

FILED IN DENVER
DISTRICT COURT
DENVER, COLORADO

15 OCT 30 AM 9:07
FILED: 10/30/2015 8:09 AM

DISTRICT COURT, CITY AND COUNTY OF
DENVER, STATE OF COLORADO
City and County Building
1437 Bannock Street, Room 256
Denver, Colorado 80202

Plaintiffs: ARTHUR KEITH WHITELAW, III; JOHN
DERUNGS; KATHERINE K. MCCRIMMON; LAURA
PITMON; DENISE SIGON f/k/a DENISE L. SAGER;
ALAN SINGER and RITA SINGER

v.

Defendants: THE DENVER CITY COUNCIL (including
the individual Council members in their official capacity:
Albus Brooks, Charlie Brown, Jeanne Faatz, Christopher
Herndon, Robin Kniech, Peggy Lehmann, Paul Lopez,
Judy H. Montero, Chris Nevitt, Debbie Ortega, Jeanne
Robb, Susan Shepherd, Mary Beth Susman);
THE MANAGER OF COMMUNITY PLANNING AND
DEVELOPMENT (Brad Buchanan, in his official
capacity);
THE DENVER PLANNING BOARD (including the
individual Board members in their official capacity, Andy
Baldyga, Jim Bershof, Shannon Gifford, Renee Martinez-
Stone, Brittany Morris Saunders, Joel Noble, Susan Pearce,
Arleen Taniwaki, Julie Underdahl, Frank Schultz and Chris
Smith);
THE CITY AND COUNTY OF DENVER; and
CEDAR METROPOLITAN LLC (the Property
Owner/zoning applicant).

Attorneys for the City Defendants

Nathan Lucero, Atty. No. 33908
Tracy Davis, Atty. No. 35058
Assistant City Attorneys
Denver City Attorney's Office
Municipal Operations Section
201 W. Colfax Avenue, Dept. 1207
Denver, Colorado 80202
Telephone: (720) 913-3275; Fax (720) 913-3180
E-mail: nathan.lucero@denvergov.org
E-mail: tracy.davis@denvergov.org

151
▲ COURT USE ONLY ▲

Case Number: 2015CV032427

Division: 269

TRANSMITTAL OF RECORD

The Denver City Council, including the individual Council members in their official capacity: Albus Brooks, Charlie Brown, Jeanne Faatz, Christopher Herndon, Robin Kniech, Peggy Lehmann, Paul Lopez, Judy H. Montero, Chris Nevitt, Debbie Ortega, Jeanne Robb, Susan Shepherd, and Mary Beth Susman (collectively, the "City Council"); the Manager of Community Planning and Development, Brad Buchanan, in his official capacity; the Denver Planning Board, including the individual Board members in their official capacity: Andy Baldyga, Jim Bershof, Shannon Gifford, Renee Martinez-Stone, Brittany Morris Saunders, Joel Noble, Susan Pearce, Arleen Taniwaki, Julie Underdahl, Frank Schultz and Chris Smith (collectively, the "Planning Board" or "Denver Planning Board"); and the City and County of Denver (all collectively, the "City" or "City Defendants"), through their undersigned attorneys hereby provides notice that it has submitted the record for this case pursuant to the Court's Order Granting Plaintiff's Motion Under C.R.C.P. 106(a)(4)(III) Requiring Certificate of Record Within 28 Days After Defendants File an Answer dated July 29, 2015 by providing a copy of the record to the Court on CDs. The City Defendants have provided all documents identified in the Court's Order to the extent they are under the control or supervision of the City and its staff, were reviewed and considered and are not protected by the attorney-client privilege or other applicable privilege or protection.

The City filed the City's Motion to Amend the Court's Order Requiring Certification of the Record on September 23, 2015. This Motion still is pending and the City's submission of all of the documents required by the Court's July 29, 2015 Order is not a waiver or withdrawal of the City's Motion or the City's opposition to Plaintiffs' Motion for Leave to Serve Subpoenas and Take Depositions on its Rule 106(a)(4) Claim. Upon the Court's order on the City's Motion, the City will re-file a reduced record or will identify by page number(s) the documents to be removed from the record.

The City has provided an invoice for records from the City Council to Plaintiffs and Plaintiffs have not yet advanced those costs to the City. The City will provide an invoice for the records from the Department of Community Planning and Development to Plaintiffs for payment of the costs of collecting those documents.

Respectfully submitted this 30th day of October, 2015.

/s/Tracy Davis

Nathan Lucero, # 33908

Tracy Davis, # 35058

Denver City Attorney's Office

201 W. Colfax Avenue, Dept. 1207

Denver, Colorado 80202

Tele.: (720) 913-3275

Email: nathan.lucero@denvergov.org

Email: tracy.davis@denvergov.org

ATTORNEYS FOR THE CITY DEFENDANTS

In accordance with C.R.C.P. 121 §1-26, a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the Court upon request.

CERTIFICATE OF SERVICE

I certify that on this 30th day of October, 2015, a true and correct copy of the foregoing was filed with the Court and served electronically by ICCES to:

Gregory J. Kerwin
Gibson, Dunn & Crutcher LLP
GKerwin@gibsondunn.com
Attorney for Plaintiffs

Chip S. Schoneberger
Foster Graham Milstein & Calisher LLP
cschoneberger@fostergraham.com
Attorney for Cedar Metropolitan, LLC

/s/Kristen Moore