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CASE NUMBER: 2018CV149

DISTRICT COURT, LARIMER COUNTY,  
COLORADO

Court Address: 201 La Porte Avenue  
Fort Collins, CO 80521  
Phone Number: (970) 494-3500

**Plaintiff:** ERIC SUTHERLAND, *pro se*

**v.**

**Defendants:** THE CITY OF FORT COLLINS, a home rule municipality in the State of Colorado; STEVE MILLER, in his capacity as the Larimer County Assessor and all successors in this office; IRENE JOSEY, in her capacity as the Larimer County Treasurer and all successors to this office; and

**Indispensable Parties:** THE TIMNATH DEVELOPMENT AUTHORITY, an Urban Renewal Authority; and COMPASS MORTGAGE CORPORATION, an Alabama company doing business in Colorado.

▲ COURT USE ONLY ▲

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Courtroom/Division: 5B

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**CITY OF FORT COLLINS' MOTION FOR A CONTINUANCE**

Defendant City of Fort Collins (the “City”), by and through its counsel, respectfully submits the following Motion for a Continuance (the “Motion”) to continue the fee hearing currently scheduled for November 27, 2019 at 8:30 a.m. to December 13, 2019 at 1:30 p.m.

#### THE PARTIES’ CONFERRAL

On Thursday, November 14, 2019 counsel for the City e-mailed Mr. Sutherland. *See Ex. A.* In that e-mail, counsel communicated to Mr. Sutherland that, in light of his unavailability to attend the hearing on November 27, 2019, the City was willing to reschedule the hearing for December 13, 2019 at 1:30 p.m. *See id.* Mr. Sutherland refused to state whether he would be available on December 13, 2019. *See id.* The City e-mailed Mr. Sutherland again and requested that he state whether he would be available on December 13, 2019. *See id.* Again, Mr. Sutherland refused to state his availability. *See id.* Because the City has conferred in good faith with Mr. Sutherland to reschedule his requested hearing, the City requests that the Court grant this Motion for a Continuance and reset the fee hearing for December 13, 2019 at 1:30 p.m.

#### REQUEST FOR CONTINUANCE

Mr. Sutherland has made clear that he will not attend the hearing on attorneys’ fees currently scheduled to take place on November 27, 2019. On October 6, 2019, Mr. Sutherland e-mailed counsel for the City. The subject of the e-mail said “Out of town on 11/27” and the body of the e-mail said “I have business out of town to attend to the week of thanksgiving.” **Ex. B**, at 5-6. The next day, Mr. Sutherland e-mailed the Clerk of this Court and stated: “Please note that I have made plans to be out of town the week of November 25th, 2019.” *Id.* at 2. In response, the Clerk of this Court advised Mr. Sutherland he must file a motion to continue if he wanted to

reschedule the hearing. *Id.* at 1. Mr. Sutherland stated that he would not file a motion for a continuance. *Id.*

More recently, Mr. Sutherland filed his combined Motion to Strike Notice of Hearing of November 27th, 2019 and Vacate Order Granting Plaintiff's Motion for Hearing. In that motion, Mr. Sutherland asserts that he is not available to attend the November 27, 2019 hearing because he "previously made plans with his siblings to work through the entire week of Thanksgiving to take care of the separate estates of two parents, now both deceased." Mot. at 3.

Recognizing that Mr. Sutherland has a right to a hearing on the City's Second Motion for Attorneys' Fees, the City obtained alternative dates from the Clerk of this Court to hold the fee hearing. The City then communicated to Mr. Sutherland that the City is able to reset the hearing for December 13, 2019 at 1:30 p.m. Mr. Sutherland was unwilling to state whether he would be available. *See Ex. A.* Given that Mr. Sutherland refuses to work with the City to reschedule the hearing, the City requests that the Court grant this Motion for a Continuance and reset the fee hearing for December 13, 2019 at 1:30 p.m.

Dated this 21st November, 2019.

SHERMAN & HOWARD L.L.L.

*s/ Rosemary A. Loehr*

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**CERTIFICATE OF SERVICE**

I certify that on the 21st day of November, 2019, a true and correct copy of the foregoing was filed via Colorado Court's E-Filing system, and was served on the following:

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/s/ Donna L. Fouts  
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