



**William H. Sheehan III**

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**From:** William H. Sheehan III  
**Sent:** Thursday, February 14, 2008 4:07 PM  
**To:** Mary E. O'Neal  
**Subject:** RE:

Beth, thank you for your note. The 20-year "extension" is provided in par. 9 by way of a right of first refusal to enter into a new lease which the landlord has then adopted; par. 14 provides for the assignment of the lease to a buyer and an offer of a new lease to a buyer; the Feoffees continue to reject any provision for 55+ year-round living; if the only issue as to rent is a calculation of assessed value every 3 years as opposed to every year, I will revisit that with my clients, but will need to do so quickly; and I deleted the 60-day termination clause which was in the original lease only because the original lease was uncertain as to rent calculation after 3 years—the new lease contains no uncertainty. If that clause remains important to your clients, I will raise with my clients the addition of an opt-out clause in favor of the lessee. My initial thought is that if the lessee wants an opt-out clause despite no uncertainty in the lease, the notice should be longer than 60 days.

A word on the 55+ issue: Mr. DeSalvo acknowledged at our last session that the 55+ issue could be dropped by the tenants if the rent was right. It is our view that the rent is right, evidenced by the attorneys agreeing to the rent (subject, of course, to clients' approval). I suggest it is fair to say that Judge Adams also thinks the rent formulation agreed upon by counsel is right. The tenants' insistence on 55+ year-round living is a deal-breaker.

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**From:** Mary E. O'Neal [mailto:meo@mctlaw.com]  
**Sent:** Thursday, February 14, 2008 2:35 PM  
**To:** William H. Sheehan III  
**Cc:** Neal C. Tully  
**Subject:**

Dear Bill:

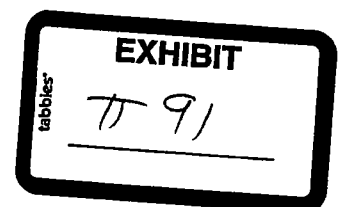
I am writing now to provide you with a partial response to your re-draft of the lease, having in mind the 2 day deadline imposed by your February 13, 2007 e-mail.

The redrafted lease omits provisions we understood had been agreed upon as a result of the mediation process (e.g., an extension for 20 years if the tenant is not in default; the election by a purchaser of a tenant's home to continue under the existing lease, for the remainder of its term or to enter into a new 20-year lease; the accomplishment of 55 and older year round use with the inclusion of indemnification and defense language satisfactory to the Feoffees; the holding of the rent for 3 years once the 5% calculation is made for fiscal 2013, with a recalculation to occur every three years thereafter), as well as those that were not a part of the mediation discussion, because they had been agreed upon previously (e.g., a tenant's ability to terminate the lease upon 60 days notice to the Feoffees).

I have contacted Judge Adams to inquire of him whether Neal and my recollection concerning the matters agreed upon as a result of the mediation are consistent with his and after he gets back to me, I will let you know, with specificity, what the matters are and what was the agreement. If this is a change of position by the Feoffees, intending not to include these provisions, please let me know. Unfortunately, when I spoke yesterday with Judge Adams he indicated that he would not be able to review his notes, located in his office, until early next week.

Very truly yours,

Beth



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