

ORAL ARGUMENT HELD ON APRIL 15, 2016**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

PERRY CAPITAL LLC,

Appellant,

v.

JACOB J. LEW, et al.,

Appellees.

Nos. 14-5243 (L),
14-5254 (con.),
14-5260 (con.),
14-5262 (con.)

**FAIRHOLME'S UNOPPOSED MOTION TO UNSEAL
ITS THIRD MOTION FOR JUDICIAL NOTICE AND
SUPPLEMENTATION OF THE RECORD**

Pursuant to Circuit Rule 47.1(c), Plaintiffs-Appellants in No. 14-5254 (“Fairholme”) hereby submit this unopposed motion to unseal Fairholme’s Third Motion for Judicial Notice and Supplementation of the Record and the accompanying appendix, which Fairholme filed under seal on February 2, 2017. In support of its motion, Fairholme states as follows:

1. On February 2, 2017, Fairholme filed a motion asking the Court to take judicial notice of, and supplement the record with, certain documents that had been produced to it in related litigation in the Court of Federal Claims (CFC). Because those documents were subject to a protective order in the CFC litigation, Fairholme filed its motion and accompanying appendix under seal.

2. Paragraph 15 of the protective order that applies to documents produced in the CFC litigation permits a party that produces a document to remove the “Protected Information” designation from that document, thus allowing its public disclosure. Second Amended Protective Order ¶ 15, *Fairholme Funds, Inc. v. United States*, No. 13-465 (Fed. Cl. Nov. 9, 2015), Doc. 256. The United States produced the documents discussed in Fairholme’s motion and included in its appendix, and on February 9, 2017, counsel for the United States agreed to remove the “Protected Information” designations from those documents.
3. In view of the United States’ agreement to remove the “Protected Information” designations from these materials, all of the information in Fairholme’s motion and accompanying appendix is now in the public domain. Pursuant to Circuit Rule 47.1(c), Fairholme respectfully requests that the Court unseal these filings. Good cause exists for granting this motion because it will enable the Court to discuss relevant information in Fairholme’s filings without the need to issue its opinion under seal.
4. Fairholme has consulted counsel for both Treasury and FHFA, and this motion is unopposed.

February 14, 2017

Respectfully submitted,

/s/ Charles J. Cooper
Charles J. Cooper

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing complies with the type-volume limitation of FED. R. APP. P. 27(d)(2) because it contains 301 words according to the count of Microsoft Word.

/s/ Charles J. Cooper
Charles J. Cooper

CERTIFICATE OF SERVICE

I hereby certify that, on this 14th day of February, 2017, I electronically filed the original of the foregoing document with the clerk of this Court by using the CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: February 14, 2017

/s/ Charles J. Cooper
Charles J. Cooper