

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA

In Re

Chapter

Case No.

Adv. No.

Debtor(s)

Appellant(s)

v.

Appellee(s)

**TRANSMITTAL OF APPEAL TO  
DISTRICT COURT**

TO: RICHARD H. WEARE  
CLERK, U.S. DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Transmitted herewith is:

A Notice of Appeal filed on \_\_\_\_\_, a copy of the order of judgment appealed, and the election of appellant to have appeal transferred to the District Court pursuant to 28 U.S.C. Section 158(c)(1).

The Notice of Appeal Filing Fee \_\_\_\_\_ has been paid, \_\_\_\_\_ has not been paid, or \_\_\_\_\_ waived by order pursuant to 28 USC 1930(f).

Dated:

CLERK OF COURT  
U.S. BANKRUPTCY COURT

By: \_\_\_\_\_  
Deputy Clerk

Copies to be mailed to attorneys for interested parties and pro se parties to the appeal by the BNC.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA

In Re

Chapter

Case No.

Adv. No.

Debtor(s)

Appellant(s)

v.

Appellee(s)

**NOTICE OF FILING OF APPEAL  
AND NOTICE OF REFERRAL OF  
APPEAL TO THE DISTRICT COURT**

YOU ARE HEREBY NOTIFIED that a Notice of Appeal has been filed on \_\_\_\_\_ with the Clerk of the U.S. Bankruptcy Court. The appellant has filed an election to have the appeal transferred to the District Court. Pursuant to 28 USC Section 158(c), the Appeal is referred to the District Court.

NOTICE IS GIVEN TO THE APPELLANT that the appellant shall, within 14 days of the filing of the Notice of Appeal, file with the Clerk of the U.S. Bankruptcy Court, 230 N. 1st Ave, #101, Phoenix, Arizona, 85003 the following:

1. A designation of the items to be included in the record on appeal and serve a copy upon the appellee;
2. A statement of the issues to be presented and serve a copy upon the appellee; and
3. A written request for the transcript and deliver a copy to the court reporter where the record designated includes a transcript of any proceeding or a part thereof.

Dated:

CLERK OF COURT

By: \_\_\_\_\_  
Deputy Clerk

Copies to be mailed to attorneys for parties and pro se parties to the appeal by the BNC

**United States Bankruptcy Court  
District of Arizona**

**APPEALS**

**ORDERING AN OFFICIAL TRANSCRIPT**

An official transcript is a transcript that has been prepared by a designee of the Bankruptcy Court. (For appeal purposes, a tape cassette is not acceptable as a part of the Designation of Record.)

If you have designated a transcript of a Court proceeding in your Appeal documents, **it is your responsibility to order it** from the Bankruptcy Court ECR Operator (see list below). The order should be placed at the time you file your Statement of Issues and Designation of Record.

If you have filed an appeal and need a transcript of a hearing, please follow the steps below to obtain an "OFFICIAL" transcript:

1. Determine the date of the hearing.
2. Determine what portion of the hearing is needed. Do you need the entire hearing or only a specific portion of the hearing, (i.e., the judge's ruling).
3. Determine if the transcript is already on file with the Court. Any ECR Operator can advise you of this. If the transcript is already on file, the Court will determine if your check should be made payable to the Bankruptcy Court. If it is not on file, the ECR Operator can tell you who to contact to obtain one.
4. Each transcript ordered requires a deposit. This deposit varies and is dependent upon the estimated length of the transcript. If the transcript needs to be ordered, the ECR Operator will advise you of the correct way to issue your check and where to make payment.
5. Place your request for the transcript. File a "Notice of Request for Transcript" with the Bankruptcy Court. Be sure to indicate if the transcript was requested from the Court or the Court Reporting Agency.

A courtesy copy of every transcript ordered is sent to the Court; therefore, it is not necessary for you to file a copy with the Court.

Ordering Transcripts

**PHOENIX OFFICE CASES**

Judge Baum (RTB)	Juanita Pierson-Williams	(602) 682-4200
Judge Case (CGC)	Marco Garcia	(602) 682-4200
Judge Curley (SSC)	Andamo Purvis	(602) 682-4200
Judge Haines (RJH)	Sheri Fletcher	(602) 682-4200
Judge Hollowell (EWH)	Kayla Morgan	(602) 682-4200
Judge Marlar (JMM)	Kayla Morgan	(602) 682-4200
Judge Nielsen (GBN)	Jo-Ann Stawarski	(602) 682-4200

**TUCSON OFFICE CASES**

Judge Marlar (JMM)	Bev Granillo	(520) 202-7990
Judge Hollowell (EWH)	Eunice Stroud	(520) 202-7568

**YUMA OFFICE CASES**

Judge Hollowell (EWH)	Aida Urbalejo	(928) 783-2288
Judge Marlar (JMM)	Aida Urbalejo	(928) 783-2288
Judge Haines (RJH)	Sheri Fletcher	(602) 682-4200

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA**

**NOTICE TO PARTIES TO APPEAL TO DISTRICT COURT**

Procedure when an appeal is transmitted to District Court:

1. Upon receipt of an appeal from the Clerk of the Bankruptcy Court or from the Clerk of the Bankruptcy Appellate Panel, the appeal is assigned a civil case number in the District Court. The District Court then sends a "Notice of Receipt of Appeal" to the parties to the appeal advising them of the civil case number assigned in the District Court.
2. The bankruptcy appeal in the District Court is governed by the District Court Local Rules of Bankruptcy Appeal Procedure, as adopted on 12/1/2007. Please refer to those rules, a copy of which are attached.
3. When the statement of issues, designation of record and any designated transcripts are filed with the Bankruptcy Court, the Bankruptcy Court Clerk will transmit to the District Court a certificate that the record is complete. The date of transmittal to the District Court constitutes the date of the entry of the appeal on the docket in District Court.
4. The record is retained in the Bankruptcy Court. Copies of the record are no longer required to be filed with the District Court. Instead, the parties include copies from the record in their Excerpts of Record filed as appendix to their briefs. See Local District Court Rule 8009-2.

**LOCAL DISTRICT COURT RULES OF BANKRUPTCY APPEAL PROCEDURE  
(12/1/2007)**

**LRBankr 8001-1  
NOTICE OF APPEAL**

Order Being Appealed. The appellant shall attach to the notice of appeal filed in bankruptcy court a copy of the entered judgment, order or decree from which the appeal was taken. If a 28 U.S.C. Sec. 158(c) election to have the appeal heard by the district court is filed by the appellant at the time of filing the notice of appeal, the bankruptcy court clerk shall transmit the appeal to the district court clerk. If such an election is filed by any other party with the clerk of the bankruptcy appellate panel within thirty days after service of the notice of appeal, the clerk of the bankruptcy appellate panel shall transfer the appeal to the district court. If the notice of appeal is filed before entry of the order being appealed, it is the appellant's duty to transmit to the district court clerk a copy of the judgment or order immediately upon entry.

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Committee Notes: Generally, the Local Rules of Bankruptcy Appeal Procedure track the content and the numbering of the local rules of the Ninth Circuit Bankruptcy Appellate Panel.

**LRBankr 8001-2  
ELECTION PROCEDURE FOR MOTION FOR LEAVE TO APPEAL**

If the appellant moves for leave to appeal pursuant to FRBP 8003 and fails to file a separate notice of appeal concurrently with filing the motion for leave, the motion for leave will be treated as if it were a notice of appeal for purposes of calculating the time period for filing an election to transfer the appeal to the district court.

**LRBankr 8006-1  
TRANSCRIPTS**

Any party submitting excerpts of the record shall include all transcripts necessary for adequate review in light of the standard of review applicable to the issues before the district court. The district court is required to consider only those portions of the transcript included in the excerpts of the record. If findings of fact and conclusions of law were made orally on the record, a transcript of those findings is mandatory.

**LRBankr 8007-1**

**DOCKETING APPEAL AND APPELLATE RECORD**

As soon as the statement of issues, designation of record, and any designated transcripts are filed with the bankruptcy court, the bankruptcy court clerk, upon exercise of the 28 U.S.C. Sec. 158(c) election to have the appeal heard by the district court, shall transmit to the district court clerk a certificate that the record is complete and shall notify the parties of that transmittal unless the certificate has been filed with the bankruptcy appellate panel. The date the bankruptcy court clerk transmits the certificate that the record is complete shall constitute the date of entry of the appeal on the docket of the district court. The bankruptcy court clerk shall retain the record. The district court clerk may request a copy of the record from the bankruptcy court clerk.

**LRBankr 8009-1**

**BRIEFS - TIME LIMITS AND NUMBER**

(a) **Scheduling Order.** Upon entry of the appeal on the docket, the district court shall issue a scheduling order regarding submission of briefs. Parties shall file briefs within the time limits set forth in the scheduling order rather than the time limits set forth in FRBP 8009(a)(1), (2), and (3).

(b) **Number.** Upon the filing of a brief, a party shall also provide one paper copy for use by the District Judge to whom the case is assigned, bound separately from the excerpts of the record. At the direction of the district court, the parties may be required to provide additional copies.

(c) **Motion for Extension of Time for Filing Brief.**

(1) Requirements. A motion for extension of time to file a brief shall be filed within the time limit prescribed by these rules for the filing of such brief and shall be accompanied by a proof of service. The motion shall be supported by a declaration stating:

1. When the brief was initially due;
2. How many extensions of time, if any, have been granted;
3. Reasons why this extension is necessary;
4. The specific amount of time requested; and
5. The position of the opponent(s) with respect to the motion or why the moving party has been unable to obtain

a statement of such position(s).

(2) Consequences. Appellant's failure to file a brief timely may result in the dismissal of the appeal. A brief received after the due date will not be accepted for filing unless it is accompanied by a motion for an extension of time and the motion is granted. The district court has no obligation to consider a late brief. Sanctions may be imposed, such as the waiver of oral argument, monetary sanctions or dismissal.

#### **LRBankr 8009-2**

##### **BRIEFS AND EXCERPTS OF THE RECORD**

(a) **Number and Form.** Upon the filing of any excerpts of the record, a party shall also provide one paper copy for use by the District Judge to whom the case is assigned, bound separately from the briefs. The copy shall be reproduced on white paper by any duplicating process capable of producing a clearly legible image and be bound with a white cover. The cover of the excerpts shall contain the caption information specified by LRBankr 8010-1(a).

(b) **Organization of Appendix.** Documents in the excerpts shall be divided by tabs in the paper copy provided for use by the Judge. The pages of the excerpts shall be continuously paginated. The excerpts shall contain a complete table of contents listing the documents and identifying both the tab and page number where each document is located. If the excerpts have more than one volume, the table of contents shall also identify the volume in which each document is located.

#### **LRBankr 8010-1**

##### **BRIEFS - FORM AND CERTIFICATION REQUIREMENTS**

(a) **Form.** Briefs shall comply with the form requirements of LRCiv 7.1 and shall contain the following cover information:

Name of Court;  
Case numbers (District Court, Bankruptcy Court, and if applicable, adversary number(s));  
Name of debtor;  
Names of appellant(s) and appellee(s);  
Title of document; and  
Name, address, telephone number, email address, and bar number of counsel filing document.

(b) **Certification as to Interested Parties.** To enable the district judge to evaluate possible disqualification or recusal, all parties, other than



governmental parties, shall attach to the inside back cover of their initial briefs, a list of all persons, associations of persons, firms, partnerships and corporations that have an interest in the outcome of the case. The certification should be in substantially the following form:

**Certification Required by Local Bankruptcy Rule 8010-**

**1(b)**

[DISTRICT COURT CASE NUMBER,  
DEBTOR'S NAME]

The undersigned certifies that the following parties have an interest in the outcome of this appeal. These representations are made to enable the district judge to evaluate possible disqualification or recusal [list the names of all such parties and identify their connection and interest]:

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Dated

(c) **Certification of Related Cases.** The appellant shall attach as the last page of each copy of the opening brief a statement of all known related cases and appeals before the United States Court of Appeals, the BAP, or the district court. Appellee's answering brief shall contain appellee's certification of related cases. A related case is defined as one which involves substantially the same litigants, substantially the same factual pattern or legal issues, or arises from a case previously heard by the district court. The certification should be in substantially the following form:

**Certification Required by Local Bankruptcy Rule 8010-**

**1(c)**

[DISTRICT COURT NUMBER, DEBTOR'S  
NAME]

The undersigned certifies that the following are known related cases and appeals [list the case name, court and status of all related cases and appeals]:

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Committee Notes: Rule 8010-1 tracks 9th Circuit BAP Rule 8010(a)-1, except that the form requirements of LRCiv 7.1 are adopted over the differing form requirements of the BAP Rule, and colored brief covers are not required.

**LRBankr 8010-2**  
**LENGTH OF BRIEFS**

Except with leave of the district court, the appellant's and appellee's initial briefs may not exceed seventeen (17) pages, and reply briefs may not exceed eleven (11) pages, exclusive of pages containing the table of contents, tables of citations and any addendum containing statutes, rules, regulations or similar materials.

\_\_\_\_\_  
Committee Notes: The page limits are those set by LRCiv 7.2(e) for civil motions generally and differ from those in the Ninth Circuit BAP.

**LRBankr 8011-1**  
**EMERGENCY MOTIONS**

(a) **Form and Number.** An emergency motion must have a cover page bearing the legend "Emergency Motion" in large, bold type. Upon filing the motion, one paper copy must be provided for use by the District Judge to whom the case is assigned.

(b) **Contents.** The motion and supporting declaration(s) must set forth the facts showing the existence and nature of the alleged immediate and irreparable harm.

(c) **Appendix.** An emergency motion must be accompanied by an appendix containing: (1) a conformed copy of the notice of appeal, and (2) a copy of the entered judgment, order or decree from which the appeal was taken. If the emergency motion concerns a stay pending appeal, the appendix must also contain: (1) a conformed copy of the bankruptcy court's order denying or granting the stay and any explanation by the bankruptcy court of its ruling, or a declaration explaining why such a copy is unavailable; and (2) copies of all documents regarding the stay filed in bankruptcy court.

(d) **Service.** The motion and appendix must be accompanied by a proof of service showing service on all parties.

**LRBankr 8012-1**

**ORAL ARGUMENT**

Unless otherwise directed by the district court, a party desiring oral argument shall request it by placing "Oral Argument Requested" immediately below the title of the brief. If oral argument is granted, notice will be given in a manner directed by the district court.

**LRBankr 8014-1**

**COSTS**

Costs under FRBP 8014 are taxed by filing a bill of costs with the bankruptcy court clerk.

**LRBankr 8018-1**

**SILENCE OF LOCAL RULES OF BANKRUPTCY APPEAL PROCEDURE**

In cases where these Local Rules of Bankruptcy Appeal Procedure and the FRBP are silent as to a particular matter of practice relating to a bankruptcy appeal, the district court may apply the Rules of the United States Court of Appeals for the Ninth Circuit and the Federal Rules of Appellate Procedure.

**LRBankr 8018-2**

**CITATION TO LOCAL RULES OF BANKRUPTCY APPEAL PROCEDURE**

Parties shall cite these Local Rules of Bankruptcy Appeal Procedure as:

"LRBankr".

**LRBankr 8019-1**

**SUSPENSION OF LOCAL RULES OF BANKRUPTCY APPEAL PROCEDURE**

Upon application, or upon the district court's own motion, any judge of the district court may suspend any of these Local Rules of Bankruptcy Appeal Procedure for good cause shown.

**LRBankr 8020-1**

**DISMISSAL FOR FAILURE TO PROSECUTE**

When an appellant fails to file an opening brief timely, or otherwise fails to comply with rules or orders regarding processing the appeal, the district court, after notice, may enter an order dismissing the appeal.

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Bryce A. Suzuki, Esq. (#022721)  
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6  
7 Counsel for the Rev Op Group

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

10 In re:

Chapter 11

11 MORTGAGES LTD.,

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

12 Debtor.

**NOTICE OF APPEAL**

13  
14 Bear Tooth Mountain Holdings, LLP; Pueblo Sereno Mobile Home Park L.L.C.; Queen  
15 Creek XVIII, L.L.C.; and Morley Rosenfield, M.D. P.C. Restated Profit Sharing Plan  
16 (collectively, the “Rev Op Investors”) hereby appeal, pursuant to 28 U.S.C. § 158(a) and (b),  
17 from the Bankruptcy Court’s *Order Approving Motion to Sell Real Property Free and Clear of*  
18 *Liens, Claims, Encumbrances, and Interests* dated and entered on August 25, 2010 [Docket  
19 #2887] (the “CITLO Order”) and the *Order Approving Motion to Sell Real Property Free and*  
20 *Clear of Liens, Claims, Encumbrances, and Interests* dated August 26, 2010, and entered on  
21 August 27, 2010 [Docket #2892] (the “ZDCII Order”), in the above-captioned bankruptcy  
22 proceeding. True and correct copies of the CITLO Order and the ZDCII Order are attached  
23 hereto as Exhibit “A” and incorporated by reference herein.

24 The parties to the matter being appealed and the names, addresses and telephone numbers  
25 of their respective attorneys are as follows:  
26  
27  
28



# EXHIBIT "A"

IT IS HEREBY ADJUDGED  
and DECREED this is SO  
ORDERED.

The party obtaining this order is responsible for  
noticing it pursuant to Local Rule 9022-1.

Dated: August 25, 2010



1 FENNEMORE CRAIG, P.C.  
2 Cathy L. Reece (005932)  
3 Keith L. Hendricks (012750)  
4 3003 N. Central Ave., Suite 2600  
5 Phoenix, Arizona 85012  
6 Telephone: (602) 916-5343  
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*Randolph J. Haines*

RANDOLPH J. HAINES  
U.S. Bankruptcy Judge

Attorneys for ML Manager LLC

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

In re  
MORTGAGES LTD.,  
Debtor.

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

**ORDER APPROVING 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, AZ**

**Hearing Date: August 25, 2010  
Hearing Time: 10:30 a.m.**

16 ML Manager LLC ("ML Manager") filed a Motion ("Motion") (Docket No. 2859)  
17 requesting that the Court enter an order authorizing ML Manager as the manager for  
18 CITLO Loan LLC and the agent for certain non-transferring pass-through investors, to  
19 sell the real and personal property consisting of approximately 6 acres of real estate and  
20 personal property, including a 42 apartment units, located in Maricopa County, Arizona,  
21 at Hohkam Freeway and Belleview Street, Phoenix, Arizona (the "Property") for the  
22 price and on the terms set forth in the Agreement of Sale and Purchase and Escrow  
23 Instructions ("Sale Agreement") which was attached to the Motion as Exhibit A. Among  
24 other things, the Sale Agreement provides for the sale of the Property for approximately  
25 \$1.925 million to Endres, LLC or its assigns ("Purchaser"). A notice to creditors,  
26

1 interested parties and the non-transferring pass-through investors of the Motion and the  
2 hearing date was served. The hearing was held on the Motion on August 25, 2010 at 10:30  
3 a.m. in Phoenix.

4 Upon consideration of the Motion and statements and arguments of counsel at the  
5 hearing; it appears to the Court that:

- 6 (a) This Court has jurisdiction over the issues presented in the Motion;
- 7 (b) The purchase price offered constitutes fair consideration for the Property;
- 8 (c) The Purchaser is a good faith purchaser;
- 9 (d) The investors in CITLO Loan LLC and the applicable MP Funds have  
10 agreed by the applicable dollar vote to the sale terms;
- 11 (e) The ML Manager LLC is authorized to enter into the Sale Agreement, to  
12 sell the Property pursuant to the terms of the Sale Agreement, to proceed with this sale  
13 and to execute all necessary documents to implement the sale;
- 14 (f) The liens, claims, encumbrances and interests shall attach to the proceeds of  
15 the sale and the Property shall be transferred free and clear of liens, claims, encumbrances  
16 and interests;
- 17 (g) The decision to sell and enter into the Sale Agreement is supported by the  
18 best exercise of business judgment of ML Manager and is consistent with ML Manager's  
19 fiduciary duties and responsibilities.

20 IT IS THEREFORE ORDERED THAT:

- 21 (1) The Motion is granted and approved as set forth in this Order and all  
22 objections are overruled.
- 23 (2) ML Manager, as the Manager of CITLO Loan LLC and as agent for the  
24 non-transferring pass-through investors, has authority and is directed to enter into the Sale  
25 Agreement, to consummate the sale, to sell the Property pursuant to the terms of the Sale  
26 Agreement, and to execute any and all documents needed to consummate the sale.



1 (3) To the extent that the title company requires a deed to be executed by the  
2 non-transferring pass-through investors, the non-transferring pass-through investors are  
3 hereby directed and required to sign such deeds and in the event that they do not timely  
4 execute such deeds, then ML Manager is expressly authorized to execute them on their  
5 behalf and deliver the deeds to the title company.

6 (4) The sale and transfer of the Property to the Purchaser shall be free and clear  
7 of all liens, claims, encumbrances and interests with such liens claims, encumbrances and  
8 interests to attach to the proceeds.

9 (5) ML Manager is authorized to pay out of the sale proceeds all costs of sale,  
10 including real property taxes, assessments, broker's fees, title insurance or other closing  
11 costs and to pay out of the CITLO Loan LLC proceeds any liens or encumbrances on the  
12 Property owed to the current exit lender pursuant to the Loan Agreement, and to create  
13 and use any Permitted Reserves pursuant to the Loan Agreement.

14 (6) The Purchaser is a good faith purchaser for fair consideration of the  
15 Property.

16 (7) The net sale proceeds attributable to the ownership percentage for the  
17 CITLO Loan LLC shall be transferred at closing to the ML Manager as the Manager for  
18 the CITLO Loan LLC and used and distributed pursuant its agreements, the Interborrower  
19 Agreement and the Confirmation Order. The net sale proceeds attributable to the  
20 ownership percentage for the non-transferring pass-through investors shall be transferred  
21 to ML Manager as their agent and shall be used and distributed pursuant to the applicable  
22 agency agreements and the Confirmation Order.

23 (8) The 14-day stay of an order for the sale of property under Bankruptcy Rule  
24 6004(h) is hereby waived and shall not be applied to this Order.

25 DATED AND ORDERED AS STATED ABOVE.

26 2343604

IT IS HEREBY ADJUDGED  
and DECREED this is SO  
ORDERED.

The party obtaining this order is responsible for  
noticing it pursuant to Local Rule 9022-1.

Dated: August 26, 2010



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*Randolph J. Haines*

RANDOLPH J. HAINES  
U.S. Bankruptcy Judge

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

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

**Real Property located at 802 East Missouri  
Avenue, Phoenix, Arizona**

**Hearing Date: August 26, 2010  
Hearing Time: 3:30 p.m.**

16 ML Manager LLC ("ML Manager") filed a Motion ("Motion") (Docket No. 2867)  
17 requesting that the Court enter an order authorizing ML Manager as the manager for ZDC  
18 II Loan LLC and the agent for certain non-transferring pass-through investors, to sell the  
19 66 partially developed lots located at 802 East Missouri Avenue, Phoenix, Arizona (the  
20 "Property") for the price and on the terms set forth in the Agreement of Sale and Purchase  
21 and Escrow Instructions ("Sale Agreement") which was attached to the Motion as Exhibit  
22 A. Among other things, the Sale Agreement provides for the sale of the Property for  
23 approximately \$2,112,000 to WESCAP Investments, Inc. ("Purchaser"). A notice to  
24 creditors, interested parties and the non-transferring pass-through investors of the Motion  
25 and the hearing date was served. A Response to ML Manager's Motion to Approve Sale  
26 of Real Property (ZDC II Loan) (Docket No. 2881) ("Objection") was filed by Queen

1 Creek XVIII, LLC and Pueblo Sereno Mobile Home Park LLC (collectively, the  
2 “Objecting Parties”). The hearing was held on the Motion on August 26, 2010 at 3:30 a.m.  
3 in Phoenix.

4 Upon consideration of the Motion and statements and arguments of counsel at the  
5 hearing; it appears to the Court and the Court finds that:

6 (a) This Court has jurisdiction over the issues presented in the Motion and the  
7 Motion and the Court’s hearing thereon were duly and properly noticed;

8 (b) The purchase price offered constitutes fair consideration for the Property;

9 (c) The Purchaser is a good faith purchaser;

10 (d) The investors in ZDC II Loan LLC and the applicable MP Funds have  
11 agreed by the applicable dollar vote to the sale terms;

12 (e) The ML Manager LLC is authorized to enter into the Sale Agreement, to  
13 sell the Property pursuant to the terms of the Sale Agreement, to proceed with this sale  
14 and to execute all necessary documents to implement the sale;

15 (f) The liens, claims, encumbrances and interests shall attach to the proceeds of  
16 the sale and the Property shall be transferred free and clear of all liens, claims,  
17 encumbrances and interests of any kind;

18 (g) The decision to sell and enter into the Sale Agreement is supported by the  
19 best exercise of business judgment of ML Manager and is consistent with ML Manager’s  
20 fiduciary duties and responsibilities.

21 IT IS THEREFORE ORDERED THAT:

22 (1) The Motion is granted and approved as set forth in this Order and the  
23 Objection and any and all other responses or objections are overruled.

24 (2) ML Manager, as the Manager of ZDC II Loan LLC and as agent for the  
25 non-transferring pass-through investors, has authority and is directed to enter into the Sale  
26 Agreement, to consummate the sale, to sell the Property pursuant to the terms of the Sale

1 Agreement, and to execute any and all documents needed to consummate the sale.

2 (3) The sale and transfer of the Property to the Purchaser shall be free and clear  
3 of all liens, claims, encumbrances and interests of any kind with such liens claims,  
4 encumbrances and interests to attach to the proceeds.

5 (4) ML Manager is authorized to pay out of the sale proceeds all costs of sale,  
6 including real property taxes, assessments, broker's fees, title insurance or other closing  
7 costs and to pay out of the ZDC II Loan LLC proceeds any liens or encumbrances on the  
8 Property owed to the current exit lender pursuant to the Loan Agreement, and to create  
9 and use any Permitted Reserves pursuant to the Loan Agreement.

10 (5) The Purchaser is a good faith purchaser for fair consideration of the  
11 Property.

12 (6) The net sale proceeds attributable to the ownership percentage for the ZDC  
13 II Loan LLC shall be transferred at closing to the ML Manager as the Manager for the  
14 ZDC II Loan LLC and used and distributed pursuant its agreements, the Interborrower  
15 Agreement and the Confirmation Order. The net sale proceeds attributable to the  
16 ownership percentage for the non-transferring pass-through investors shall be transferred  
17 to ML Manager as their agent and shall be used and distributed pursuant to the applicable  
18 agency agreements and the Confirmation Order.

19 (7) The 14-day stay of an order for the sale of property under Bankruptcy Rule  
20 6004(h) is hereby waived and shall not be applied to this Order.

21 (8) Pursuant to Section 1146(a) of the Bankruptcy Code and Section 10.5 of the  
22 confirmed Plan of Reorganization, all mortgage recording tax, stamp tax, real estate  
23 transfer tax, speculative builder, transaction privilege or other similar tax imposed by  
24 federal, state or local law are hereby waived.

25 DATED AND ORDERED AS STATED ABOVE.

26 2343605.2

1 Robert J. Miller, Esq. (#013334)  
Bryce A. Suzuki, Esq. (#022721)  
2 **BRYAN CAVE LLP**  
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6  
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8 **IN THE UNITED STATES BANKRUPTCY COURT**  
9 **FOR THE DISTRICT OF ARIZONA**

10 In re:

11 MORTGAGES LTD.,

12 Debtor.

Chapter 11

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

13 **APPELLANTS' STATEMENT OF**  
14 **ELECTION TO HAVE APPEAL HEARD**  
15 **BY THE UNITED STATES DISTRICT**  
16 **COURT**

17 Pursuant to 28 U.S.C. § 158(c), Federal Rule of Bankruptcy Procedure 8001(e), and the  
18 Judicial Council of the Ninth Circuit's Amended Order Continuing the Bankruptcy Appellate  
19 Panel of the Ninth Circuit § 3 (May 9, 2002), Bear Tooth Mountain Holdings, LLP; Pueblo  
20 Sereno Mobile Home Park L.L.C.; Queen Creek XVIII, L.L.C.; and Morley Rosenfield, M.D.  
21 P.C. Restated Profit Sharing Plan ("Appellants") hereby elect to have this appeal heard by the  
22 United States District Court for the District of Arizona. Appellants object to this appeal being  
23 heard by the Bankruptcy Appellate Panel of the Ninth Circuit.

24 RESPECTFULLY SUBMITTED this 31<sup>st</sup> day of August, 2010.

25 BRYAN CAVE LLP

26 By: /s/ BAS, #022721

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COPY of the foregoing served via email  
this 31<sup>st</sup> day of August, 2010, upon:

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