

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Honorable Marcia S. Krieger

Civil Action No. 09-cv-00434-MSK-MJW

UNITED STATES OF AMERICA,

Plaintiff,

v.

31,753 SQUARE FEET OF OFFICE SPACE IN THE  
CITY AND COUNTY OF DENVER, COLORADO,  
DAN H. MILLS, General Partner,  
SILVER OAK ASSOCIATES; and  
UNKNOWN OWNERS, if any,

Defendants.

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**FINAL ORDER**

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This is a civil condemnation action filed by Plaintiff United States of America, pursuant to 40 U.S.C. §§ 581 and 3114, and Public Law 108-7 and 108-447. Plaintiff United States has taken a certain leasehold (“Leasehold”) for a specific period of time under the power of eminent domain for the public use and has sought the ascertainment and award of just compensation to the owners and parties of interest in the condemned Leasehold.

This Court has jurisdiction over this civil action pursuant to 28 U.S.C. § 1345, and 40 U.S.C. §§ 581 and 3115. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1403, because the Leasehold is located in this judicial district.

The Leasehold was for the occupancy by the U.S. Citizenship & Immigration Services and the U.S. Immigration & Customs Enforcement, and other related purposes of the United States Government. The property of the Leasehold is described in Schedule A, attached to the

Complaint in Condemnation. The Leasehold acquired is described in Schedule B, attached to the Complaint in Condemnation.

On February 27, 2009, Plaintiff United States filed a Complaint in Condemnation [Docket No. 1] and a Declaration of Taking [Docket No. 2] in this civil action in reference to the Leasehold. The Leasehold consists of 31,753 square feet of office space located at 4730 Paris Street, Denver, Colorado 80239.

On March 3, 2009, pursuant to Court Order [Docket No. 4], Plaintiff United States deposited \$223,908.64 into the Registry of the Court as the amount of estimated just compensation. [Docket No. 7.]

On March 8, 2009, a Notice of Condemnation was filed. [Docket No. 9.] On April 1, 2009, a Waiver of Service of Notice of Condemnation was filed in reference to Defendant Silver Oak Associates. [Docket No. 10.]

On May 13, 2009, Plaintiff United States and Defendant Silver Oak Associates filed a Stipulated Settlement Agreement by and between Plaintiff United States and Defendant Silver Oak Associates (“Settlement Agreement”). [Docket No. 18.] The Settlement Agreement provides in relevant part that:

- A. The United States Citizenship & Immigration Service and the United States Immigration & Customs Enforcement shall have possession of the Leasehold through and including July 31, 2009;
- B. The lease for the Leasehold shall remain in full force and effect through July 31, 2009, except as amended by the specific provisions contained in the Settlement Agreement;
- C. Plaintiff United States and Defendant Silver Oak Associates stipulate and agree that the amount of just compensation to be paid by Plaintiff United States to Defendant Silver Oak Associates in reference to the condemnation of the Leasehold is and shall be \$282,000;
- D. Plaintiff United States shall deposit \$60,000 into the Registry of the Court as

additional estimated just compensation (“Additional Estimated Just Compensation”);

- E. Plaintiff United States shall pay Defendant Silver Oak Associates the sum of \$282,000 as the amount of just compensation in reference to the Leasehold;
- F. Defendant Silver Oak Associates agrees to accept the amount of \$282,000 in reference to the Leasehold;
- G. Defendant Silver Oak Associates will file a motion to withdraw \$169,200 from the Estimated Just Compensation after the Settlement Agreement is filed with the Court;
- H. Plaintiff United States will consent to Defendant Silver Oak Associates’ motion to withdraw \$169,200 from the Estimated Just Compensation;
- I. On or about July 15, 2009, Defendant Silver Oak Associates will file a motion to withdraw \$112,800 from the Estimated Just Compensation and Additional Estimated Just Compensation;
- J. Plaintiff United States will consent to Defendant Silver Oak Associates’ motion to withdraw \$112,800 from the Estimated Just Compensation and Additional Estimated Just Compensation;
- K. Thereafter, Plaintiff United States shall be entitled to the Estimated Just Compensation and Additional Just Compensation remaining in the Registry of the Court;
- L. Plaintiff United States will move, pursuant to Fed. R. Civ. P. 71.1(i)(2), to dismiss Defendant Dan H. Mills as improperly joined;
- M. Defendant Silver Oak Associates will not oppose the dismissal of Defendant Dan H. Mills, pursuant to Fed. R. Civ. P. 71.1(i)(2);
- N. Each party shall bear its own attorneys’ fees, costs, and expenses related to this civil action.

[Settlement Agreement, § IV, ¶¶ 1-14; Docket No. 18.]

On June 1, 2009, pursuant to the Settlement Agreement [Docket No. 18] and Court Order [Docket No. 23], Plaintiff United States deposited \$60,000 into the Registry of the Court.  
[Docket No. 24.]

Pursuant to the Settlement Agreement, Defendant Silver Oak Associates has been fully paid. [Docket No. 21 and 29.]

Currently, there remains in the Registry of the Court \$1,908.64 of the funds deposited by Plaintiff United States in reference to the within civil action plus all accrued interest. On July 17, 2009, Plaintiff United States, pursuant to paragraph 11 of the Settlement Agreement, filed an Unopposed Motion To Disburse Funds By Plaintiff United States. [Docket No. 31.]

On April 2, 2009, Plaintiff United States filed a Certificate of Service by Publication. [Docket No. 11.] On July 6, 2009, Plaintiff United States filed a Certificate of Proof of Service by Publication in reference to Defendants Unknown Owners. [Docket No. 27.] On July 28, 2009, Plaintiff United States filed a Motion for Entry of Default as to All Unknown Owners. [Docket No. 33.] On August 4, 2009, the Clerk of the Court entered an Entry of Default as to Defendants Unknown Owners. [Docket No. 34.]

This matter now comes before the Court on the Unopposed Amended Motion for a Final Order and for Entry of Judgment by Plaintiff United States of America [**Docket No. 36**], and for good cause having been shown, it is hereby

**ORDERED** that the Motion (#36) is **GRANTED**. It is

**FURTHER ORDERED** that the United States Citizenship & Immigration Service and the United States Immigration & Customs Enforcement shall have possession of the leasehold that is the subject of this condemnation action through and including July 31, 2009; and it is

**FURTHER ORDERED** that the lease that is the subject of this condemnation action shall remain in full force and effect through July 31, 2009, except as amended by the specific provisions the Stipulated Settlement Agreement by and between Plaintiff United States and Defendant Silver Oak Associates [Docket No. 18]; and it is

**FURTHER ORDERED** that the amount of just compensation paid by Plaintiff United States to Defendant Silver Oak Associates in reference to the leasehold condemned in this civil action is and shall be \$282,000; and it is

**FURTHER ORDERED** that the Unopposed Motion to Disburse Funds by Plaintiff United States [Docket No. 31] is **GRANTED**; and it is

**FURTHER ORDERED** that the Clerk of the Court shall disburse to the U.S. General Services Administration \$1,908.64, plus all accrued interest and minus registry assessment fees as provided for by D.C.COLO.LCivR 67.2(B) and (C); and it is

**FURTHER ORDERED** that the Clerk of Court shall issue a check made payable to the U.S. General Services Administration in the amount of \$1,908.64, plus all accrued interest and minus registry assessment fees as provided for by D.C.COLO.LCivR 67.2(B) and (C); and it is

**FURTHER ORDERED** that the Clerk of the Court shall to mail the said check to:

David M. Gaouette  
Acting United States Attorney  
c/o Stephen D. Taylor  
Assistant United States Attorney  
1225 Seventeenth Street  
Suite 700  
Denver, CO 80202

and it is

**FURTHER ORDERED** that Defendants Unknown Owners shall take nothing by reason of this civil condemnation action; and it is

**FURTHER ORDERED** that each party shall bear its own attorneys' fees, costs, and expenses related to this civil action.

DATED this 2<sup>nd</sup> day of September, 2009.

**BY THE COURT:**

*Marcia S. Krieger*

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Marcia S. Krieger  
United States District Judge