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7 **IN THE UNITED STATES BANKRUPTCY COURT**  
8 **FOR THE DISTRICT OF ARIZONA**  
9

10 In re:  
11 MORTGAGES LTD., an Arizona  
12 corporation,  
13 Debtor.

Chapter 11

Case No. 2:08-bk-07465-RJH

**MOTION TO WITHDRAW AS  
COUNSEL FOR TEMPE LAND  
COMPANY, LLC**

14  
15 Engelman Berger, P.C. (the "Firm"), counsel for Tempe Land Company, LLC ("TLC"), a  
16 creditor and interested party in the above-captioned bankruptcy case ("TLC"), hereby moves pursuant to  
17 Local R. Bankr. P. ("Local Rule") 9010-1(b) to withdraw as attorney of record for TLC in all further  
18 proceedings related to the representation of the TLC in this matter including any and all adversary  
19 proceedings. In support of this Motion, the Firm states as follows:

20 1. The substantive bases for withdrawal are set forth in Ethical Rule ("E.R.") 1.16,  
21 Ariz.R.Supr.Ct. 42, which is made applicable in this proceeding pursuant to Local Rule 9011-1.  
22 Pursuant to E.R. 1.16(b), a lawyer may withdraw from representing a client if:

23 (5) the client fails substantially to fulfill an obligation to the lawyer regarding the  
24 lawyer's services and has been given reasonable warning that the lawyer will withdraw  
unless the obligation is fulfilled; [or]

25 (6) the representation will result in an unreasonable financial burden on the lawyer...  
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- iv. **September 15, 2009** – expiration of ML Manager’s obligation to forbear from filing any motion for relief from the automatic stay with respect to the enforcement of its security interest in TLC’s property; and
- v. **September 15, 2009** – expiration of the obligations of TLC and ML Manager to forbear from bringing any motion described in Paragraph Z of the order confirming the Official Committee of Investor’s Plan of Reorganization (the “Plan”), which relates to “the claims and causes of action and other issues asserted or which may be asserted by [ML]’s Estate or the TLC estate against each other.”

- **Matters Relating to Adversary No. 08-ap-920** – Gould Evans Associates L.C. v. Mortgages Ltd., et al.

- i. **Status** – Adversary Case Opened 12/09/08 – Complaint and Notice of Removal Pursuant to 28 U.S.C. §§ 1441 and 1452 and General Referral Order. Plaintiff never filed certificate of service of complaint. No activity in adversary proceeding since 02/23/09 (change of address filed on behalf of defendants Mortgages Ltd., et al.)

- **Matters Relating to ML Liquidating Trust** – Per letter dated 9/9/09 from Kevin O’Halloran in his capacity as trustee of the ML Liquidating Trust, successor to Mortgages Ltd under the confirmed plan, request has been made that the Debtor preserve all paper documents for purposes of responding to a Rule 2004 examination to be ordered in the future.

4. TLC has been advised of all hearings scheduled in this case, including, but not limited

to:

- **Matters Relating to Adversary No. 09-ap-677 (consolidated with 09-ap-794)** – Heritage Interiors, Inc., et al., v. Tempe Land Company, LLC, et al.
  - i. **December 16, 2009 @ 11:00 a.m.** – Hearing on Plaintiff /Counterdefendants’ Motion for Summary Judgment.
  - ii. **September 23, 2009 @ 9:30 a.m.** – Hearing on motion to re-align SS Residential, LLC from a Defendant to a Plaintiff.

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In light of the foregoing, the Firm requests that the Court enter an Order approving its withdrawal as counsel for TLC in all further proceedings related to the representation of TLC in this matter, including any and all adversary proceedings.

**DATED** this 15th day of September, 2009.

**ENGELMAN BERGER, P.C.**

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**COPY** of the foregoing e-mailed this 15<sup>th</sup> day of September, 2009 to the all parties on the attached list.

/s/ Kimberly A. Cox

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# EXHIBIT “A”