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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

INDEPENDENT LIVING CENTER
OF SOUTHERN CALIFORNIA, et al.,

Plaintiffs,

v.

CITY OF LOS ANGELES,
CALIFORNIA, et al.,

Defendants.

Case No. CV12-00551 FMO (PJWx)

STIPULATION AND ~~PROPOSED~~
CONSENT CONFIDENTIALITY
AND PROTECTIVE ORDER

Trial Date: December 3, 2013
Time: 9 a.m.

Judge: Hon. Patrick Walsh

ANY PARTY INTENDING TO SUBMIT TO
THE COURT ANY DOCUMENTS COVERED
BY THIS PROTECTIVE ORDER SHALL FILE A
MOTION UNDER LOCAL RULE 79-5
REQUESTING PERMISSION TO FILE
THEM UNDER SEAL.



1 The parties in the above-styled action believe that certain documents and
2 things, answers to interrogatories, testimony, and other responses provided by the
3 parties or by third parties will contain information that is especially sensitive and
4 entitled to confidential treatment in the course of discovery. The parties have
5 therefore agreed to the terms of this Consent Confidentiality and Protective Order.

6 1. Application. This Agreement and Order shall govern the disclosure,
7 handling, and disposition of any document, information, or other discovery material
8 that contains information to be designated as “highly confidential” as defined
9 herein, and that is furnished in this litigation by parties or non-parties, in connection
10 with answers to interrogatories, requests for admissions, responses to document
11 requests, responses to subpoenas duces tecum, deposition testimony, or otherwise,
12 to any other party. Because of the highly confidential nature of this material, the
13 parties agree that disclosure of such material shall be for “attorneys’ eyes only,” as
14 further defined and limited by the provisions of this Agreement and Order set forth
15 below.

16 2. Definition. Information subject to the designation “highly
17 confidential” and disclosure limitation of “attorneys’ eyes only” shall mean and
18 include specific data regarding the finances, partnership agreements, or corporate
19 structure of owners of properties concerned in this lawsuit or their members,
20 shareholders, third party investors or sponsors. This definition shall include any
21 material setting forth financial data including budgets, pro forma statements, draw
22 requests, net worth statements, year end statement on financial accounts, tax
23 documents, loan or credit applications or agreements, balance sheets, inter-creditor
24 agreements, settlement statements, financial audits, and personal compensation of
25 the owners of properties concerned in this lawsuit and their members, shareholders,
26 third party investors or sponsors. This definition shall also include information
27 identifying the private financial or personal information of individuals. The
28 foregoing definition is not exhaustive and the parties reserve the right to identify

1 additional documents as “highly confidential” if additional types of documents are
2 discovered that contain the type of information described above as highly
3 confidential information.

4 3. Exclusion. The designation “highly confidential” and disclosure
5 limitation of “attorneys’ eyes only” does not apply to any information as described
6 in paragraph 2 of this Agreement and Order that is specifically regarding,
7 referencing, or concerning one of the properties defined in paragraphs 57-116 of the
8 Second Amended Complaint (Dkt. #98) or to organizational documents of those
9 properties. For example, budgets, pro forma statements, draw requests, net worth
10 statements, year-end statements on financial accounts, tax documents, loan or credit
11 applications or agreements, balance sheets, inter-creditor agreements, settlement
12 statements, financial audits, and personal compensation data of the properties
13 defined in paragraphs 57-116 of the Second Amended Complaint (Dkt. #98) are
14 excluded from the designation of “highly confidential” and disclosure limitation of
15 “attorneys’ eyes only.” The designation “highly confidential” and disclosure
16 limitation of “attorneys’ eyes only” also does not apply to any information in the
17 possession of any government agency that would be required to be disclosed to
18 members of the public pursuant to the California Public Records Act, Gov’t Code
19 §6250 et seq. or the federal Freedom of Information Act, 5 U.S.C. §522 et seq.
20 Voluntary disclosure by a party of its own documents or information to the Court in
21 a publicly filed document renders such document or information not “highly
22 confidential.”

23 4. Designation.

24 4.1. Good Faith Claims. Any party may designate as “Highly
25 Confidential - Attorneys’ Eyes Only” at the time of disclosure or thereafter, any
26 documents, other tangible things, or information that the asserting party in good
27 faith believes are within the definition set forth in paragraph 2 of this Agreement
28 and Order and which is not subject to the exclusion of paragraph 3. The inadvertent

1 production of any “highly confidential” document is not intended to be, and shall
2 not operate as, a waiver of the “highly confidential” status of that document, in
3 whole or in part. Nor is any such inadvertent production intended to be, nor shall it
4 constitute, a waiver of any right to object to any use of such document or of the
5 information contained therein.

6 4.2. Produced Documents. Copies of documents that the producing
7 party believes constitute or contain information that is “highly confidential” shall be
8 marked or otherwise designated “HIGHLY CONFIDENTIAL - ATTORNEYS’
9 EYES ONLY.”

10 4.3. Inspection of Documents. In the event a producing party elects
11 to make its documents available for inspection and the requesting party elects to
12 inspect them, no designation of “HIGHLY CONFIDENTIAL - ATTORNEYS’
13 EYES ONLY” need be made in advance of the inspection. During such inspection,
14 all material produced shall be considered subject to this designation. If the
15 inspecting party selects specified documents to be copied, any party who asserts
16 that the selected documents contain “highly confidential information” shall
17 designate “highly confidential” information as applicable, in accordance with
18 paragraph 2 and 3 of this Agreement and Order within ten days of the time such
19 copies are produced. If the inspecting party selects documents to be copied that are
20 stored on electronic, magnetic, optical or other non-paper media, such as compact
21 discs, DVDs, video tapes and audio tapes (collectively, “data storage devices”), any
22 party who asserts that the selected documents contain “highly confidential
23 information” shall designate the data storage device as containing “highly
24 confidential” information as applicable, within ten days of the time copies of such
25 data storage devices are produced.

26 5. Objections to Designation. Any party objecting to a designation of
27 information as “highly confidential” - or to the lack of such designation - shall
28 notify in writing the producing party and all other parties of the objection,

1 specifically identifying each document at issue. In accordance with the Federal
2 Rules governing discovery disputes, the parties thereafter shall confer within ten
3 (10) days in an attempt to resolve their differences. The parties agree that as a
4 general matter documents containing "highly confidential" information may be
5 used in this litigation if the "highly confidential" information is redacted and no
6 other grounds for objection to use of the documents apply. The parties agree that
7 during the meet and confer process they will discuss the scope and appropriateness
8 of redactions to resolve any differences or objections to public disclosure. Nothing
9 in this Agreement and Order shall prevent a party from redacting confidential or
10 private information from a document and producing the document with that
11 information already redacted. The parties also agree that if the party to whom the
12 allegedly "highly confidential" information pertains agrees that the "attorneys' eyes
13 only" designation is not necessary, the information shall not be considered "highly
14 confidential." If the parties are unable to resolve their differences, the objecting
15 party shall, after the conference concludes, file with the Court a motion to challenge
16 the "highly confidential" designation (or non-designation). The material in
17 question shall retain "highly confidential" status if any party claims such until the
18 Court rules otherwise.

19 6. Custody. All "highly confidential" information and any and all copies,
20 extracts, and summaries thereof, including memoranda relating thereto, shall be
21 retained by the receiving party in the custody of counsel of record, or by persons to
22 whom disclosure is authorized under this Agreement and Order.

23 7. Handling Prior to Trial.

24 7.1. Authorized Disclosure of Highly Confidential Information.

25 Disclosure of information that is "highly confidential" is authorized only for use in
26 connection with this litigation, and is intended for attorneys' eyes only. To that
27 end, such information may be disclosed by the receiving party only to the following
28 persons:

- 1 a. The Court, pursuant to paragraph 8 of this Agreement and Order;
- 2 b. Qualified persons taking testimony involving the information, and
3 necessary stenographic, videotape and clerical personnel;
- 4 c. Counsel of record for the parties in this litigation, including attorneys,
5 clerks, paralegals, and secretarial personnel;
- 6 d. Designated experts, consultants and their staff who are consulted by
7 counsel for a party to this litigation, provided that each such person has signed an
8 undertaking in the form of Exhibit A attached hereto and agrees to be bound by the
9 terms of this Agreement and Order; and
- 10 e. Outside vendors employed by counsel for copying, scanning, and
11 general handling of documents, provided that each such vendor has signed an
12 undertaking in the form of Exhibit A attached hereto and agrees to be bound by the
13 terms of this Agreement and Order.

14 A receiving party who discloses "highly confidential" information in
15 accordance with this subparagraph shall maintain a list of all persons to whom a
16 receiving party has disclosed the "highly confidential" information, and shall
17 furnish the written acknowledgements and disclosure list to the Court upon its
18 request or order. This does not apply to counsel or their staff.

19 7.2. Unauthorized Disclosure. If "highly confidential" information
20 is disclosed to any person other than in the manner authorized by this Agreement
21 and Order, the party or person responsible for the disclosure must immediately
22 bring the facts relating to such disclosure to the attention of the producing party and
23 if appropriate, to the Court. Without prejudice to other rights and remedies of the
24 producing party, the responsible party or person shall immediately make every
25 effort to obtain the return of the "highly confidential" information (including
26 without limitation, from the person to whom the unauthorized disclosure was made
27 and from any other person to whom "highly confidential" information was directed
28 as a direct or indirect result of the unauthorized disclosure) and to prevent further

1 disclosure on its own part or on the part of any person to whom the unauthorized
2 disclosure was made.

3 7.3. Further Disclosures. The attorneys of record for a party who
4 wishes to disclose "highly confidential" information to persons other than those
5 identified in paragraph 7.1 shall notify the attorneys of record for the other parties.
6 The attorneys shall discuss in good faith whether disclosure can be made. If they
7 cannot agree, the party seeking disclosure shall move the Court, on reasonable
8 notice, for an order permitting disclosures. No disclosure of the information to
9 persons other than those identified in paragraph 7.1 shall be made pending a ruling
10 by the Court.

11 8. Court Filings. The parties will comply with Local Rule 79-5 when
12 contemplating or resisting the filing of any "highly confidential" information.

13 9. Handling After Disposition. Within thirty (30) days of the conclusion
14 of this litigation, whether by way of settlement or judgment, including the
15 exhaustion of all appeals, the attorney for each receiving party shall collect,
16 assemble and return all "highly confidential" information, including all copies,
17 extracts, and summaries thereof, including memoranda and notes relating thereto, in
18 the possession of the receiving party, its counsel, or other authorized recipients to
19 whom that party provided the information, but not including copies, extracts,
20 summaries, or memoranda that contain or constitute attorney work product. If
21 requested by the designating party within ninety (90) days of the conclusion of this
22 litigation, all copies, extracts, summaries, and memoranda that contain or constitute
23 attorney-work product shall be destroyed and the attorney for each receiving party
24 shall certify in writing that all such copies, extracts, summaries and memoranda
25 have been destroyed. The obligation to return or destroy shall occur prior to the
26 termination of this litigation when an individual or entity is no longer a party or
27 when counsel, expert, or consultant is no longer retained in the case, whichever
28 comes earlier.

1 10. No Implied Waivers. The execution of this Agreement and Order shall
2 not be interpreted as a waiver of the right to object, under applicable law, to the
3 furnishing of information in response to discovery requests or to object to a
4 requested inspection of documents or facilities. Parties producing “highly
5 confidential” information in this litigation are doing so only pursuant to the terms
6 of this Agreement and Order. Neither the agreement to, or the taking of any action
7 in accordance with, the provisions of this Agreement and Order, nor the failure to
8 object thereto, shall be interpreted as a waiver of any claim or position or defense in
9 this action, or any other actions.

10 11. Care in Storage. Any person in possession of “highly confidential”
11 information produced by another party shall exercise reasonable and appropriate
12 care with regard to the storage, custody, copying, and use of the “highly
13 confidential” information to ensure that the confidential and sensitive nature of
14 same is maintained.

15 12. No Admission. Neither this Agreement and Order nor the designation
16 of any item as “highly confidential” shall be construed as an admission that such
17 material, or any testimony concerning such material, would be admissible in
18 evidence in this litigation or in any other proceeding.

19 13. Parties’ Own Documents. This Agreement and Order shall in no way
20 restrict the parties in their use of their own documents and information, or in their
21 use of documents or information obtained in the ordinary course of their operations,
22 and nothing in this Agreement and Order shall preclude any party from voluntarily
23 disclosing its own documents or information to any party or nonparty. Nothing in
24 this order shall preclude any of the parties from showing a document designated as
25 “highly confidential” to an individual who prepared the document. Nothing in this
26 order shall preclude any of the parties from showing a document designated as
27 “highly confidential” to an individual who is identified on the face of the document
28 as an addressee or copy address, but before doing so the parties shall confirm with

1 the author or producing party that the document is a final draft that was in fact sent
2 to the addressee or copy address.

3 14. Relevant Evidence. If any party desires to introduce a "highly
4 confidential" document in open court (at trial or otherwise) the parties agree that (a)
5 nothing in this Agreement and Order shall prevent the presentation of relevant
6 evidence to the Court or trier of fact, and (ii) the parties will cooperate to facilitate
7 the introduction in evidence of such document or portions as are relevant while
8 preserving the confidentiality of other information contained in the document by
9 such means as redaction, an agreed statement of the facts therein, closing the
10 courtroom for publication of the confidential matter, or other similar means. A
11 party intending to introduce such evidence shall provide notice to the other parties
12 at the pretrial conference, if possible, or if not, then sufficiently in advance of its
13 introduction to enable the parties to confer and seek a ruling from the Court on the
14 method of introduction.

15 15. No Effect on Other Rights. This Agreement and Order shall in no way
16 abrogate or diminish any pre-existing contractual, statutory, or other legal
17 obligations or rights of any party with respect to "highly confidential" information.

18 16. Further Protection. Nothing in this Agreement and Order shall
19 preclude a party from seeking and obtaining from the Court a modification of this
20 Agreement and Order. Except for the properties listed in paragraphs 57-116 of the
21 Second Amended Complaint ("SAC," Dkt. #98), the parties have made no
22 agreement with respect to information specific to any of the properties described in
23 paragraph 164 of the SAC because the parties disagree regarding the obligations
24 surrounding disclosure of information regarding those properties. Once that
25 disagreement is resolved, the parties may modify this Agreement and Order to
26 reflect that resolution.

27 17. General.

28 17.1. The parties agree to submit this Agreement and Order for entry

1 by the Court and to be bound by its terms prior and subsequent to entry by the
2 Court.

3 17.2. The Court retains jurisdiction over the parties after the dismissal
4 of this action regarding any dispute concerning the improper use of information
5 disclosed under protection of this Agreement and Order.

6 17.3. Notwithstanding the preceding sentence, all obligations and
7 duties arising under this Protective Order shall forever survive the termination of
8 this action.

9 **IT IS SO STIPULATED.**

10 DATED: July 26, 2013 DISABILITY RIGHTS CALIFORNIA

11
12 /s/ Autumn Elliott
13 By: _____
14 AUTUMN ELLIOTT

15 Attorneys for Plaintiffs

16 DATED: July 24, 2013 BYRNE & NIXON LLP

17
18 /s/ Mark A. Byrne
19 By: _____
20 MARK A. BYRNE

21 Attorneys for Defendant/Cross-Claimant
22 City of Los Angeles

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DATED: July 26, 2013

LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Robert M. Collins

By: _____
MELISSA T. DAUGHERTY
ROBERT M. COLLINS

Attorneys for Defendant/Cross-Claimant
Community Redevelopment Agency for the City of
Los Angeles and CRA/LA, a Designated Local
Agency

DATED: July 25, 2013

/s/ Theresa L. Kitay

By: _____
Theresa L. Kitay

Attorney for Defendants listed in App. A
and Lead Counsel for Rule 19 Owner
Defendants Group

DATED: July 26, 2013

Greenberg Traurig, LLP

/s/ William J. Goines

By: _____
William J. Goines

Attorneys for Defendant Redrock Noho
Residential, LLC

DATED: July 26, 2013

Law Offices of Christopher P. Warne

/s/ Christopher P. Warne

By: _____
Christopher P. Warne

Attorneys for Defendant 105 East I Street, LP

1 DATED: July __, 2013 The Law Office of Dimitrios P. Biller¹
2
3 By: _____
4 Dimitrios P. Biller
5 Attorneys for Defendant Korean Family Housing
6 Corp.

7 DATED: July 26, 2013 Levy, Small & Lallas
8 /s/ Leo D. Plotkin
9 By: _____
10 Leo D. Plotkin
11 Attorneys for Defendant Menlo Park, LP

12 DATED: July 26, 2013 Lara & Ibarra LLP
13 /s/ Roberto Lara
14 By: _____
15 Roberto Lara
16 Attorneys for Defendants New Tierra del Sol, LP
17 and 4651 Huntington, LP

18 DATED: July 26, 2013 Baird Holm LLP
19 /s/ Scott P. Moore
20 By: _____
21 Scott P. Moore
22 Attorneys for Defendant Amistad Plaza, LP
23
24
25
26

27 ¹ Counsel was asked to confirm by 3:30 p.m. on July 26th if he/she authorized Byrne & Nixon
28 LLP to sign the proposed protective order on his/her behalf. No response was received from the
Law Office of Dimitrios P. Biller.

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DATED: July 26, 2013

Baker Keener & Nahra LLP

/s/ R. Jeffrey Neer

By: _____

R. Jeffrey Neer

Attorneys for Defendant Penny Lane Centers

DATED: July 26, 2013

Rutan & Tucker, LLP

/s/ Megan K. Garibaldi

By: _____

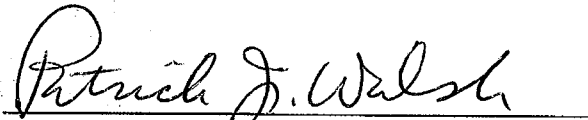
Mark J. Austin

Megan K. Garibaldi

Attorneys for Defendant Imani Fe, LP

IT IS SO ORDERED.

Dated: 7/29/13



Hon. Patrick J. Walsh
United States District Court Magistrate Judge

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EXHIBIT A
ACKNOWLEDGEMENT

The undersigned hereby acknowledges that:

1. I have read the CONSENT CONFIDENTIALITY AND PROTECTIVE ORDER, which was entered by the Court on _____, 2013, in *Independent Living Center of Southern California, et al. v. City of Los Angeles, California, et al.*, Case No. 2:12-cv-00551-FMO-PJW, pending in the United States District Court for the Central District of California.

2. I am one of the persons contemplated in paragraph 7.1 thereof as being given access to the information designated "highly confidential" and intended as for attorneys' eyes only.

3. I fully understand and agree to abide by the obligations and conditions thereunder.

4. I agree that any documents or information designated "highly confidential" will be used only in the preparation of the prosecution or defense of this action, as contemplated by the order.

Date:

Signature

Printed Name

Title or Position

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APPENDIX A
RULE 19 OWNER DEFENDANTS REPRESENTED
BY THERESA L. KITAY, ATTORNEY AT LAW

1. 12129 El Dorado Avenue,, LP
2. 505 Bonnie Brae Partners, LP
3. Adams 935, LP
4. AMCAL Montecito Fund, LP
5. Andalucia Senior Apartments, LP
6. Ardmore 959 Partners, LP
7. Asturias Senior Apartments, LP
8. B S Broadway Village II, LP
9. Behringer Harvard NoHo, LLC
10. Buckingham Senior Apartments, LP
11. Cantabria Senior Apartments, LP
12. Carondelet Court Partners, LP
13. Casa Rampart, LP
14. Central Village Apartments, LP
15. Decro Orion Apartments, LP
16. Decro Osborne Apartments, LP
17. East LA Community Corporation
18. Eastside Village, LP
19. Esperanza Community Housing Corporation
20. Eugene Hotel, LP
21. FAME West 25th Street, LP
22. Far East Building, LP
23. Grandview Nine, LP

- 1 24. Hart Village, LP
- 2 25. Heavenly Vision Senior Housing, LP
- 3 26. Hobart Heights Partners, LP
- 4 27. Hoover Seniors
- 5 28. Las Margaritas, LP
- 6 29. Los Angeles Housing Partnership, Inc.
- 7 30. Los Cuatro Vientos, LP
- 8 31. Morgan Place, LP
- 9 32. New Genesis Apartments, LP
- 10 33. NoHo Senior Villas, LP
- 11 34. O L Hope, L.P.
- 12 35. P G Housing Partners, LP
- 13 36. Palm Village Senior Housing Corp.
- 14 37. Palomar Apartments, LP
- 15 38. Renato Apartments, LP
- 16 39. Rittenhouse Limited Partnership
- 17 40. Selma-Hudson Community Limited Partnership
- 18 41. Seven Maples, LP
- 19 42. Sherman Village Apartments, LP
- 20 43. Sherman Way Community Housing, LP
- 21 44. Stovall Housing Corporation
- 22 45. Vermont Seniors
- 23 46. WA Court, LP
- 24 47. Watts/Athens Preservation XVII, LP
- 25 48. West Angeles Villas, LP
- 26 49. Western/Carlton II, LP
- 27 50. Yale Terrace, LP
- 28