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December 10, 2009

VIA: FEDERAL EXPRESS OVERNIGHT AIR

Brenda S. Hamilton, Clerk
ROANOKE CIRCUIT COURT
315 Church Ave., S.W.
Courthouse – 3rd Floor
Roanoke, Virginia 24016

Re: Roanoke Redevelopment
and Housing Authority
v. B&B Holdings, LLC
Case No.: 770CL07001348-00

Dear Ms. Hamilton:

Enclosed please find a Motion to Reopen Evidence on Respondent's Objection to Court's Jurisdiction to Hear Newly Discovered Evidence in Support Thereof with respect to the above captioned matter for filing.

Sincerely yours,

Joseph T. Waldo

JTW:cat

Enclosure(s)

cc: Mark D. Loftis, Esquire (Via facsimile w/o exhibits: (540) 983-7711)
Stephanie Burkholder

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF ROANOKE

ROANOKE REDEVELOPMENT
AND HOUSING AUTHORITY,

Petitioner,

v.

Case No.: 770CL07001348-00

B&B HOLDINGS, LLC

and

The property situated in Roanoke, Virginia,
and known as 217 Reserve Ave., S.W.,

Respondent.

**MOTION TO REOPEN EVIDENCE ON RESPONDENT'S
OBJECTION TO COURT'S JURISDICTION TO HEAR NEWLY
DISCOVERED EVIDENCE IN SUPPORT THEREOF**

NOW COMES the Respondent, B&B Holdings, LLC, by counsel, and moves this Court to reopen evidence on their objection to the Court's jurisdiction and to hear newly discovered evidence; and for its motion states:

1. Newly discovered evidence, not disclosed by the Roanoke Redevelopment and Housing Authority (hereinafter referred to as "RRHA"), will demonstrate that the result of the condemnation and forced sale to Carilion of the Respondent's (hereinafter referred to as "B&B") property will result in the creation of blight, not an elimination of blight; a loss of tax revenue, not an increase in tax revenue; a loss of jobs, not an increase in jobs.

2. Creating blight and blighting influences is contrary to the purposes of the Plan for the South Jefferson Redevelopment Area (hereinafter referred to as "Plan"), as recognized by this Court, and permitting the condemnation to proceed will create conditions previously used to declare the South Jefferson Redevelopment Area (hereinafter referred to as "Area") blighted.

3. The Plan reported that the Area was blighted because of its “economic decline, level of blight, vacancy” and other factors and adopted certain objectives to accomplish “economic growth and development” and the “removal of blight and blighting influences.” (Plan at 7).

4. The Eligibility Determination for Redevelopment for the South Jefferson Redevelopment Area (Eligibility Determination) stated that “[a]bandoned dilapidated structures, deteriorating buildings because of poor property maintenance, refuse accumulation and infestation, and overgrown lots have contributed to the blighted condition of the Project Area.” (Eligibility Determination at 6).

5. Kenneth Poore, the Plan’s author, testified repeatedly that he considered vacant and abandoned buildings blighted. (See e.g., Tr. Day 2 at 214, 222, 245-247, 288, 301).

6. The Court’s letter opinion of November 12, 2009, turned on RRHA’s representation that the Plan was actually for blight removal. The recently emerging evidence demonstrates that the condemnation of the B&B property will not further the purposes and objectives of the Plan, as recognized by this Court and is prima facie evidence that the B&B property is not being taken for the purposes for which the RRHA asserted the condemnation was proceeding. The Respondent should be permitted to present this evidence to the Court for its full consideration.

7. The Court has ruled that despite the fact that “the City was responding to pressure from Carilion in trying to direct the conclusions that RRHA would reach” and though there was “substance to B&B’s accusation that the blight conditions found by the RRHA did not exist” and that the B&B property was not itself blighted, the RRHA acted with sufficient independence to generate documentation that “if believed, justified a finding

that the majority of the properties” included in the Plan were blighted and that the finding of blight was the “condition [that] drove and shaped the parameters of the Plan” to remove it.

8. After the Court issued its letter opinion new evidence has come to light that, if the Court finds to be true, establishes that the condemnation of the property will not advance the blight removal purposes of the Plan, as found by the Court, but will result in blighting influences by creating an abandoned building, vacant lot, loss of tax revenue and a loss of jobs.

9. On December 2, 2009, counsel for RRHA stated that there is “no firm plan that's been approved for what's to be done with that property.” (Laurence Hammack, Roanoke couple's land condemned – but why? Roanoke Times, December 2, 2009).

10. The RRHA's public statements after this Court's ruling must be considered as statements against their interest as it has previously stated in its Petition for Condemnation that condemning the property was necessary for “assembling land for future development in performance of the Redevelopment Plan.” RRHA also stated in discovery that it needed the B&B property “for the specific contemplated purpose of providing a public access road and/or other means of public access to buildings already completed or under construction in the South Jefferson Redevelopment Area.” (Petitioner's Answers and Objections to Respondent's First Set of Interrogatories, No. 14, attached as Exhibit A).

11. Carilion has stated that it has no plan for the property. (Laurence Hammack, Roanoke couple's land condemned – but why?, Roanoke Times, December 2, 2009, quoting Carilion spokesman Eric Earnhart as saying, “Carilion does not need the land and has not requested it from anybody.”).

12. Pursuant to its Performance Agreement, Carilion is the designated redeveloper and is obligated to purchase the B&B property from the City.

13. RRHA's condemnation will force the transfer of a non-blighted property to Carilion, with the result being the creation of blight and blighting conditions. Such actions are irrational. Vacancy, abandoned buildings and decreasing economic returns, including decreasing employment, were all conditions used to declare the Area blighted and were conditions the Plan was allegedly adopted to alleviate.

14. If the Court finds Carilion and RRHA's public statements to be true, RRHA's condemnation of the B&B property should be found to be contrary to the purposes of the Plan to remove blight and blighting influences, as recognized by this Court, and, therefore, found to be unauthorized by the Plan.

15. The Housing Authority has an ongoing duty to supplement its discovery responses, under which it should have disclosed that no longer had a plan for the B&B property. The Housing Authority's failure to disclose this fact left the newspapers as the source of evidence post-hearing.

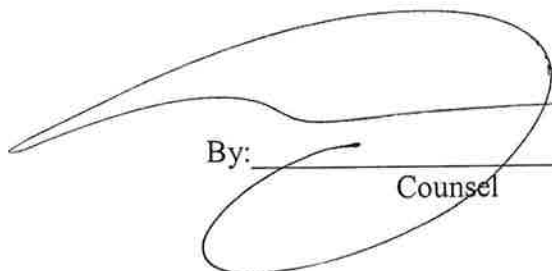
16. The RRHA's condemnation of the B&B property without a plan to further the Plan's goal of removing blight and blighting influences, as found by this Court, is arbitrary and capricious and is devoid of a rational basis for action.

17. The Respondent does not concede, forego or otherwise waive its previously argued positions, including that any reference to blight removal was pretextual, that the Respondent's property was identified for acquisition for economic development, and that the Area was not blighted.

WHEREFORE, the Respondent, B&B Holdings LLC, prays that this Court reopen the evidence upon Respondent's objection to jurisdiction in order to receive newly discovered evidence, which evidence was not disclosed by the Housing Authority, but which contradicts RRHA's representations that the condemnation of B&B's property was

necessary under its Plan and which establishes that the condemnation will violate the purposes and objectives of the Plan, as found by this Court.

B & B HOLDINGS, LLC

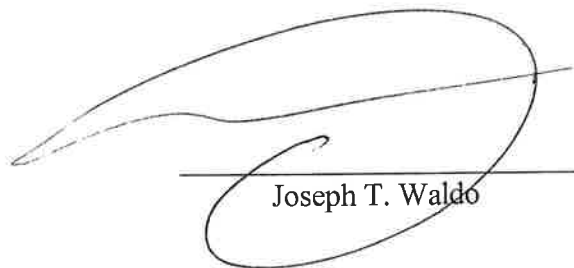

By: _____
Counsel

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WALDO & LYLE, P.C.
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Norfolk, VA 23510
Telephone: (757) 622-5812
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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Motion to Reopen Evidence on Respondent's Objection to Court's Jurisdiction to Hear Newly Discovered Evidence in Support Thereof was sent via facsimile without exhibits and mailed this 10th day of December, 2009 to:

Mark D. Loftis, Esq.
WOODS, ROGERS & HAZELGROVE, P.L.C.
10 South Jefferson Street
First Union Plaza, Suite 1400
P.O. Box 14125
Roanoke, VA 24038



Joseph T. Waldo

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ROANOKE

CITY OF ROANOKE REDEVELOPMENT)
AND HOUSING AUTHORITY,)

Petitioner,)

Case No. CL07-1348

v.)

B&B HOLDINGS LLC, et al.,)

And)

The property situated in Roanoke, Virginia)

And known as 217 Reserve Ave., S.W.,)

Respondents.)

**PETITIONER'S ANSWERS AND OBJECTIONS TO
RESPONDENT'S FIRST SET OF INTERROGATORIES**

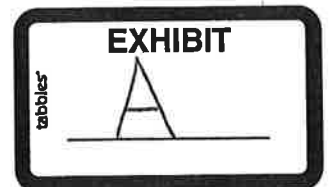
COMES NOW the petitioner, Roanoke Redevelopment and Housing Authority ("RRHA"), in accordance with Rule 4:8 of the Rules of the Supreme Court of Virginia, and for its answers to the First Set of Interrogatories served upon it by respondent B&B Holdings, LLC ("B&B") states as follows:

RRHA states that all of its answers are being given subject to the attached objections, including the objections to the "Preamble" contained in the First Set of Interrogatories.

OBJECTIONS TO "PREAMBLE"

1. RRHA objects to the "Preamble" contained in the First Set of Interrogatories (including the paragraphs designated "i" through "iv" -- including all sub-parts -- under the heading "Preamble") on the grounds that the Rules of the Supreme Court of Virginia do not provide for or contemplate instructions or definitions such as those contained in the "Preamble," and on the grounds that the "Preamble" constitutes an improper attempt to impose on

WOODS ROGERS PLC
ATTORNEYS AT LAW



RRHA obligations in excess of the obligations imposed by the Rules of the Supreme Court of Virginia. RRHA states that it is answering these Interrogatories in accordance with the requirements of the Rules of the Supreme Court of Virginia based on the plain meaning of the words and phrases used.

2. RRHA further objects to the "Preamble" contained in the First Set of Interrogatories (including the paragraphs designated "i" through "iv" – including all sub-parts – under the heading "Preamble") on the grounds that, as applied to the Interrogatories served the "Preamble" causes the requests to be overly broad, unduly burdensome, not properly limited in time or scope, and to seek information which is irrelevant to any issue in this case and not reasonably calculated to lead to the discovery of admissible evidence.

3. RRHA specifically objects to paragraph "i" under the heading "Preamble," contained in the First Set of Interrogatories, which purport to impose upon RRHA an obligation to provide certain information not otherwise requested in the plain language of the Interrogatories themselves. As applied to the Interrogatories served, this definition and/or instruction causes the Interrogatories to be overly broad and unduly burdensome.

4. RRHA specifically objects to paragraph "ii" under the heading "Preamble," contained in the First Set of Interrogatories, to the extent that it seeks to impose a different and more expansive definition of the word "document" than what is contained in Rule 4:9(a) of the Rules of the Supreme Court of Virginia.

5. RRHA specifically objects to paragraph "iii" under the heading "Preamble," contained in the First Set of Interrogatories, which purports to "call upon" RRHA to "supplement" its answers to the Interrogatories, to the extent that this instruction seeks to impose on RRHA obligations in excess of those imposed by the Rules of the Supreme Court of Vir-

ginia. RRHA's duty to supplement and/or amend its answers is set forth in Rule 4:1(e) of the Rules of the Supreme Court of Virginia, and RRHA will supplement its answers only as required by the provisions of that Rule and/or as required by the terms of any Pretrial Order which might be entered in this case. Petitioner's attempt to impose an additional duty to amend or supplement by boiler-plate language in the "Preamble" to the Interrogatories is improper and impermissible under the Rules of the Supreme Court of Virginia.

6. RRHA specifically objects to paragraph "iv" under the heading "Preamble," contained in the First Set of Interrogatories, on the grounds that it purports to state a requirement that is inconsistent (or potentially inconsistent) with the provisions of Rule 4:1(b)(6) of the Rules of the Supreme Court of Virginia and on the grounds that it seeks to require RRHA to provide information that is itself privileged under the attorney-client privilege, the work product doctrine and/or Rule 4:1(b)(3) of the Rules of the Supreme Court of Virginia, and/or the consulting expert privilege and/or Rule 4:1(b)(4)(B) of the Rules of the Supreme Court of Virginia.

ANSWERS AND OBJECTIONS TO SPECIFIC INTERROGATORIES

1. State your name and in what capacity you answer these Interrogatories.

ANSWER: RRHA is a redevelopment and housing authority existing under Title 36 of the Code of Virginia, and is named as the respondent in this action. The person answering these Interrogatories on behalf of RRHA is Glenda Edwards, Executive Director, Roanoke Redevelopment and Housing Authority, 2624 Salem Turnpike N.W., Roanoke, Virginia 24017. Other RRHA personnel, as identified elsewhere in these Interrogatories, provided information used in compiling answers to the Interrogatories.

2. Identify each person whom Roanoke Redevelopment and Housing Authority expects to call as an expert witness at this case, including rebuttal witnesses, and as to each such expert witness, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and state a summary of the grounds for each such opinion. Include in your answers each expert's grounds or basis for his or her opinion with respect to the value of the real estate which is subject to this litigation, the damages to the residue of the property (if applicable), any plan to cure or minimize the damages including an itemization of the cost thereof and any enhancement to the residue (if applicable), including the value attributed to each element of that enhancement.

ANSWER: See objection, *infra*. Without waiving this objection, RRHA states that it has not yet determined with certainty what experts it may call to testify on its behalf in this matter. Further, B&B has not yet designated any expert witnesses or the opinions they purportedly will offer, so it is impossible at this juncture for RRHA to determine precisely what issues it will need to address.

RRHA reserves the right to call any or all the following witnesses who were involved in various aspects of the studies and evaluations that were performed in connection with the determination that the South Jefferson Redevelopment Area was eligible for redevelopment under § 36-48 of the Code of Virginia (as in effect at the time of adoption of the Plan) and in preparation of the South Jefferson Redevelopment Plan, as may be necessary:

- a. Kenneth W. Poore
Chairman Emeritus
K.W. Poore & Associates, Inc.
2201 West Broad Street
Suite 204

Richmond, Virginia 23220

Mr. Poore was involved in various aspects of the studies and evaluations performed in the South Jefferson Redevelopment Area, in the determination that the area was eligible for redevelopment under 36-48 of the Code of Virginia (as in effect at the time of adoption of the Plan), and had input into the content of the South Jefferson Redevelopment Plan. He is specifically prepared to testify about all aspects of the "Eligibility Determination for Redevelopment for the South Jefferson Redevelopment Area," dated February 5, 2001, including the compilation and analysis of the data contained in that document.

- b. Alvin W. "Pete" Dunbar
Dunbar Milby Williams Pittman & Vaughan, PLLC
720 Moorefield Park Drive, Suite 301
Richmond, VA 23236-3657

Mr. Dunbar performed the structure evaluations of structures on properties located in the South Jefferson Redevelopment Area, and prepared a report of his findings. He is prepared to testify about the evaluations and his findings as set forth in his report.

- c. Steve Chapin, P.E.
Steve Sowder
Hayes, Seay, Mattern & Mattern - Roanoke
1315 Franklin Road
Roanoke, VA 24016

HSMM provided engineering services, base mapping, flood impact analysis and master planning in connection with the study and evaluation of the South Jefferson Redevelopment Area. Mr. Chapin and Mr. Sowder are prepared to testify about the work performed by HSMM and to explain the results of its work and analysis.

- d. Scott Edelman, P.E.
Watershed Concepts
2300 West Meadowview Road, Suite 110
Greensboro, North Carolina 27407

Mr. Edelman conducted the floodplain analysis of properties in the South Jefferson Redevelopment Area. He is prepared to

testify about the work he performed and to explain the results of his work and analysis.

- e. Suzannah Huddleston
The Wessex Group, Ltd.
479 McLaw's Circle, Suite 1
Williamsburg, Virginia 23185-5645

The Wessex Goup conducted the economic analysis of existing conditions in the South Jefferson Redevelopment Area that was utilized in the analysis of the area and the determination that it was eligible for redevelopment. Ms. Huddleston can testify about the data that was gathered and reviewed, the analysis that was performed, and the results of the analysis.

- f. Lee Faulkner, PE, CSP
Andrew T. Flynn, P.G.
Robert W. List
Faulkner & Flynn, Inc.
Liberty Trust Building
101 S. Jefferson Street
Suite 200
Roanoke, VA 24018

Faulkner & Flynn, Inc. provided environmental assessments of the properties in the South Jefferson Redevelopment Area. Mr. Faulkner and Mr. Flynn personally conducted these assessments, and can testify about the work performed, the results of the assessments, and their analysis and determinations regarding the environmental conditions in the South Jefferson Redevelopment Area.

- g. Samuel B. Long, MAI, SRA
Miller Long & Associates, Inc.
435 McClanahan Street
Roanoke, Virginia 24014-1756

Mr. Long conducted an appraisal of the B&B property. A copy of Mr. Long's written appraisal report has been provided to B&B. The appraised value of the property as of the June 29, 2007, according to Mr. Long's appraisal report, was \$1,530,000.00. Mr. Long will explain the work he performed, the data he considered, the methodology he employed, and the conclusions he reached, all as set forth in his written appraisal report.

RRHA reserves the right to supplement this answer as may be necessary, both as to the identity of expert witnesses to be called and as to the disclosure of their anticipated testimony, once it reviews the disclosure of testimony to be offered by B&B's experts and determines what issues B&B is seeking to raise.

3. (a) If comparable improved or land sales or transactions were used to determine market value (or damages), please identify such comparable transactions by name of Grantee, name of Grantor, date of deed(s), physical street address, size of property, sales price, unit value, distance from the subject property, zoning at time of sale, all contingencies imposed by either party to the sale (identifying each contingency to the requesting party), all improvements that were located on the property at the time of sale and the age thereof, and deed book and page number or instrument number of the Circuit court Clerk's Office where recorded.

ANSWER: All comparables and data related to those transactions are identified in Sam Long of Miller, Long & Associates, Inc.'s Complete Summary Appraisal Report of Property of B&B Holdings LLC at 217 Reserve Avenue, SW dated October 18, 2007 (the "Long Appraisal"). A copy of the Long Appraisal has previously been provided to B&B. The information requested in this interrogatory is provided in the Long Appraisal, with the exception of the distance from the subject property. RRHA will produce a map showing these distances.

(b) To the extent you adjusted comparable sales to the subject, describe each adjustment made and state the percentage adjustment or the method of adjustment that was used.

ANSWER: All adjustments to comparable sales, and the methodology supporting the adjustments, are identified at pages 41 through 43 of the Long Appraisal.

4. (a) If any improvements were considered in valuation, describe the improvement, state the depreciation factor employed and the calculations used to arrive at those estimates.

ANSWER: The three buildings on the B&B property are addressed on page 7 of the Long Appraisal. The improvements no longer contribute to the value of the land under its Highest and Best Use and are excluded from consideration in the Long Appraisal.

(b) If any expert or appraiser expected to testify at trial relied upon the Marshall Valuation Service or similar publication in his/her valuation of the property, identify the publication by name, its edition, and the pages relied upon by page number.

ANSWER: See objection, *infra*. Without waiving this objection, RRHA states that the real estate appraiser who appraised the B&B property on behalf of RRHA, Samuel B. Long, MAI, SRA, of Miller, Long & Associates, Inc., did not rely upon the Marshall Valuation Service or similar publication in his valuation of the B&B property.

5. Identify all documents and/or physical evidence, which you have in your possession (or which is in the possession of your attorney) related to any issue that is relevant to these proceedings whether or not you intend to introduce such document and/or physical evidence at trial, and state the name and address of the person presently having custody of such exhibit or physical evidence.

ANSWER: See objection, *infra*. Without waiving this objection, RRHA is producing documents in response to B&B's Request for Production of Documents, and it re-

serves the right to use any of these items as exhibits. The items are in the possession of RRHA's legal counsel.

6. State when the property was determine to be blighted. State all findings supporting this determination.

ANSWER: See objection, *infra*. Without waiving this objection, RRHA states that B&B's property is being condemned under the terms of the South Jefferson Redevelopment Plan ("the Plan"), which identified a designated area of the City of Roanoke (the South Jefferson Redevelopment Area) as eligible for redevelopment under § 36-48 of the Code of Virginia (as in effect at the time of adoption of the Plan). B&B's property is located within the South Jefferson Redevelopment Area. Although B&B's property was not itself deemed to be blighted, the property is located within the South Jefferson Redevelopment Area and the Plan deems the acquisition of the property to be necessary to carry out the Plan's stated purposes of "removing blight and blighting influences and providing for the economic and physical revitalization of the area." (Plan at p. 1.) The findings supporting the eligibility of the South Jefferson Redevelopment Area for redevelopment under Title 36 of the Code of Virginia are identified and summarized at pages 5-7 of the Plan. The location of B&B's property within the South Jefferson Redevelopment Area makes its acquisition and redevelopment necessary in order to achieve a proper, balanced, integrated plan for the physical and economic revitalization of the South Jefferson Redevelopment Area as a whole, as set forth in the Plan. The Plan recites findings and data contained in a report titled, "Eligibility Determination for Redevelopment for the South Jefferson Redevelopment Area," dated February 5, 2001. A copy of that report has previously been produced to counsel for B&B in response to a request issued under the Virginia Freedom of Information Act.

7. With regard to any appraisal that will be the basis of testimony or comment by any witness to be called by the condemning authority at trial, state the following (where applicable):

a. The name and address of each appraiser and the date the appraisal was commenced and the date the appraisal was completed;

ANSWER: The requested information is set forth in the Long Appraisal.

b. The appraised value of the whole property; separating out value attributed to land and the value attributed to improvements;

ANSWER: The requested information is set forth in the Long Appraisal.

c. The value estimated for any temporary construction easement taken in this condemnation action and how computed;

ANSWER: Not applicable.

d. The subject property's highest and best use, both before the take and after the take;

ANSWER: The requested information is set forth at pages 29 through 30 of the Long Appraisal.

[e. through g. omitted]

h. (incorrectly labeled; should be subpart e.) State the 'date of take' for purposes of this condemnation action.

ANSWER: By statute, the date of the filing of the petition for condemnation is the date of valuation in this case. Va. Code § 25.1-100 ("Date of valuation' means the time of the lawful taking by the petitioner, or the date of the filing of the petition pursuant to §

25.1-205, whichever occurs first.”). The petition for condemnation was filed on June 29, 2007.

8. Please state whether or not your appraiser(s) or other expert consulted with anyone, including, but not limited to the property owner or the property owners’ representative, who provided the expert with information or opinions that he/she *relied upon* in reaching his/her opinions regarding the valuation of the subject property. If the answer is affirmative, please state with specificity the substance of any conversation or communication, including but not limited to, the identities of the persons present during any conversation, statements made relating to the valuation or value of the subject property or damages to the remainder (if applicable), and when and where any conversations took place.

ANSWER: See objection, *infra*. Without waiving this objection, RRHA states that the real estate appraiser who appraised the B&B property on behalf of RRHA, Samuel B. Long, MAI, SRA, of Miller, Long & Associates, Inc. talked to a number of people in connection with his valuation of the B&B property, including, but not limited to, representatives of Surfaces, Inc., Kirk Lumsden of Lumsden Associates, P.C., and Steve Strauss of Strauss Construction. The substance of Mr. Long’s communications with Surfaces, Inc. and Kirk Lumsden are set forth in the Long Appraisal. Steve Strauss is a principal in Timberbrook Properties, which owns the property across Franklin Road from the B&B Property (Roanoke City Tax No, 1040102), and had been approached about acquiring and redeveloping the Cambria Suites property but declined to do so due to the difficulty in obtaining sufficient financing for the project. Mr. Long, or members of his staff, also had conversations for the purpose of confirming information contained in the comparable sales data shown in the Long Appraisal.

9. [OMITTED]

10. (Should be labeled 9) State the names and addresses of any individuals (not previously identified) having knowledge of the facts relevant to this litigation and provide a summary of the information they are believed to possess.

ANSWER: See objection, *infra*. Without waiving this objection, RRHA refers to and incorporates its answer to interrogatory number 2, above. In addition, RRHA states that the following individuals may possess discoverable knowledge:

- a. John Baker
Former Executive Director
Roanoke Redevelopment and Housing Authority
2219 A Jefferson St.
Roanoke, Virginia 24014
- b. Darlene L. Burcham
City Manager
City of Roanoke
215 Church Avenue, SW, Room 364
Roanoke, Virginia 24011
- c. Dan M. Campbell
Former Rehabilitation Administrator
Roanoke Redevelopment and Housing Authority
2337 Carter Rd SW
Roanoke, VA 24015-3523
- d. Fred Johnson
Former Director of Development
Roanoke Redevelopment and Housing Authority
- e. John Urquhart
Roanoke Redevelopment and Housing Authority
2624 Salem Turnpike N.W.
Roanoke, Virginia 24017

RRHA reserves the right to supplement this answer.

11. (Should be labeled 10) For every expert identified in the preceding Interrogatories, state the following:

- a. all assumptions which the expert was asked to make;

ANSWER: See objection, *infra*.

- b. identify all information or documents given to the expert or which the expert was told to include or consider;

ANSWER: See objection, *infra*.

- c. the date the expert was retained;

ANSWER: See objection, *infra*.

- d. the date the expert completed his appraisal or other work product;

ANSWER: See objection, *infra*.

- e. the expert's fee arrangement;

ANSWER: See objection, *infra*.

- f. whether the expert was instructed to ignore or disregard any information, documents or sales of property.

ANSWER: See objection, *infra*.

12. (Should be labeled 11) If the "income approach" to valuation was used by your appraiser(s) in estimating value of the subject property, state each and every calculation used in reaching that value including, but not limited to, the rental/market income, vacancy rate, expenses, and capitalization rate that was employed.

ANSWER: See objection, *infra*. Without waiving this objection, RRHA states that the real estate appraiser who appraised the B&B property on behalf of RRHA, Samuel B. Long, MAI, SRA, of Miller, Long & Associates, Inc. did not utilize an income approach in his valuation of the B&B Property. The Long Appraisal explains why the Cost Approach was not utilized in determining value. At the request of RRHA, Miller, Long & Associates,

Inc. performed a calculation utilizing the Cost Approach, expressly noting that it considered the approach to be unreliable in this instance. A copy of this calculation will be produced in response to B&B's Request for Production of Documents.

13. (Should be labeled 12) State whether any federal funds were allocated and/or used to finance or fund any portion of the project that is the subject of this proceeding, including, but not limited to, acquisition, engineering, or construction and explain the basis for your answer.

ANSWER: See objection, *infra*. Without waiving this objection, RRHA states that no federal funds have been used for any activity or matter related to the South Jefferson Redevelopment Plan.

14. State the reasons for which the property has been condemned and the public uses for which the property is being taken.

ANSWER: RRHA refers to and incorporates by reference its answer to interrogatory number 6, above. In addition to the need for acquisition of B&B's property generally in order to carry out the purposes of the Plan, the B&B property is being acquired for the specific contemplated purpose of providing a public access road and/or other means of public access to buildings already completed or under construction in the portion of the South Jefferson Redevelopment Area bounded generally by Reserve Avenue, Jefferson Street and the Norfolk Southern Railway including, but not limited to, the medical school building being constructed in this area. (The contemplated use of some portion of B&B's property for a public walkway and/or public access, as a part of the redevelopment of the area as a whole, is shown in the South Jefferson Redevelopment Plan.) Some portion of B&B's property will be used for this purpose. The remainder of B&B's property will be made available for

commercial development consistent with the terms of the Plan and the Design Guidelines for the South Jefferson Redevelopment Area.

OBJECTIONS

2. RRHA objects to Interrogatory number 2, above, on the grounds that it seeks information which is beyond the scope of permissible discovery under Rule 4:1(b)(4)(A)(i) of the Rules of the Supreme Court of Virginia. The Rules of the Supreme Court of Virginia expressly state the information that may be discovered, with regard to expert witnesses whom a party expects to call to testify at trial, through interrogatories only, and Interrogatory number 2 seeks information which is not permitted under the referenced Rule of Court.

4. RRHA objects to Interrogatory number 4(b), above, on the grounds that it seeks information which is beyond the scope of permissible discovery under Rule 4:1(b)(4)(A)(i) of the Rules of the Supreme Court of Virginia. The Rules of the Supreme Court of Virginia expressly state the information that may be discovered, with regard to expert witnesses whom a party expects to call to testify at trial, through interrogatories only, and Interrogatory number 4(b) seeks information which is not permitted under the referenced Rule of Court

5. RRHA objects to Interrogatory number 5, above, on the grounds that it on the grounds that it is overly broad, unduly burdensome, and is not properly limited in scope. RRHA further objects to Interrogatory number 5, above, on the grounds that it is not a proper interrogatory under the Rules of the Supreme Court of Virginia in that the Interrogatory does not set forth a question which is factually based and calls for a discrete, factual response as contemplated by the discovery rules and the very concept of permitting an inter-

rogatory as a form of discovery. Instead, this sweeping question is an effort to somehow impose a disclosure obligation beyond even what is contemplated under the initial disclosure provisions of Rule 26(a) of the Federal Rules of Civil Procedure, which have not been adopted in Virginia and are not applicable to this proceeding, and to evade the limitations on the number of interrogatories imposed by Rule 4:8(g) of the Rules of the Supreme Court of Virginia. Finally, RRHA objects to this request on the grounds that it seeks the work product, thought processes, mental impressions, conclusions, opinions, and/or legal theories and trial strategy of RRHA's counsel by asking RRHA's counsel to determine what B&B might consider "discoverable" in the context of this action.

6. RRHA objects to Interrogatory number 6, above, on the grounds that it improperly assumes that RRHA is required to prove that B&B's property is blighted. The Court has already held, by letter opinion dated August 13, 2008, and Order dated October 21, 2008, that RRHA is not required to establish that B&B's property is blighted.

8. RRHA objects to Interrogatory number 8, above, on the grounds that it seeks information which is beyond the scope of permissible discovery under Rule 4:1(b)(4)(A)(i) of the Rules of the Supreme Court of Virginia. The Rules of the Supreme Court of Virginia expressly state the information that may be discovered, with regard to expert witnesses whom a party expects to call to testify at trial, through interrogatories only, and Interrogatory number 8 seeks information which is not permitted under the referenced Rule of Court.

10. RRHA objects to Interrogatory number 10, above, on the grounds that it seeks information which is privileged from discovery under the work product doctrine and/or Rule 4:1(b)(3) of the Rules of the Supreme Court of Virginia. To the extent that Interrogatory number 10 seeks a "summary" of the relevant information RRHA believes each

witnesses may possess, the interrogatory seeks the work product, thought processes, mental impressions, conclusions, opinions, and/or legal theories and trial strategy of RRHA's counsel which are not discoverable at this time. See *Hickman v. Taylor*, 329 U.S. 495 (1947); *Commonwealth of Massachusetts v. First National Supermarkets, Inc.*, 112 F.R.D. 149 (D. Mass. 1986); *Bercow v. Kidder, Peabody & Co.*, 39 F.R.D. 357 (S.D.N.Y. 1965), *In re Sealed Case*, 856 F.2d 268 (D.C. Cir. 1988); *Shelton v. American Motors Corp.*, 805 F.2d 1323 (8th Cir. 1986); *Sprock v. Peil*, 759 F.2d 312 (3rd Cir. 1985).

11. RRHA objects to Interrogatory number 11, above, including all sub-parts labeled a. through f. under Interrogatory number 11, on the grounds that it seeks information which is beyond the scope of permissible discovery under Rule 4:1(b)(4)(A)(i) of the Rules of the Supreme Court of Virginia. The Rules of the Supreme Court of Virginia expressly state the information that may be discovered, with regard to expert witnesses whom a party expects to call to testify at trial, through interrogatories only, and Interrogatory number 11 seeks information which is not permitted under the referenced Rule of Court.

12. RRHA objects to Interrogatory number 12, above, on the grounds that it seeks information which is beyond the scope of permissible discovery under Rule 4:1(b)(4)(A)(i) of the Rules of the Supreme Court of Virginia. The Rules of the Supreme Court of Virginia expressly state the information that may be discovered, with regard to expert witnesses whom a party expects to call to testify at trial, through interrogatories only, and Interrogatory number 12 seeks information which is not permitted under the referenced Rule of Court.

13. RRHA objects to Interrogatory number 13, above, on the grounds that it seeks information which is irrelevant to any issue in this case and is not reasonably calculated to lead to the discovery of admissible evidence.

AS TO OBJECTIONS:

ROANOKE REDEVELOPMENT AND HOUSING
AUTHORITY

By: 
Of Counsel

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Counsel for Plaintiff

WOODS ROGERS PLC
ATTORNEYS AT LAW



ROANOKE REDEVELOPMENT AND HOUSING AUTHORITY

By: Glenda Edwards
Its Executive Director

COMMONWEALTH OF VIRGINIA)
) to-wit:
CITY COUNTY OF Roanoke)

I, Katie Lynn Drewery, a Notary Public in and for the aforesaid jurisdiction, in the Commonwealth of Virginia, do hereby acknowledge that Glenda Edwards of Roanoke Redevelopment and Housing Authority personally appeared before me in my jurisdiction aforesaid and acknowledged that the foregoing Answers to Interrogatories are true and correct to the best of his knowledge, information and belief.

Given under my hand this 28 day of JANUARY, 2009.

Katie Lynn Drewery
Notary Public

My Commission expires:
8.31.2011

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answers and Objections of Petitioner, Roanoke Redevelopment and Housing Authority, to Respondent's First Set of Interrogatories and Request for Production was mailed to Joseph T. Waldo, Esq., Waldo & Lyle, P.C. 301 West Freemason Street, Norfolk, Virginia 23510, counsel for respondent B&B Holdings LLC this 28th day of January, 2009.



Mark D. Loftis

WOODS ROGERS P L C
ATTORNEYS AT LAW

MARK D. LOFTIS
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January 28, 2009

CC: JTW/SEB
RECEIVED

JAN 30 2009

WALDO & LYLE, P.C.

Joseph T. Waldo, Esq.
Waldo & Lyle, P.C.
301 West Freemason Street
Norfolk, Virginia 23510

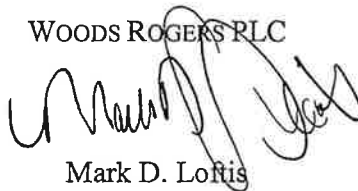
**In re: Roanoke Redevelopment and Housing Authority v.
B & B Holdings LLC, et al.
Case No. 770CL07001348-00
(Circuit Court for the City of Roanoke)**

Dear Joe:

Enclosed are Roanoke Redevelopment and Housing Authority's Answers and Objections to Respondent's First Set of Interrogatories, and its Responses and Objections to Respondent's First Request for Production of Documents.

Very truly yours,

WOODS ROGERS RLC



Mark D. Loftis

MDL/nes
Enclosures

Joseph T. Waldo, Esq.
January 29, 2009
Page 2

bc: Ms. Glenda Edwards (w/enc.)
Joshua F. P. Long, Esq. (w/o enc.)