

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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GRANTED IN PART: July 27, 2006

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GSBCA 16483, 16650

GARFUNKEL DEVELOPMENT CORPORATION,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Robert C. MacKichan, Jr., of Holland & Knight LLP, Washington, DC; and Kristen E. Ittig of Holland & Knight LLP, McLean, VA, counsel for Appellant.

Dalton F. Phillips and Amanda Wood, Office of General Counsel, General Services Administration, Washington, DC, counsel for Respondent.

Before Board Judges **DANIELS** (Chairman), **PARKER**, and **DeGRAFF**.

**DANIELS**, Board Judge.

Under a lease for space for a United States Customs Laboratory in Savannah, Georgia, each party made a claim. The General Services Administration (GSA), the lessee, claimed \$470,069.95 as the costs of correcting a heating, ventilating, and air conditioning system; remediating mold and mildew in the facility; administrative time resulting from performance failures; and other activities. Garfunkel Development Corporation (GDC), the lessor, claimed \$942,306.03 in extra-contractual construction and maintenance charges and unpaid overtime utilities.

The agency's claim was made in a decision issued by a GSA contracting officer. GDC appealed that decision, and its appeal was docketed as GSBCA 16483. The contracting officer failed to act on the lessor's claim. GDC appealed from the deemed denial of that claim, and the appeal was docketed as GSBCA 16650.

The parties submitted both cases to alternative dispute resolution (ADR), choosing a combination of neutral case evaluation and mediation with a Board judge serving as the neutral. The ADR sessions led to a settlement of the cases.

Later, the parties filed a stipulation for judgment. The stipulation is that the Board award to GDC \$408,000, together with interest on that sum running from March 1, 2006, to the date of payment. The parties have also certified that they have not initiated and will not initiate any proceedings at the Board for reconsideration of, or relief from, such an award; and that they will not initiate any appeal of such an award to the United States Court of Appeals for the Federal Circuit.

#### Decision

The appeals are each **GRANTED IN PART**. The General Services Administration shall pay to Garfunkel Development Corporation \$408,000, together with interest calculated in accordance with the Contract Disputes Act of 1978, 41 U.S.C. § 611 (2000). Interest on that amount shall run from March 1, 2006, to the date of payment. Rule 136(e) (48 CFR 6101.36(e) (2005)).

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STEPHEN M. DANIELS  
Board Judge

We concur:

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ROBERT W. PARKER  
Board Judge

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MARTHA H. DeGRAFF  
Board Judge