Docket #0521 Date Filed: 6/18/2024

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

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THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Michelle V. Larson

Signed June 17, 2024

United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In Re: NORTHWEST SENIOR HOUSING CORPORATION, *et al.*[1] Debtors.	Chapter 11 Case No. 22-30659 (MVL)
Leif M. Clark, Trustee of the Edgemere Litigation Trust Plaintiff, v. Intercity Investment Properties, Inc. and Kong Capital, LLC, Defendants.	Adv. No. 22-03040 (MVL)

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTIONS TO COMPEL AFTER PRODUCTION OF DOCUMENTS IN CAMERA

Before the Court are two motions: (1) the *Motion to Compel Production by the Plaintiff* [ECF No. 362] and the *Supplemental Brief Regarding the Lifespace Privilege Waiver and*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Northwest Senior Housing Corporation (1278) and Senior Quality Lifestyles Corporation (2669). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.

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GrayRobinson Communications [ECF No. 434] (collectively, the "**Lifespace Motion**") filed by Defendants Intercity Investment Properties, Inc. ("**ICI**") and Kong Capital LLC ("**Kong**") (collectively, the "**Defendants**") and (2) the Defendants' *Supplemental Motion to Compel Production of FTI Consulting, Inc. Documents and Brief in Support* [ECF No. 386] and *Supplemental Brief Regarding FTI Consulting, Inc. Documents* [ECF No. 442] (collectively, the "**FTI Motion**"). The Court issued its Order on the Motions to Compel [ECF No. 512] (the "**Order**") on April 25, 2024. In the Order, the Court ordered the parties to meet and confer and deliver 100 documents across the Lifespace, FTI, and GrayRobinson Communications for *in camera* review to determine whether work product protection attached. The Court, having reviewed the pleadings on file, the arguments of counsel, and the documents, is of the opinion that the Motions should be granted in part and denied in part as set forth below.

IT IS HEREBY ORDERED THAT, as to the docs produced *in camera*,

Lifespace Documents

Log Row #	RULING
20	Overruled
46	Overruled
54	Overruled
106	Overruled
209	Overruled
210	Overruled in Part
211	Overruled in Part
212	Overruled in Part
213	Overruled in Part
266	Overruled
267	Overruled in Part
314	Overruled
315	Overruled
351	Overruled
362	Sustained
363	Sustained
433	Sustained
501	Sustained
514	Overruled in Part

515	Overruled in Part
603	Sustained
688	Sustained
812	Overruled
813	Overruled
819	Overruled
820	Overruled
841	Sustained
842	Sustained
843	Sustained
909	Overruled
910	Overruled
941	Sustained
942	Sustained
1265	Sustained
1266	Sustained
1278	Sustained
1678	Sustained
2285	Overruled
2296	Overruled
2332	Sustained
2711	Sustained
2770	Overruled
2797	Sustained
2882	Sustained
2883	Sustained
2884	Sustained
2930	Sustained
2948	Sustained
2975	Sustained
3002	Sustained
3056	Sustained
3057	Sustained
3075	Sustained
3076	Sustained
3077	Sustained
3078	Sustained
3083	Sustained
3084	Sustained
3085	Sustained
3092	Sustained
3093	Sustained
3094	Sustained
3119	Sustained
3137	Sustained

3138	Sustained
3139	Sustained
3171	Sustained
3172	Sustained
3173	Sustained
3174	Sustained
3175	Sustained
3176	Sustained
3177	Sustained
3185	Sustained
3228	Sustained
3229	Sustained
3230	Sustained
3231	Sustained
3254	Sustained
3255	Sustained
3285	Overruled
3296	Sustained
3297	Sustained
3305	Sustained
3372	Sustained
3373	Sustained
3374	Sustained
3448	Sustained
3449	Sustained
3460	Sustained
3497	Sustained

Plaintiff's Documents

Tab No.	DISCO ID No.	RULING
1	8046	Sustained
2	29088, 29550, 29552	Sustained
3	32261, 30218	Sustained
4	29889, 30431	Overruled
5	15739	Sustained
6	14884	Overruled
7	23401, 12542, 16655	Sustained
8	30067, 30436, 30435	Sustained
9	19219	Sustained
10	16904	Sustained
11	15753	Sustained
12	16934	Sustained
13	28180, 28578, 28580	Overruled
14	25128	Sustained

15	8320	Sustained
16	23949	Sustained
17	10264	Overruled
18	25514, 25798, 25802	Sustained
19	28336, 28753, 28752, 28755	Sustained
20	24142	Overruled
20	7806	Sustained
21	28115, 28815	Sustained
22	32866, 33505	Sustained
23	9170	Overruled
24	12393	Sustained
25	16025	
26	15368	
27	24527	Sustained
28	25609	Sustained
29	33001, 33436, 33435	Sustained
30	16071	Overruled
31	12378	Overruled
32	24433	Sustained
33	23639	Overruled
34	10182	Sustained
35	24856	Sustained
36	15660	Sustained
37	16119	Sustained
38	27231, 27734	Sustained
39	24367	Sustained
40	32881, 33511, 33508, 33509	Sustained
41	28134, 28648	Sustained
42	29286, 29697	Sustained
43	33514, 34323, 34325	Sustained
44	26423, 26694	Sustained
45	26534, 26721	Sustained
46	29980, 30326	Sustained
47	36241, 36363	Sustained

1. The following Lifespace Documents are not considered protected work product, and the work product protection assertions are hereby overruled: Privilege Log Row Nos. 20, 46, 54, 106, 209, 266, 314, 315, 351, 515, 812, 813, 819, 820, 909, 910, 2285, 2296, 2770, and 3285.

2. The Lifespace Documents at Privilege Log Row Nos. 210, 211, 212, 213, 266, 514, and 515 are not considered protected work product, except for any reference to other properties and personal resident information. Those portions may be redacted by Lifespace or Plaintiff prior to production.

3. The following Plaintiff Documents are not considered privileged or protected work product, and the privilege assertions are hereby overruled: Tabs 4, 6, 13, 17, 20 (DISCO ID 24142), 23, 25, 26, 30, 31, and 33.

4. With respect to Plaintiff's Documents referenced at tabs 25 and 26, the Court requires more information related to the context of these documents prior to issuing its ruling. The Court needs more information about whether the process described in these communications is legal in nature and related to the Edgemere Bankruptcy. Plaintiff is ordered to submit such information to the Court within ten (10) days of the date of the entry of this Order.

5. For all other documents that were submitted *in camera*, the privilege assertions are sustained, and the documents are considered privileged or protected work product, as applicable.

6. The *in camera* review discussed in this Order addresses a sampling of the documents at issue in the Motions. Plaintiff is directed, within fourteen (14) days following the entry of this Order, to further review its privilege assertions as to the other documents at issue in the Motions and: (a) produce those documents, if any, that its further review shows are not privileged; and (b) provide to Defendants an amended and restated privilege log. Any further disputes shall require further conference and motion practice.

END OF ORDER # #