

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

GORDON PROPERTIES, LLC,)	
)	
Plaintiff,)	
)	
v.)	Civil No. CL08001432
)	
FIRST OWNERS' ASSOCIATION OF)	
FORTY SIX HUNDRED)	
CONDOMINIUM, INC., et. al.,)	
)	
Defendants.)	

ORDER

THIS MATTER came before the Court for trial, in part before a jury, in part before the Court, beginning on February 9, 2009 and concluding on February 13, 2009; and

IT APPEARING TO THE COURT that following Gordon Properties LLC's ("Gordon Properties) presentation of evidence in support of the claims in its First Amended Complaint for breach of contract (Count I), ultra vires (Count II), accounting in equity (Count III), unjust enrichment (Count IV), judicial dissolution (Count V) and in support of its New Matter claims for fair use and occupancy (Count I), ejectment (Count II) and breach of contract (Count III) that the Court granted First Owners' Association of Forty-Six Hundred Condominium, Inc. 's (the "Association") Motion to Strike the damage claim as to Count I, and granted the Association's Motion to Strike Counts II, III and V of the First Amended Complaint in their entirety; and

IT FURTHER APPEARING TO THE COURT that following the presentation of the Association's evidence in support of the claims in its Amended Counterclaim for breach of



contract (Count I) and an accounting in equity (Count II) the Court granted Gordon Properties' Motion to Strike Count II of the Amended Complaint without prejudice; and

IT FURTHER APPEARING TO THE COURT that Gordon Properties' claim for unjust enrichment (Count IV) in the First Amended Complaint and the Association's claim for Breach of Contract (Count I) in the Amended Counterclaim were submitted to the jury; and

IT FURTHER APPEARING TO THE COURT that the jury returned its verdict as to Gordon Properties' claim for unjust enrichment (Count IV) in the First Amended Complaint in favor of the Association and that the jury returned its verdict as to the Association's claim for Breach of Contract (Count I) in the Amended Counterclaim in favor of Gordon Properties; and

IT FURTHER APPEARING TO THE COURT that the Court took under advisement Gordon Properties' request in Count I of the First Amended Complaint for a permanent injunction and issued a letter opinion dated February 23, 2009 in which the Court made certain findings which are incorporated herein, except to the extent they conflict with any rulings made by the Court at the March 11, 2009 hearing and/or the Court's April 3, 2009 letter opinion, but denied Gordon Properties request for a permanent injunction; and

IT FURTHER APPEARING TO THE COURT that after the conclusion of the trial the following post trial motions were filed by the parties: (1) Association's Motion to Set Aside the Jury's Verdict as to Count I of the Amended Counterclaim; (2) Association's Motion to Reconsider the Court's Entry of Judgment in Favor of Plaintiff on its Claim for Ejectment (Count II of the New Matter); (3) Association's Motion for Reconsideration and/or Clarification of the February 23, 2009 Letter Opinion; and (4) Gordon Properties' Motion for Reconsideration

and for a New Trial on Damages on its Storage Area Damages Claim which motions were heard by the Court on March 11, 2009; and

IT FURTHER APPEARING TO THE COURT that the Court issued a letter opinion dated April 3, 2009, ~~deciding the post-trial motions~~ which letter opinion is incorporated herein; it is therefore ~~setting forth the rulings on the post-trial motions which the Court made from the bench on March 11, 2009 and the rulings on the post-trial motions the Court took under advisement,~~

ORDERED that the Defendants' Motion to Strike Gordon Properties' evidence as to all claims is granted in part and judgment is hereby entered in favor of the Defendants and against Gordon Properties on Counts II, III and V of the First Amended Complaint which counts are dismissed with prejudice, and on Count I as to any damage claims which are hereby dismissed with prejudice; and it is further,

RES / [Signature]

ORDERED that Gordon Properties' request for entry of a permanent injunction against the Association (Count I of the Amended Complaint) is hereby denied; and it is further

ORDERED that judgment is hereby entered in favor of the Association on Gordon Properties' unjust enrichment claim (Count IV of the Amended Complaint) based upon the verdict returned by the jury and that claim is dismissed with prejudice; and it is further,

ORDERED that Gordon Properties' Motion for Reconsideration and for a New Trial on Damages on its Storage Area Damages Claim is hereby denied; and it is further,

ORDERED that judgment is entered in favor of the Association and against Gordon Properties on Gordon Properties claim for fair use and occupancy damages (Count I of the New Matter) and that claim is dismissed with prejudice; and it is further,

ORDERED that judgment is entered in favor of Gordon Properties and against the Association on its claim for ejectment and for recovery of possession (Count II of the New Matter) of the premises known as Residential/Commercial Limited Common Element (single user) Storage Area 1C1; and it is further,

ORDERED that, for the reasons set forth in the Court's April 3, 2009 letter opinion, the Association's Motion to Reconsider the Court's Entry of Judgment in Favor of Plaintiff on its Claim for Ejectment (Count II of the New Matter) is hereby granted and judgment is entered in favor the Association on Gordon Properties' claim for ejectment and to recover possession of the premises known as Residential/Commercial Limited Common Element (single user) Storage Areas 1C2 which claim is dismissed with prejudice; and it is further

ORDERED that Gordon Properties' breach of contract claim (Count III of the New Matter) is hereby dismissed without prejudice; and it is further,

ORDERED that the Association's Motion to Set Aside the Jury's Verdict as to Count I of the Association's Amended Counterclaim is hereby denied and judgment is entered in favor of Gordon Properties as to Count I of the Amended Counterclaim which is dismissed with prejudice; and it is further

ORDERED that Count II of the Association's Amended Counterclaim is hereby dismissed without prejudice as premature.

This Matter is Final.

ENTERED this 7th day of July, 2009.

Lisa B. Kemler
The Honorable Lisa B. Kemler

<p>SEEN AND OBJECTED TO FOR THE REASONS SET FORTH ON THE RECORD:</p> <p>STITES & HARBISON PLLC</p> <p>By: <u>[Signature]</u> Robert E. Scully, Jr. (VSB # 19218) Emily Harwood Smith (VSB #65527) Stites & Harbison, PLLC 1199 North Fairfax Street, Suite 900 Alexandria, Virginia 22314 Phone: 703-739-4900 Fax: 703-739-9577 <i>Counsel for Gordon Properties LLC</i></p>	<p>SEEN AND OBJECTED TO FOR THE REASONS SET FORTH ON THE RECORD:</p> <p>REED SMITH LLP</p> <p>By: <u>[Signature]</u> Michael S. Dingman (VSB # 30031) Helenanne Connolly (VSB # 70911) 3110 Fairview Park Drive, Suite 400 Falls Church, Virginia 22042 (703) 641-4323 (telephone) (703) 641-4340 (facsimile) <i>Counsel for Defendants</i></p>
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A COPY TESTE:
EDWARD SEMONIAN, CLERK
BY Barbara Chen, DEPUTY CLERK
CERTIFIED THIS 19 DAY OF Aug, 2009