

**Motion for an Order Pursuant to Section 363(b) of the Bankruptcy Code and Rule 9019 of the Federal Rules of Bankruptcy Procedure Approving the Supplement to Settlement and Release Agreement Among TOUSA Homes, Inc., LLV-1, LLC and Credit Suisse AG, Cayman Islands Branch (the “LLV Motion”).**

By the LLV Motion, the Debtors seek entry of an order authorizing TOUSA Homes, Inc. (“Homes”) to enter into a supplement (the “Supplement”) to the settlement and release agreement (the “Settlement Agreement”) previously entered into between Homes and LLV-1, LLC (“LLV”).

***The Settlement Agreement.***

On September 23, 2009, the Bankruptcy Court entered an order approving the Settlement Agreement. The Settlement Agreement resolved certain litigation brought by LLV against Homes, in which LLV sought to obtain escrowed funds related to Homes’ development of property in Henderson, Nevada (the “LLV Development”). The Settlement Agreement expressly reserved the parties’ rights with respect to pending litigation in LLV’s chapter 11 case pending before the United States Bankruptcy Court for the District of Nevada (the “Nevada Bankruptcy Court”) concerning the Mechanics Lien Action (as defined below) relating to, among other things, Homes’ asserted claim against LLV for the unpaid principal sum of \$7,558,603.48 owed to Homes for mass grading work performed as general contractor on the LLV Development (as described below).

***The Mechanics Lien Action.***

On January 16, 2008, Las Vegas Paving Corporation (“Las Vegas Paving”) commenced an action in the District Court for Clark County, Nevada (the “Mechanics Lien Action”) against Homes, Woodside Provence, LLC, LLV and CW Capital Fund One, LLC (“CW” and collectively, the “Defendants”). In the Mechanics Lien Action, Las Vegas Paving asserted claims against the Defendants for breach of contract and unjust enrichment and sought payment of \$1,283,773.62 pursuant to the terms of a construction agreement entered into in connection with the LLV Development. In addition, Las Vegas Paving sought authorization to foreclose on its asserted mechanics lien.

On May 29, 2008, Homes filed a cross-complaint and third-party complaint in the Mechanics Lien Action alleging claims against LLV for, among other things, breach of contract and unjust enrichment. Specifically, Homes asserted a secured claim against LLV for the unpaid principal sum of \$8,542,588.28 (the “Mechanics Lien Claim”) owed to Homes for the mass grading work performed by Homes as general contractor on the LLV Development. The amount of the Mechanics Lien Claim included the full amount of Las Vegas Paving’s claim because Las Vegas Paving acted as a subcontractor for Homes.

According to the Debtors, Homes, in compliance with all statutory requirements, filed a lien on the LLV Development. The Mechanics Lien Claim, however, was not apportioned and was recorded against multiple parcels.

Also on May 29, 2008, Homes filed a complaint (the “Homes Complaint”) against Credit Suisse AG Cayman Islands Branch (“Credit Suisse”) in the Mechanics Lien Action seeking declaratory relief that its mechanics lien had priority over Credit Suisse’s liens upon the LLV Development.

Specifically, in connection with the reconveyance of the LLV Development under the terms of an Amended and Restated Credit Agreement, dated as of June 22, 2007 (the “Credit Agreement”) entered into by Credit Suisse, a syndicate of financial institutions, and LLV, Credit Suisse recorded a deed of trust on the LLV Development on June 22, 2007 (the “Deed of Trust”) securing its loan to LLV in the amount of \$540 million.

Homes’ physical work and improvements to the LLV Development, however, had commenced before June 22, 2007 and, therefore, Homes asserted that the effect of the reconveyance made Credit Suisse’s Deed of Trust subordinate in priority to Homes’ claims against the LLV Development. Therefore, according to Homes, the Mechanics Lien Claim had priority over the Deed of Trust.

On July 17, 2008, LLV filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Nevada Bankruptcy Court. Thereafter, on March 3, 2009, the Mechanics Lien Action was removed to the Nevada Bankruptcy Court.

By the LLV Motion, Homes is seeking entry of an order approving a settlement of the Mechanics Lien Action, the salient terms of which are as follows:

***Settlement of Mechanics Lien Action.*** The Parties<sup>1</sup> will file a stipulated judgment (the “Stipulated Judgment”) in the Mechanics Lien Action, providing as follows: (i) LLV and Credit Suisse stipulate that the Mechanics Lien Claim is valid, perfected, unapportioned and has senior priority relative to Credit Suisse and the lenders under the Credit Agreement; and (ii) Homes agrees to dismiss with prejudice all causes of action against Credit Suisse and LLV asserted in the Mechanics Lien Action.

***Release by Homes.*** Upon entry of the Stipulated Judgment, Homes will release and discharge LLV, Credit Suisse and the Lender Parties from any and all claims or causes of action that were or could have been asserted in the Mechanics Lien Action; *provided, however*, that nothing in the Supplement will release or affect LLV’s rights with respect to the amount or the apportionment of the Mechanics Lien Claim, the Stipulated Judgment or the terms of the Supplement.

***Homes’ Execution of the Remapping.*** On the 14th day following entry of orders approving the Supplement by both the Bankruptcy Court and the Nevada Bankruptcy Court (which is a contingency of the Supplement and must occur by December 18, 2009),<sup>2</sup> Homes will execute an amended parent map (the “Remapping”). The Parties also acknowledge that LLV and CW are subject to an agreement that contemplates the exchange of certain portions of land (the “Lot Exchange”). The Parties further agree that if, as and when the Lot Exchange takes place, (a) Homes will release, for no additional consideration, its Mechanics Lien Claim on the land conveyed to CW and (b) the Mechanics Lien Claim will

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<sup>1</sup> The term “Parties,” as defined in the Supplement, refers to Homes, LLV, and Credit Suisse, on behalf of itself and the lenders under (i) the Credit Agreement and (ii) LLV’s debtor in possession financing. Credit Suisse and such lenders are collectively referred to as the “Lender Parties.”

<sup>2</sup> The Nevada Bankruptcy Court has approved the Supplement.

attach to the land conveyed by CW to LLV free and clear of all consensual liens created by CW.

***Release by LLV, Credit Suisse, and the Lender Parties.*** Upon execution of the Remapping by Homes, LLV, Credit Suisse, and the Lender Parties will release and discharge Homes and its affiliates and related parties from all claims or causes of action that were or could have been asserted in the Mechanics Lien Action; *provided, however*, that nothing in the Supplement will release Homes from any claim or defense regarding the amount or the apportionment of the Mechanics Lien Claim, the Stipulated Judgment or the terms of the Supplement.

***Allocation of the Mechanics Lien Claim.*** The Supplement does not finally determine the amount or the apportionment of the Mechanics Lien Claim. The Supplement provides that any disputes in connection with the amount of the Mechanics Lien Claim will be resolved pursuant to mandatory arbitration under the terms of the Supplement. Additionally, a detailed formula set forth in the Supplement will determine to what extent the Mechanics Lien Claim is allocable against any specific parcel.

According to the LLV Motion, the Debtors have determined that the benefits of the Supplement outweigh the prospects of continued litigation. Specifically the Debtors contend that the Supplement allows the Debtors to avoid the cost, risk, and distraction associated with litigating the merits of the Mechanics Lien Action. Further, the Supplement provides the Debtors with certainty as to the relative priority of the Mechanics Lien Claim vis-à-vis Credit Suisse on the LLV Development.

***A hearing on the LLV Motion has been scheduled for December 16, 2009, with an objection deadline of December 15, 2009 at 12:00 p.m. (ET).***