

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02614-REB-KLM

WILLIAM I. DALZELL,
DEVON C. PURDY,
SAM PROPERTIES V, LLC, a Colorado limited liability company,
GREGORY HALLER,
PAMELA HALLER, and
CINDY ROGERS,

Plaintiffs,

v.

TRAILHEAD LODGE AT WILDHORSE MEADOWS, LLC, a Colorado limited liability
company,
S & P DESTINATION PROPERTIES, INC., a Delaware corporation, and
RP STEAMBOAT SPRINGS, LLC, a Delaware limited liability company,

Defendants.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiffs' **Stipulated Motion for Leave to File Second Amended Complaint to Add Additional Plaintiff** [Docket No. 67; Filed July 22, 2010] (the "Motion").

Fed. R. Civ. P. 15(a) provides for liberal amendment of pleadings. Leave to amend is discretionary with the court. *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Viernow v. Euripides Dev. Corp.*, 157 F.3d 785, 799 (10th Cir. 1998). Amendment under the rule has been freely granted. *Castleglenn, Inc. v. Resolution Trust Co.*, 984 F.2d 1571 (10th Cir. 1993) (internal citations omitted). "Refusing leave to amend is generally only justified upon

a showing of undue delay, undue prejudice to the opposing party, bad faith or dilatory motive, failure to cure deficiencies by amendments previously allowed, or futility of amendment." *Frank v. U.S. West, Inc.*, 3 F.3d 1357, 1365 (10th Cir. 1993).

Plaintiffs seek to join Robert Kolligian as a Plaintiff. Fed. R. Civ. P. 20(a) permits joinder if two independent requirements are met: a right to relief arising from a single occurrence or series of occurrences *and* a common question of law or fact. This case involves the purchase and sale of condominium units in a project known as Trailhead Lodge at Wildhorse Meadows. The proposed Second Amended Complaint alleges the same set of facts and common questions of law and fact against Robert Kolligian as those alleged against the Plaintiffs.

After review of the Second Amended Complaint, I find that Plaintiffs have met the requirements of Rule 20 and are permitted to join Robert Kolligian as a plaintiff. There is no basis for denying leave to amend. There has not been an undue delay in filing the Motion. Defendants do not object to the Motion. Pursuant to Fed. R. Civ. P. 15(a),

IT IS HEREBY **ORDERED** that the Motion is **GRANTED**.

IT IS FURTHER **ORDERED** that the Second Amended Complaint [Docket No. 67] Exhibit A is **accepted** for filing as of the date of this Order.

Dated: July 23, 2010

BY THE COURT:

s/ Kristen L. Mix
U.S. Magistrate Judge
Kristen L. Mix