

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

UBIQUITOUS ENTERTAINMENT )  
STUDIOS, LLC, )

Plaintiff, )

v. )

CIVIL ACTION FILE NO.  
1:14-CV-02261-RWS

MCPHERSON IMPLEMENTING LOCAL )  
REDEVELOPMENT AUTHORITY; )  
UNITED STATES ARMY; BASE )  
REALIGNMENT AND CLOSURE )  
COMMISSION; UNITED STATES )  
GENERAL SERVICES )  
ADMINISTRATION; UNITED STATES )  
DEPARTMENT OF DEFENSE; TYLER )  
PERRY; AND TYLER PERRY STUDIOS, )  
LLC, )

Defendants. )

**MOTION FOR EXPEDITED HEARING**

McPherson Implementing Local Redevelopment Authority (“MILRA”) and Tyler Perry and Tyler Perry Studios, LLC (collectively, “Perry”) hereby request an expedited hearing on their respective motions to dismiss, as follows:

1.

MILRA and Perry filed motions to dismiss on July 28, 2014 as to all claims asserted against them in this action.

2.

MILRA has been recognized by the Federal Government as the approved Local Redevelopment Authority (“LRA”) responsible for creating and implementing the redevelopment of the property commonly known as Ft. McPherson.

3.

MILRA intends to purchase the property from the Federal Government as contemplated under the Defense Base Closure and Realignment Act of 1990, as amended.

4.

MILRA has announced plans to sell a large portion of the Ft. McPherson property to Perry.

5.

A closing of the sale to Perry is scheduled to occur no later than October 15, 2014.

6.

The litigation initiated by Plaintiff in this case arguably casts a cloud on MILRA’s ability to deliver good title to Perry.

7.

The motions to dismiss establish that there is no merit to the claims made against them in the Complaint.

8.

In the six years since MILRA was created, the transaction with Perry constitutes the only viable proposal for the redevelopment of Ft. McPherson.

9.

The closing of Ft. McPherson resulted in a loss of 6,000 jobs at the base and surrounding areas.

10.

A sale to Perry for the purpose of developing a movie studio and related buildings could produce as many as 8,000 jobs over time directly benefiting the area surrounding Ft. McPherson.

11.

Perry is pursuing the Ft. McPherson development as an alternative to locating the studio at a different location.

12.

Prolonged litigation could result in the loss of this opportunity to redevelop Ft. McPherson.

13.

Perry's proposal would pay MILRA thirty million dollars (\$30,000,000) for a portion of the Ft. McPherson property, which is a sum sufficient to enable MILRA to purchase the entire Ft. McPherson property from the Army.

14.

In contrast, Plaintiff's flawed "offer," which was not accepted by MILRA, was for a sum of five million, nine hundred thousand dollars (\$5,900,000) for an indeterminate portion of the base, which is not a sum sufficient to enable MILRA to purchase the Ft. McPherson property.

15.

MILRA and Perry asked that Plaintiff join in this Motion seeking an expedited hearing, but it refused.

WHEREFORE, MILRA and Perry request that this Court convene a hearing on an expedited basis to consider the merits of the motions to dismiss so that, to the extent the Court agrees that the motions should be granted, a closing of the property can proceed.

This 5th day of September, 2014.

*s/ Michael J. King*

Ernest L. Greer

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By /s/ Kyler L. Wise  
Larry M. Dingle  
Georgia Bar No. 001050  
Kyler L. Wise  
Georgia State Bar No. 771285  
Counsel for Perry Defendants

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that I electronically filed the foregoing **MOTION FOR EXPEDITED HEARING** with the Clerk of Court using the CM/ECF system, which will automatically send electronic notification of such filing to counsel of record:

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This 5th day of September, 2014.

s/ Michael J. King  
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PERRY; AND TYLER PERRY STUDIOS, )  
LLC, )

Defendants. )

**BRIEF IN SUPPORT OF MOTION FOR EXPEDITED HEARING**

McPherson Implementing Local Redevelopment Authority (“MILRA”) and Tyler Perry and Tyler Perry Studios, LLC (collectively, “Perry”) have joined together to ask this Court to hold an expedited hearing on their respective motions to dismiss.

For its part, MILRA views the opportunity to sell a significant portion of the Ft. McPherson property as a golden opportunity to bring thousands of jobs back to



the communities surrounding Ft. McPherson which suffered the loss of some 6,000 jobs following the base's closure in 2011. This economic redevelopment would allow MILRA to realize a substantial part of its mission after some six years of effort.

On Perry's part, the opportunity to benefit the community combines with a need for a large tract to house studio space and related structures. Perry is pursuing the Ft. McPherson site as an alternative to developing studios at a different location.

The motions to dismiss filed by MILRA and Perry establish that the claims asserted against them lack merit as a matter of law. Prolonged litigation places in jeopardy the only viable opportunity that has presented itself for a successful redevelopment of the Ft. McPherson property. The loss of this opportunity would be devastating.

MILRA and Perry realize that motions in this Court are generally decided without oral hearing. NDGa LR 7.1(E). An expedited hearing on the motions to dismiss, however, will have the beneficial effect of avoiding the expense of litigation and preserving the opportunity to close a sale to Perry by October 15, 2014.

MILRA and Perry asked that Plaintiff join in this motion, but it declined. This refusal reflects Plaintiff's strategy that delay is its friend. While Plaintiff filed the Complaint on July 17, 2014, it did not make any effort to serve any of the defendants. Both MILRA and Perry filed their motions without ever having been served. Plaintiff has likewise not attempted to serve the Government defendants. To the contrary, it only sent requests for a waiver of service last week. The request for waiver is not even appropriate as to the Government because the United States is not an individual, corporation or association. Fed. R. Civ. P. 4(d)(1). The United States can only be served as provided under Fed. R. Civ. P. 4(i). Thus, Plaintiff has still not done anything that will bring the Government defendants into the case.

MILRA and Perry respectfully submit that delay is not good for the Ft. McPherson community and ask this Court to grant a hearing.

This 5th day of September, 2014.

*s/ Michael J. King*

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**CERTIFICATE OF COMPLIANCE WITH L.R. 5.1B**

I HEREBY CERTIFY that the foregoing document was prepared in Times  
New Roman, 14-point font, as approved by Local Rule 5.1B.

s/ Michael J. King  
Counsel for Defendant McPherson  
Implementing Local Redevelopment  
Authority

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that I electronically filed the foregoing **BRIEF**  
**IN SUPPORT OF MOTION FOR EXPEDITED HEARING** with the Clerk of  
Court using the CM/ECF system, which will automatically send electronic  
notification of such filing to counsel of record:

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