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July 14, 2021

*By FedEx Overnight Delivery and Facsimile*

The City of San Diego  
Real Estate Assets Department  
1200 Third Avenue, Suite 1700 (MS 51A)  
San Diego, California 92101-4199  
Attn: Director, Real Estate Assets  
Facsimile: (619) 236-6706

Re: TEN-DAY NOTICE TO PAY OR QUIT– Lease Agreement, effective March 13, 2015, between CCP 1200, LLC, a Delaware limited liability company (“Landlord”), and THE CITY OF SAN DIEGO, a California municipal corporation (“Tenant”) (the “Lease”), governing real property, and improvements thereon, commonly known as 1200 Third Avenue and 201 A Street, San Diego, California (the “Premises”)

Dear Director:

As you are aware, this firm represents CGA Servicing, LLC, acting solely in its capacity as Servicer on behalf of WILMINGTON TRUST, NATIONAL ASSOCIATION, as trustee for the registered certificate holders, from time to time, of the CGA Capital Credit Lease-Backed Pass-Through Trust, Series 2015-CTL-1 (“Lender”), beneficiary under the Fee Loan, and the current registered certificate holders of the CGA Capital Credit Lease-Backed Pass-Through Trust, Series 2015-CTL-1. (Lease § 1(c)). Capitalized terms used, but not defined herein, shall have the meaning set forth in the Lease.

Pursuant to the (a) Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated effective as of June 1, 2015 and recorded on June 1, 2015 in the official records of San Diego County, California as Document No. 2015-0278695 (the “Indenture”), (b) Assignment of Lease and Rents dated June 1, 2015 and recorded on June 1, 2015 in the official records of San Diego County, California as Document No. 2015-0278696 (the “ALR”), and (c) other documents executed in connection with the Fee Loan, Lender has the ability to, *inter alia*, take action upon a Lease default, including commencing proceedings or declaring defaults, and do any and all other things Landlord is entitled to do as landlord under the Lease. Lender’s rights under the Indenture, ALR and other loan documents may be exercised at Lender’s sole discretion.

Lender has considered the “Complaint for Violation of Government Code section 1090” referenced in Mr. Goldstone’s July 1, 2021 letter and believes it does not support Tenant’s claim that the Lease for the Premises “is void under conflicts of interest law” for at least two primary reasons. First, Cal. Gov’t Code § 1092.5 protects Lender (which had no knowledge of Jason Hughes’ alleged conflict of interest) from Tenant’s demand to void the Lease. Specifically, Section 1092.5 provides:

Notwithstanding Section 1092, no lease or purchase of, or encumbrance on, real property may be avoided, under the terms of Section 1092, in derogation of the interest of a good faith lessee, purchaser, or encumbrancer where the lessee, purchaser, or encumbrancer paid value and acquired the interest without actual knowledge of a violation of any of the provisions of Section 1090.

The legislative history of Section 1092.5 confirms that the purpose of Section 1092.5 is to protect Lender in this circumstance, noting that Section 1092.5 protects “a lender who had no knowledge of illegality in making the contract [who] might [otherwise] have his trust deed security placed in jeopardy if the public agency or another party sought to avoid the contract.” (Staff Analysis of AB 532, Feb. 17, 1981).<sup>1</sup> Here, as the Tenant knows, Lender has a deed of trust secured by the Lease for which it paid value and has been assigned an interest in the Lease. (See, e.g., May 22, 2015 Rent Direct Letter with signed acknowledgement by Cybele Thompson). Thus, Tenant’s attempt to void the Lease “in derogation of” Lender’s interest is contrary to the plain language and intent of Section 1092.5.

Second, the statute of limitations for filing a Section 1090 action is four years. Cal. Gov’t Code § 1092(b). Based on recent news reports, it appears that the Tenant (unlike Lender) was aware of Mr. Hughes’ purported conflict of interest and certain officials even *approved* that conflict more than four years ago.

In addition to these two deficiencies with the Tenant’s allegations, the Tenant’s Complaint contains many other potential deficiencies. As one example, information may indicate that Mr. Hughes is not even subject to Section 1090. It is unfortunate that the Tenant is asserting such sweeping and unfounded allegations that will only cost Tenant taxpayers *more* money

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<sup>1</sup> See also June 3, 1981 Letter from Assemblyman Tom Bane to Governor Edmund G. Brown, Jr. (“The public has a right to expect that actions by public officers are lawful, and in the absence of knowledge to the contrary, they should be able to conduct themselves accordingly with respect to buying, leasing or encumbering real property where the interest acquired by their predecessor in interest resulted from an action of a public officer or body, without the fear that their interests would be challenged at a subsequent date based on allegations or facts of which they knew nothing and which may prove baseless.”).

based on the Tenant's agreement to indemnify Lender (among other parties) for legal fees relating to the Lease.

Tenant's baseless attempt to void the Lease is a violation of its contractual obligations under the Lease. Section 5(b) of the Lease provides that "Tenant . . . shall not take any action to terminate, rescind or avoid this Lease [and] . . . Tenant waives all rights now or hereafter confirmed by statute or otherwise to quit, to terminate or surrender this Lease, or to any abatement or deferment of Rent." The Complaint filed to void the Lease is a breach of Lease Section 5(b). If Tenant does not dismiss the counts of the Complaint seeking to void the Lease within 30 days (per Lease Section 16(a)(iii)), Tenant will be in default of its Lease obligations based on the Complaint.

Beyond the baseless allegations of the Tenant's Complaint, Tenant is in default of its monetary obligations under the Lease. Specifically, Tenant's failure to pay fixed base rent applicable to July 2021 in the amount of \$313,118.00 ("Base Rent") as well as additional rent within five business days of the first business day of the month constitutes a "Default" under the Lease. (See Lease §§ 4(a), 16(a)).

You are hereby notified that, within ten (10) days after service of this notice on you, you must pay the amount stated above pursuant to the Lease, or surrender possession of the Civic Center Plaza Building to the undersigned. Please be advised that, at this time, Lender does not seek to interrupt the operations of the King-Chavez Community High School that occupies the Adjacent Building that composes part of the Premises. As such, nothing herein shall be construed as a demand by Lender, at this time, for King-Chavez Community High School to surrender the Adjacent Building. However, nothing herein shall be construed as a waiver of any of Lender's right or remedies available to Lender at law or in equity or under the Indenture, ALR, other Loan Document and/or the Lease, including any such rights or remedies that may pertain to the Adjacent Building.

If Tenant fails to pay the monetary obligations set forth above or to surrender possession of the Civic Center Plaza Building within ten (10) days, Lender will exercise all rights and remedies under the Lease, Indenture, ALR, other loan documents and applicable state law including, without limitation, seeking eviction of the Tenant from the Civic Center Plaza Building.

Only full payment of the monetary obligations demanded in this Notice will waive Lender's right to possession of the Civic Center Plaza Building under this Notice, unless Lender agrees, in writing, to continue to allow possession in exchange for receiving partial payment.

Lender may not have identified each potential default or event of default presently existing under the Lease. Any failure or delay by Lender or Landlord in identifying such defaults or events of default, or exercising any right, power, or remedy under the Lease, at law or in equity, or any acceptance of partial performance or partial payment (a) shall not operate as a waiver of such right, power, or remedy, nor shall any single or partial exercise of any such

right, power, or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power, or remedy; and (b) shall not be sufficient, by itself or together with any other action or inaction by Lender or Landlord, to establish a course of dealing or course of conduct by Lender or Landlord (with any such prior course of dealing or conduct, if any, hereby terminated). Nothing herein shall be construed as an admission by Lender that a separate default notice is required every month that Tenant fails to pay any amounts owed under the Lease.

Further, nothing contained in this letter shall be construed to (i) limit the right of Lender or Landlord to receive any and all sums that are or may become due and payable pursuant to the Lease, or otherwise, including, without limitation, costs of collection (including reasonable attorneys' fees), default interest and late charges; (ii) waive any default or event of default under the Lease, whether or not known to Lender or Landlord; (iii) waive, limit, modify, prejudice or otherwise adversely affect any right, remedy, or power of Lender or Landlord under the Lease, by statute, at law, or in equity, all of which rights, remedies, and powers are expressly reserved; or (iv) waive, limit, modify, prejudice, or otherwise adversely affect any of the claims of Lender or Landlord against Tenant.

Sincerely,



Craig S. Ganz

CSG/vlm

cc (Via FedEx Overnight Delivery and Email):

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