

**Motion for Relief from the Automatic Stay and/or to Compel Rejection of Non-Assumable Executory Contract (the “Westlawn Motion”).**

By the Westlawn Motion, Westlawn Residential, LLC (“Westlawn”) seeks entry of an order lifting the automatic stay to permit Westlawn to exercise its rights with respect to a cash deposit of \$509,550 (the “Deposit”) and, to the extent necessary, to deem the underlying purchase agreement rejected, due to the Debtors’ inability to perform.

Prior to the commencement of the Debtors’ chapter 11 cases, Newmark Homes, L.P. (“Newmark”) entered into an agreement (the “Purchase Agreement”) with Holrob Investments (the predecessor in interest to Westlawn), to purchase a total of ninety three lots. Pursuant to the Purchase Agreement, Newark provided Westlawn with a letter of credit for \$509,550 (the “LC”), which was to renew automatically, unless the issuer provided a notice of termination. Postpetition, the issuer advised the Debtors that it would not renew the LC. Therefore, on August 27, 2008, Westlawn, with the consent of the Debtors, drew down on the LC and placed the resulting funds - the Deposit - into an escrow account.

On April 27, 2009, Westlawn issued a notice to Newmark, advising Newmark that under the Purchase Agreement, Newmark would be required to purchase lots on May 27, 2009. The Debtors failed to purchase the required lots on May 27, 2009 or in the following 30 day cure period. Westlawn alleges that it is entitled to the Deposit because Newmark has failed to perform under the Purchase Agreement. Westlawn further alleges that Newmark, under the terms of the Purchase Agreement, cannot cure the failure to purchase lots within the cure period permitted under the Purchase Agreement.

***A hearing on the Westlawn Motion has been scheduled for August 27, 2009 with an objection deadline set for August 21, 2009.***