

**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: May 10, 2011



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Handwritten signature of Randolph J. Haines in black ink.

RANDOLPH J. HAINES
U.S. Bankruptcy Judge

5 Attorneys for ML Manager LLC

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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**

**Real Property located at the southeast corner of
Central Ave. and Monroe St. in Phoenix,
Arizona**

Hearing Date: May 2, 2011
Hearing Time: 2:30 p.m.

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15 ML Manager LLC ("ML Manager") filed a Motion ("Motion") (Docket No. 3156)
16 requesting that the Court enter an order authorizing ML Manager as the manager for
17 C&M Loan LLC and the agent for certain non-transferring pass-through investors, to sell
18 the property located at the southeast corner of Central Ave. and Monroe St. in Phoenix,
19 Arizona which is more specifically described in the Sale Agreement (the "Property") for
20 the price and on the terms set forth in the Agreement of Sale and Purchase and Escrow
21 Instructions ("Sale Agreement"). Among other things, the Sale Agreement provides for
22 the sale of the Property for approximately \$7,750,000 to Stonebridge Realty Advisors,
23 Inc. ("Purchaser"). A notice to creditors, interested parties and the non-transferring pass-
24 through investors of the Motion and the hearing date was served. An Objection (Docket
25 No. 3187) was filed by members of the Rev Op Group Investors or certain of their alleged
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1 successors in interest (the “Rev-Op Group Objection”). KGM Builders, Inc. (“KGM”)
2 also filed a Limited Objection (Docket No. 3171) (“KGM Objection”). The hearing was
3 held on the Motion on May 2, 2011 at 2:30 p.m. in Phoenix and the Court at the
4 conclusion of the hearing made findings of fact and conclusions of law on the record.

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

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

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

10 (c) The investors in C&M Loan LLC and the applicable MP Funds have agreed
11 by the applicable dollar vote to the sale terms;

12 (d) 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 (e) The decision to sell and enter into the Sale Agreement is supported by the
16 best exercise of business judgment of ML Manager which is consistent with ML
17 Manager’s fiduciary duties and responsibilities.

18 IT IS THEREFORE ORDERED THAT:

19 (1) The Motion is granted and approved and the Rev-Op Group Objection is
20 overruled. As stated on the record at the hearing, Summit Builders has no objection to the
21 sale to Purchaser and at the closing agrees to release any mechanic liens it may have or
22 assert. In the event the sale to Purchaser does not close for any reason, Summit Builders
23 will not release any mechanics liens it may have and reserves the right to raise an
24 objection to any other sale.

25 (2) To address the KGM Objection, KGM and ML Manager agree that ML
26 Manager, using the sale proceeds as collateral for the bond, shall post a bond pursuant to

1 ARS Sec. 33-1004 and with a surety consistent with the statute in the amount of \$550,000
2 (“Bond”) for the sole benefit of KGM and ML Manager as the Manager and Agent with
3 the alleged lien or interests of KGM and ML Manager as Manager or Agent to attach to
4 the Bond, in the same manner, extent and priority that such lien or interests held in the
5 Property consistent with this Court’s Memorandum Decision dated February 15, 2011.
6 Escrow instructions shall be in a form mutually agreed upon by KGM, ML Manager and
7 the Title Company handling the closing. The Bond shall be disbursed or paid pursuant to
8 Court Order or mutual agreement of KGM and ML Manager without Court Order. All
9 disputes, arguments, defenses, and claims between KGM and ML Manager are preserved.
10 Nothing in this Order, including the bond or use of the sale proceeds, shall waive, release
11 or impact the coverage or liability of the title insurance policy for the payment of the
12 alleged mechanic’s lien of KGM. To the extent needed, ML Manager is authorized to use
13 sale proceeds to post additional bonds pursuant to ARS Sec. 33-1004 for other alleged
14 mechanic liens, including but not limited to Contractor’s Abatement, subject to all the
15 same terms as stated herein.

16 (3) ML Manager, as the Manager of C&M Loan LLC and as Agent for the pass-
17 through investors, including the alleged successors in interest to the Rev Op Group
18 Investors, has authority and is directed to enter into the Sale Agreement, to consummate
19 the sale, to sell the Property pursuant to the terms of the Sale Agreement, to execute the
20 conveyance deed to the Purchaser and to execute any and all documents needed to
21 consummate the sale.

22 (4) ML Manager is authorized to pay out of the sale proceeds all costs of sale,
23 including real property taxes, assessments, broker’s fees, title insurance or other closing
24 costs and to pay out of the C&M Loan LLC proceeds any liens or encumbrances on the
25 Property owed to the current exit lender pursuant to the Loan Agreement, and to create
26 and use any Permitted Reserves out of the C&M Loan LLC proceeds pursuant to the Loan

1 Agreement.

2 (5) The purchase price is fair consideration for the Property.

3 (6) The net sale proceeds attributable to the ownership percentage for the C&M
4 Loan LLC shall be transferred at closing to the ML Manager as the Manager for the C&M
5 Loan LLC and used pursuant its agreements, the Interborrower Agreement and the
6 Confirmation Order. The net sale proceeds attributable to the ownership percentage for
7 the non-transferring pass-through investors, including the Rev Op Group Investors, shall
8 be transferred to ML Manager as their Agent and held pending further motion of ML
9 Manager and order of the Court.

10 (7) Pursuant to Section 1146(a) of the Bankruptcy Code and Section 10.5 of the
11 confirmed Plan of Reorganization, any and all mortgage recording tax, stamp tax, real
12 estate transfer tax, speculative builder, transaction privilege or other similar tax imposed
13 by federal, state or local law are hereby waived.

14 DATED AND ORDERED AS STATED ABOVE.

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