

(i) Motion of Old Farm Townhomes Association, Inc. for Limited Relief from the Automatic Stay (the “Old Farm Motion”), (ii) Motion of Lake Isle Townhomes Homeowners Association, Inc. for Limited Relief from the Automatic Stay (the “Lake Isle Motion”), (iii) Motion of Summer Bay Townhomes Homeowners Association, Inc. for Limited Relief from the Automatic Stay (the “Summer Bay Motion”), and (iv) Motion of Sunfield Townhomes Homeowners Association, Inc. for Limited Relief from the Automatic Stay (the “Sunfield Motion”) (collectively, the “Colorado Lift Stay Motions”).

By the Colorado Lift Stay Motions, creditors Old Farm Townhomes Association (“Old Farm”), Lake Isles Townhomes Homeowners Association (“Lake Isle”), Summer Bay Townhomes Homeowners Association (“Summer Bay”), and Sunfield Townhomes Homeowners Association (“Sunfield,” and, together with Old Farm, Lake Isle, and Summer Bay, the “Associations”) seek entry of orders lifting the automatic stay to pursue state court litigation against certain of the Debtors pertaining to alleged construction defects. The alleged construction defects include, among others: leaky roofing, improperly installed windows, improper grading leading to flooding, poorly installed siding and trim, insufficiently sloped concrete flatwork and asphalt, improperly waterproofed patio deck railings, and cracked concrete in basements (collectively, the “Construction Defects”).¹

Prior to the Petition Date, Old Farm, Lake Isle and Summer Bay commenced litigation in Colorado state court against the Debtors and a non-Debtor defendant. As of the Petition Date, Sunfield had delivered a notice of claim to the Debtors and a non-Debtor defendant, commencing a Colorado statutory notice period to allow the potential defendants in a construction lawsuit to correct defects and avoid litigation. The Associations argue that lifting the automatic stay will not be prejudicial to the applicable Debtors because such Debtors are registered with the Colorado Secretary of State and conduct most or all of their business in Colorado. Moreover, the Associations argue that the Debtors’ Emergency Motion for an Order Authorizing the Retention and Compensation of Certain Professionals in the Ordinary Course of Business includes a Denver law firm which already represents the Debtors in the cases filed by Old Farm, Lake Isle, and Summer Bay. The Associations allege that, therefore, the Debtors are prepared to defend such litigation in the ordinary course of business.

In addition, the Associations argue that they will suffer hardship if the Colorado Lift Stay Motions are not granted. First, the Associations argue that they will be forced to wait inordinately long periods of time to recover from the Debtors’ insurance policies and to determine the extent of their unsecured claims against the Debtors. Second, the Associations argue that the stay must be lifted because at least one other defendant, and potentially others, are non-Debtors and therefore not subject to the automatic stay. If litigation proceeds against non-Debtor parties, the Associations allege that they will be forced to try the same case twice and risk inconsistent judgments. Third, the Associations argue that the cost of trying a case in the Bankruptcy Court would be burdensome because the Associations, relevant witnesses, documents, and other necessary parties are located in Colorado. The Associations argue further

¹ In addition, certain of the Associations filed a Notice of Taking Deposition Duces Tecum of Debtor, TOUSA, Inc. (the “Notice of Deposition”). On June 23, 2008, the Debtors filed an objection to the Notice of Deposition.

that because the Bankruptcy Court would apply Colorado state law, a Colorado state court is better equipped to decide the case than the Bankruptcy Court. Lastly, the Associations argue that as time passes, the defects that the Associations allege worsen, and the sooner they are remedied, the lower the damages will be.

The Colorado Lift Stay Motions have been scheduled for a hearing on July 10, 2008, with a corresponding objection deadline of July 3, 2008.