

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement", hereinafter) is entered into on the last date written below by and between the City of Lakewood ("Lakewood" hereinafter) and Big Oak, LLC ("Big Oak" hereinafter). Lakewood and Big Oak will collectively be referred to as the Parties.

WHEREAS, Big Oak owns a 72-unit apartment building known as the Oak Tree Manor Apartments located at 1327 Bonnieview Avenue in Lakewood, Ohio;

WHEREAS, this area is residentially zoned as an R-2, one and two family district;

WHEREAS, Big Oak currently rents two units within the Oak Tree Manor Apartments to Mental Health Services ("MHS", hereinafter);

WHEREAS, MHS utilizes these two units as offices to provide services to a portion of the tenants that currently reside at the Oak Tree Manor Apartments;

WHEREAS, the City of Lakewood has determined that MHS's utilization of the two apartment units constitutes a business use in violation of Chapter 1173 of the Lakewood Zoning Code;

WHEREAS, the City of Lakewood ordered that business use be discontinued or the property be re-zoned to accommodate the business use;

WHEREAS, Big Oak disputed the City's findings and filed an appeal before the Board of Zoning Appeals (BZA, hereinafter), which subsequently upheld the Building Commissioner's determination;

WHEREAS, Big Oak further appealed the BZA's decision to the Court of Common Pleas, which affirmed the determination of the Lakewood Building Commissioner;

WHEREAS, Big Oak appealed the decision of the Court of Common Pleas to the Cuyahoga County Court of Appeals in the case, captioned as Big Oak, LLC v. The City of Lakewood, Cuyahoga County Court of Appeals Case Number CA 10 095462 (the "Appeal", hereinafter);

WHEREAS, the parties wish to resolve all disputes between them without the need for further litigation;

NOW, THEREFORE, the parties agree as follows:

1. As consideration for Big Oak dismissing their Appeal, Lakewood agrees to extend the date by which Big Oak must comply with the correction notice issued on August 3, 2009 by the City of Lakewood, Division of Building to July 31, 2011 with respect to the non-conforming business use of units 110 and 112 by MHS.

2. Big Oak agrees to take whatever means necessary including but not limited to non renewal of any lease agreements to ensure that the presently existing non-conforming use of the two units within the Oak Tree Manor apartment building by MHS is discontinued on or before July 31, 2011, and that the units are restored to their original condition and use, in compliance with the building code and all applicable permit requirements. In the event that MHS refuses to vacate the premises, Big Oak agrees to commence an eviction action on or before July 31, 2011 and take whatever steps necessary to evict MHS from the premises.

3. The Parties acknowledge that that this Settlement Agreement shall not affect the rights of any other tenants that are lawfully occupying units at the Oaktree Manor Apartments.

4. Nothing in this Agreement shall be interpreted as an express or implied admission by the City of Lakewood that the MHS's use of the two units in the Oaktree Manor Apartments is or has ever been a valid non-conforming use.

5. The Parties agree that this document encompasses the entire agreement between the parties. This Agreement may not be altered or otherwise changed unless agreed to, in writing, by the parties. This Agreement shall not be construed more strictly against one party than against the others by virtue of the fact that this Agreement may have been drafted or prepared by counsel for one of the parties, it being recognized that all Parties to this Agreement have contributed substantially and materially to the approval of this Agreement.

6. The Parties agree that the Cuyahoga County Court of Common Pleas shall retain jurisdiction to decide all disputes under this Agreement.

IN WITNESS HEREOF, we have set our hands hereto, this 1st day of November, 2010.

December

Eileen M. Estergall
Witness

THE CITY OF LAKEWOOD

Nora L. Hurley
By: Nora L. Hurley, Director Law

Date: 12-1-2010

Constance Kucera
Witness

BIG OAK, LLC
Thomas Kucera Manager
Thomas Kucera, Big Oak, LLC

Date: Dec. 14, 2010