

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HAMMES COMPANY
HEALTHCARE, LLC, a Wisconsin
limited liability company, and HC TRI-
CITY I, LLC, a Wisconsin limited
liability company,

Plaintiffs,

v.

TRI-CITY HEALTHCARE
DISTRICT, a California public entity,
et al.

Defendants,

Case No. 3:09-cv-2324-GPC-KSC
**FINDINGS OF FACT AND
CONCLUSIONS OF LAW
FOLLOWING BENCH TRIAL**

INTRODUCTION

On August 19, 2013, the Court concluded a four-day bench trial on plaintiff Hammes Company Healthcare, LLC’s (“Hammes”) claim for breach of a letter of intent (“LOI”) pertaining to the development of a medical office building and ambulatory surgery center on defendant Tri-City Healthcare District’s (“District”) hospital campus in Oceanside, California (“Project”).

Hammes asserts the District unilaterally terminated the Project or, at a minimum, frustrated Hammes’ efforts at bringing the Project to fruition. Hammes therefore seeks, under the terms of the LOI, its initial development costs and a breakage fee for the

1 work it completed prior to the Project's termination.

2 Following trial, the Court ordered Hammes and the District to submit their
3 closing arguments in writing, which they did. (ECF Nos. 187, 189, 190.) After
4 considering all the evidence admitted at trial, the parties' arguments, and the applicable
5 law, the Court finds in favor of the District.

6 More specifically, the Court finds that, while the parties intended the Initial
7 Development Costs provision of the LOI to be enforceable, the parties intended the
8 later executed Ground Lease to supersede the LOI. In reaching this conclusion, the
9 Court concludes that Hammes and the entity it created to be the owner of the Project,
10 HC Tri-City I, LLC ("HC"), should be treated as the same party under the alter ego
11 doctrine. Thus, because the Court finds that the Initial Development Costs provision
12 of the LOI became unenforceable upon execution of the Ground Lease, the Court does
13 not address the issues of breach or damages.

14 BACKGROUND

15 **I. Summary Judgment**

16 Prior to trial, both the District and Hammes moved for summary judgment. In
17 December 2010, the District moved for partial summary judgment as to the first
18 through sixth claims (out of seven total claims) asserted against it. (ECF No. 38.) The
19 first claim (breach of the LOI) was asserted against the District by Hammes alone. The
20 second through seventh claims were asserted against the District by Hammes and by
21 plaintiff HC—the entity formed by Hammes to develop, own, and lease the Project.

22 In July 2011, prior to this case's transfer to the undersigned judge, the Honorable
23 Janis L. Sammartino, U.S. District Judge, granted the District's Motion for Summary
24 Judgment as to Hammes' and HC's second through sixth claims against the District.
25 (ECF No. 85.) Thus, Hammes's first claim (breach of the LOI), along with Hammes'
26 and HC's seventh claim (declaratory relief), were the only claims remaining after Judge
27 Sammartino's July 2011 Order. This Court later dismissed Hammes' and HC's seventh
28 claim for declaratory relief in December 2012, leaving Hammes' first claim for breach

1 of the LOI as the only remaining claim to be tried. (ECF No. 147.)

2 With regard to Hammes' claim for breach of the LOI, Judge Sammartino noted
3 that "[a] threshold question is whether the letter of intent was a binding contract when
4 [the District] allegedly breached it in 2009." (ECF No. 85 at 4 n.5.) At the District's
5 insistence, Judge Sammartino proceeded under the assumption—for purposes of
6 Deciding the District's Motion for Summary Judgment—that the LOI was a binding
7 contract. (*Id.*) She noted, however, that "there is some reason to doubt that this is the
8 case." (*Id.* (emphasis added).)

9 Under the assumption that the LOI was a binding contract, Judge Sammartino
10 found a genuine issue of material fact existed as to whether the District unilaterally
11 terminated the project, thus obligating it to reimburse Hammes for its initial
12 development costs and to pay a breakage fee. (*Id.* at 6.)

13 Thereafter, in September 2011, Hammes moved for summary judgment as to its
14 first claim for breach of the LOI. (ECF No. 92.) Relying on the analysis set forth in
15 her July 2011 Order, Judge Sammartino denied Hammes' Motion for Summary
16 Judgment. (ECF No. 110 at 29-31.) That is—without addressing whether the LOI is
17 a binding agreement—Judge Sammartino found that a genuine issue of material fact
18 existed as to whether "either party 'decided' not to proceed with the project or the
19 ambulatory surgery center under the terms of the [LOI]." (*Id.* at 31.)

20 **II. Hammes' Claim for Relief**

21 In its only remaining claim after summary judgment, Hammes alleges that, in
22 May 2005, it entered into a written agreement with the District to proceed with the
23 development of an out-patient services and medical office building adjacent to an
24 existing medical center operated by the District ("Project"). (ECF No. 1, Compl. ¶¶ 11,
25 14.)

26 Hammes claims the agreement "expressly included provisions related to
27 Hammes' and [the District]'s obligations with respect to 'Initial Development Costs,'
28 which would be binding and operate as a final expression of the parties' obligations."

1 (Id. ¶ 14.) The alleged agreement, attached as Exhibit A to Hammes' Complaint (and
2 admitted at trial as Trial Exhibit 1), is entitled: "Letter of Intent" ("LOI").

3 Hammes alleges that, pursuant to the LOI, Hammes would be reimbursed for its
4 "Initial Development Costs" regardless of whether the Project proceeded. (Id. ¶ 16.)
5 Hammes claims that, under the LOI, "if the Project failed to come to fruition, including
6 the construction of the out-patient services and medical office building, along with
7 leasing of such, then 'the District agree[d] to reimburse one hundred percent (100%)
8 of,' Plaintiff Hammes' Initial Development Costs." (Id. ¶ 17.)

9 Hammes further claims the District "also agreed that if the Project should not be
10 completed or was terminated by the District, then the District shall pay Plaintiff a
11 breakage fee . . . in addition to the Initial Development Costs." (Id. ¶ 18.) Hammes
12 alleges the parties agreed to a breakage fee of \$10,000 per month for each month
13 Hammes spent working on the Project. (Id.)

14 Hammes claims it fully performed under the LOI, except those obligations that
15 the District waived, excused, or prevented from being performed. (Id. ¶ 19.)

16 Hammes alleges the District breached the LOI "by solely determining not to
17 proceed with the Project, and thus frustrating Hammes' intention to proceed with long-
18 term development and leasing of the Project. (Id. ¶ 20.)

19 Hammes asserts the LOI was never superseded or altered by Hammes and the
20 District. (Id. ¶ 21.)

21 Hammes claims it "has damages unique to it, which entitles [Hammes] the
22 agreed upon Initial Development Costs and Breakage Fees" in an amount Hammes
23 believes to exceed \$1,000,000, "plus loss of use of funds, fees, costs, and interest as
24 allowed by contract and/or law." (Id. ¶¶ 22-23.)

25 **FINDINGS OF FACT & CONCLUSIONS OF LAW**

26 To succeed on a breach of contract claim, a plaintiff must prove (1) the existence
27 of an enforceable contract, (2) the plaintiff's performance or excuse for
28 nonperformance under the contract, (3) the defendant's material breach of the contract,

1 and (4) resulting damages to the plaintiff. Reichert v. Gen. Ins. Co. of Am., 68 Cal. 2d
2 822, 830 (1968).

3 **I. Enforceable Contract**

4 Hammes argues the LOI is an enforceable contract with regard to the Initial
5 Development Costs and Breakage Fee provisions. (ECF No. 187 at 6.) The District
6 argues the LOI is no longer an enforceable contract because it was superseded by the
7 Ground Lease. (ECF No. 189 at 4.)

8 The Court will address these arguments, but first, some explanation about letters
9 of intent in general:

10 “Letter of intent” is not a legal term of art. The term is seen in real estate
11 development documents, securities underwriting, and sales of corporate
12 assets, among other areas. Generally, “letter of intent” refers to a writing
documenting the preliminary understandings of parties who intend in the
future to enter into a contract.

13 Rennick v. O.P.T.I.O.N. Care, Inc., 77 F.3d 309, 315 (9th Cir. 1996) (citing A/S
14 Apothekernes Laboratorium v. I.M.C. Chem. Grp., Inc., 873 F.2d 155, 158 (7th Cir.
15 1989); Black’s Law Dict. at 814 (5th ed. 1979)).

16 “The purpose and function of a preliminary letter of intent is not to bind the
17 parties to their ultimate contractual objective. Instead, it is only to provide the initial
18 framework from which the parties might later negotiate a final . . . agreement, if the
19 deal works out.” Rennick, 77 F.3d at 315 (internal quotation marks omitted) (citing
20 A/S Apothekernes, 873 F.2d at 158). Thus, “calling a document ‘letter of intent’
21 implies, unless circumstances suggest otherwise, that the parties intended it to be a
22 nonbinding expression in contemplation of a future contract, as opposed to its being
23 a binding contract.” Rennick, 77 F.3d at 315.

24 Here, the LOI reflects the above principles, as it expressly states it “is not
25 intended . . . to be a binding agreement, but is intended merely as a statement of the
26 present intentions and understandings of the parties.” (Trial Ex. 1 at 1.) With this in
27 mind, the Court examines whether the Breakage Fee and Initial Development Costs
28 provisions are binding and enforceable.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.