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LLP; Queen Creek XVIII, L.L.C.; Morley
8 Rosenfield, M.D. P.C. Restated Profit Sharing
Plan; and Pueblo Sereno Mobile Home Park
9 L.L.C.

10 **IN THE UNITED STATES BANKRUPTCY COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 In re:
13 MORTGAGES LTD.,
14 Debtor.

In Proceedings Under Chapter 11
Case No. 2:08-bk-07465-RJH

**EMERGENCY EX PARTE MOTION FOR
ADMINISTRATIVE STAY PENDING
SEPTEMBER 8, 2010 HEARING**

Hearing Date: N/A
Hearing Time: N/A

18 This emergency motion is filed by the following parties (collectively, the “**Rev Op**
19 **Investors**”): (i) Bear Tooth Mountain Holdings, LLP (“**Bear Tooth**”), Queen Creek XVIII,
20 L.L.C. (“**Queen Creek**”), and Morley Rosenfield, M.D. P.C. Restated Profit Sharing Plan (“**MR**
21 **Plan**”) with respect to the *Order Approving Motion to Sell Real Property Free and Clear of*
22 *Liens, Claims, Encumbrances, and Interests* [DE #2887] (the “**CITLO Order**”); and (ii) Queen
23 Creek and Pueblo Sereno Mobile Home Park L.L.C. (“**Pueblo Sereno**”) with respect to the
24 *Order Approving Motion to Sell Real Property Free and Clear of Liens, Claims, Encumbrances,*
25 *and Interests* [DE #2892] (the “**ZDC Order**” and, collectively with the CITLO Order, the “**Sale**
26 **Orders**”). The Rev Op Investors hereby move for a brief administrative stay of the Sale Orders,
27 pending the hearing currently scheduled for September 8, 2010, on the Rev Op Investors *Motion*
28 *for Stay Pending Appeal of Orders Approving Sales of Real Property* [DE #2907] (the “**Stay**”

1 Motion”). In further support of this Motion, the Rev Op Investors respectfully submit as
2 follows:

3 1. The Rev Op Investors filed their Stay Motion and a motion requesting an
4 expedited hearing on August 31, 2010. Subsequently, this Court set a hearing on the Stay
5 Motion for September 8, 2010.

6 2. Pursuant to the Sale Orders, this Court waived the fourteen-day stay normally
7 applicable to orders approving sales of property under Federal Rule of Bankruptcy Procedure
8 6004. The Rev Op Investors fear that, prior to the scheduled hearing on the Stay Motion, ML
9 manager will attempt to close the sales that are the subject of the appeal. Accordingly, the Rev
10 Op Investors request a brief administrative stay of the Sale Orders pending the hearing on their
11 Stay Motions.

12 3. ML Manager will suffer no injury from the brief stay requested herein. Indeed,
13 the requested stay amounts to 3-4 business days. Such a brief stay cannot be said to prejudice
14 ML Manager, whereas the Rev Op Investors could suffer significant harm in the absence of such
15 a stay.

16 4. Federal courts have the well-settled authority “to prevent irreparable injury to the
17 parties or to the public resulting from the premature enforcement of a determination which may
18 later be found to have been wrong.” *Scripps-Howard Radio v. FCC*, 316 U.S. 4, 10 (1942).
19 Moreover, Section 105 of the Bankruptcy Code authorizes this Court to issue “any order . . . that
20 is necessary or appropriate” to carry out the provisions of the Bankruptcy Code. This necessarily
21 includes the Court’s ability to stay its own orders when performance thereof may moot a matter
22 and thereby divest the appellate court of jurisdiction.¹

23 5. In this case, a temporary stay is warranted to prevent irreparable injury to the Rev
24 Op Investors from “premature enforcement” of the Sale Orders that “may later be found to have
25

26 ¹ Nothing herein shall be construed as an admission by the Rev Op Investors of mootness. The
27 Rev Op Investors reserve all rights with respect to these issues in the event this Court denies this
28 Motion. *See In re PW, LLC*, 391 B.R. 25, 37 (B.A.P. 9th Cir. 2008) (consummation of a sale
does not necessarily render an appeal of a sale moot).

1 been wrong,” and to preserve the reviewing court’s jurisdiction over an appeal of the Sale
2 Orders.

3 6. Given the specific purpose and limited scope of such a temporary stay, there is no
4 reason for this request to be judged against the standards for stays pending a court’s full
5 consideration of an appeal. Nevertheless, a stay would be warranted here even if the standards
6 for stays pending appeal were applied. In this regard, the Rev Op Investors incorporate by
7 reference the arguments and authorities set forth in their Stay Motion.

8 7. Under the circumstances and the timing of the hearing on the Stay Motion, a brief
9 administrative stay should be granted. Counsel for the Rev Op Investors has requested
10 confirmation from counsel for ML Manager that the sales contemplated under the Sale Orders
11 will not close prior to the hearing on September 8, 2010, but at the time of the filing of this
12 Motion had not received a response.

13 8. Pursuant to Local Rule 9013-1(d), the Rev Op Investors submit that no hearing or
14 notice is required for a brief administrative stay, nor is such hearing or notice practicable under
15 the current time constraints. A proposed form of order granting the limited relief requested
16 herein is attached hereto as Exhibit “A.”

17 WHEREFORE, based on the foregoing, this Court should enter an order staying the Sale
18 Orders, pending the hearing scheduled for September 8, 2010.

19 DATED this 1st day of September, 2010.

20 BRYAN CAVE LLP

21 By /s/ BAS, #022721

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