

**Debtors' Ninth Motion to Reject Certain Unexpired Leases and Executory Contracts (the "Rejection Motion").**

By the Rejection Motion, the Debtors seek entry of an order authorizing them to reject (i) a land option contract (the "Option Contract"), to the extent it is executory, *nunc pro tunc* to October 10, 2008 and (ii) a related consent agreement (the "Consent Agreement," and, together with the Option Contract, the "Contracts"). In the Debtors' opinion, the Contracts are no longer beneficial to the Debtors' estates.

The Option Contract is an agreement between Newmark Homes, L.P. ("Newmark") and CW Capital Fund One, LLC ("CW Capital"), dated April 2007. Under the Option Contract, Newmark had the option to purchase developed lots located in a community known as "Canyons at Lake Travis" in Austin, Texas (the "Property"). On October 10, 2008, the Debtors failed to make a \$50,054.52 option payment (the "Option Payment") required under the terms of the Option Contract. Subsequently, on November 4, 2008, CW Capital notified Newmark of its intention to exercise all of its rights under the Option Contract, including termination of the Option Contract if such payment was not made. To date, the past due Option Payment has not been made because the Debtors believe that the Option Contract no longer provides a benefit to the Debtors' businesses.

In addition to the Option Contract, CW Capital and Newmark are party to the Consent Agreement. Given the Debtors' desired rejection of the Option Contract, they seek to reject the corresponding Consent Agreement as well.

After reviewing the Contracts, the Debtors have concluded that the Contracts are not a source of potential value for the Debtors' future operations, creditors or other parties in interest. The Debtors believe the Contracts are not necessary for the Debtors' successful reorganization and rejection of the Contracts is in the best interest of the Debtors and their estates.

***A hearing on the Rejection Motion has been scheduled for February 11, 2009, with an objection deadline of February 6, 2009 at 5:00 p.m. (ET).***