

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

JOSEPH S. PATT et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 18-712C
	)	(Senior Judge Margaret M. Sweeney)
THE UNITED STATES,	)	
	)	
Defendant.	)	

JOINT STATUS REPORT

Pursuant to the Court’s Order dated March 9, 2020 (ECF No. 15), the parties jointly and respectfully submit this joint 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.

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*. Plaintiffs, however, still continue to require additional time to review the decisions with counsel before determining whether further proceedings will be required in these cases. The parties jointly request, therefore, that the Court permit the parties to file another joint status report within 14 days, by March 15, 2023, regarding whether further proceedings will be required.

Respectfully submitted,

s/ Matthew M. Riccardi  
MATTHEW M. RICCARDI  
PERKINS COIE LLP  
1155 Avenue of the Americas, 22<sup>nd</sup> Floor  
New York, NY 10036-2711  
Tel: (212) 261-6861  
Fax: (212) 977-1649  
mriccardi@perkinscoie.com

Attorney for Plaintiffs

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

PATRICIA M. McCARTHY  
Director

s/ Elizabeth M. Hosford  
ELIZABETH M. HOSFORD  
Assistant Director

s/ Anthony F. Schiavetti  
ANTHONY F. SCHIAVETTI  
Senior Trial Counsel  
U.S. Department of Justice  
Civil Division  
Commercial Litigation Branch  
PO Box 480, Ben Franklin Station  
Washington, D.C. 20044  
Tel: (202) 305-7572  
anthony.f.schiavetti@usdoj.gov

Attorneys For Defendant

March 1, 2023