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Filing date: **11/05/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058935
Party	Plaintiff CWS Apartment Homes, LLC
Correspondence Address	GAIL TAYLOR RUSSELL TAYLOR RUSSELL & RUSSELL PC 10601 FM 2222 , SUITE R-12 AUSTIN, TX 78730 UNITED STATES gtrussell@russell-law.com
Submission	Withdrawal of Cancellation
Filer's Name	Gail Taylor Russell
Filer's e-mail	gtrussell@russell-law.com, adminuspto@russell-law.com
Signature	/Gail Taylor Russell/
Date	11/05/2015
Attachments	Joint_Motion_to_Withdraw_Cancellation.pdf(1016094 bytes)

EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CWS Apartment Homes LLC,)	
)	Cancellation No. 92058935
Petitioner,)	Registration No. 4,413,440
)	
v.)	
)	
Marquise Investments, LLC,)	
)	
Registrant,)	

**JOINT MOTION TO EXPRESSLY ABANDON CERTAIN SERVICES IN U.S.
TRADEMARK REGISTRATION NO. 4,413,440, ENTRY OF CONSENT
AGREEMENT AND TO WITHDRAW CANCELLATION WITH PREJUDICE**

CWS Apartment Homes LLC (“Petitioner”) and Marquise Investments, LLC (“Registrant”), hereinafter collectively referred to as the “Parties” and individually as a “Party”, hereby jointly move the Trademark Trial and Appeal Board (“TTAB”) to (1) Amend U.S. Trademark Registration No. 4,413,440 to expressly abandon certain services in accordance with the attached Exhibit 1 under 37 C.F.R. 2.133(a) (the “Amendment”) ; (2) to enter the Consent Agreement in this cancellation proceeding and in the proceedings regarding U.S. Trademark Application No. 85956961 filed with the USPTO on June 11, 2013 and U.S. Trademark Application No. 85956417 filed with the USPTO on June 25, 2013 both owned by Petitioner; and (3) upon entry of the Amendment and the Consent Agreement, withdraw and/or dismiss Cancellation No. 92058935 with prejudice.

The Amendment (Exhibit 1) narrows the scope of the services to “real estate investment services” in International Class 036. The Consent Agreement is offered in this

cancellation proceeding and to overcome a refusal of registration under §2(d) of the Act of U.S. Trademark Application No. 85956961 and U.S. Trademark Application No. 85956417 owned by Petitioner.

Thereafter, upon entry of the above Amendment and Consent Agreement, the Parties have agreed to and hereby request withdrawal and/or dismissal with prejudice of Cancellation No. 92058935. In addition, if the TTAB believes that there is any remaining issue to be addressed, the Parties jointly request remand of the amended U.S. Trademark Registration No. 4,413,440 and the Consent Agreement for U.S. Trademark Application No. 85956961 and U.S. Trademark Application No. 85956417 to an examining attorney for consideration of the same and any such further action as may be needed.

Therefore, the Parties do hereby jointly request that the TTAB issue an Order expressly directing the following:

1. Amending U.S. Trademark Registration No. 4,413,440 to abandon “leasing of real estate” and “real estate management services”;
2. Entering the Consent Agreement in this Cancellation No. 92058935 and in the proceedings regarding U.S. Trademark Application No. 85956961 and U.S. Trademark Application No. 85956417;
3. Withdrawing and/or dismissing Cancellation No. 92058935 with prejudice; and
4. Forwarding U.S. Trademark Application No. 85956961 and U.S. Trademark Application No. 85956417 for issuance of a Notice of Allowance based on the entry of the Consent Agreement.

Respectfully submitted,
CWS Apartment Homes LLC
By its attorneys,

By: /s/Gail Taylor Russell/
Gail Taylor Russell
Attorney for Petitioner
Taylor Russell & Russell, P.C.
10601 FM 2222 Building R, Suite 12
Austin, Texas 78730
(512) 338-4601

and Marquise Investments, LLC
By their attorneys,

By: /s/David J. Stewart/
David J. Stewart
Attorney for Registrant
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309
(404) 881-7000

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing JOINT MOTION TO EXPRESSLY ABANDON CERTAIN SERVICES IN U.S. TRADEMARK REGISTRATION NO. 4,413,440, ENTRY OF CONSENT AGREEMENT AND TO WITHDRAW CANCELLATION WITH PREJUDICE has been served on Registrant's counsel by emailing (with permission) a copy of same on November 5, 2015 to David Stewart at David.Stewart@alston.com:

David Stewart, Esq.
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309

By: /s/Gail Taylor Russell/
Gail Taylor Russell

EXHIBIT 1 TO THE JOINT MOTION TO EXPRESSLY ABANDON CERTAIN SERVICES IN U.S. TRADEMARK REGISTRATION NO. 4,413,440, ENTRY OF CONSENT AGREEMENT AND TO WITHDRAW CANCELLATION WITH PREJUDICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CWS Apartment Homes LLC,)	
)	Cancellation No. 92058935
Petitioner,)	Registration No. 4,413,440
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v.)	
)	
Marquise Investments, LLC,)	
)	
Registrant.)	

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202

**ABANDONMENT OF CERTAIN SERVICES OF U.S. TRADEMARK
REGISTRATION NO. 4,413,440**

Marquise Investments, LLC (“Registrant”) seeks to amend the identification of services in U.S. Trademark Registration No. 4,413,440 from “Leasing of real estate; Real estate investment services; Real estate management services” to “Real estate investment services.”

By this amendment, Registrant seeks to abandon “leasing of real estate” and “real estate management services” and thus narrow the scope of the services offered under U.S.

Trademark Registration No. 4,413,440. Therefore, Registrant respectfully request entry of this amendment.

By: /s/David J. Stewart/
David J. Stewart
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309
(404) 881-7000

Attorneys for Registrant

EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CWS Apartment Homes LLC,)	
)	Cancellation No. 92058935
Petitioner,)	Registration No. 4,413,440
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v.)	
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Marquise Investments, LLC,)	
)	
Registrant.)	

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202

CONSENT AGREEMENT

This Consent Agreement (the “Agreement”), effective as of September
30, 2015 (the “Effective Date”), is entered into by and among CWS Apartment
Homes LLC (“CWS”), a Delaware limited liability company, having a place of business
at 9606 N. Mopac Expressway, Suite 500, Austin, Texas 78759 and Marquise
Investments, LLC (“Marquis Investments”), a Georgia limited liability company, with its
registered office at 4828 Ashford Dunwoody Rd., Suite 400, Atlanta, Georgia 30338,
hereinafter collectively referred to as the “Parties” and individually as a “Party.”

WHEREAS the Parties believe that their respective marks as applied to their
respective services are not likely to be confused as to source, sponsorship, affiliation or
association.

NOW THEREFORE, the Parties hereby acknowledge:

1. That CWS has been using the mark “MARQUIS” in connection with the management and leasing of apartments in the United States and that CWS is the owner of U.S. Trademark Application No. 85956961 (Marquis word mark) and U.S. Trademark Application No. 85956417 (Marquis design mark), both in International Class 036, for the mark Marquis for “management and leasing of apartments” (the “CWS Services”).
2. That Marquis Investments has been using the mark “MARQUIS INVESTMENTS” in connection with real estate investment services in the United States and is the owner of U.S. Trademark Registration No. 4413440 for the mark Marquis Investments in connection with “real estate investment services” (the “Marquis Investments’ Services”) in International Class 036. Marquis Investments has filed in the USPTO and TTAB for the abandonment of the following services “leasing of real estate; real estate management services” in its U.S. Trademark Registration No. 4413440, and the Parties’ consent as set forth in this Agreement is conditioned upon such abandonment.
3. That CWS’ use of the MARQUIS mark and Marquis Investments’ use of the MARQUIS INVESTMENTS mark has occurred simultaneously in the United States without confusion.
4. For good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:
 - a. Marquis Investments consents to CWS’s use and registration of the mark MARQUIS as set forth in U.S. Trademark Application No. 85956961 (Marquis word mark) and U.S. Trademark Application No. 85956417

(Marquis design mark) in connection with the management and leasing of apartments. Marquis Investments further consents to CWS's use and registration of any mark, including without limitation a word mark or design mark, of any MARQUIS mark in connection with the management and leasing of apartments or other residential housing.

- b. CWS consents to Marquis Investments' use and registration of the mark MARQUIS INVESTMENTS as set forth in U.S. Trademark Registration No. 4413440 in connection with real estate investment services. CWS further consents to Marquis Investments' use and registration of any mark, including without limitation a word mark or design mark, of any MARQUIS INVESTMENTS mark in connection with the real estate investment services.

5. The Parties believe the marks will not be confused based on the following:

- a. The marks are used in connection with providing different services. Registrants will use the MARQUIS INVESTMENTS mark only in connection with real estate investment services as set forth in the description of the services in U.S. Trademark Registration No. 4413440. CWS, in contrast, will use the mark MARQUIS for management and leasing of apartments as set forth in the description of the services in Trademark Application No. 85956961 and U.S. Trademark Application No. 85956417.
- b. The marks when viewed in their entirety differ in sound, appearance, meaning and commercial impression.

- c. The nature of the services offered and sold by the Parties under their respective marks are distinctly different and unlikely to be considered derived from the same source. Marquis Investments' "real estate investments services" are offered to sophisticated investors who wish to invest in multifamily properties. CWS's services are offered to real estate property owners of multimillion dollar properties who purchase property management and leasing services from CWS. In both cases, the services being purchased are expensive and the buyers are careful sophisticated purchasers.
 - d. The services offered under the respective marks are offered through dissimilar trade channels.
 - e. The marks have been in concurrent use since at least as early as May 2009 without any evidence of actual confusion.
6. The Parties will undertake the following actions to avoid confusion:
- a. In any use of the Marquis Investments mark as set forth in U.S. Trademark Registration No. 4413440, Marquis Investments will always follow the word "Marquis" with the word "Investments. Marquis Investments will not use the MARQUIS INVESTMENTS mark or the term MARQUIS for the leasing of real estate, real estate management services and the management and leasing of apartments and other residential housing.
 - b. CWS will not use the mark MARQUIS for real estate investment services.
 - c. Neither party will in any way attempt to associate itself with the other party or its investments or properties.

- d. Each Party agrees to cooperate with the other Party in connection with CWS's efforts to secure registration of its MARQUIS mark as set forth in U.S. Trademark Application No. 85956961 (Marquis word mark) and U.S. Trademark Application No. 85956417 (Marquis design mark).
- e. In the event any confusion arises, the Parties will cooperate with one another to eliminate or minimize such confusion.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Agreement to be effective as of the Effective Date.

CWS APARTMENT HOMES LLC

By: 

Name: Gary Carmell

Title: President

Date: September 30, 2015

MARQUISE INVESTMENTS, LLC

By: _____

Name: _____

Title: _____

Date: _____

- d. Each Party agrees to cooperate with the other Party in connection with CWS's efforts to secure registration of its MARQUIS mark as set forth in U.S. Trademark Application No. 85956961 (Marquis word mark) and U.S. Trademark Application No. 85956417 (Marquis design mark).
- e. In the event any confusion arises, the Parties will cooperate with one another to eliminate or minimize such confusion.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Agreement to be effective as of the Effective Date.

CWS APARTMENT HOMES LLC

By: _____

Name: _____

Title: _____

Date: _____

MARQUISE INVESTMENTS, LLC

By: 

Name: Blair G. Schlossberg

Title: Manager

Date: 09/29/2015