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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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JUL 22 2010  
JUDGE ROBERT W. GETTLEMAN  
UNITED STATES DISTRICT COURT

CITY OF ST. CLAIR SHORES GENERAL  
EMPLOYEES RETIREMENT SYSTEM and  
MADISON INVESTMENT TRUST, On behalf of  
Itself and All Others Similarly Situated, and  
Derivatively On behalf of Inland Western Retail  
Real Estate Trust, Inc.,

Plaintiffs,

v.

INLAND WESTERN RETAIL REAL ESTATE  
TRUST, INC., INLAND REAL ESTATE  
INVESTMENT CORPORATION; THE INLAND  
GROUP, INC., INLAND WESTERN RETAIL  
REAL ESTATE ADVISORY SERVICES, INC.,  
INLAND SOUTHWEST MANAGEMENT  
CORP., INLAND NORTHWEST  
MANAGEMENT CORP., INLAND WESTERN  
MANAGEMENT CORP., ROBERT D. PARKS,  
BRENDA G. GUJRAL, FRANK A. CATALANO,  
JR., KENNETH H. BEARD, PAUL R.  
GAUVREAU, GERALD M. GORSKI,  
BARBARA A. MURPHY, STEVEN P. GRIMES,  
DANIEL L. GOODWIN, ROBERT H. BAUM, G.  
JOSEPH COSENZA, KPMG LLP, AND  
WILLIAM BLAIR & COMPANY, L.L.C.,

Defendants.

Case No. 07 C 6174  
Judge Robert W. Gettleman

**[PROPOSED] ORDER**

**PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT, GRANTING  
CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS, APPROVING NOTICE  
PLAN, AND SETTING OF FAIRNESS HEARING**

Subject to Court approval Co-Lead Plaintiffs City of St. Clair Shores General Employees' Retirement System ("CSCS") and Madison Investment Trust ("Madison") and Defendants in this Action entered into a Stipulation of Settlement dated July 14, 2010 in proposed Settlement of the Action ("Stipulation of Settlement").

Application has been made for preliminary approval of the Settlement, upon the terms and conditions in the Stipulation of Settlement. The Court has received and reviewed: (i) the

Stipulation of Settlement and all Exhibits attached thereto; (ii) Plaintiffs' Memorandum In Support Of Plaintiffs' Motion For Preliminary Approval Of Settlement, Conditional Certification Of Settlement Class, Approval Of Notice Plan, And Setting Of Settlement Hearing and all Exhibits attached thereto; (iii) Declaration of Kimberly M. Donaldson; (iv) all other pleadings and matters of record; and (v) such additional evidence or argument as was received at the July 21, 2010 hearing.

On July 21, 2010, the Court preliminarily considered the Settlement to determine, among other things, whether the Settlement is sufficient to warrant the issuance of notice to members of the Settlement Class (as defined below). Upon reviewing the Stipulation of Settlement, it is hereby ORDERED as follows:

1. The Court has jurisdiction over the subject matter of the Action, the Parties and all members of the Settlement Class.
2. Subject to this Court's authority to determine whether to finally approve the Settlement at the final approval hearing ("Settlement Hearing") described in Paragraph 13 of this Order:
  - a. The Court hereby preliminarily approves the Stipulation of Settlement and the settlement contemplated thereby ("Settlement"), as being a fair, reasonable and adequate settlement as to all members of the Settlement Class within the meaning of Rule 23 of the Federal Rules of Civil Procedure, and directs the Parties to proceed with the Settlement pursuant to the terms and conditions of the Stipulation of Settlement and exhibits thereto.

- b. The terms of the Stipulation of Settlement are preliminarily approved for the purpose of sending and publishing the Class Notice and the Summary Notice to the Settlement Class.

3. Capitalized terms herein shall have the same meaning as used in the Stipulation of Settlement unless indicated otherwise.

4. The Court conditionally certifies for purposes of this Settlement only the following Settlement Class in this Action, subject to further consideration at the Settlement Hearing:

- a. Pursuant to Fed. R. Civ. P. 23(a) and (b)(2) and (b)(3), a class of shareholders of Inland Western Retail Real Estate Investment Trust, Inc. ("IWEST"), and their parents, subsidiaries, affiliates, predecessors, successors, heirs, legatees, beneficiaries, trustees, personal representatives, and assigns, who were shareholders of record as of the close of business on August 31, 2007 and entitled to vote on the matters that were the subject of the Schedule 14A proxy statement that was filed with the Securities and Exchange Commission by IWEST on September 10, 2007, pursuant to Section 14(a) of the Securities Exchange Act of 1934, as amended or supplemented on October 10, October 12, and November 9, 2007.
- b. Excluded from the Settlement Class are the Defendants, officers and directors of Defendants, members of each individual Defendants' immediate family, any entity in which any Defendant has a controlling interest, and the legal affiliates, representatives, heirs, beneficiaries, trustees, personal

representatives, controlling persons, successors or predecessors in interest or assigns of any such excluded person or entity.

c. The Court hereby approves Co-Lead Plaintiffs as representatives of the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure, and finds that, for settlement purposes only, these representative plaintiffs have and will fairly and adequately protect the interests of the Settlement Class.

d. The Court hereby also approves Co-Lead Counsel, Chimicles & Tikellis LLP, Labaton Sucharow LLP and Wolf Haldenstein Adler Freeman & Herz LLP, as Settlement Class counsel pursuant to Rule 23 of the Federal Rules of Civil Procedure, and finds that, for settlement purposes only Co-Lead Counsel have and will fairly and adequately protect the interests of the Settlement Class.

5. Subject to final approval of the Stipulation of Settlement by the Court, members of the Settlement Class, in consideration of the benefits of the Settlement, will release Settled Equitable Claims and Settled Legal Claims against the Defendants and Released Persons (as defined in the Stipulation of Settlement). Members of the Settlement Class shall have a right to comment on the Settlement in accordance with Paragraph 10, herein. Members of the Settlement Class shall have no right to request exclusion from the Settlement Class with respect to the Settled Equitable Claims. Members of the Settlement Class shall have a right to request exclusion from the Settlement Class with respect to the Settled Legal Claims in accordance with Paragraph 9, herein.

6. Co-Lead Counsel are authorized to act on behalf of the Settlement Class with respect to all acts required by the Stipulation of Settlement or such other acts which are

reasonably necessary to consummate the proposed Settlement set forth in the Stipulation of Settlement.

7. The Court hereby finds and orders that the proposed notice plan and the Class Notice and Summary Notice fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, provide the best notice practicable under the circumstances to the members of the Settlement Class, provide individual notice to all members of the Settlement Class who or which can be identified through reasonable effort, and provide publication notice to members of the Settlement Class. The Court hereby directs that the Class Notice and Summary Notice be provided to the members of the Settlement Class substantially in the forms set out as Exhibit A and B, hereto, provided that, the Parties, by agreement, may revise the Class Notice and Summary Notice in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy.

8. Defendants are hereby authorized to retain the firm of Gilardi & Co., LLC (“Notice Administrator”) to supervise and administer the Class Notice and Summary Notice:

- a. Within ten (10) days from the date of entry of this Order (the “Notice Mailing Date”), Defendants shall cause to be mailed to all members of the Settlement Class at their last known addresses, via first-class mail, the Class Notice, substantially in the form attached hereto as Exhibit A.
- b. Within twenty (20) days from the date of entry of this Order (the “Publication Date”), Defendants shall cause to be published in *Investors Business Daily* the Summary Notice, substantially in the form attached hereto as Exhibit B.
- c. Defendants shall provide notice pursuant to 28 USC § 1715 (b), Class Action Fairness Action of 2005 (“CAFA”) (“CAFA Notice”) no later than July 28,

2010 which under 28 USC § 1715(b) is the tenth (10<sup>th</sup>) day after the proposed Settlement was filed with the Court.

- d. The Class Notice and Summary Notice, along with a copy of the Stipulation of Settlement (including all exhibits) shall also appear on [www.chimicles.com](http://www.chimicles.com), the website of Chimicles & Tikellis LLP.
- e. Seven (7) days before the date fixed by this Court for the Settlement Hearing, Defendants shall file with the Clerk of this Court, affidavits or declarations of the person or persons under whose general direction the mailing of the Class Notice, publication of the Summary Notice and mailing of the CAFA Notice were accomplished which affidavits shall verify that such mailings and publication were made in accordance with this Order.
- f. Pursuant to the terms of the Stipulation of Settlement, all costs for mailing and publishing the Class Notice and Summary Notice are the responsibility of Defendants, and Co-Lead Plaintiffs, Co-Lead Counsel and the Settlement Class shall have no responsibility or obligation to reimburse such expended amounts in the event the Effective Date does not occur.

9. The Class Notice will inform members of the Settlement Class of their right to submit a request for exclusion, or “opt-out,” from the conditionally certified Settlement Class with respect to the Settled Legal Claims only. The Class Notice will inform members of the Settlement Class that to opt-out they must mail, by first-class mail, postmarked no later than on or before twenty-one (21) days prior to the date fixed by this Court for the Settlement Hearing, a written request for exclusion from the Settlement Class with respect to the Settled Legal Claims. (“Exclusion Request”).

- a. The Exclusion Request must:
- i. State that the members of the Settlement Class “request exclusion from the Settlement Class only with respect to the Settled Legal Claims in *City of St. Clair Shores General Employees Retirement System, et. al. v. Inland Western Retail Real Estate Investment Trust, Inc.*, Case No. 07 C 6174”;
  - ii. State the name, address and telephone number of the person seeking exclusion;
  - iii. State the number of shares of IWEST common stock owned by the person seeking exclusion as of August 31, 2007 and the number of shares owned as of the date of the Exclusion Request; and
  - iv. Include the signature of the person seeking exclusion and those of any joint owners of the shares.
- b. If the Exclusion Request does not include that information, the member of the Settlement Class will not be excluded and will be deemed to continue to be a member of the Settlement Class.
- c. The Exclusion Request must be postmarked no later twenty-one (21) days prior to the date fixed by this Court for the Settlement Hearing and mailed to:

Nicholas E. Chimicles, Esq.  
CHIMICLES & TIKELLIS LLP  
361 West Lancaster Avenue  
Haverford, PA 19041  
Phone: (610) 642-8500  
Website: [www.chimicles.com](http://www.chimicles.com)

Lara McDermott  
Gilardi & Co., LLC  
3301 Kerner Boulevard  
San Rafael, CA 94901  
Phone: (415) 461-0410  
Website: [www.gilardi.com](http://www.gilardi.com)

10. Any member of the Settlement Class may appear at the Settlement Hearing in person or by counsel (if an appearance is filed and served) and may be heard to the extent allowed by the Court in support of, or in opposition to, the fairness, reasonableness and adequacy of the Settlement or the request for an award of Attorneys' Fees and Expenses of Co-Lead Counsel; provided, however, no person shall be heard in opposition to the Settlement and, if the Settlement is approved, the judgment entered thereon, and no papers or briefs submitted by any such person shall be accepted or considered by the Court unless, on or before twenty-one (21) days prior to the date fixed by this Court for the Settlement Hearing, such member of the Settlement Class: (a) has filed with the Clerk of the Court a notice of intention to appear together with a statement that indicates the basis for such opposition along with any supporting documentation, including proof of membership in the Class; and (b) has served copies of such notice, statement, and documentation together with copies of any other papers or briefs filed with the Court, either in person or by mail, upon the following counsel:

**To Co-Lead Counsel:**  
Nicholas E. Chimicles, Esq.  
Chimicles & Tikellis LLP  
One Haverford Centre  
361 West Lancaster Avenue  
Haverford, PA 19041  
Phone: (610) 642-8500  
[www.chimicles.com](http://www.chimicles.com)

**To Defense Counsel:**  
Samuel B. Isaacson  
DLA Piper LLP (US)  
203 North LaSalle Street,  
Suite 1900  
Chicago, IL 60601  
Phone: (312) 368-2163  
[samuel.isaacson@dlapiper.com](mailto:samuel.isaacson@dlapiper.com)

**To Defense Counsel:**  
James L. Thompson  
Jenner & Block, LLP  
353 North Clark Street  
Chicago, IL 60654  
Phone: (312) 923-2944  
[jthompson@jenner.com](mailto:jthompson@jenner.com)

**To Defense Counsel:**  
Richard B. Kapnick  
Sidley Austin LLP  
One South Dearborn  
Chicago, IL 60603  
Phone: (312) 853-7846  
[rkapnick@sidley.com](mailto:rkapnick@sidley.com)

**To Defense Counsel:**  
Jonathan C. Medow  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Phone: (312) 701-7060  
[jmedow@mayerbrown.com](mailto:jmedow@mayerbrown.com)

**To Defense Counsel:**  
Harold C. Hirshman  
Sonnenschein Nath &  
Rosenthal LLP  
233 South Wacker Drive,  
Suite 7800  
Chicago, IL 60606  
Phone: (312) 876-8025  
[hhirshman@sonnenschein.com](mailto:hhirshman@sonnenschein.com)

11. Briefs in support of the Settlement (other than responses to timely filed objections) and briefs in support of Co-Lead Counsel's request for attorneys' fees and expenses shall be filed with the Clerk of the Court on or before twenty-eight (28) days prior to the Settlement Hearing. Each memoranda of law filed in support of the Settlement and request for attorneys' fees and expenses shall not exceed 35 pages.

12. No later than seven (7) days before the date fixed by this Court for the Settlement Hearing, Co-Lead Counsel shall cause to be filed with the Clerk of this Court: (a) a list of members of the Class Opt-Outs who made timely and proper Exclusion Requests; and (b) a response to any timely filed objections to the Settlement or request for an award of Attorneys' Fees and Expenses of Co-Lead Counsel.

13. The Settlement Hearing shall be held before the undersigned at 9:00 a.m. on November 8, 2010, in Courtroom 1419 in the United States District Court, Northern District of Illinois, Eastern Division, 219 South Dearborn Street, Chicago, Illinois 60604, to consider: the fairness, reasonableness, and adequacy of the Stipulation of Settlement; whether the Settlement Class should be finally certified for purposes of Settlement; whether the Settlement should be finally approved; the entry of a Judgment dismissing the Action with prejudice; the request of Co-Lead Counsel for attorneys' fees and expenses; and other related matters.

14. The Court reserves the right to adjourn the Settlement Hearing from time to time without further notice by adjournment announced in open court and to rule upon the Settlement, or the award of Attorneys' Fees and Expenses to Co-Lead Counsel at any time after the Settlement Hearing.

15. All members of the Class, except those members of the Settlement Class who validly opt-out and submit timely Exclusion Requests, shall be bound by all determinations and judgments in the Action, whether favorable or unfavorable to the Settlement Class.

16. All proceedings in the Action, other than such as may be necessary to carry out the terms and conditions of the Stipulation of Settlement or the responsibilities related or incidental thereto, are stayed and suspended until further Order of this Court.

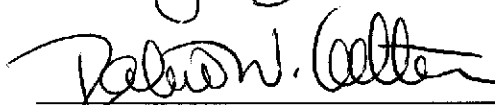
17. Pending resolution of these settlement proceedings, no other action now pending or hereafter filed arising out of all or any part of the subject matter of the Action shall be maintained as a class action, and, except as provided by this or further order of this Court, for good cause shown, all members of the Settlement Class are hereby enjoined during the pendency of these settlement proceedings from filing or prosecuting purported class actions against any Released Person with respect to any of the Settled Equitable Claims or Settled Legal Claims.

18. If the Settlement is not approved or consummated for any reason whatsoever, the Settlement and all proceedings in connection with the Settlement shall be without prejudice to the *status quo ante* rights of the Parties to the Action, except insofar as the Stipulation of Settlement expressly provides to the contrary.

19. Neither the Stipulation of Settlement nor the Settlement contained therein, nor any of the negotiations or proceedings connected with it, nor any act performed or document executed pursuant to or in furtherance of the Stipulation of Settlement or the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any Settled Equitable Claim or Settled Legal Claim, or of any wrongdoing or liability of the Released Persons; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of,

any fault or omission of any of the Released Persons in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal.

SO ORDERED this July 22 day of July, 2010.



HONORABLE ROBERT W. GETTLEMAN  
UNITED STATES DISTRICT JUDGE