



SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

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Case Number: CGC-09-492478

Filing Date: Nov-18-2010 9:00

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STIPULATED JUDGMENT - GENERAL

TCC UNION SQUARE, L.P. VS. SAN FRANCISCO ELKS LODGE NO.3, B.P.O.E. et al

001C03037643

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San Francisco County Superior Court

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CLERK OF THE COURT

Deputy Clerk

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Attorneys for Plaintiff/Cross-defendant
TCC UNION SQUARE, L.P.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

TCC UNION SQUARE, L.P.

) Case No.: CGC-09-492478

Plaintiff,

AMENDED DECLARATORY JUDGMENT
PURSUANT TO STIPULATION

vs.

Trial Date: September 1, 2010
Dept: 624

SAN FRANCISCO ELKS LODGE NO. 3,
B.P.O.E.; SAN FRANCISCO ELKS NO. 3
BUILDING ASSOCIATION; FRANK E.
LEMBI; and DOE 1 through DOE 100, inclusive,

Defendants.

3 This Court entered a Declaratory Judgment Pursuant to Stipulation on First and Second Causes
4 of Action on August 16, 2010. ("Judgment") (A true and correct copy of the Judgment is attached
5 hereto as Exhibit A). The Judgment entered on August 16, 2010 is amended, and incorporated by this
6 reference.

Pursuant to the Stipulation for Entry of Amended Declaratory Judgment on Plaintiff TCC Union Square, L.P.'s Third Cause of Action for Declaratory Relief against Defendant Frank E. Lembi, as set

forth in the complaint filed in the within action on September 11, 2009, and filed in the above-entitled matter, and other good cause appearing,

IT IS HEREBY ADJUDGED, ORDERED AND DECREED THAT:

1. The Judgment entered on August 16, 2010 is amended, incorporated by this reference, and this Amended Declaratory Judgment is hereby entered as follows:

2. The Judgment entered on August 16, 2010 remains in full force and effect.

3. Pursuant to that certain Sublease of Space in the Building, dated June 28, 1983, between 450 Post Investment Company, and later assigned to TCC Union Square, L.P., that Frank E. Lembi, pursuant to sections 5.1, 9.1. and 9.2, is responsible for the repair and maintenance of all portions of the Building, including without limitation the third floor balcony as a portion of the Building.

4. Plaintiff and Defendant Lembi are to bear own attorneys fees and costs.

5. Plaintiff and Defendant Lembi are not releasing any other rights each of them may have as a result of prior or future defaults under the Sublease between Lembi and TCC Union Square, L.P.

Dated: October 17, 2010

Judge of the Superior Court

- 2 -

FILED
San Francisco County Superior Court

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7 San Francisco Lodge No. 3, B.P.O.E. and
7 San Francisco Elks No. 3 Building Association

AUG 16 2010

CLERK OF THE COURT
BY: *D. Lem* Deputy Clerk

THE ANNEXED INSTRUMENT IS A
CORRECT COPY OF THE ORIGINAL
ON FILE IN MY OFFICE.
ATTEST: CERTIFIED

AUG 16 2010
CLERK OF THE COURT
Superior Court of California, County of San Francisco
BY: *D. Lem* Deputy Clerk

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO

10 TCC UNION SQUARE, L.P.,

No. CGC-09-492478

11 Plaintiff,

DECLARATORY JUDGMENT
PURSUANT TO STIPULATION ON
FIRST AND SECOND CAUSES OF
ACTION OF COMPLAINT

12 vs.

UNLIMITED CIVIL CASE

13 SAN FRANCISCO ELKS LODGE NO. 3,
14 B.P.O.E.; SAN FRANCISCO ELKS NO.
15 3 BUILDING ASSOCIATION; FRANK
16 E. LEMBI; and DOE 1 through DOE 100,
inclusive,

Trial Date: August 16, 2010

17 Defendants.



18 AND RELATED CROSS-ACTION

21 Pursuant to the Stipulation for Entry of Judgment on Plaintiff TCC Union Square,
22 L.P.'s First Cause of Action for Declaratory Relief Against Defendant San Francisco
23 Lodge No. 3, B.P.O.E. and Second Cause of Action for Declaratory Relief Against
24 Defendant San Francisco Elks No. 3 Building Association (the "Stipulation"), filed in the
25 above-entitled matter, and other good cause appearing,

26 IT IS HEREBY ADJUDGED, ORDERED AND DECREED with respect to the

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DECLARATORY JUDGMENT PURSUANT TO STIPULATION
ON FIRST AND SECOND CAUSES OF ACTION OF COMPLAINT

1 First and Second Causes of Action of the Complaint filed in the within action that:

2 1. Tenant, as defined in the hereinafter described Master Lease, of the building
3 commonly known as the Elks Building located at 450 Post Street, San Francisco, California
4 (the "Building"), under the Lease dated October 1, 1981, entered into between the San
5 Francisco Elks No. 3 Building Association and 450 Post Investment Company ("450
6 Post"), a California general partnership, as amended (the "Master Lease"), is obligated
7 under paragraph 5(a) of the Master Lease, in addition to all other obligations not
8 specifically described in this judgment, to maintain and repair all exterior and structural
9 elements of the portion of the Building facing Post Street commonly referred to as the third
10 floor balcony, including: the structural portions of the third floor balcony; the third floor
11 balcony deck; the third floor balcony railing and balustrade; the terra cotta façade attached
12 to the third floor balcony; all drains, waterproofing membranes, and surfaces required to
13 protect and preserve the third floor balcony and the rest of the Building; the exterior wall of
14 the Building to which the third floor balcony is attached and of which the third floor
15 balcony is below adjudged to be a part; and the terra cotta façade on the vertical portions of
16 the exterior wall adjacent to the third balcony. The portions of the Building described
17 above are hereinafter referred to as the "Balcony Areas."

18 2. The Balcony Areas, as defined in the preceding paragraph, are part of the
19 exterior walls of the Building.

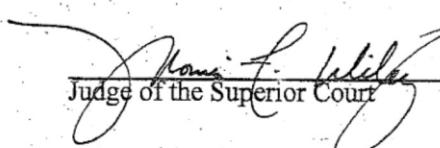
20 3. Landlord under the written agreement entitled "Sublease of Space in
21 Building," dated October 1, 1981, entered into between 450 Post and San Francisco Lodge
22 No. 3, B.P.O.E., as amended ("the Lodge Sublease"), is obligated under Section 9.1 of the
23 Lodge Sublease to maintain and repair the exterior walls of the Building, including the
24 Balcony Areas.

25 4. Tenant, as defined in the Lodge Sublease, has no duty under the Lodge
Sublease to maintain and repair the Balcony Areas.



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5 5. The costs of maintaining and repairing the Balcony Areas constitute
"Operating Expenses" as provided in Section 5 of the Lodge Sublease entitled "Operating
Expenses."

6 Dated: August 16, 2010


Judge of the Superior Court

7 MONICA F. WILEY

