractors, attorneys, and others (*hereinafter collectively* "CILKER"), for any of such causes of action, whether or not the same shall arise by the negligence or other conduct of any of such CILKER.

In addition to the aforementioned Release, the party signing below shall defend, indemnify and hold harmless CILKER from and against any and all claims, demands, debts, causes of action, liabilities, losses, damages, costs, expenses, awards, court costs, penalties, fines or judgments (collectively, "Claims") which arise out of his/her active or passive negligence or other fault while present on the Property for participation in the Defense Visuals.

The person signing this Agreement expressly states that he/she is the authorized representative of his/her employer set forth in the signature block below (if any). To the extent that any injury or damage arises by reason of the active or passive negligence or other fault of the undersigned, the employer listed below (if any) agrees to bear the signing person's share of liability proportioned in relation to all others legally responsible for such injury or damage as required by this Agreement.

A copy of this signed Agreement may be used as if it were the original signed Agreement.

I HAVE READ THE FOREGOING "RELEASE AND INDEMNITY AGREEMENT" AND BOTH I AND MY EMPLOYER (IF LISTED BELOW) AGREE TO BE BOUND TO EACH AND EVERY OF ITS TERMS AND CONDITIONS:

SIGNATURE

FULL NAME (print)

DATE

COMPANY / EMPLOYER (print)

TITLE (print)