

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

WAZEE STREET OPPORTUNITIES)	
FUND IV LP, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 18-1124C
)	(Senior Judge Margaret M. Sweeney)
THE UNITED STATES,)	
)	
Defendant.)	

DEFENDANT’S STATUS REPORT

Pursuant to the Court’s Order dated March 9, 2020 (ECF No. 13), defendant, the United States, respectfully submit this status report regarding proceedings in this case.

The Court’s March 9, 2020 Order continued a stay of proceedings pending the outcome of interlocutory appeals of the Court’s decision in another case, *Fairholme Funds, Inc. v. United States*, No. 13-465C, granting in part and denying in part defendant’s motion to dismiss in that case. The Court required that, within 21 days after the completion of the interlocutory appeal process, the parties file a joint status report proposing further proceedings, if any are necessary. Although the United States attempted on multiple occasions to come to an agreement with plaintiffs on a joint status report in accordance with the Court’s order, the parties were unable to reach agreement on a joint filing by the deadline. The United States, with apologies, thus provides the following report in place of a joint report. Counsel for plaintiffs states that plaintiffs intend to file a report stating plaintiffs’ position by Friday, February 3, 2023.

On February 22, 2022, the United States Court of Appeals for the Federal Circuit issued its opinion and judgment in the *Fairholme* interlocutory appeals. *See Fairholme Funds, Inc. v. United States*, 26 F.4th 1274 (Fed. Cir. 2022), *cert. denied*, No. 22-100, 2023 WL 124023 (U.S. Jan. 9, 2023). The Federal Circuit affirmed this Court’s dismissal of some of plaintiffs’ claims

and reversed the Court's decision not to dismiss the others, holding that all of plaintiffs' claims should be dismissed. *Id.* at 1305. The mandate issued on April 15, 2022. *Fairholme Funds, Inc. v. United States*, No. 13-465C, ECF No. 473.

The *Fairholme* appellants, among others, petitioned for a writ of certiorari from the Supreme Court. On January 9, 2023, the Supreme Court denied the petitions. *Fairholme Funds, Inc. v. United States*, No. 22-100 (U.S.), 2023 WL 124023 (U.S. Jan. 9, 2023); *see also Owl Creek Asia I, L.P. v. United States*, No. 22-97, 2023 WL 124020 (U.S. Jan. 9, 2023); *Cacciapalle v. United States*, No. 22-98, 2023 WL 124021 (U.S. Jan. 9, 2023); *Barrett v. United States*, No. 22-99, 2023 WL 124022 (U.S. Jan. 9, 2023).

The Supreme Court's decision to deny the petitions completed the interlocutory appeal process in *Fairholme*. No further proceedings should be necessary in this case. Under the binding guidance of the Federal Circuit's opinion in *Fairholme*, plaintiffs' claims in this case are foreclosed, and should be dismissed with prejudice.

Respectfully submitted,

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