

Debtors' Motion for an Order Granting Relief from the Automatic Stay with Respect to Action Pending in the District Court for Clark County, Nevada.

By the LLV Motion, the Debtors seek entry of an order granting relief from the automatic stay to permit an action against TOUSA Homes, Inc. ("Homes") currently pending in the District Court for Clark County, Nevada (the "State Court Action") to proceed to judgment.

On June 27, 2005, LLV-1, LLC ("LLV") and Homes entered into a purchase agreement with respect to real property in Henderson, Nevada at the Lake Las Vegas Resort (as amended, the "Purchase Agreement"). Pursuant to the Purchase Agreement, Homes agreed to purchase, and LLV agreed to sell, real property at the Lake Las Vegas Resort (the "Property") for \$81 million. The Property was divided, for the purpose of sale and purchase, into two groups (the "Phase One Property" and the "Phase Two Property"), each of which had a total purchase price allocation of \$40.5 million.

The Purchase Agreement required Homes to deposit \$4,050,000 into an escrow account (the "Deposit") and further provided that half of the Deposit would apply to the purchase of the Phase One Property and the other half would apply to the purchase of the Phase Two Property, if and solely to the extent that purchase came to pass (the "Phase Two Deposit"). On July 7, 2005, and in accordance with the Purchase Agreement, Homes placed the Deposit into an escrow account (the "Escrow Account"). Homes closed the purchase on the Phase One Property on September 30, 2005.

After closing on the Phase One Property, Homes began construction on the Phase One Property. In connection therewith, Homes, as general contractor, subcontracted with Las Vegas Paving Corporation ("Paving") to provide certain materials, labor and equipment associated with the construction (the "Construction Agreement"). LLV and Homes never closed on the Phase Two Property purchase. At this time, construction on the Property has been halted and at least two lawsuits, as described below, have been initiated based on the failure to close on the sale of the Phase Two Property and the related halt of construction.

The LLV Action. On May 25, 2007, LLV sued Homes (the "LLV Action") due to Homes' alleged failure to close the purchase of the Phase Two Property. In the LLV Action, LLV asserts claims for money damages against Homes for breach of contract, breach of the covenant of good faith and fair dealing, specific performance, declaratory relief and damages.

On July 5, 2007, Homes filed its answer, counterclaim and third-party counterclaim in the LLV Action, alleging claims against LLV for, among other things, breach of contract, breach of the covenants of good faith and fair dealing and specific performance. Based on these claims, Homes seeks payment of the Phase Two Deposit, in the amount of \$2,025,000, plus interest.

On October 8, 2008, Homes sought approval of a stipulation (the "Stipulation") between Homes and LLV granting relief from the automatic stay to permit the LLV Action to proceed to judgment (the "First LLV Motion"). On October 24, 2008, the Court entered an order granting the Debtors' motion for relief from the automatic stay so that the LLV Action could continue in the United States Bankruptcy Court of the District of Nevada (the "Nevada Bankruptcy Court").

Because LLV has also commenced a chapter 11 case, LLV sought, and obtained approval of the Stipulation from the Nevada Bankruptcy Court.

The State Court Action. On January 16, 2008, Paving commenced the State Court Action against Homes, Woodside Provence, LLC, LLV, and CW Capital Fund One, LLC. In the State Court Action, Paving seeks payment of \$1,283,773.62 under the Construction Agreement alleging breach of contract and unjust enrichment, and seeks to foreclose on an asserted mechanic's lien.

On May 29, 2008, Homes filed a cross-complaint and third-party complaint in the State Court Action, alleging claims against LLV for, inter alia, breach of contract and unjust enrichment. Specifically, Homes asserts a claim against LLV for the unpaid principal sum of \$7,558,603.48 owed to Homes for the construction work performed by Homes as general contractor on the Property at the request of LLV.¹ Homes filed a lien upon the property at issue in the amount of \$7,558,603.48, plus interest, costs and reasonable attorney's fees as provided by law.

Homes alleges that an expeditious resolution of the State Court Action is in its best interest. Specifically, once Homes receives relief from the automatic stay with respect to the State Court Action (a) LLV may seek authority to remove the State Court Action to the Nevada Bankruptcy Court; (b) the parties to the State Court Action may decide to enter into mediation in an attempt to resolve the State Court Action or (c) LLV may also seek stay relief from the Nevada Bankruptcy Court so that the parties may litigate the State Court Action and proceed to judgment.

Homes believes that the swift resolution of the State Court Action is the most efficient means by which to liquidate a potential asset of Homes' bankruptcy estate and obtain a judgment against LLV. According to the LLV Motion, if Homes obtains a favorable judgment with respect to the third-party complaint filed against LLV, Homes will be awarded approximately \$7.5 million, the principal sum due and owed by LLV to Homes and secured by Homes' lien right upon the Property.

The LLV Motion has been scheduled for a hearing on February 11, 2009.

¹ The amount of Homes' claim includes the full amount of Paving's claim because Paving was acting as a subcontractor for Homes in connection with the work on the Property.