

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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| FAIRHOLME FUNDS, INC. et al., |) | |
| |) | |
| Plaintiffs, |) | No. 13-465 C |
| |) | (Judge Sweeney) |
| v. |) | |
| |) | |
| THE UNITED STATES, |) | |
| |) | |
| Defendant. |) | |

DEFENDANT’S UNOPPOSED THIRD MOTION FOR AN
ENLARGEMENT OF TIME TO RESPOND TO THE COURT’S
SEPTEMBER 20, 2016 ORDER REGARDING PAYMENT OF PLAINTIFFS’ EXPENSES

Pursuant to Rules 6(b) and 6.1 of the Rules of the United States Court of Federal Claims (RCFC), the United States respectfully requests an enlargement of time until 21 days after the Federal Circuit rules on our petition for a writ of mandamus within which to file its memorandum “explaining why the court should not require defendant ‘to pay [plaintiffs’] reasonable expenses incurred in making the motion [to compel], including attorney’s fees.’” The Court requested the memorandum at the end of its opinion granting the motion to compel filed by plaintiffs, Fairholme Funds, Inc., et al. (Fairholme). Opinion and Order (Order) at 81, Sept. 20, 2016, ECF No. 335. The Court previously extended the deadline for the United States’ response to December 14, 2016. On December 12, 2016, counsel for Fairholme advised counsel for the United States that Fairholme does not oppose this request for an enlargement of time.

Good cause exists to grant the requested relief, given that, as noted above, the United States has petitioned the United States Court of Appeals for the Federal Circuit for a writ of mandamus regarding the Order. *See In re United States*, No. 17-104 (Fed. Cir. filed Oct. 27, 2016). Briefing of the petition is complete, but the Federal Circuit has not yet ruled on the petition. Because the Federal Circuit’s disposition of the United States’ petition will likely

inform our response to the Court's order regarding payment of Fairholme's expenses, we expect that the requested enlargement will provide sufficient time for the United States to review a decision from the Federal Circuit, prepare a brief, and obtain the necessary internal and agency review.

For these reasons, we request that the Court extend the deadline for the United States to respond to the Order until 21 days after the Federal Circuit rules on our petition for a writ of mandamus.

Respectfully submitted,

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