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RE: *Ocean Bay Mart, Inc. v. The City of Rehoboth Beach, Delaware*,
C.A. No. 2019-0467-SG, Cross-Motions for Summary Judgment

Submitted: January 29, 2021
Decided: April 13, 2021

Dear Counsel:

I have before me the parties' cross-motions for summary judgment. It appears to me that this case turns, in part, on a very narrow factual issue. That is, whether the Plaintiff, when it began planning its redevelopment as a condominium rather than a subdivision, was entitled to rely in good faith on its interpretation of the City Code existing at the time. The City has proffered deposition testimony indicating that the Plaintiff believed that the City Code was "fairly confusing at least for an amateur and even somewhat confusing for experts"¹ and argued that the Plaintiff

¹ Def.'s Opening Br. in Supp. of its Mot. for Summ. J. and Answering Br. in Opp'n to Pl.'s Mot. for Summ. J. 6 n.8, Dkt. No. 40 [hereinafter "Def. OB-AB"].

purposefully avoided submitting his redevelopment plan to the City for concept review because it feared the City could close the loophole the Plaintiff believed it had found in the City Code.² The Plaintiff has pointed to deposition testimony suggesting that the Plaintiff believed that its redevelopment could be done as a condominium if drafted and built correctly, as well as statements from various City officials indicating that the Plaintiff could redevelop as a condominium. The stipulated timeline submitted by the parties, while helpful, does not resolve the issue. Accordingly, the factual issue of good faith reliance, at least, in support of which both sides have proffered deposition testimony, in my view, is best resolved through development of a record at trial.

The parties may consider their summary judgment briefing as pre-trial briefs.

For the foregoing reasons, the parties' cross-motions for summary judgment are DENIED.

IT IS SO ORDERED.

Sincerely,

/s/ Sam Glasscock III

Sam Glasscock III

cc: All counsel of record (by *File & ServeXpress*)

² Def. OB-AB 7.