



days, thereby providing SPC with adequate time to include the two additional properties in its Response.

### **REPLY**

1. On March 16, 2023, the Court ordered the Receiver to move for summary judgment with respect to two apartment developments, Windmill Farms and Bellwether Ridge, by April 13, 2023 (“Order”). ECF 190.

2. On April 13, 2023, the Receiver filed his Motion for Summary Judgment (“Receiver’s MSJ”). ECF 206, 207. Contrary to the Court’s Order, however, the Receiver also included two other apartment developments, Parc at Ingleside and Parc at Opelika, which were not previously at issue. ECF 207, p. 1 n. 1. In a footnote, the Receiver wrote, “[T]he Receiver requests that the Court determine SPC’s interest in each, although, currently, he seeks to sell only Windmill Farms and Bellwether Ridge.” *Id.*

3. On April 24, 2023, SPC filed its Motion to Strike the Receiver’s MSJ with Respect to Parc at Ingleside and Parc at Opelika (“Motion to Strike”). ECF 215. SPC complained it was prejudiced because the Receiver unilaterally included in his MSJ the two additional apartment developments, thereby imposing on SPC, without leave of Court, the additional burden of addressing in its Response projects not previously at issue.

4. On May 3, 2023, the Receiver filed his Response to SPC’s Motion to Strike. ECF 226. The Receiver argued, in summary, that the Court’s Order did not prohibit the Receiver from seeking summary judgment as to Parc at Opelika and the Parc at Ingleside, and that considering all four properties in one motion is efficient.

5. The Receiver requested that in the alternative, if the Court deems including of all four properties in the MSJ improper based on the current record, the Court grant the Receiver leave to include all four properties in the MSJ *nunc pro tunc*.

6. Including all four properties in the Receiver's MSJ is improper based on the current record. But if the Court is inclined to grant the Receiver's request for leave to include all four properties in the MSJ *nunc pro tunc*, SPC requests that the Court extend SPC's Response date an additional fourteen (14) days, thereby providing SPC with adequate time to include the two additional properties in its Response.<sup>1</sup>

**Conclusion and Prayer**

For the reasons set forth herein, Southern Properties Capital, Ltd. respectfully requests that the Court:

1. Grant SPC's Motion to Strike and strike from the Receiver's Motion for Summary Judgment the two additional projects Parc at Ingleside and Parc at Opelika;
2. In the alternative extend SPC's Response date an additional fourteen (14) days; and
3. Grant SPC any additional relief to which SPC may be justly entitled.

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<sup>1</sup> In connection with the Receiver's request to extend his Reply date, the Court extended SPC's Response date by eleven (11) days. Agreed Motion, ECF 220; Order 221.

**RESPECTFULLY SUBMITTED BY:**

*/s/ Brian K. Norman*

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 11th, 2023, I filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, Dallas Division using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to all attorneys of record, who have consented in writing to accept this Notice as service of the document by electronic means.

*/s/ J. Blair Norris*

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**J. BLAIR NORRIS**