



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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DENIED: April 30, 2021

CBCA 6351

DGG RE INVESTMENTS LLC, dba GUARDIAN ASSET MANAGEMENT,

Appellant,

v.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

Respondent.

Doug P. Hibshman and Nicholas T. Solosky of Fox Rothschild LLP, Washington, DC, counsel for Appellant.

Jonathan English and Julie K. Cannatti, Office of General Counsel, Department of Housing and Urban Development, Washington, DC, counsel for Respondent.

Before Board Judges **BEARDSLEY**, **SHERIDAN**, and **RUSSELL**.

**BEARDSLEY**, Board Judge.

DGG RE Investments LLC, dba Guardian Asset Management (Guardian), seeks damages arising out of the Department of Housing and Urban Development's (HUD) decision denying Guardian's claim for payment for certain custodial property inspections performed by Guardian under a HUD Field Service Management (FSM) 3.10 contract. The Board stayed this appeal pending resolution of *Purdy Enterprise, LLC v. Department of Housing & Urban Development*, CBCA 6128, et al. (Mar. 15, 2021), and the appeal of *P.K. Management Group, Inc. v. Secretary of Housing & Urban Development*, CBCA 6185, 19-1 BCA ¶ 37,417, *aff'd*, *P.K. Management Group, Inc. v. Secretary of Housing & Urban Development*, 987 F.3d. 1030 (Fed. Cir. 2021), to the United States Court of Appeals for the Federal Circuit.

This appeal, *Purdy*, and *P.K. Management Group* involve a dispute as to whether HUD has to pay for ongoing routine inspections of custodial properties under contract line item number (CLIN) 0005AA or CLIN 0006. Guardian’s contract has the same CLINs 0005AA and 0006 that the Board and the Federal Circuit examined in *P.K. Management Group* and *Purdy*.

“[T]he plain contract language does not obligate HUD to pay the unit price in CLIN 0005AA (or in the corresponding CLINS for option years) for routine inspections of custodial properties.” The Federal Circuit . . . held “that the plain meaning places compensation for routine inspections of Custodial properties under CLIN 0006 rather than CLIN 0005AA.” *P.K. Management Group, Inc.*, 987 F.3d. at 1033. CLIN 0005AA applies only to the same properties, HUD-owned vacant, as CLIN 0005; and CLIN 0006 “governs the compensation for routine inspections of Custodial properties” through a monthly fee. *Id.* at 1032.

*Purdy*. Guardian’s FSM 3.10 “contract terms unambiguously cover routine inspections through a monthly fee rather than individual payments.” *P.K. Management Group*, 987 F.3d. at 1031.

Guardian failed to distinguish this appeal from *Purdy* or *P.K. Management Group* and failed to provide a reason why we should not deny this appeal. Accordingly, this appeal is denied.

### Decision

We **DENY** the appeal.

*Erica S. Beardsley*

ERICA S. BEARDSLEY  
Board Judge

We concur:

*Patricia J. Sheridan*

PATRICIA J. SHERIDAN  
Board Judge

*Beverly M. Russell*

BEVERLY M. RUSSELL  
Board Judge