

Notre Dame Seeks To Force Builders To Reveal \$7M In Assets

By **Vidya Kauri**

Law360, New York (May 6, 2016, 4:54 PM ET) -- The University of Notre Dame urged a Massachusetts federal judge Thursday to ensure that a builder and developer, who an English arbitrator found are responsible for shoddy construction work, comply with the court's order to disclose \$7.2 million in assets.

Boston-based student housing companies TJAC Waterloo LLC and ZVI Construction Co. were found liable for dozens of flaws, including fire-safety hazards, in work they did on a Notre Dame dormitory in London, but the damages are still being calculated by an arbitrator. U.S. District Judge Allison D. Burroughs confirmed the arbitrator's liability finding last month and awarded the school a \$7.2 million attachment that the housing companies may be forced to surrender if the arbitrator decides to make them pay.

However, TJAC and ZVI have taken multiple calculated steps to avoid complying with the attachment order and declined to make any disclosures to date, UND said, suggesting that the court is now in a position to order the housing companies to post a bond.

"Their intent is clearly to obfuscate the record, delay entry of the damages judgment in England, and delay or altogether eviscerate actually securing the prejudgment security that this court ordered," UND said. "By flatly refusing to identify or allow inquiry into their assets (if any), defendants are de facto moving to dissolve the attachment."

The court should enforce compliance and allow UND to inspect the companies' assets to ensure "substantive compliance," the university said.

Counsel for the housing companies could not immediately be reached for comment on Friday.

Judge Burroughs also ordered TJAC and ZVI not to sell or transfer \$7.2 million in assets, but the housing companies have appealed her ruling to the First Circuit and asked her to formally close the case.

The dispute began in 2014, when TJAC and ZVI complained they still hadn't been paid the full purchase price for the building. At that point, the school's London affiliate, University of Notre Dame (USA) in England, said more than 100 defects remained and sought an arbitration-like process known as an expert determination under their contract.

Notre Dame is represented by Robert B. Lovett, Michael J. McMahon and Elizabeth Trafton of Cooley LLP.

ZVI Construction Co. LLC is represented by Richard Briansky and Amy B. Hackett of McCarter & English LLP.

TJAC Waterloo LLC is represented by John W. DiNicola II of DiNicola Seligson & Upton LLP.

The case is the University of Notre Dame (USA) in England v. TJAC Waterloo LLC et al., case number 1:16-cv-10150, in the U.S. District Court for the District of Massachusetts.

--Additional reporting by Jack Newsham. Editing by Kelly Duncan.

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