

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

Housatonic Habitat for Humanity, Inc.	:	
Plaintiff,	:	Case No. 3:13-CV-01888 (MPS)
	:	
v.	:	
	:	February 6, 2015
	:	
General Real Estate Holdings, LLC	:	
Defendant.	:	

SUPPLEMENTAL AFFIDAVIT OF FRAN NORMANN PURSUANT TO RULE 56(d)

I, Fran Normann, do hereby swear:

1. I am over 18 years of age and understand the responsibilities and obligations of an oath.
2. I am currently the Executive Director of Housatonic Habitat for Humanity, Inc. ("Habitat for Humanity") and was previously the Affiliate Director. I have been employed by Habitat for Humanity since November 29, 2010.
3. I submit this affidavit as a supplement to my affidavit dated April 29, 2014, and in response to the Court's Order dated January 23, 2015.
4. It is my understanding that the following specific facts are required in discovery: (a) facts concerning whether hazardous substances were present during Greater Real Estate Holdings, LLC ("GREH")'s ownership of 21 Hospital Avenue in Danbury, Connecticut (the "Property"); (b) facts concerning whether hazardous substances were released at the Property during GREH's ownership; (c) facts concerning the nature of the transfer of the Property from the Savings Bank of

Danbury to GREH; and (d) the history of the Property and whether it qualifies as an Establishment under the Connecticut Transfer Act.

5. First, it is my understanding that Habitat for Humanity will seek facts concerning whether hazardous substances were present and/or released during GREH's ownership of the Property. In particular, I understand that Habitat for Humanity will seek information from GREH relating to GREH's clean-up efforts at the Property, which included the hiring of REI Property & Asset Management ("REI") to clean the Property. GREH has already admitted that REI removed floral supplies from the Property during GREH's clean-up efforts. *See* Affidavit of Nicholas J. Gazetos ¶ 23. As I understand, Habitat for Humanity's discovery efforts will determine whether any of these supplies were pesticides or other hazardous substances and whether any of those hazardous substances leaked or were otherwise released during GREH's clean-up efforts. To obtain this information, I understand that Habitat for Humanity will serve interrogatories, document requests and conduct depositions of GREH and REI employees to determine whether any pesticides or other hazardous substances were present and/or released at the Property during GREH's clean-up efforts. It is my understanding that if pesticides or hazardous substances were present and/or released during GREH's clean-up efforts, a genuine issue of material fact would be present as to whether GREH would be liable under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA").

6. Second, it is my understanding that Habitat for Humanity will seek facts concerning the nature of the transfer of the Property from the Savings Bank of Danbury to GREH. I understand that Habitat for Humanity will seek information from the Savings Bank of Danbury and GREH regarding the nature of the transaction to determine whether GREH was a subsequent transferee of

the Property. It is my understanding that this information is necessary to determine whether GREH can avail itself of the lender exemption under CERCLA. To my understanding, information concerning the nature of this transaction can only be obtained through interrogatories, requests for production and depositions of employees of the Savings Bank of Danbury and GREH. It is my understanding that if the nature of the transaction demonstrates that GREH was a subsequent transferee of the Property, a genuine issue of material fact would exist as to whether GREH qualifies as a lender under CERCLA.

7. Lastly, it is my understanding that Habitat for Humanity will seek facts concerning the history of the Property and whether it qualifies as an Establishment under the Transfer Act. I understand that Habitat for Humanity will conduct discovery seeking all information that GREH has regarding the history of the use and contamination of the Property. As I understand, obtaining this discovery from GREH will allow Habitat for Humanity to make its own determination as to whether 100 kilograms of waste was ever generated at the Property during any one month since November 1980, the standard under the Transfer Act for whether certain environmental filings must be undertaken. I understand that Habitat for Humanity intends to obtain this information through interrogatories, requests for production and depositions. In addition, I understand that Habitat for Humanity will conduct its own expert evaluations of the Property and its history to determine whether 100 kilograms of waste was ever generated at the Property during any one month since 1980. It is my understanding that if discovery shows that 100 kilograms of waste was ever generated at the Property during any one month since 1980, a genuine issue of material fact would exist as to whether GREH could be held liable for a violation of the Transfer Act.

8. At this time, Habitat for Humanity has only exchanged initial disclosures, and has not sought any other discovery. Thus, it is my understanding that Habitat for Humanity has not yet made an effort to discover the facts required to oppose GREH's Motion for Summary Judgment dated April 8, 2014 (the "Motion").

9. It is my understanding that little to no discovery occurred between the periods of March 3, 2014 and April 30, 2014 because Habitat for Humanity concentrated its efforts on settlement negotiations and responding to GREH's Motion. I understand that Habitat for Humanity focused its initial efforts on reaching settlement agreements with GREH as well as other parties in related actions involving the contamination of the Property. Habitat for Humanity has since reached settlement agreements with those other parties. It is my understanding that counsel for Habitat for Humanity originally requested that GREH agree to an extension of time to conduct discovery after GREH filed its Motion. *See Exhibit A.* I understand that counsel for Habitat for Humanity requested this extension because the original expedited discovery deadlines appeared to be unreasonable and counsel's efforts were focused on responding to GREH's Motion. *Id.* It is my understanding that the parties ultimately failed to reach an agreement on an extension of the discovery deadlines, and instead agreed to file the Motion to Stay Discovery.

10. It is my understanding that Habitat for Humanity does not believe that the requested discovery could have been completed between April 30, 2014 and May 16, 2014. Rather, it is my understanding that when Habitat for Humanity agreed to the Motion to Stay, it intended to establish new discovery deadlines after the Court had ruled on GREH's Motion and lifted the stay.

11. It is my understanding that Habitat for Humanity agreed to the Motion to Stay Discovery in an effort to save resources. It is my understanding that discovery in this case would

be very costly to both Habitat for Humanity and GREH as it would be expansive and would require the use of experts. It is my understanding that Habitat for Humanity and GREH agreed that it would be most efficient to stay discovery when the Court might issue a dispositive order at any moment. It is my understanding that Habitat for Humanity chose not to seek relief from the stay in order to prevent the unnecessary expenditure of resources if the Court were to grant GREH's Motion in its entirety.

12. It is my understanding that Habitat for Humanity has not sought information from GREH voluntarily because those efforts would likely be futile as the parties are currently involved in active litigation. GREH has filed a Motion for Summary Judgment that is still pending before the Court. In response, Habitat for Humanity has requested additional discovery in order to seek facts that would support its claims. It is my understanding that Habitat for Humanity did not believe that GREH would voluntarily turn over information that would support Habitat for Humanity's claims when a dispositive motion is currently before the Court and an order staying discovery is also in place.

13. As previously discussed, it is my understanding that evidence from third parties will be necessary in this case. It is my understanding that Habitat for Humanity will seek documents from and will conduct depositions of GREH and the Savings Bank of Danbury relating to the transfer of the Property from the Savings Bank of Danbury to GREH. In addition, it is my understanding that Habitat for Humanity will seek documents and conduct depositions on REI, and possibly others involved in the site clean up, to determine whether hazardous substances were present and/or released during GREH's ownership of the Property.

Fran Normann

Subscribed and sworn before me
this __ day of February, 2015.

Notary Public
My Commission Expires: _____

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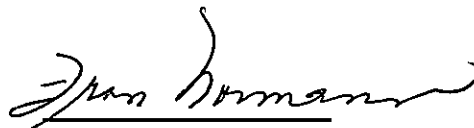
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Fran Normann

Subscribed and sworn before me
this __ day of February, 2015.



Notary Public
My Commission Expires: _____