

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

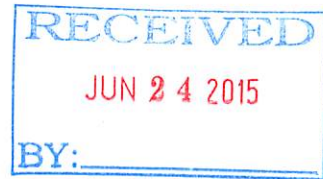
ALASKA BUILDING, INC., an Alaska)
corporation,)

Plaintiffs,)

vs.)

716 WEST FOURTH AVENUE LLC,)
KOONCE PFEFFER BETTIS, INC., d/b/a)
KPB ARCHITECTS, PFEFFER)
DEVELOPMENT, LLC, LEGISLATIVE)
AFFAIRS AGENCY, and CRITERION)
GENERAL, INC.,)

Defendants. _____



Case No.: 3AN-15-05969 Civil

JOINDER IN MOTION TO STAY PROCEEDINGS

COMES NOW, Defendant 716 West Fourth Avenue, LLC (“716”), and hereby respectfully joins in Defendant Legislative Affairs Agency’s (the “Agency”) motion to stay proceedings with respect to Count I until this Court resolves the parties’ motions to dismiss on subject matter jurisdiction grounds.

Plaintiff filed a two-count Complaint on March 31, 2015. On May 27, 2015, pursuant to Civil Rule 12(b)(1), the Legislative Affairs Agency (the “Agency”) moved this court to dismiss Count I for lack of subject matter jurisdiction.¹ Specifically, the Agency argued that Plaintiff lacks both interest-injury and citizen-taxpayer standing to challenge the legality of the Project. It was unclear from Plaintiff’s original complaint whether 716 was named as a defendant with respect to Count I. The Agency’s reading

¹ See Agency’s Motion at 1.

of Count I made clear that the Agency believed it was “the only defendant with respect to the first count of the Complaint.”² Plaintiff filed an amended complaint on June 8, 2015, but added no clarity as to what 716’s involvement was with respect to the alleged illegal procurement claim in Count I.

Plaintiff filed a motion in opposition to the Agency’s motion to dismiss on subject matter grounds on June 12, 2015, attempting to clarify for the first time 716’s involvement in the lease issue:

First, the Legislative Affairs Agency is not the only defendant for Count One. The invalidation or reformation of the illegal LIO lease is also directed at 716 LLC, the owner and lessor of the building. Punitive damages are sought against 716 for entering into the illegal LIO Lease.³

Although not properly named in the Complaint with respect to Count I and without waiving any future right to move to dismiss or raise an affirmative defense to Count I on any other ground, in an abundance of caution, 716 hereby asks the court for a stay pending disposition of the subject matter jurisdiction issue. The Court’s ruling on this issue will have a determinative effect on 1) whether Count I remains part of the lawsuit and (2) the legal issues that could be presented in motions to dismiss in the remaining action if the challenge is unsuccessful.

716 agrees with the Agency that a stay pending a motion to dismiss on standing grounds is particularly appropriate. Before this Court can proceed to address any of

² See Agency’s Motion to Dismiss at 3.

³ Plaintiff’s Opposition to Motion to Sever at 9.

Plaintiff's claims, including his motion for partial summary judgment on Count I, it should consider whether it even has subject matter jurisdiction to hear those claims.⁴ Accordingly, the undersigned Defendant hereby concurs in the arguments set forth in the Agency's motion to stay and adopts and incorporates them in full.

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Attorneys for 716 West Fourth Avenue, LLC

DATED: 6/23/15

By: JWR
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⁴ See *Myers v. Robertson*, 891 P.2d 19, 203 (Alaska 1995) (“In discussing the standing requirement, [the Supreme Court of Alaska] has stated that an Alaska court has no subject matter jurisdiction unless the lawsuit before it presents an actual controversy involving a genuine relationship of adversity between the parties.”)

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Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969Civil

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served electronically messenger facsimile U.S. Mail on the 23 day of June 2015, on:

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