

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is made and entered into as of the last date on the signature page of this Agreement (the "Effective Date"), by and between the City of St. Helena (the "City"), on the one hand, and Russell Corridan and Scott Corridan ("Corridans"), on the other hand, who are sometimes collectively referred to as the "Parties."

RECITALS

A. Corridans represent and warrant that Russell Corridan is the sole owner, and Corridans are the sole managers, of that certain residential real property commonly known as 130 Reed Court, St. Helena, CA (the "Property").

B. The City regulates the short-term rental ("STR") of residential properties for fewer than 30 days pursuant to Chapter 17.134 of the St. Helena Municipal Code ("STR Ordinance") and imposes transit occupancy taxes ("TOT") pursuant to Chapter 3.28 of the St. Helena Municipal Code ("TOT Ordinance"). (The STR Ordinance and the TOT Ordinance are collectively referred to as the "City Ordinances".)

C. Corridans rented the Property to third parties for stays of fewer than 30 days without an STR permit having been issued by the City pursuant to the STR Ordinance. The City contends that Corridans rented the Property for such unpermitted stays for a total of 144 days. Corridans dispute the total number of days for such unpermitted stays, claiming that they rented the Property for periods of less than 30 days for a total of approximately 90 days.

D. On or about April 17, 2015, City staff sent Corridans a letter, addressed to them at P.O. Box 2381, Kings Beach, CA, demanding that Corridans cease renting the Property to third parties for stays of fewer than 30 days.

E. By letter to Corridans dated October 10, 2016, the City's counsel asserted that Corridans "continued to engage in short-term rental activity without the requisite STR permit, as [Corridans] admitted to the City's Finance Director, April Mitts and as City staff independently confirmed" and that Corridans also "failed to meet [their] TOT obligations, including [Corridans'] obligations to pay taxes, penalties and interest.... Please contact me immediately to discuss these matters, including without limitation the cessation of all unpermitted STR activity, the payment of civil penalties under the STR Ordinance, the provision of the necessary documentation to establish your TOT liability, and the payment of the City's attorney's fees."

F. Corridans and the City disputed the amount of taxes and penalties owed pursuant to the City Ordinances. In response to the City's counsel's October 10, 2016 letter, Corridans asserted that they were unaware of the City Ordinances until they received City's April 17, 2015 letter. Corridans further asserted that, from and after June 2015, with the exception of two accidental instances, they complied with the City Ordinances for all new rental agreements. Specifically, Corridans asserted that, commencing in June 2015, except for then-existing rental contracts for less than 30 days that they were required to honor because the renter refused to

cancel, and except for in two other instances, Corridans rented the Property in minimum blocks of 30 days, which Corridans contend was not a violation of the City Ordinances. Corridans asserted that, while some of the individuals renting the Corridans' Property may have chosen not to stay for their entire 30-day rental period, Corridans did not re-rent the Property to anyone else for the entire duration of the 30-day block. The City has disputed these assertions by Corridans.

G. Corridans represent and warrant that the backup information provided to the City regarding Corridans' rental activity is true and correct, and that Corridans, during Russ Corridan's ownership of the Property, received approximately \$64,854.46 ("Income") from tenants who rented the Property.

H. The Parties hereto wish to fully and finally settle their respective rights and liabilities with respect to the matters described above, in lieu of litigation, under the terms and conditions set forth below:

AGREEMENT

Now, therefore, in consideration of the aforementioned Recitals, which are incorporated herein by reference, and the mutual covenants and conditions set forth below, the Parties hereby agree as follows:

1. **Compliance with City Ordinances.**

Corridans shall fully, completely and at all times comply with and abide by City Ordinances, as they may be amended from time-to-time, including without limitation the STR Ordinance. This provision of this Agreement shall in no way preclude Corridans from formally challenging any of the City Ordinances with respect to any conduct which relates to them which may occur after the execution of this Agreement. Corridans shall not challenge any of the City Ordinances, and release their right to legally challenge any of the City Ordinances, with respect to any of their conduct up to the execution of this Agreement.

Corridans shall cease and desist from any and all short-term rental activity at the Property unless they obtain the requisite permit pursuant to the STR Ordinance.

2. **Payment.**

Within three weeks of the Effective Date, or by March 15, 2017, whichever date is later, Corridans shall pay the City a total of \$35,742.00 (Thirty Five Thousand Seven Hundred Forty Two Dollars) ("Payment"). The Payment represents the compromise sum of \$11,342 for TOT (including penalties and interest), \$14,400 for STR Ordinance penalties, and \$10,000 for the City's attorney's fees and costs. Corridans shall deliver the Payment to the City Manager, City of St. Helena, 1480 Main Street, St. Helena, CA 94574. The payment shall not be by credit or debit card.

3. **Mutual Release and Discharge of Known and Unknown Claims.**

A. The Parties do hereby and forever completely release and discharge each other from any and all past, present or future causes of action, actions, judgments, liens, debts, contract indebtedness, compensatory damages, punitive or exemplary damages, penalties, transit occupancy taxes, losses, claims, liabilities, rights, interests, contracts, agreements, promises and demands of whatever kind or character, at law or in equity, whether based on a tort, contract, statute, ordinance, or other theory of recovery including, but not limited to, any claim of bad faith, whether known or unknown, suspected to exist or not suspected to exist, fixed or contingent, anticipated or not anticipated, whether or not heretofore brought before any state or federal court or before any state or federal agency or other governmental entity, which they have or may have or which may hereafter accrue or be acquired against each other by reason of any and all acts, omissions, events, circumstances or facts occurring or existing prior to the date hereof, that arise out of, or are related to, the matters described in the Recitals, above.

B. In light of the intention of the Parties that this Agreement extend to any and all claims of whatsoever kind or character, known or unknown, the Parties expressly waive any and all rights granted by California Civil Code section 1542 (or any other analogous federal or state law or regulation). Section 1542 reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

4. **Public Information.**

This Agreement is a public record under the California Public Records Act (Gov. Code § 6250 et seq.). The City reserves the right to provide this Agreement to members of the public and/or to issue a press release or otherwise publicize it. The City has provided Corridans an opportunity to review a draft press release, a copy of which is attached hereto as Exhibit A. Corridans do not concur with each and every statement in the draft press release but acknowledge the City's right to issue it.

5. **Attorneys' Fees and Costs.**

A. Corridans will bear any costs and attorneys' fees they incurred in connection with the matters described in Recitals, including in connection with the negotiation and preparation of this Agreement.

B. Except as provided in paragraph 2, above, the City will bear any costs and attorneys' fees it incurred in connection with the matters described in Recitals, including in connection with the negotiation and preparation of this Agreement.

C. In any lawsuit to interpret or enforce this Agreement, the prevailing party in such litigation shall be entitled to recover their or its reasonable attorneys' fees and costs.

6. **Taxes.**

Corridans represent and warrant that they will fully and accurately report the rental income from the short-term rental of the Property to the federal and state taxing authorities and will pay all federal and state taxes due for such activity. Corridans understand that the amount of the Payment under this Agreement is conditioned upon the accuracy of this representation.

7. **No Admissions.**

This Agreement effects the settlement of claims which are denied, disputed and contested, and nothing contained herein shall be construed as an admission of wrongdoing by any party hereto or as an admission of any liability of any kind to any other party.

8. **Notice.**

Any notice required under this Agreement will be in writing and may be given by any commercially acceptable means, including via personal delivery, overnight courier, or first-class, registered or certified mail, postage pre-paid, to the following persons:

To Corridans:

Russell Corridan
Scott Corridan
P.O. Box 2381
Kings Beach, CA 96143

cc by email to: Alan R. Wechsler, Reese Kintz Guinasso, LLC, at
AWechsler@rkglawyers.com.

To City:

City Manager
City of St. Helena
1480 Main Street
St. Helena, CA 94574

cc by email to: Thomas Brown, City Attorney, and Kevin Siegel, Asst. City
Attorney, at tbrown@bwslaw.com and ksiegel@bwslaw.com.

9. **Legal Advice.**

The Parties have received or have had the opportunity to receive independent legal advice with respect to the advisability of entering into this Agreement and with respect to the meaning

of California Civil Code Section 1542.

10. **Recitals and Paragraph Headings.**

Each term of this Agreement is contractual and not merely a recital. All Recitals are incorporated into and made a part of this Agreement. Captions and paragraph headings are used for convenience only and are not part of this Agreement and shall not be used in interpreting or construing it.

11. **Entire Agreement; Modification; Waiver.**

This Agreement constitutes a single integrated contract expressing the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions with respect to the subject matter hereof. There are no other agreements, written or oral, express or implied, between the Parties concerning the subject matter hereof, except as set forth herein. This Agreement may be amended only by an agreement in writing signed by all Parties hereto. No waiver of any rights hereunder shall be effective unless made in a writing signed by the party against whom the waiver is to be enforced.

12. **Construction of Agreement.**

Each party hereto has cooperated in the drafting and preparation of this Agreement and, accordingly, this Agreement shall not be construed against any party as the drafter hereof.

13. **California Law.**

The rights and obligations of the Parties under this Agreement shall be construed and enforced under the laws of the State of California without reference to its conflict of laws rules.

14. **Assignment.**

The Parties represent and warrant that they have not heretofore assigned or transferred or purported to assign or transfer, nor will they assign or transfer in the future, any claims, matters, demands or causes of action that are herein released or discharged for any reason, including by way of subrogation, unless the other party provides its written consent or such assignment or transfer is required by law.

15. **The Parties' Understanding.**

The Parties, by their authorized agents whose signatures appear below, have carefully read this Agreement, have had it fully explained to them by their respective attorneys, and fully understand the terms hereto and represent that they are signing this Agreement voluntarily.

16. Counterparts.

This Agreement may be executed in one or more counterparts, which when fully executed shall constitute one integrated agreement.

17. Facsimile and Electronic Signatures.

A facsimile, photocopy or electronic copy of the Agreement with the signatures thereon shall be equivalent to an original.

18. Authority of Signatories.

The signatories to this Agreement hereby warrant and represent that they have the authority, on behalf of their respective principals, to enter into this Agreement.

In WITNESS WHEREOF, the Parties have caused this Agreement to be executed as follows:

Dated: 2/8/17

City of St. Helena

By: 
Larry Pennell

Its: Acting City Manager

Dated: _____

Russell Corridan

Dated: _____

Scott Corridan

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Larry Pennell

Its: Acting City Manager

Dated: 2/8/17


Russell Corridan

Dated: 2/8/17


Scott Corridan

EXHIBIT A

PRESS RELEASE



TODAY'S DATE: February __, 2017

RELEASE DATE: February __, 2017

TITLE: Settlement Agreement – 130 Reed Court

CONTACT: Larry Pennell, Acting City Manager
_____ or 707.986.2744

ST. HELENA, CA – In 2012, the City of St. Helena adopted an ordinance establishing permit requirements for the short-term rental (less than 30 days) of single family homes. The ordinance prohibits short-term rentals without a permit and requires the collection and payment of transit occupancy taxes.

On April 17, 2015, the City issued letters to the owners/managers of a single-family home located at 130 Reed Court who had been renting the property on a short-term basis without the requisite permit. The City sought enforcement of Section 17.134.100(B) of the Municipal Code which provides for civil penalties related to illegal short-term rentals. The owners/managers did not come into full compliance with their obligations. On October 10, 2016, the City issued another letter to the owners/managers of the residence.

The City is pleased to report that the parties now have entered into a settlement agreement concluding this matter. Under the settlement agreement, the property owners/managers are required (1) to cease and desist from engaging in short-term rental activity without a permit issued pursuant to the City's Short Term Rentals Ordinance (Chapter 17.134 of the St. Helena Municipal Code) and (2) to pay the City \$35,742.00 in taxes and penalties owed under the Transit Occupancy Tax Ordinance (Chapter 3.28 of the St. Helena Municipal Code) and the Short Term Rentals Ordinance. Meanwhile, the owners/managers report that the property is under contract to be sold, with escrow scheduled to close on or about February 9, 2017.

Mayor Alan Galbraith said: "The City is pleased with this short-term rental settlement. Coupled with review of all identified illegal short-term rentals, I believe the City continues to send a strong message to the community that we will not tolerate such commercial violations of the City's laws."

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