

John Fleming

From: Pam Childers
 Sent: Thursday, February 07, 2008 10:21 AM
 To: John Fleming; Mike Godwin; Tom Bonfield
 Subject: Seville Harbour/Pitt Slip

Here is the Pitt Slip sublease with Merrill Land. I haven't read it yet, but I believe from our conversation we're looking to see how Merrill rent payments are derived; see blue.

Also, I think we need to revisit the renewal language with the City's Pitt Slip lease to make sure its "mutual" or at our option. Otherwise, we're in this for a long time and they have a sweetheart deal.

I'll follow up a little later after we've all had time to read.
 Pam

Pam-

Mike Godwin and I are ready to meet with you next week to discuss this. Sorry that we took so long to get to this point. We understand the terms of the lease agreement and will assist you with any issues which you may have. But I will want to understand the issues as you see them before we express an opinion beyond what I state below. There is no need before we meet for you to write anything. I will ask Janet Matteson to set up the meeting.

If the issue is simply whether the rent which the City is entitled to from its lessee is measured by the gross sales of the lessee's sublessees, the answer generally is no. Except as noted below, the City is entitled under the lease to a percentage of the gross sales only from the business enterprises of the lessee, its subsidiaries, business combinations and agents.

However, the City is entitled under the lease to a percentage of the gross rentals received by the lessee from its subtenants. So, if a sublease provides that a sublessee pays rent to the lessee, based in whole or in part upon the gross sales of the sublessee, then the City would be entitled to a percentage of the gross rentals received by the lessee from its sublessees, including any part of such gross rentals which may be measured by the sales activities of the sublessee.

Please let me know whether or not this has thoroughly addressed your issue. If not, we can get into further details when we meet.

John

3/4/2008
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