

<p>FORT COLLINS MUNICIPAL COURT 215 N. Mason Fort Collins, CO 80521 Phone: (970) 221-6800</p>	
<p>Plaintiffs: COLLEEN HOFFMAN, RICK HOFFMAN, and ANN HUNT</p> <p>v.</p> <p>Defendants: THE CITY COUNCIL OF THE CITY OF FORT COLLINS, the governing body of a Colorado municipal corporation; and THE ADMINISTRATION BRANCH OF THE CITY OF FORT COLLINS, by and through its City Manager, Darin Atteberry, and</p> <p>Defendant-Intervenor: SUMMIT MANAGEMENT SERVICES, INC.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Attorneys for Defendant-Intervenor:</p> <p>Martha L. Fitzgerald, #14078 Carolynne C. White, #23437 Gina L. Tincher, #48479 BROWNSTEIN HYATT FARBER SCHRECK, LLP 410 Seventeenth Street, Suite 2200 Denver, CO 80202-4432 Phone: 303.223.1100 Fax: 303.223.1111 Emails: mfitzgerald@bhfs.com; cwhite@bhfs.com; gtincher@bhfs.com</p>	<p>Case Number: 2017CV01</p> <p>Division:</p>
<p style="text-align: center;">DEFENDANTS' MOTION FOR STATUS CONFERENCE</p>	

Defendant-Intervenor Summit Management Services, Inc. (“Summit”), and Defendant City of Fort Collins (“Fort Collins”) (collectively, “Defendants”), respectfully request a status

conference regarding the Court's appointment on this case and to ensure the parties are given direction on moving forward. In support, Summit and Fort Collins state the following:

Certification of Conferral. The undersigned certifies that, pursuant to C.R.C.P. 121, § 1-15(8), she attempted to confer in good faith with the Plaintiffs, who would not respond to requests to meet and confer.

1. On March 7, 2017, Plaintiffs filed a Complaint and Request for Injunctive Relief challenging the City of Fort Collins' City Council's approval of the Landmark Apartments Expansion Project Development Plan. Summit was the applicant that submitted the PDP for Council review and approval in this case.

2. On May 12, 2017, the Plaintiffs filed a Motion for Default, which was denied on May 29, 2017. Importantly, in the Court's order, the Plaintiffs were ordered to file a motion and proposed order requiring certification of the record no later than June 5, 2017.

3. On May 18, 2017, Summit filed a Motion to Intervene in this matter, which Judge Ablao granted on May 26, 2017.

4. On June 28, 2017, the Plaintiffs filed a Motion for Disqualification of Judge Ablao and, additionally, sought an enlargement of time in which to file an opening brief.

5. On July 11, 2017, Judge Ablao recused herself from this matter. However, the Plaintiffs' Motion for an Enlargement of Time remains undecided.

6. To the knowledge of defendants, this is the first Rule 106 action to be heard by the Fort Collins Municipal Court.

7. While the Municipal Court has jurisdiction over this matter, until April 28, 2017, the procedural rules for hearing this type of case by the Court were unclear. As such, the Fort

Collins City Council adopted Ordinance 52, which specifies that the Colorado Rules of Civil Procedure shall govern cases such as this where actions of the City are challenged.

8. To date, Plaintiffs have not filed a motion for certification of the Record as required by the Court's May 29, 2017 Order. As a result, this case has stalled. *See also* Colo. R. Civ. P. 106(a)(4)(III) and (VII) (if no record is requested by the plaintiff, plaintiff must file opening brief within 42 days after defendant has served its answer).

WHEREFORE, Summit and Fort Collins respectfully request the Court schedule a status conference with the parties as soon as is practicable given the Court's schedule.

DATED: July 21, 2017.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 21st day of July, 2017, a true and correct copy of the foregoing **DEFENDANTS' MOTION FOR STATUS CONFERENCE** was filed with the Court via email, and served via U.S. Mail, postage prepaid, upon the following (courtesy copies served by email):

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