

**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**New Case Electronically Filed:**  
**June 18, 2015 13:07**

By: ANDREW W. OWEN 0059646

Confirmation Nbr. 469920

CITY CENTER TWO PROJECT, L.L.C., ET AL

CV 15 847167

vrs.

**Judge:**

MOUNTAIN VISTA REAL ESTATE OPPORTUNITY,  
ET AL

NANCY A. FUERST

**Pages Filed: 25**

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

CITY CENTER TWO PROJECT, L.L.C.,  
1427 West Saginaw Street, Suite 150  
East Lansing, Michigan 48823,

Case No.

AND

JUDGE

PARK DISTRICT INVESTMENT GROUP LLC  
1427 West Saginaw Street, Suite 150  
East Lansing, Michigan 48823,

Plaintiffs,

**COMPLAINT WITH  
JURY DEMAND  
ENDORSED HEREON**

v.

MOUNTAIN VISTA REAL ESTATE OPPORTUNITY  
FUND I, LLC  
3300 Enterprise Parkway,  
Beachwood, Ohio 44122

AND

DDR CORP.  
3300 Enterprise Parkway,  
Beachwood, Ohio 44122

Defendants.

Now come Plaintiffs, City Center Two Project, L.L.C. and Park District Investment Group LLC, by and through their undersigned counsel, and for their causes of action state the follows:

**I. Parties, Jurisdiction and Venue**

1. Plaintiff City Center Two Project, L.L.C. ("City Center") is a Michigan limited liability company.

2. Plaintiff Park District Investment Group, LLC (“PDIG”) is a Michigan limited liability company (City Center and PDIG are collectively referred to herein as the “Borrowers”).

3. Defendant Mountain Vista Real Estate Opportunity Fund I, LLC (“Lender”) is a Delaware limited liability company, doing business in Ohio.

4. Defendant DDR Corp. is an Ohio corporation (“DDR”).

5. This Court possesses subject matter jurisdiction over this action because the amount in controversy exceeds the jurisdictional threshold of this Court.

6. Venue properly lies in this Court.

7. An actual case and controversy exists among Borrowers, Lender and DDR such that the Court may declare the rights and legal obligations of these parties under the documents at issue in this litigation.

## **II. Factual Background of the Dispute**

### **A. The Underlying Commercial Loans**

8. On or about September 8, 2008, the Lender made a mezzanine loan jointly and severally to City Center and an entity called CADA Investment Group, L.L.C. (“CADA”), in the original principal amount of Twelve Million Five Hundred Thousand and no/100<sup>th</sup> Dollars (\$12,500,000.00) (the “Original City Center Loan”). City Center and CADA collectively are referred to as “Original Borrowers”.

9. The Original City Center Loan was given pursuant to the terms and conditions of that certain Mezzanine Loan Agreement, by and between Lender and Original Borrowers, dated September 8, 2008 (the “Original City Center Loan Agreement”).

10. The Original City Center Loan was evidenced by that certain Mezzanine Promissory Note, dated September 8, 2008, executed by the Original Borrowers, in favor of the Lender, in the original principal amount of Twelve Million Five Hundred Thousand and no/100<sup>th</sup> Dollars (\$12,500,000.00) (the "Original City Center Note").

11. On or about May 19, 2008, the Lender made a mezzanine loan jointly and severally to Center of Bonita Partners, LLC ("COBP") and Tamiami Investment Partners, LLC ("Tamiami") (collectively the "Bonita Borrowers") in the original principal amount of Ten Million Eight Hundred Seventy Five Thousand and no/100<sup>th</sup> Dollars (\$10,875,000.00) (the "Bonita Loan").

12. The Bonita Loan was given pursuant to the terms and conditions of that certain Mezzanine Loan Agreement, by and between Lender and the Bonita Borrowers, dated May 19, 2008 (the "Bonita Loan Agreement").

13. The Bonita Loan is evidenced by that certain Mezzanine Promissory Note, dated May 19, 2008, executed by the Bonita Borrowers, in favor of the Lender, in the original principal amount of Ten Million Eight Hundred Seventy Five Thousand and no/100<sup>th</sup> Dollars (\$10,875,000.00) (the "Bonita Note").

14. On or about January 12, 2010, Lender, together with all of the parties to the Original City Center Loan, entered into that certain Forbearance and Mezzanine Loan Modification Agreement (the "Modification Agreement") and related documents.

15. On or about November 8, 2013, Borrowers, Lender and certain other related parties entered into that certain Amendment and Modification of Forbearance and Mezzanine Loan Modification Agreement (the "First Amendment").

**B. Lender's Non-Compliance and Default under the Amendment and Second Amendment**

16. Contrary to the terms of the First Amendment, Lender frustrated Borrowers' ability to perform under the Amendment by failing to timely approve certain plans and specifications of Borrowers' plan of development.

17. Consequently, on or about March 16, 2015, Lender and Borrowers and certain other parties entered into that Second Amendment and Modification of Forbearance and Mezzanine Loan Modification Agreement (the "Second Amendment").

18. The First Amendment and Second Amendment required Lender to release all security interests relative to a portion of the collateral (the "Released Property") in order to facilitate Borrowers' ability to obtain new financing, thereby enabling Borrowers to pay the first installment required under the Second Amendment (the "First Satisfaction Payment").

19. Notwithstanding the forgoing, Lender failed or refused to release all liens and security interests as to the Released Property, thereby frustrating Borrowers' ability to obtain financing in order to make the Initial Satisfaction Payment due on or about June 15, 2015, among others.

20. Lender and DDR further frustrated Borrowers' efforts to comply with the Modification Agreement, First Amendment, and Second Amendment (collectively the "Loan

Modification Documents”) by disclosing confidential information to unauthorized third parties, thereby further undermining Borrowers’ efforts to tender the First Satisfaction Payment.

21. On or about June 10, 2015, Borrowers provided Lender and DDR with a Notice of Default as required under the Loan Modification Documents. A true and accurate copy of the Notice of Default is attached as Exhibit A (the “Default Notice”).

22. In accordance with Ohio Rule of Civil Procedure 10(D)(1), Borrowers state that Lender and DDR have originals or copies of all documents referenced above, including the Second Amendment, which are incorporated herein by reference. Furthermore, such documents contain confidential business information and will be filed with the Court upon obtaining an Order permitting them to be filed under seal or can be provided to the Court for *in camera* review.

### Count I

#### Breach of Contract

23. Borrowers incorporate by reference each of the foregoing allegations as if fully restated.

24. The Loan Modification Documents constitute a valid and binding contract between the Borrowers and Lender.

25. Lender has breached its contractual obligations under the Loan Modification Documents. These breaches include, but are not limited to, the following:

- A. Failing and refusing to discharge “all other security interests to the extent they encumber” the Released Property as required under § 4 of the Second Amendment; and,

B. Wrongfully disclosing to Borrowers' title agent and prospective lender "information concerning the business, financial condition, and property of any Obligor, the amount of debt owed Lender by any Obligor, and the terms, conditions, and other provisions applicable to the respective parts thereof" (the "Confidential Information") (§9.9, Second Amendment).

26. Before the above-described material breaches by Lender, Borrowers fully performed all of their obligations under the Second Amendment.

27. As a proximate result of Lender's breaches of its contractual obligations to Borrowers under the Second Amendment, Borrowers have been damaged, in an amount to be determined at trial, and hereby seek and ask this Court to award to Borrowers all damages and remedies available for breach of contract, at law or in equity.

## Count II

### DDR's Tortious Interference of Contract

28. Borrowers incorporate by reference each of the foregoing allegations as if fully restated.

29. Borrowers and Lender entered into a contract, memorialized as the Second Amendment, which governs the obligations and responsibilities of the parties with respect to the release of the Released Property and non-disclosure of Confidential Information. DDR had knowledge of this controversial relationship and its material terms.

30. DDR, without a privilege to do so and without justification, and acting with malice and for an improper purpose, has intentionally engaged in a pattern of wrongful and intentional obstructionist activity to procure the breach of the contractual relationship between

Borrowers and Lender and that has prevented Borrowers from obtaining that to which Borrowers are entitled under the Second Amendment.

31 As a direct and proximate result of DDR's improper and tortious interference with the parties' obligations under the Second Amendment, Borrowers have been damaged, in an amount to be proven at trial, by the loss of its Released Property and otherwise having to incur substantial legal fees and expenses related to the ongoing dispute.

32. DDR's conduct directed toward Borrowers has been intentional, malicious, and in bad faith, and entitles Borrowers to an award of punitive or exemplary damages from DDR.

### **Count III**

#### **Declaratory Judgment And Injunctive Relief**

33. Borrowers incorporate by reference each of the foregoing allegations as if fully restated.

34. An actual case and controversy exists among Borrowers, Lender, and DDR regarding the right of Borrowers to obtain the release of the Released Property and the non-disclosure of their Confidential Information, and all other benefits and privileges to which they are entitled under the Second Amendment.

35. An actual case and controversy exists between Borrowers and Lender regarding whether Lender's and DDR's actions and inactions justified Borrowers from failing to make any payments due on or about June 15, 2015, and whether Lender properly declared, therefore, that Borrowers were in default of the Second Amendment.

36. Borrowers request a declaratory judgment adjudicating the rights and obligations of Borrowers and Lender under the Second Amendment and other loan documents, including

without limitation a declaration that Borrowers are not in default under the Second Amendment, and/or the award of injunctive relief barring or precluding Lender from taking any actions that potentially interfere with Borrower's rights, including without limitation actions to foreclose on any mortgage or security interest issued in connection with the Property or the collateral.

37 Borrowers request that such a declaratory judgment include, but not be limited to, a judgment that (a) Borrowers have complied with all of their obligations under the Loan Modification Documents and are entitled to a full release of the Released Property upon payment of the amounts due there under; (b) Borrowers are not in default of the Second Amendment by virtue of it not making any payments due on or about June 15, 2015 because of the improper actions of the Lender and DDR; (c) Borrowers are entitled to a full release of all collateral upon making any necessary payments required under the Loan Modification Documents; (d) to the extent that Borrowers have incurred fees and expenses as a result of the improper conduct of Lender and DDR, Borrowers may offset those amounts from any payments owed to Lender; and (e) Lender may not foreclose upon any collateral or dispose of any of Borrowers' property due to the ongoing dispute among the parties.

WHEREFORE, Plaintiffs City Center Two Project, L.L.C. and Park District Investment Group LLC demand judgment and other relief in their favor and against Defendants Mountain Vista Real Estate Opportunity Fund I, LLC and DDR Corp. as follows:

- (a) Monetary damages, in an amount to be proven at trial;
- (b) A declaratory judgment as set forth in paragraph 37 above;
- (c) Temporary, preliminary and permanent injunctive relief prohibiting Lender and DDR from proceeding against any of Borrowers' collateral held by Lender;

- (d) Specific performance such that Lender and DDR are compelled by the Court to fulfill the terms of the Loan Modification Documents;
- (e) Punitive damages, in an amount to be determined at trial, against DDR due to its egregious and improper conduct;
- (f) An award to Borrowers of their attorneys' fees, costs, and expenses; and
- (g) For such other and further relief to which Borrowers may be entitled in equity or at law;

Respectfully submitted,

By: /s/ Andrew W. Owen  
Andrew W. Owen (0059646),  
Carpenter Lipps & Leland LLP  
280 Plaza, Suite 1300  
280 North High Street  
Columbus, Ohio 43215  
Telephone: (614) 365-4100  
Facsimile: (614) 365-9145  
E-mail: [owen@carpenterlipps.com](mailto:owen@carpenterlipps.com)

Attorney for Plaintiffs  
City Center Two Project, L.L.C. and  
Park District Investment Group LLC

### **JURY DEMAND**

Plaintiffs hereby demand a trial by jury on all claims so triable.

/s/ Andrew W. Owen  
Andrew W. Owen

Attachment



JAFFE RAITT HEUER & WEISS  
A Professional Corporation  
Attorneys & Counselors

27777 FRANKLIN ROAD, SUITE 2500 • SOUTHFIELD, MICHIGAN 48034-8214  
PHONE 248.351.3000 • FAX 248.351.3082

R. Christopher Cataldo  
ccataldo@jaffelaw.com

www.jaffelaw.com

June 10, 2015

Mountain Vista Real Estate Opportunity  
Fund I, LLC  
Attn: Benjamin Snyder  
3300 Enterprise Place  
Beachwood, OH 44122

*Via Email*  
[bsnyder@ddr.com](mailto:bsnyder@ddr.com)  
*and Federal Express*

Benesch Friedlander Coplan & Aronoff LLP  
Attn: Matthew P. Delguyd  
200 Public Square, Ste. 2300  
Cleveland, OH 44114

*Via Email*  
[mdelguyd@beneschlaw.com](mailto:mdelguyd@beneschlaw.com)  
*and Federal Express*

DDR Corp.  
Attn: General Counsel  
3300 Enterprise Place  
Beachwood, OH 44122

*Via Email*  
[nmagence@ddr.com](mailto:nmagence@ddr.com)  
*and Federal Express*

Re: *Park District Investment Group, LLC; Notice of Failure to Comply  
With Modification of Forbearance and Mezzanine Loan Modification  
Agreement*

Dear Messrs Snyder, Delguyd and Magence:

I am in receipt of your Notice of Default dated June 1, 2015 (copy attached as Exhibit A) and Second Notice of Default Dated June 4, 2015 (copy attached as Exhibit B). Please be advised that my clients dispute that they are in default as referenced in your correspondence whereas your client has failed to comply with the terms of the Second Amended and Modification of Forbearance and Mezzanine Loan Modification Agreement dated March 16, 2015 ("Agreement"). Specifically, Section 4 provides in part:

In contemplation of Lender's acceptance of such Negotiated Payment in Satisfaction of Obligations, Borrowers shall pay to Lender the sum of Two Million Four Hundred Thousand and No/100<sup>th</sup> Dollars (\$2,400,000.00) on or before May 31, 2015 (the "*Initial Satisfaction Payment*"). Simultaneously with

June 10, 2015

Page 2

timely payment and Lender's confirmation of receipt of such Initial Satisfaction Payment, provided no Event of Default has then occurred and is then continuing, Lender agrees to deliver to a title company acceptable to Lender and Borrowers, a discharge of the Existing Mortgage and all other security interests to the extent they encumber the property set forth in the legal description attached hereto..."

Although Lender has complied with the Agreement in part by providing the form of release as to the mortgage on the property ("Released Property"), Lender has failed to provide draft releases of the other security interests including:

- 1) Release of Lender's interest in the Michigan Business Tax Credits dated September 8, 2015 that pertain to the Released Property dated; and
- 2) Release of Lender's interest in the Collateral Assignment of Brownfield Reimbursement Agreement dated September 8, 2015 specifically the tax increment revenue stream that flows from the Released Property; and
- 3) Release of Lender's interest in the Assignment of the Development Agreement dated September 8, 2008 that pertains to the Released Property; and
- 4) Release of Lender's interest in the member interest of Park District Investment Group, LLC and City Center Two Project, LLC dated January 26, 2010 and November 11, 2013 that own the Released Property, as to the Released Property; and
- 5) Release of Lender's interest in the Environmental Indemnity dated January 26, 2010 as it pertains to the Released Property.

Also, please be advised that Section 9.9 of the Agreement also provides that sharing financial information relative to the lending relationship between the parties shall be kept confidential unless subject to a confidentiality agreement acceptable to Lender. Specifically, Section 9.9 provides:

Sharing of Financial Information. Lender shall have the right to furnish to Lender's investors and members, and to such other persons as Lender shall deem advisable for the conduct of its business, information concerning the business, financial condition, and property of any Obligor, the amount of debt owed Lender by any Obligor, and the terms, conditions, and the other provisions applicable to

3123763.1

June 10, 2015

Page 3

the respective parts thereof, subject to the execution of an appropriate confidentiality agreement acceptable to Lender.

Obviously, this provision was breached by Lender when Lender directed unauthorized drafts of the payoff letter containing inappropriate references to the releases provided by Borrower in the Agreement. My client immediately put the Lender on notice that this was an unacceptable breach of the Agreement and that the unauthorized release of confidential information was detrimental to the Borrower's ability to complete its financing in order to close the Released Property (*see* attached Exhibit C).

Regardless of the foregoing, my client is interested in moving forward with the closing of the Released Property and completing the loan payoff and development of what has been an extremely difficult project through one of the worst financial environments in history. My client has received all necessary approvals from the City of East Lansing and the State of Michigan and is proceeding to close its \$71M construction facility within the next several weeks.

I would certainly appreciate the opportunity to discuss these matters with you immediately as my client stands ready to assist the Lender in obtaining the necessary releases so that the closing can move forward forthwith. Please let me know when you are available to discuss.

Very truly yours,

**Jaffe, Raitt, Heuer & Weiss**  
Professional Corporation

  
R. Christopher Cataldo

RCC/prm  
Enclosures

3123763.1

**Mountain Vista Real Estate Opportunity Fund I, LLC**  
c/o DDR Corp.  
3300 Enterprise Parkway  
Beachwood, Ohio 44122

June 1, 2015

**VIA UPS OVERNIGHT COURIER**

City Center Two Project, LLC  
c/o Strathmore Development Company  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823

Scott A. Chappelle  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823

CADA Investment Group, L.L.C.  
c/o Strathmore Development Company  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823

Laura A. Chappelle  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823

Janes Family, L.L.C.  
115 S. University  
Mt. Pleasant, MI 48858

Crouch Investment Group, LLC  
c/o Strathmore Development Company  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823

Woodbrook Development, L.L.C.  
115 S. University  
Mt. Pleasant, MI 48858

Strategic Consulting, L.L.C.  
201 North Washington Square  
Suite 905  
Lansing, MI 48933

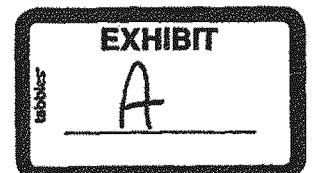
Michael T. Stelter Revocable Living Trust  
Michael Stelter, Trustee  
5090 State St., Building D  
Saginaw, MI 48603

Richard Stephen O'Brien Declaration Of Trust  
Dated 12/20/83  
Richard Stephen O'Brien, Trustee  
575 Donald Ross Dr.  
P.O. Box 1908  
Pinchurst, N.C. 28374

Mark O'Brien  
233 Sunset Drive  
Libertyville, IL 66048

**RE: NOTICE OF FAILURE TO PAY pursuant to Second Amendment and Modification  
of Forbearance and Mezzanine Loan Modification Agreement dated as of March 17,**

8589435 v1



June 1, 2015

Page 2

2015 among Mountain Vista Real Estate Opportunity Fund I, LLC ("Lender"), City Center Two Project, L.L.C. ("CCTP"), CADA INVESTMENT GROUP, L.L.C. ("CADA" and together with CCTP, collectively, the "Borrowers"), Scott A Chappelle ("S. Chappelle") Laura A. Chappelle ("L. Chappelle" and together with S. Chappelle, collectively, "Guarantors"), Crouch Investment Group, LLC ("Crouch"), Janes Family, L.L.C. ("Janes"), Strategic Consulting, L.L.C. ("Strategic"), Woodbrook Development, L.L.C. ("Woodbrook"), Richard Stephen O'Brien, Trustee ("R. O'Brien"), Michael T. Stelter Revocable Living Trust, Michael Stelter, Trustee ("Stelter"), and Mark O'Brien ("M. O'Brien" and together with Crouch, Janes, Strategic, Woodbrook, R. O'Brien and Stelter, collectively, "Pledgors").

Ladies and Gentlemen:

Reference is made to that certain Second Amendment and Modification of Forbearance and Mezzanine Loan Modification Agreement dated as of March 17, 2015 among Lender, Borrowers, Guarantors and Pledgors (the "Agreement"). Capitalized terms used herein but not otherwise defined shall have the meaning given to such terms in the Agreement.

Pursuant to (i) Section 3.2(a) of the Agreement, on or before May 31, 2015, Borrowers were required to pay to Lender past due loan administration fees in the amount of \$27,000 (the "Loan Administration Payment"), (ii) Section 3.2(b) of the Agreement, on or before May 31, 2015, Borrowers were required to pay to Lender \$57,000 in respect of escrow payments for real estate taxes (the "Escrow Taxes Payment"), (iii) Section 4 of the Agreement, on or before May 31, 2015, Borrowers were required to pay to Lender a one-time principal payment in the amount of \$2,400,000 (the "Initial Satisfaction Payment"), and (iv) Section 9.12 of the Agreement, on or before May 31, 2015, Borrowers were required to pay to Lender outstanding costs and expenses in the amount of \$50,000 (the "Costs and Expenses Payment" and together with the Loan Administration Payment, the Escrow Taxes Payment and the Initial Satisfaction Payment, collectively the "Outstanding Payments").

Since May 31<sup>st</sup> was not a banking day, Borrowers were required to make the Outstanding Payments on or before June 1, 2015, pursuant to the wire instructions contained in Section 4 of the Agreement. As of 5:00 pm on June 1, 2015, none of the Outstanding Payments have been received by Lender.

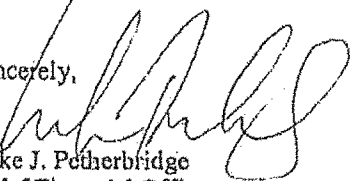
Section 7.4 of the Agreement states that an Additional Event of Default will exist if Borrowers fail to pay any amount owing under the Agreement within ten (10) business days after Borrowers' receipt of notice of failure to pay such amount. This letter serves as the written notice of Borrowers' failure to pay the Outstanding Payments. If Lender does not receive all of the Outstanding Payments on or before June 15, 2015, an Additional Event of Default will automatically exist without the requirement on the part of Lender to give any further notice, and Lender will be entitled to exercise all rights and remedies available at law or under the Loan Documents.

8899435 v1

June 1, 2015  
Page 3

If you have any questions regarding the foregoing, please do not hesitate to have your legal counsel contact counsel for Lender, Mathew P. Delguyd, at (216) 363-4627.

Sincerely,

  
Luke J. Petherbridge  
Chief Financial Officer

Cc: **(VIA UPS OVERNIGHT COURIER)**

Tom Eckhart, Esq.  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823

R. Christopher Cataldo, Esq.  
Jaffe Raitt Heuer & Weiss, P. C.  
27777 Franklin Road  
Suite 2500  
Southfield, MI 48034

8599435 v1

Mountain Vista Real Estate Opportunity Fund I, LLC  
c/o DDR Corp.  
3300 Enterprise Parkway  
Beachwood, Ohio 44122

June 4, 2015

**SECOND NOTICE OF DEFAULT**  
**BY HAND DELIVERY**

City Center Two Project, LLC  
c/o Strathmore Development Company  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823

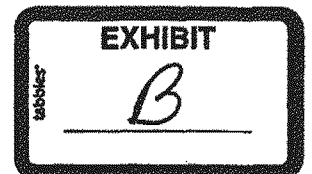
Scott A. Chappelle  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823

CADA Investment Group, L.L.C.  
c/o Strathmore Development Company  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823

Laura A. Chappelle  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823

Crouch Investment Group, LLC  
c/o Strathmore Development Company  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823

RE: **NOTICE OF FAILURE TO PAY** pursuant to **Second Amendment and Modification of Forbearance and Mezzanine Loan Modification Agreement** dated as of March 17, 2015 among **Mountain Vista Real Estate Opportunity Fund I, LLC** ("Lender"), **City Center Two Project, L.L.C.** ("CCTP"), **CADA INVESTMENT GROUP, L.L.C.** ("CADA" and together with CCTP, collectively, the "Borrowers"), **Scott A Chappelle** ("S. Chappelle") **Laura A. Chappelle** ("L. Chappelle" and together with S. Chappelle, collectively, "Guarantors"), **Crouch Investment Group, LLC** ("Crouch"), **Janes Family, L.L.C.** ("Janes"), **Strategic Consulting, L.L.C.** ("Strategic"), **Woodbrook Development, L.L.C.** ("Woodbrook"), **Richard Stephen O'Brien Declaration Of Trust Dated 12/20/83, Richard Stephen O'Brien, Trustee** ("R. O'Brien"), **Michael T. Stelter Revocable Living Trust, Michael Stelter, Trustee** ("Stelter"), and **Mark O'Brien** ("M. O'Brien" and together with Crouch, Janes, Strategic, Woodbrook, R. O'Brien and Stelter, collectively, "Pledgors").



June 4, 2015

Page 2

Ladies and Gentlemen:

Attached to this letter is a copy of our first Notice of Default dated June 1, 2015. The first Notice of Default was sent by overnight mail to each of you, and also by overnight mail to your counsel, R. Christopher Cataldo. Further, it was sent and received by Scott A. Chappelle and R. Christopher Cataldo by email on June 1, 2015.

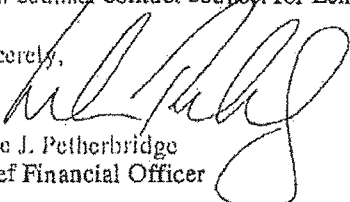
Section 7.4 of the Second Amendment and Modification of Forbearance and Mezzanine Loan Modification Agreement dated as of March 17, 2015 states in pertinent part:

Notwithstanding any provision in any Loan Documents to the contrary, a default shall under this Agreement and under the Loan Documents as modified by this Agreement, upon Borrower's failure to cure said default within ten (10) business days upon receipt of written notice, if any one or more of the following events shall have occurred (each an "Additional Events of Default"). . .

This is Borrower's Second Notice of Default. If Borrower fails to timely cure the defaults set forth in the first Notice of Default, an Additional Event of Default will automatically exist without the requirement on the part of Lender to give any further notice, and Lender will be entitled to exercise all rights and remedies available by law or under the Loan Documents.

If you have any questions regarding the foregoing, please do not hesitate to have your legal counsel contact counsel for Lender, Matthew P. Delguyd, at (216) 363-4627.

Sincerely,

  
Luke J. Petherbridge  
Chief Financial Officer

**Scott Chappelle**

**From:** Scott Chappelle  
**Sent:** Wednesday, May 27, 2015 8:51 AM  
**To:** 'Magence, Noam'; 'Brent Warner (warnerb@diversifiednational.com)'  
**Cc:** Tom Eckhardt; Snyder, Benjamin; 'Delguyd, Matthew P.'; ccataldo@jaffelaw.com  
**Subject:** RE:  
**Attachments:** Redline- Payoff Letter.docx

Noam, we need a payoff letter indicating the amount due and wiring instructions. You have no right to add borrower parties and seek additional releases outside the scope of the Modification Agreement as amended. The borrowers will not be providing releases. If you feel you have a basis under the loan documents to condition this release please advise.

Furthermore, why are you sending a payoff letter, containing inappropriate references to various confidential provisions contained within the Modification Agreement, directly to the title company? You are simply creating issues with the new lender who has now elevated and is further scrutinizing these issues and crippling our ability to get this closed.

Please just comply with our agreement so we can get this closed. Please call so we can discuss if you have any questions. Thanks

---

Scott A Chappelle  
President  
Strathmore Development Company  
Mobile (517) 282-8440  
Internal [scottc@strathmoredev.com](mailto:scottc@strathmoredev.com)  
[www.strathmoredev.com](http://www.strathmoredev.com)

Any information provided in this communication contains trade secrets and/or confidential financial information being voluntarily provided to the recipient for use in developing governmental policy and is submitted upon a promise of confidentiality authorized by the public body, by its chief administrative officer, therefore considered exempt from disclosure pursuant to M.C.L. 15.263 (1)(j). Furthermore, this communication and any attachments is an electronic communication within the meaning of the Electronic Communications Privacy Act, 18 U.S.C. sec. 2510. Its disclosure is strictly limited to the recipient(s) intended by the sender of this message. This transmission and any attachments may contain proprietary, confidential, attorney-client privileged information and/or attorney work product. If you are not the intended recipient you are hereby notified that any review, disclosure, copying, distribution, reliance on, or use of any of the information contained herein is strictly prohibited. Please destroy the original transmission and its attachments without reading or saving in any matter and confirm by return email.

**From:** Magence, Noam [<mailto:NMagence@ddr.com>]  
**Sent:** Tuesday, May 26, 2015 3:46 PM  
**To:** Scott Chappelle; 'Brent Warner (warnerb@diversifiednational.com)'  
**Cc:** Tom Eckhardt; Snyder, Benjamin; 'Delguyd, Matthew P.'  
**Subject:** RE:

Please advise how they will interfere with your ability to close on the loan. These are very typical items in a payoff letter

NOAM MAGENCE  
Legal Counsel

DDR Corp.  
20000 Maple St Parkway  
Detroit, MI 48221  
P: (313) 465-5588 B: (313) 465-5000  
W: [www.ldr.com](http://www.ldr.com) NYSE: LDR

Twitter LinkedIn Facebook

**From:** Scott Chappelle [<mailto:ScottC@strathmoredev.com>]  
**Sent:** Tuesday, May 26, 2015 3:44 PM  
**To:** Magence, Noam; 'Brent Warner (warnerb@diversifiednational.com)'  
**Cc:** Tom Eckhardt; Snyder, Benjamin; 'Delguyd, Matthew P.'  
**Subject:** RE:

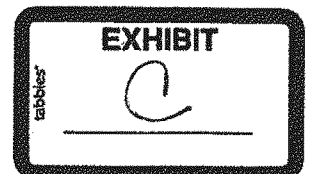
Noam, these changes are unnecessary and will interfere with our ability to close this portion of the loan. Please call me to discuss when you have a minute. Thanks.

---

Scott A Chappelle  
President  
Strathmore Development Company  
Mobile: (517) 282-8440  
Internal [scottc@strathmoredev.com](mailto:scottc@strathmoredev.com)  
[www.strathmoredev.com](http://www.strathmoredev.com)

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**From:** Magence, Noam [<mailto:NMagence@ddr.com>]  
**Sent:** Monday, May 18, 2015 2:01 PM  
**To:** Scott Chappelle; 'Brent Warner (warnerb@diversifiednational.com)'



**Cc:** Tom Eckhardt; Snyder, Benjamin; 'Delguyd, Matthew P.'  
**Subject:** RE:

Scott,

Attached are a clean and a redline of the payoff letter showing our proposed changes. The release language was pulled directly from the forbearance amendment and was only modified slightly to remove references to items that are not applicable to the payoff, so this should not be controversial. We would contemplate sending the releases to First American of Cleveland and they can hold them until the money is paid to lender. Please let me know if you have any questions.

The form of recordable releases look fine, except that the word "solely" should be added to each release immediately before the phrase "as to the portion of the mortgaged property described on the attached Exhibit A." Please confirm that is acceptable.

Sincerely,

**NOAM MAGENCE**  
Legal Counsel

**DDR Corp.**  
3300 Enterprise Parkway  
Beachwood, OH 44122  
P: (216) 751-5543 / M: (546) 303-8066  
W: [www.ddr.com](http://www.ddr.com) // NYSE: DDR

Twitter LinkedIn Facebook

**From:** Scott Chappelle [<mailto:ScottC@strathmoredev.com>]  
**Sent:** Monday, May 18, 2015 11:04 AM  
**To:** Magence, Noam; Brent Warner ([warnerb@diversifiednational.com](mailto:warnerb@diversifiednational.com))  
**Cc:** Tom Eckhardt; Snyder, Benjamin; 'Delguyd, Matthew P.'  
**Subject:** RE:

Tom, can you send? Thanks

---

Scott A. Chappelle  
President  
Strathmore Development Company  
Mobile: (517) 282-8440  
Internet: [scottc@strathmoredev.com](mailto:scottc@strathmoredev.com)  
[www.strathmoredev.com](http://www.strathmoredev.com)

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**From:** Magence, Noam [<mailto:NMagence@ddr.com>]  
**Sent:** Monday, May 18, 2015 10:42 AM  
**To:** Scott Chappelle; Brent Warner ([warnerb@diversifiednational.com](mailto:warnerb@diversifiednational.com))  
**Cc:** Tom Eckhardt; Snyder, Benjamin; 'Delguyd, Matthew P.'  
**Subject:** RE:

Scott,

Can you please send us the little commitment? These documents reference exception documents, so we need this to confirm.

**NOAM MAGENCE**  
Legal Counsel

**DDR Corp.**  
3300 Enterprise Parkway  
Beachwood, OH 44122  
P: (216) 751-5543 / M: (546) 303-8066  
W: [www.ddr.com](http://www.ddr.com) // NYSE: DDR

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**From:** Magence, Noam  
**Sent:** Monday, May 18, 2015 9:27 AM  
**To:** Scott Chappelle; Brent Warner ([warnerb@diversifiednational.com](mailto:warnerb@diversifiednational.com))  
**Cc:** Tom Eckhardt; Snyder, Benjamin; 'Delguyd, Matthew P.'  
**Subject:** RE:

We will review and get back to you.

**NOAM MAGENCE**  
Legal Counsel

**DDR Corp.**  
3300 Enterprise Parkway  
Beachwood, OH 44122  
P: (216) 751-5543 / M: (546) 303-8066  
W: [www.ddr.com](http://www.ddr.com) // NYSE: DDR

Twitter LinkedIn Facebook

**From:** Scott Chappelle [mailto:ScottC@strathmoredev.com]  
**Sent:** Monday, May 18, 2015 9:03 AM  
**To:** 'Brent Warner (warnerb@diversifiednational.com)'; Magence, Noam  
**Cc:** Tom Eckhardt  
**Subject:** FW:

Noam, please find the draft documents for closing for your approval. Please advise as soon as possible as they have already been approved by the title company. Thanks

---

Scott A. Chappelle  
President  
Strathmore Development Company  
Mobile (517) 282-8440  
Internet [scottc@strathmoredev.com](mailto:scottc@strathmoredev.com)  
[www.strathmoredev.com](http://www.strathmoredev.com)

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May 15, 2015

City Center Two Project, LLC  
c/o Strathmore Development Company  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823  
Attn: Scott Chappelle

CADA Investment Group, L.L.C.  
c/o Strathmore Development Company  
1427 West Saginaw Highway  
Suite 200  
East Lansing, Michigan 48823  
Attn: Scott Chappelle

Brent Warner  
Diversified National Title Agency  
500 East Michigan  
Suite 203  
Lansing, Michigan 48912

**RE: First American Title Insurance Company ("Title Company") -  
Comm. No. 141918 341-345 Evergreen, East Lansing, Michigan**

Dear Mr. Warner and Mr. Chappelle:

The payoff Reference is made to that certain Second Amendment and Modification of  
Forbearance and Mezzanine Loan Modification Agreement dated March 2015, among  
Mountain Vista Real Estate Opportunity Fund I, LLC, a Delaware limited liability  
company ("Lender"), City Center Two Project, L.L.C., a Michigan limited liability  
company ("CCTP), CADA Investment Group, L.L.C., a Michigan limited liability  
company ("CADA" and together with CCTP, collectively, "Borrowers"), and certain  
other parties (the "Modification Agreement").

Pursuant to Section 4 of the Modification Agreement, the amount necessary to obtain the  
partial release and deletion of the items listed as Special Exceptions 8, 9, 10 and 11 on  
Schedule B – Section II of the above-described title commitment (the "Releases"), which  
Releases will apply solely to the real property described on Exhibit A attached hereto, the  
form of which Lender has previously approved in writing, shall be Two Million Four  
Hundred Thousand Dollars (\$2,400,000) (the "Payoff Amount"). The Payoff Amount  
must be received on or before 5:00 pm on May 31, 2015. ~~Funds~~ If the Payoff Amount is  
not received on or prior to 3:00 pm on May 31, 2015, this letter shall automatically

8584350 v1

terminate. The Payoff Amount should be wired to Lender pursuant to the following wire instructions:

Bank Name: PNC Bank, National Association  
Bank Address: Cleveland, OH  
Bank ABA #: 041000124  
Beneficiary Acct #: 4255838735  
Beneficiary: Mountain Vista Real Estate Opportunity Fund I, LLC

Reference: City Center  
Attention: Becky Hensley

After Lender confirms receipt of the Payoff Amount in writing or via email, Lender will instruct Title Company's Cleveland office to send Lender's original signed copies of the Releases to the attention of Diversified Title Agency at the address listed above.

BORROWERS HEREBY RELEASE, WAIVE AND FOREVER DISCHARGE, THE LENDER AND THE LENDER'S PARTICIPANTS, SUBSIDIARIES, AFFILIATES, EQUITY HOLDERS, OFFICERS, DIRECTORS, AGENTS, CURRENT OR FORMER EMPLOYEES, SERVANTS, ATTORNEYS AND REPRESENTATIVES, AS WELL AS THE RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS OF ANY AND ALL OF THEM (HEREINAFTER COLLECTIVELY CALLED THE "RELEASED LENDER PARTIES") OF AND FROM ALL DAMAGES, LOSSES, CLAIMS, DEMANDS, LIABILITIES, OBLIGATIONS, ACTIONS, DEFENSES AND CAUSES OF ACTION WHATSOEVER THAT ANY ONE OF THE BORROWERS HAS, MAY HAVE OR CLAIMS TO HAVE HAD, WHETHER KNOWN OR UNKNOWN AGAINST ANY RELEASED LENDER PARTY OR ANY PREDECESSOR IN INTEREST OF ANY RELEASED LENDER PARTY, AND OF EVERY NATURE AND EXTENT WHATSOEVER ON ACCOUNT OF OR IN ANY WAY DIRECTLY OR INDIRECTLY TOUCHING, CONCERNING, ARISING OUT OF OR FOUNDED UPON THE DEVELOPMENT, THE LOAN DOCUMENTS, AND THE LENDING RELATIONSHIP RESPECTING THE OBLIGATIONS BETWEEN ANY OBLIGOR AND SUCH RELEASED LENDER PARTY (INCLUDING WITHOUT LIMITATION ANY CLAIM IN ANY WAY RELATED TO LENDER'S ADMINISTRATION OF THE LOAN, BY REQUEST OF LENDER TO APPROVE ANY PLANS WITH RESPECT TO ANY SECURED PARCEL, ANY ALLEGED LOSS OF BENEFITS UNDER ANY MICHIGAN BUSINESS TAX BROWNFIELD REDEVELOPMENT CREDIT OR ANY OTHER CREDIT, OR FAILED SALES OF ANY SECURED PARCEL), INCLUDING ANY PREDECESSOR IN INTEREST TO SUCH RELEASED LENDER PARTY. THIS RELEASE WILL NOT EXTEND TO ANY CLAIM ARISING AFTER THE DATE HEREOF TO THE EXTENT SUCH CLAIM IS BASED ON ACTS OR OMISSIONS OF A RELEASED LENDER PARTY OCCURRING AFTER SUCH DATE EXCEPT THAT SUCH RELEASE IS

8584350 v1

SPECIFICALLY INTENDED BY THE PARTIES TO INCLUDE THE  
TRANSACTIONS CONTEMPLATED BY THIS LETTER.

Please contact the undersigned if you have further questions. Thank you.

Sincerely,

Mountain Vista Real Estate Opportunity Fund I, LLC

**ACKNOWLEDGED AND ACCEPTED:**

City Center Two Project, LLC

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CADA Investment Group, L.L.C.

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

8584350 v1

**EXHIBIT A**

**LEGAL DESCRIPTION**

Lot 19 and that part of Lots 17 and 18 lying North of a line described as beginning on the East line of Lot 17 at a point 28.5 feet South of the NE corner and running thence West (at right angles) to the rear West line of Lot 18, Plat of Oakwood, of City of East Lansing, Ingham County, Michigan, according to the recorded Plat thereof, as recorded in Liber 2, Page(s) 33, Ingham County Records.

Parcel Number: 33-20-01-13-226-001

8584350 v1