

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

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

Plaintiffs,)

vs.)

Case No.: 3AN-15-05969 Civil

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.

**716 WEST FOURTH AVENUE, LLC'S RESPONSES TO ALASKA BUILDING,
INC.'S FIRST SET OF INTERROGATORIES**

Pursuant to Civil Rules 26(d)(1) and 33, Defendant 716 West Fourth Avenue, LLC ("716") by and through its attorney, Jeffrey W. Robinson of Ashburn & Mason, P.C., makes the following response to Alaska Building, Inc.'s ("ABI") First Set of Interrogatories.

PRELIMINARY STATEMENT

Discovery in this case is not complete. As discovery proceeds, facts, information, evidence, documents, and things may be discovered which are not set forth in these responses, but which may be responsive to these interrogatories. The following responses are based on 716's current knowledge, information and belief, any are by no means exhaustive. Furthermore, these responses were prepared based on 716's good

faith interpretation of the interrogatories and are subject to correction for inadvertent errors or omissions, if any.

716 reserves the right to refer to, conduct discovery with reference to, or offer into evidence any and all facts, evidence, documents and things developed during the course of discovery, notwithstanding references to facts, evidence, documents and things provided herein. These responses are given without prejudice to subsequent revision or supplementation, including objections, based on any information, evidence and documentation which hereinafter may be discovered.

GENERAL OBJECTIONS

716 expressly incorporates the following general objections as if set forth fully in response to each of the following individual interrogatories addressed in the specific objections section below, and any response below is made subject to and without waiving these objections:

1. 716 objects to each and every interrogatory insofar as they are vague, ambiguous, overly broad, unduly burdensome, or use terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these interrogatories.

2. 716 objects to each and every interrogatory insofar as they are not reasonably calculated to lead to the discovery of admissible evidence and are not relevant to the subject matter of this proceeding.

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3. 716 objects to providing information to the extent that it is already a matter of public record, or to the extent it is obtainable from other sources that are more convenient and less burdensome, or are equally available to ABI. 716 objects to interrogatories to the extent that they purport to require 716 to search for information not within its possession, custody, or control, as doing so would place an undue burden upon 716.

4. 716 objects to each and every interrogatory insofar as they seek documents or information protected by the attorney-client privilege or the work product privilege. Nothing contained in these responses is intended as, or shall in **any way** be deemed, a waiver of any such privilege or protection, or any other applicable privilege or doctrine. Moreover, an objection based on attorney-client privilege or the work product privilege, should not be construed as a representation that the material exists or existed.

5. 716 objects to the production of any confidential documents or other information that could prejudice the business interests of 716 or of any party that may have provided the confidential information to 716.

6. 716 objects to providing information and the production of documents and things subject to the rights of third parties not affiliated with 716.

7. Nothing in these responses should be construed as waiving rights or objections that might otherwise be available to 716. Nor should 716's answering any of

these interrogatories be deemed an admission of materiality, relevancy, or admissibility in light of the interrogatories or responses thereto.

INTERROGATORIES

INTERROGATORY NO. 1:

Please identify all persons with knowledge of the LIO Lease as it relates to this matter.

If any such person(s) is an attorney, such person(s) must be identified.

OBJECTION AND RESPONSE TO INTERROGATORY NO.1:

Subject to its General Objections, 716 objects to this interrogatory as vague and ambiguous, overly broad and unduly burdensome to the extent it seeks to identify “all persons with knowledge of the LIO Lease as it relates to this matter” regardless of whether such information is relevant to any issue in this lawsuit or is otherwise reasonably calculated to lead to the discovery of admissible evidence.

716 also objects to this interrogatory because under Alaska R. Civ. P. 33(d) the burden on ABI in ascertaining the identity of persons with knowledge of the lease is no greater than the burden on 716 to identify the persons responsive to this request by searching publicly available information and by reviewing the non-privileged documents that have *already* been cited by ABI as publically available in the Anchorage Recording District, Third Judicial District, State of Alaska.¹

¹ See Plaintiff's First Set of Interrogatories to 716 West Fourth Avenue LLC, Definition G.

Subject to its General Objections stated above and the specific objections contained in this response, 716 responds to this interrogatory as follows: The Legislature entered into the lease extension and amendment for the Anchorage LIO with its then (and still) current lessor, 716. Accordingly, members of the Legislature, and specifically members of the Legislative Council, which authorized the lease extension during its June 7, 2013 meeting, may possess information about the lease. Mike Hawker was the Chairman of the Legislative Council at the time and may possess relevant information about the lease. Doug Gardner, Director of Legal Services for the Legislative Affairs Agency, may have knowledge of the lease.

716 is the landlord of the Anchorage LIO and may have relevant information about the lease. Mark Pfeffer is the Manager of 716. Robert Acree is a Member of 716 and may have information about the lease. Donald McClintock, an attorney with Ashburn & Mason, may have knowledge about the lease. The identification of any attorney in these responses shall not in any way be deemed a waiver of the attorney-client privilege or the work product privilege, or any other applicable privilege or doctrine.

INTERROGATORY NO. 2:

With respect to each person identified in response to the proceeding interrogatory, please summarize such person's knowledge of the LIO Lease as it relates to this matter.

OBJECTIONS AND RESPONSE:

Subject to its General Objections, and incorporating the same objections enumerated in 716's objection to Interrogatory No.1, 716 objects to the phrase "such person's knowledge" as vague and ambiguous. 716 further objects to the phrase "such person's knowledge" as overly broad and unduly burdensome to the extent it seeks information that may have no relevance to any issue in this litigation or is otherwise reasonably calculated to lead to the discovery of admissible evidence.

716 also objects to this interrogatory under Alaska R. Civ. P. 33(d) because the burden on ABI in ascertaining what people may know about the lease is no greater than the burden on 716 to describe the same by searching publicly available material, including legislative materials (minutes, audio, and documents) and non-privileged and publically accessible documents recorded in Book 2004-024411-0 and Book 2013-028824-0 as cited by Plaintiff in Plaintiff's First Set of Interrogatories to 716.

INTERROGATORY NO. 3:

Please identify all documents relating to this matter.

RESPONSE:

Subject to its General Objections, and incorporating objections already asserted in Interrogatories 1 and 2, 716 objects to Interrogatory No.3 as vague and ambiguous, overly broad and unduly burdensome to the extent it asks 716 to identify "all documents relating to this matter" regardless of whether such documents are relevant to any issue

in this lawsuit or are otherwise reasonably calculated to lead to the discovery of admissible evidence.

716 also objects to this interrogatory under Alaska R. Civ. P. 33(d) because the burden on ABI in ascertaining the identity of documents relating to the lease is no greater than the burden on 716 to identify the persons responsive to this request by searching publicly available literature and by reviewing the non-privileged documents that have already been cited by ABI as publically available in the Anchorage Recording District, Third Judicial District, State of Alaska.² 716 also has access to the Legislative Reference Library, which is open to the public and contains most legislative committee records, as well as the Legislative Research Department.

ASHBURN & MASON, P.C.
Attorneys for 716 West Fourth Avenue, LLC

DATED: 5/27/15

By: Jeffrey W. Robinson
Jeffrey W. Robinson
Alaska Bar No. 0805038

² See Plaintiff's First Set of Interrogatories to 716 West Fourth Avenue LLC, Definition G.
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served electronically messenger
facsimile U.S. Mail on the 27th day of May 2015, on:

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