

1 FENNEMORE CRAIG, P.C.  
Cathy L. Reece (005932)  
2 Keith L. Hendricks (012750)  
3003 N. Central Ave., Suite 2600  
3 Phoenix, Arizona 85012  
Telephone: (602) 916-5343  
4 Facsimile: (602) 916-5543  
Email: creece@fclaw.com

5 Attorneys for ML Manager LLC

6  
7 IN THE UNITED STATES BANKRUPTCY COURT  
8 FOR THE DISTRICT OF ARIZONA

9 In re  
10 MORTGAGES LTD.,  
11 Debtor.

Chapter 11

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

**MOTION TO SELL REAL PROPERTY FREE  
AND CLEAR OF LIENS, CLAIMS,  
ENCUMBRANCES, AND INTERESTS**

**Real Property located in Maricopa County, AZ  
at Hohokam Freeway and Belleview Street,  
Phoenix, Arizona**

**Hearing Date: TBD  
Hearing Time: TBD**

16 ML Manager LLC (“ML Manager”), requests that the Court enter an order  
17 authorizing ML Manager as the manager for CITLO Loan LLC and the agent for certain  
18 Pass-Through Investors, to sell the approximate 6 acres of real property(including the 42  
19 apartment units) located in Maricopa County, Arizona, at Hohokam Freeway and  
20 Belleview Street, Phoenix, Arizona for the price and on the terms set forth in the proposed  
21 Agreement of Sale and Purchase and Escrow Instructions (“Sale Agreement”) which is  
22 attached as Exhibit A or upon better terms as reasonably determined by ML Manager. ML  
23 Manager requests a hearing be held on May 27, 2010 at the time and place set for another  
24 sale hearing and requests that the Court accelerate the hearing and shorten the notice  
25 period accordingly. The Sale Agreement has a strict time period for satisfaction of the  
26 contingencies and based on the limited number of days the Court is available during that

1 time frame ML Manager will need to have the hearing accelerated to May 27 and notice  
2 shortened or it will lose the sale.

3 Borrower City Lofts, LLC defaulted on its loan with Mortgages Ltd. The unpaid  
4 principal balance alone is around \$11.88 million. Interest and fees also are due. ML  
5 Manager scheduled a deed of trust sale and foreclosed on the real property. The  
6 guarantors are Michael and Kay Peloquin and suit on the guarantors has been commenced.  
7 Pursuant to the Official Investors' Committee's First Amended Plan confirmed by the  
8 Court, CITLO Loan, LLC ("CITLO Loan LLC") was formed on the effective date and the  
9 fractional interests in the note and deed of trust which were held by the MP Funds and  
10 Mortgages Ltd. were transferred into CITLO Loan LLC. Subsequently some of the pass-  
11 through investors transferred their interests into CITLO Loan LLC. At the current time, 4  
12 Pass-Through Investors had not transferred their fractional interests ("4 Pass-Through  
13 Investors"). As a result, 86.798% of the interest in the real property is owned by CITLO  
14 Loan LLC and 13.202% is owned by the 4 Pass-Through Investors who did not transfer  
15 into CITLO Loan LLC.

16 ML Manager retained the services of Hendricks and Partners, a leading apartment  
17 real estate brokerage firm, to widely market the property for sale. After completing  
18 substantial marketing efforts and receiving several offers, the ML Manager Board  
19 determined that Vijay Sethi submitted the best offer. ML Manager entered into  
20 negotiations over a Sale Agreement with Vijay Sethi ("Purchaser") for the purchase of  
21 approximately 6 acres for \$1,700,000.00. Purchaser will deposit \$50,000 earnest money  
22 and open escrow at Thomas Title & Escrow. The sale will be free and clear of all liens,  
23 claims, encumbrances and interests. Because the property has already been fully  
24 marketed, this is not proposed to be an auction and no higher and better bids are being  
25 solicited. It is, however, possible that the exit financier could elect to exercise its right to  
26 compete and make a better offer. The contingencies include the waiver of the right to

1 compete by the exit financier (which waiver or exercise is in process), approval by the  
2 investors in CITLO Loan LLC and the applicable MP Funds (which is in process), and  
3 Bankruptcy Court approval. Purchaser will commence its 30-day due diligence once the  
4 Seller's contingencies are satisfied, including approval by the Bankruptcy Court, and  
5 Purchaser will close 15 days thereafter. The parties anticipate that such closing will occur  
6 in July 2010. The purchase price is to be paid in cash at closing. This is an arms-length,  
7 negotiated sale between unrelated parties.

8 This property consists of approximately 6 acres and contains of 42 apartment units,  
9 known as the Belleview Estates, and approximately 2.6 acres of vacant land located  
10 adjacent to the apartment units. The sale will include all the land, buildings, other  
11 improvements, personal property, and leases and sublease related to the property, among  
12 other things.

13 Even though the debt will not be paid in full, ML Manager believes that this price  
14 reflects the current market value of the property and that it is unlikely in the foreseeable  
15 future to get a higher amount for the property. The property produces a small amount of  
16 cash from its operations, however, the property is in need of several capital improvement  
17 projects and the cash flow from the property is substantially insufficient to pay for the cost  
18 of these projects. ML Manager believes that this sale is in the best interest of the investors  
19 in the loan and is a valid exercise of its business judgment.

20 Due to the pending actions pending in the Bankruptcy Court and District Court by  
21 certain investors, ML Manager believes that it is prudent and necessary to seek  
22 Bankruptcy Court approval of the sale. An order approving the sale and authorizing the  
23 sale by ML Manager of 100% of the interest in the real property will insure a smooth  
24 closing and will aid in the implementation of the Plan.

25 Under the Operating Agreement of CITLO Loan LLC, since this event is a Major  
26 Decision, ML Manager must seek approval of the sale from the investors in the CITLO

1 Loan LLC entity and the MP Funds investors. Approval must be obtained by a majority of  
2 the investors' dollars voting. The voting process is the works and by the time the parties  
3 get to a sale hearing the results will be known to ML Manager. If approved ML Manager  
4 asserts it has the authority and ability to go forward with the sale of CITLO Loan LLC's  
5 interests.

6 Under Section 3(b) of the Agency Agreement, ML Manager as the agent for the 4  
7 Pass-Through Investors has the authority and ability to engage a broker, enter into a sale  
8 agreement and to sell the foreclosed real estate on behalf of the principals. ML Manager  
9 asserts that the 4 Pass-Through Investors are subject to the Agency Agreement. Three of  
10 the Pass-Through Investors are part of the Rev Op Group, however, it is not clear if they  
11 will object to this Motion and sale. They may not have any objection to this sale once they  
12 have a chance to study the Sale Agreement terms. Should ML Manager have to prove the  
13 authority it has under the Subscription Agreements and Agency Agreements as to any  
14 objecting Pass-Through Investors in this loan then ML Manager will do so at the sale  
15 hearing. Normally ML Manager as the agent would execute the documents on behalf of  
16 the Pass-Through Investors since it holds the irrevocable power of attorney coupled with  
17 an interest to do so. Due to certain allegations made by other Pass-Through Investors  
18 about the Agency Agreement, the title company may request that the 4 Pass-Through  
19 Investors be required to execute documents effectuating the Court's order and the sale. In  
20 that event then ML Manager will request that the sale order include such direction to the 4  
21 Pass-Through Investors or that the sale order include other language required by the title  
22 company authorizing ML Manager to execute any and all such documents on behalf of the  
23 4 Pass-Through Investors.

24 ML Manager asserts that the Court has retained jurisdiction in the Plan for such a  
25 matter as this, including sections 9.1(e), (g) and (h) of the Plan among others, and has the  
26 authority to approve the sale under Section 363 of the Bankruptcy Code and under Section

1 105 of the Bankruptcy Code, among other sections, as an order in aid of implementation  
2 of the Plan.

3 ML Manager does not seek an order as a part of this Motion to disburse the sale  
4 proceeds or determine what amount should be paid by investors as their fair share of the  
5 expenses, including exit financing. This requested order will authorize the sale and allow  
6 ML Manager to close, with all interests to attach to the proceeds. ML Manager anticipates  
7 that any decisions with regard to the distribution of proceeds will be made at a later date if  
8 and when the sale closes and the money becomes available for distribution. As is  
9 customary ML Manager does propose to pay the closing costs and any commission as set  
10 forth in the Sale Agreement at the closing out of the gross sale proceeds.

11 WHEREFORE, ML Manager LLC requests that the Court enter an order  
12 authorizing and approving the sale as set forth above, and for such other and further relief  
13 as is just and proper under the circumstances.

14 DATED: May 14, 2010

15 FENNEMORE CRAIG, P.C.

16 By /s/ Cathy L. Reece  
17 Cathy L. Reece  
18 Keith L. Hendricks  
19 Attorneys for ML Manager LLC  
20  
21  
22  
23  
24  
25  
26