

SETTLEMENT AGREEMENT AND MUTUAL GENERAL RELEASES

This Settlement Agreement and Mutual Release of All Claims (“AGREEMENT”) is made by and between Plaintiffs JOEL BAUMBLATT, TRUSTEE OF THE JOEL BAUMBLATT TRUST and DONNA REESE, TRUSTEE OF THE DONNA REESE FAMILY TRUST, (collectively “PLAINTIFFS”), on the one hand, and Defendants PALISAIR HOMEOWNERS ASSOCIATION, A NON-PROFIT CORPORATION (hereinafter “PHOA”), on the other hand. PHOA is sometimes collectively referred to herein as “DEFENDANT”. PLAINTIFFS and DEFENDANT are sometimes collectively referred to herein as the “PARTIES”.

RECITALS

WHEREAS on July 25, 2008, PLAINTIFFS filed their complaint in this matter alleging causes of action for declaratory relief, injunctive relief and nuisance (the “ACTION”);

WHEREAS in the Complaint, PLAINTIFFS allege that The PHOA is liable for failing to approve a proposed addition to their residence at the proposed height of 21 feet, 2 inches;

WHEREAS, DEFENDANT denies and refutes the contentions in the ACTION;

WHEREAS from September 21, 2009 to September 29, 2009, the Los Angeles County Superior Court, Honorable John L. Segal presiding, held a trial of all causes of action alleged in the Complaint;

WHEREAS on November 13, 2009, the Los Angeles County Superior Court, Honorable John L. Segal presiding entered Judgment in favor of DEFENDANT on all causes of action (the “Judgment”);

WHEREAS on January 21, 2010, the Los Angeles County Superior Court, Honorable John L. Segal presiding entered orders awarding the PHOA its pre-judgment costs (the “Costs Award”);

WHEREAS on January 12, 2010 and on March 11, 2010, PLAINTIFFS filed notices of Appeal of the Judgment and Costs Award, respectively (hereinafter collectively the “Appeal”);

WHEREAS after multiple extensions of time, on August 1, 2011, PLAINTIFFS filed their appellate brief with the California Court of Appeal for the Second Appellate District, Division Two. DEFENDANT presently has until October 3, 2011 to file its respondent’s brief.

WHEREAS PLAINTIFFS have submitted a new plan for their proposed addition to their residence at the proposed height of 16 feet;

WHEREAS on August 15, 2011, the PHOA approved the height for PLAINTIFFS’ proposed addition subject to approval of plans and a rendering of the proposed addition;

WHEREAS on August 17, 2011, PLAINTIFFS submitted revised plans, including a computerized rendering of two sides of the proposed addition;

WHEREAS on August 19, 2011, the PHOA gave PLAINTIFFS conditional approval of their plans for a proposed addition subject to submission of additional information and materials as required by the CC&Rs before work on the project can commence;

WHEREAS on or about August 23, 2011, PLAINTIFFS submitted additional items to the PHOA to supplement their plans for a proposed addition to their residence;

WHEREAS on or about August 29, 2011 the PHOA provided it's Conditional Approval of PLAINTIFFS' Preliminary Plans for a proposed addition to their residence;

WHEREAS, the PARTIES wish permanently to resolve all disputes that exist or may exist between them in the future arising out of the ACTION or related to the PLAINTIFFS' proposals for an addition to their residence;

NOW, THEREFORE, for and in consideration of the promises and undertakings described below, the PARTIES agree as follows:

A G R E E M E N T S

A. INCORPORATION OF RECITALS

1. The aforementioned recitals are incorporated into this agreement as though expressly set forth herein in full.

B. DEFENDANT

1. Consideration.

A. As good and sufficient consideration for the releases below, DEFENDANT agrees to waive its right to collect any funds from PLAINTIFFS by and/or through the Cost Award and/or the Judgment. Upon delivery of this Agreement signed by PLAINTIFFS, DEFENDANT will provide to Plaintiffs in a form ready for filing and/or recording acknowledgments of satisfaction of judgment and releases of any and all recorded Abstracts of Judgment liens.

2. General Release. PHOA, as well as any of its past, present and future officers, agents, directors, shareholders, principals, partners, owners, representatives, attorneys or insurers, and their predecessors, successors, heirs and assigns, and all persons acting by, through, under, or in concert with any of them, hereby fully and forever release, waive, discharge and promise not to enforce the Judgment entered against PLAINTIFFS, sue or otherwise institute or cause to be instituted any charges, complaints, claims or legal proceedings against PLAINTIFFS or any of their representatives, attorneys or insurers, and their predecessors, successors, heirs and assigns, with respect to any and all liabilities, claims, demands, contracts, debts, obligations and causes of action of any nature, kind, and description, whether in law, equity or otherwise, whether or not now known or ascertained, which currently do or may exist, including without limitation any matter, cause or claim arising out of or related to facts or events occurring prior to

the execution of this AGREEMENT, and arising from and relating to the ACTION, and including, but not limited to, those claims arising under any federal, state or local law or statute.

C. PLAINTIFFS

1. No Additional Consideration. PLAINTIFFS agree that the Consideration constitutes adequate legal consideration for the promises and representations made by them in this AGREEMENT and that upon receipt of the consideration, PLAINTIFFS will have no other claim to consideration or any other form of consideration to which PLAINTIFFS believe they are entitled to from DEFENDANT as a result of the ACTION.

2. General Release. PLAINTIFFS, as well as their heirs and assigns, hereby fully and forever release, waive, discharge and promise not to sue or otherwise institute or cause to be instituted any charges, complaints, claims or legal proceedings against PHOA or any of its past, present and future officers, agents, directors, shareholders, principals, partners, owners, representatives, attorneys or insurers, and their predecessors, successors, heirs and assigns, with respect to any and all liabilities, claims, demands, contracts, debts, obligations and causes of action of any nature, kind, and description, whether in law, equity or otherwise, whether or not now known or ascertained, which currently do or may exist, including without limitation any matter, cause or claim arising out of or related to facts or events occurring prior to the execution of this AGREEMENT, and arising from and relating to the ACTION, and including, but not limited to, those claims arising under any federal, state or local law or statute.

D. PLAINTIFFS AND DEFENDANT

1. Notice Of Settlement and Dismissal of Appeal. Within two days of receipt of this Agreement fully executed by all parties and delivery of the lien releases and satisfaction of judgment, PLAINTIFFS shall cause to be filed notices of abandonment of the Appeal as against the PHOA.

2. Attorneys' Fees and Expenses. The PARTIES agree to bear their own respective attorneys' fees and expenses related to the subject matter of this AGREEMENT, including the ACTION and Appeal. In the event that any party shall institute any action, proceeding, or litigation against another party to enforce the provisions of this AGREEMENT, the prevailing party shall be entitled to recover its expenses, including reasonable attorneys' fees, in addition to any other relief to which the party may be found entitled.

3. Waiver of Civil Code Section 1542. The PARTIES hereto specifically waive the provisions of Section 1542 of the Civil Code of the State of California which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO THE CLAIMS WHICH THE CREDITOR DID NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

The PARTIES expressly consent that, notwithstanding Section 1542 of the California Civil Code, or any other statute or rule of law of similar import whether enacted or in force in California or in any other State of the Union, this AGREEMENT shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown or unsuspected claims, demands, and causes of action concerning the matters released herein, if any, as well as those relating to any other claims, demands, and causes of action hereinabove specified. The PARTIES acknowledge and agree that this waiver is an essential and material term of this AGREEMENT and the settlement which leads to it, and without such waiver, the settlement would not be entered into. The PARTIES have been advised by legal counsel with respect to such waiver, and understand and acknowledge the significance and consequences of the AGREEMENT and of this express waiver of Section 1542 and any other similar statute or rule of law of similar import whether enacted or in force in California or in any other State of the Union.

4. No Prior Assignments. The PARTIES hereby represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any third person or entity any claim, right, liability, demand, obligation, expense, action or causes of action being waived or released pursuant to this AGREEMENT.

5. No Admission. The PARTIES hereby acknowledge, recognize and understand that nothing contained in this AGREEMENT shall constitute, be construed or be treated as an admission of liability or wrongdoing by any of the PARTIES.

6. Governing Law and Jurisdiction and Venue. The PARTIES hereby agree that California law shall govern the construction, interpretation and enforcement of this AGREEMENT, and that any legal proceeding relating to the claim or this AGREEMENT shall be venued in the State of California, County of Los Angeles, West Judicial District.

7. Severability. The PARTIES hereby agree that if any provision, or portion thereof, of this AGREEMENT shall for any reason be held to be invalid or unenforceable or to be contrary to public policy or any law, then the remainder of the AGREEMENT shall not be affected thereby and shall be enforced as if the invalid provision or portion thereof were not a part of this AGREEMENT. Should any provision or portion thereof be held unenforceable for any reason, then such provision or portion thereof shall be enforced to the maximum extent permitted by law.

8. Facsimile, Scanned and Counterpart Signatures. The PARTIES agree that facsimile and scanned signatures are deemed to be originals and that this AGREEMENT may be executed in counterpart originals with like effect as if executed in a single original document.

9. Results of Negotiation; Knowing and Voluntary Execution. The PARTIES hereby acknowledge that this AGREEMENT is the result of negotiation between them and that each has read and understands the foregoing AGREEMENT and that each affixes their respective signature to this AGREEMENT knowingly, voluntarily and without coercion.

10. No Party Deemed Drafter. The PARTIES acknowledge that the terms of the AGREEMENT are contractual and are the result of negotiations between the PARTIES and their counsel. Each PARTY and their counsel cooperated in the drafting and preparation of the

AGREEMENT. In any construction to be made of the AGREEMENT, the same shall not be construed against any party and the canon of contract interpretation set forth in California Civil Code Section 1654 shall not be applied.

11. Entire Agreement. The PARTIES hereby acknowledge and agree that no promises or representations were or are made which do not appear written in this AGREEMENT, that this AGREEMENT contains the entire agreement by PLAINTIFFS and DEFENDANTS, and that neither is relying on any representation or promise that does not appear in this AGREEMENT.

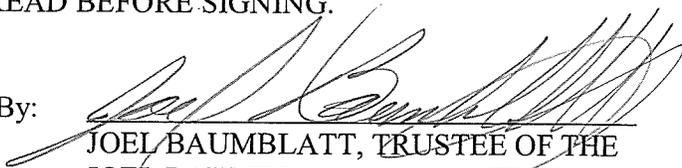
12. Representation of Counsel. The PARTIES represent that they have been represented in negotiations for the preparation of this AGREEMENT by counsel of their own choosing, and that they have entered into this AGREEMENT voluntarily, without coercion, and based upon their own judgment and not in reliance upon any representations or promises made by the other party or parties, other than those contained within this AGREEMENT. The PARTIES further agree that if any of the facts or matters upon which they now rely in making this AGREEMENT hereafter prove to be otherwise, this AGREEMENT will nonetheless remain in full force and effect.

13. Further Assurances. The PARTIES agree to cooperate fully with one another, and to take any and all reasonable action, including the execution and/or filing of any and all supplementary documents necessary to give full force and effect to the terms of this AGREEMENT, including, but not limited to, a stipulation for dismissal of the Appeal if the notices of abandonment are not sufficient to terminate the Appeal.

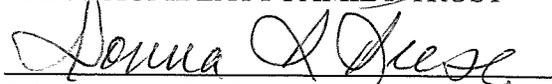
BY SIGNING BELOW, THE PARTIES WARRANT AND AGREE THAT THEY FULLY UNDERSTAND THE CONTENTS AND EFFECT OF THIS AGREEMENT, APPROVE OF AND VOLUNTARILY ACCEPT THE TERMS AND PROVISIONS OF THIS AGREEMENT, AND EXECUTE THIS AGREEMENT OF THEIR OWN FREE WILL AND ACCORD.

THIS IS A GENERAL RELEASE. READ BEFORE SIGNING.

Date: October 3, 2011

By: 
JOEL BAUMLATT, TRUSTEE OF THE
JOEL BAUMLATT FAMILY TRUST

Date: October 4, 2011

By: 
DONNA REESE, TRUSTEE OF THE
DONNA REESE FAMILY TRUST

PALISAIR HOMEOWNERS ASSOCIATION

Date: October , 2011

By: _____
LARRY P. FRIEDMAN, PRESIDENT OF THE
PALISAIR HOMEOWNERS ASSOCIATION

APPROVED AS TO FORM:

DATED: October __, 2011

SWEDELSON & GOTTLIEB

By: _____

David C. Swedelson
Joan E. Lewis-Heard
Attorneys for Plaintiffs and Appellants
Joel Baumblatt, Trustee of the Joel
Baumblatt Trust and Donna Reese,
Trustee of the Donna Reese Family
Trust

DATED: October __, 2011

GORDON & REES LLP

By: _____

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