

Builders Want Wall Around Assets In \$7M Notre Dame Dispute

By Jack Newsham

Law360, New York (May 3, 2016, 6:35 PM ET) -- A builder and developer urged a Massachusetts federal judge on Tuesday not to make them reveal \$7 million in assets they could be forced to surrender if an English arbitrator makes them pay the University of Notre Dame for shoddy construction work on its London campus.

An arbitrator has found Boston-based student housing companies TJAC Waterloo LLC and ZVI Construction Co. liable for dozens of flaws, including fire-safety hazards, in work they did on a Notre Dame dormitory in London, but he is still calculating damages. U.S. District Judge Allison D. Burroughs confirmed the arbitrator's liability finding last month, but didn't close the case and told the parties to come to her with any disputes.

Judge Burroughs also ordered TJAC and ZVI not to sell or transfer \$7.2 million in assets, but just a week later, Notre Dame said the company has declined to provide any information about those assets. Judge Burroughs has scheduled an emergency hearing later this week, but now the housing companies say their appeal prevents her from adding to her decision, and they asked her to formally close the case.

"Here, no judgment has entered in favor of Notre Dame, let alone a judgment awarding Notre Dame any monetary damages against TJAC or ZVI," the companies said. "As a result, Notre Dame is not entitled to any asset-related discovery."

TJAC and ZVI — whose exact relationship is unclear, although they share an address — face the prospect of a massive arbitral award in connection with their rehab and \$16 million sale of a building near London's Waterloo station in 2011 that now houses Notre Dame students. The companies sought to subpoena a university employee in Indiana courts to reduce their prospective damages, but were denied.

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.

--Editing by Jill Coffey.

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