



SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

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Aug-20-2010 4:04 pm

Case Number: CGC-09-492478

Filing Date: Aug-16-2010 3:58

Juke Box: 001 Image: 02947439

STIPULATED JUDGMENT - GENERAL

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

001C02947439

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FILED
San Francisco County Superior Court

AUG 16 2010

CLERK OF THE COURT
GD
BY: *GD* Deputy Clerk

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO

10
11 TCC UNION SQUARE, L.P.,) No. CGC-09-492478
12 Plaintiff,)
13 vs.)
14 SAN FRANCISCO ELKS LODGE NO. 3,)
15 B.P.O.E.; SAN FRANCISCO ELKS NO.)
16 3 BUILDING ASSOCIATION; FRANK)
17 E. LEMBI; and DOE 1 through DOE 100,)
18 inclusive,)
19 Defendants.)
20
21 AND RELATED CROSS-ACTION)
22
23

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

UNLIMITED CIVIL CASE

Trial Date: August 16, 2010

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
26 Sublease to maintain and repair the Balcony Areas.

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

5 Dated: August 16, 2010

Judge of the Superior Court

MONICA F. WILEY

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