
Court Denies County's Dismissal Request In Phoenix Center Litigation

Judge Michael Warren of the Oakland County Circuit Court denied Oakland County's request to be dismissed from litigation brought in 2012 by the owners of the Ottawa Towers office buildings, relating to the plans of Oakland County, Pontiac and former Emergency Manager Louis Schimmel to demolish the Pontiac Phoenix Center Parking Deck, Amphitheater & Plaza. The Plaintiffs are the owners of two, eight-story office towers in Pontiac, Michigan known as the Ottawa Towers. Plaintiffs are represented by the Complex Litigation Group at Maddin, Hauser, Roth & Heller, P.C., in Southfield, Michigan.

Oakland County filed a motion seeking to be dismissed from the majority of Ottawa Towers' claims, including Ottawa Towers' claims for violation of Constitutional Due Process rights, and inverse condemnation of the Ottawa Towers office buildings. Oakland County contended that it could no longer be held responsible for actions taken relating to the demolition plan and the Ottawa Towers' damages because the county transferred title to the Phoenix Center back to the City of Pontiac on June 4, 2013, when certain county-backed bonds secured by the Phoenix Center were repaid.

In its Opinion, the Court denied Oakland County's request for dismissal based upon the Ottawa Towers' evidence that "the County and the Oakland County Building Authority, through high level County officials (e.g., the Oakland County Deputy Executive) acting on the County's behalf as well as the Oakland County Board of Commissioners (by meeting and approving the demolition resolution as prepared by the County's counsel), have taken actions destructive to the Plaintiff's property by actively participating and being a significant driving force behind (thereby setting in motion forces leading to) the decision to demolish the Phoenix Center."

Also, while the Court determined that the County could not be compelled in the future to make repairs to the Phoenix Center because it no longer owns the Phoenix Center, the Court preserved the Ottawa Towers' claims against Oakland County and the Oakland County Building Authority, that they are liable for the

significant damages suffered by the Ottawa Towers' owners for neglected repairs and maintenance that were the County's obligation from March 2006 to June 2013.

A trial date is scheduled for July 14, 2014.

A copy of the Opinion and Order is available upon request.

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