

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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

DEFENDANT’S MOTION FOR LEAVE TO FILE CORRECTED STATUS REPORT

Defendant, the United States, respectfully requests that the Court grant leave to file the status report required by its order dated March 7, 2017 (ECF No. 360). In its order dated March 7, 2017, the Court, among other things, directed the United States to:

review its privilege log, and based on the court’s September 20, 2016 ruling on plaintiffs’ motion to compel as well as the Federal Circuit’s ruling on defendant’s petition for a writ of mandamus, produce any additional documents listed on its privilege log that are either (1) no longer privileged in light of both courts’ rulings or (2) despite being privileged must nevertheless be produced in light of both court’s rulings.

The Court further ordered the United States to “file on or by April 17, 2017, a status report indicating that it has complied with the court’s order.” The Court later extended the deadline for the status report indicating compliance to May 30, 2017. Order, April 13, 2017 (ECF No. 371). On May 30, 2017, the United States reported its compliance with the Court’s March 7, 2017 order. Later that day, however, we became aware that, due to an oversight, we had neglected to serve plaintiffs with 839 of the 3500 documents over which we are no longer asserting privilege. The effect of the oversight, which resulted from an internal miscommunication, is that plaintiffs had received the documents produced by the Department of the Treasury, but had not received the documents produced by the Federal Housing Finance Agency (FHFA). The 839 FHFA documents were served on May 31, 2017.

Consequently, we respectfully request leave to file the attached status report, reporting our compliance with the March 7, 2017 order.

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

s/ Robert E. Kirschman, Jr.
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May 31, 2017

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

DEFENDANT’S CORRECTED STATUS REPORT CONFIRMING COMPLIANCE WITH THE COURT’S MARCH 7, 2017 ORDER

In its order dated March 7, 2017 (ECF No. 360) the Court, among other things, ordered the United States to:

review its privilege log, and based on the court’s September 20, 2016 ruling on plaintiffs’ motion to compel as well as the Federal Circuit’s ruling on defendant’s petition for a writ of mandamus, produce any additional documents listed on its privilege log that are either (1) no longer privileged in light of both courts’ rulings or (2) despite being privileged must nevertheless be produced in light of both court’s rulings.

The Court further ordered the United States to “file on or by April 17, 2017, a status report indicating that it has complied with the court’s order.”¹ As directed, the United States respectfully submits this status report that confirms its compliance with the Court’s March 7, 2017 order.

In a rolling production that commenced on April 14, 2017, 3500 documents listed on Department of the Treasury and Federal Housing Finance Agency privilege logs have been produced to plaintiffs. These additional documents produced to plaintiffs include all of the documents listed on the privilege logs that are “either (1) no longer privileged in light of both

¹ The Court later extended the deadline for the status report indicating compliance to May 30, 2017. Order, April 13, 2017, ECF No. 371.

court's rulings, or (2) despite being privileged must nevertheless be produced in light of both court's rulings," as well as documents over which the United States has withdrawn its assertion of privilege.

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

s/ Robert E. Kirschman, Jr.
ROBERT E. KIRSCHMAN, JR.
Director

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May 31, 2017