

Motion for an Order Pursuant to Section 363(b) of the Bankruptcy Code Approving the General Mutual Release Agreement by and Between Newmark Homes, L.P. and Lennar Homes of Texas, Land and Construction Ltd. and Authorizing the Debtors to Pay Related Termination Fee in Connection Therewith (the “Lennar Motion”).

By the Lennar Motion, the Debtors seek entry of an order authorizing Newmark Homes, L.P. (“Newmark”) to enter into a lease termination agreement (the “Agreement”) with Lennar Homes of Texas, Land and Construction Ltd. (“Lennar”).

Pursuant to a postpetition agreement (the “Sublease”), Newmark subleased office space (the “Property”) from Lennar for use in the Debtors’ Texas division. Monthly rent for the Property is \$8,759.67 and the Sublease is scheduled to terminate on October 20, 2010. Based on the Debtors’ revised business plan, the Debtors assert that they no longer require the Property for the operation of their businesses.

Seeking to minimize administrative expense claims related to termination of the Sublease, the Debtors have negotiated the Agreement with Lennar. Pursuant to the Agreement, Newmark will pay Lennar \$48,178.18 (the “Termination Fee”), which represents half of the total monthly base rent that would otherwise be required under the Sublease. The Debtors estimate that, by entering into the Agreement, they will save approximately \$84,000 including base rent and additional costs such as utility expenses. Consistent with the Agreement, Newmark vacated the Property before November 30, 2009. However, the Termination Fee is not payable until the Bankruptcy Court approves the Agreement.

A hearing on the Lennar Motion has been scheduled for December 16, 2009.