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

12 In re

Chapter 11

13 MORTGAGES LTD.,

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

14 Debtor.

**REPLY TO OBJECTION TO MOTION TO
SELL REAL PROPERTY**

**Real Property located at the Northeast Corner
of Tweedy Rd. and Howard Rd., in City of Eloy,
County of Pinal, Arizona**

**Hearing Date: July 16, 2012
Hearing Time: 2:30 p.m.**

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19 ML Manager LLC (“ML Manager”), as the manager for CGSR Loan LLC and the
20 agent for certain Pass-Through Investors, hereby files this Reply in support of its Motion
21 to Sell (Docket No. 3516) real property and improvements located at the Northeast corner
22 of Tweedy Rd. and Howard Rd., in City of Eloy, Arizona, as more specifically described
23 in the Sale Agreement (“Property”), to Nicholas Farms, LLP, a North Dakota limited
24 liability partnership (“Purchaser”) for the price of \$1,577,720 (“Purchase Price”) and on
25 the terms set forth in the Agreement of Sale and Purchase (“Sale Agreement”) which is
26 attached as Exhibit A to the Motion or to a back up bidder upon terms as reasonably

1 determined by ML Manager. A short Objection (Docket No. 3524) was filed by certain
2 Rev Op Investor (“Objection”) wherein they incorporate by reference several pleadings
3 and the arguments in those pleadings, all of which were previously responded to by ML
4 Manager and overruled by this Court. Further this Court’s rulings on the prior objections
5 have been affirmed on appeal by the District Court. It does not appear that there are any
6 new arguments being raised by the Rev Op Investor. ML Manager requests that the Court
7 overrule the Objection and grant the Motion. ML Manager incorporates by reference all of
8 its replies and responses to the previous arguments raised by the Objection, including but
9 not limited to, that the Court retained jurisdiction to enter an order approving the sale,
10 that the Court has already ruled on the agent’s authority and found the agency to be
11 enforceable, that the agency is irrevocable and any termination of the agency is null and
12 void, that the decision to sell and to enter into the sale agreement is a valid exercise of the
13 business judgment of ML Manager consistent with its fiduciary duty, among other
14 arguments.

15 **I. THE RESULTS OF THE LOAN LLC VOTE**

16 The investors in CGSR Loan LLC and all the MP Funds who own 74.082% of the
17 interest in the Property were asked to vote on this Major Decision. As the Court will
18 recall, the operating agreement for the Loan LLC requires that Major Decisions (such as
19 selling the property) must be voted on by the members of the applicable limited liability
20 company and the investors in the MP Funds and must be approved by a majority in dollars
21 of those who vote. A vote has been conducted by ML Manager of the members in the
22 CGSR Loan LLC and MP Funds. Based on the voting results, 86.14% of the dollars which
23 were voted approved the sale. ML Manager asserts it is authorized to go forward with the
24 sale on behalf of the Loan LLC.

25 **II. RIGHT TO COMPETE BY THE EXIT FINANCIER**

26 One of the contingencies of the Sale Agreement concerns the Exit Financier. The

1 Exit Financier has indicated it does not intend to exercise its right to compete. This
2 contingency has been satisfied.

3 **III. EXERCISE OF VALID BUSINESS JUDGMENT**

4 ML Manager, in the exercise of its business judgment, has decided it is in the best
5 interest of the investors in the loan to sell the Property at this time for \$1,577,720 to the
6 Purchaser on the terms set forth in the Sale Agreement. ML Manager has had the Property
7 exposed to the market for over one and one-half years and listed the Property with CRA,
8 LLC, a leading real estate brokerage firm who has actively marketed the Property for sale.
9 Land Advisors Organization presented the Sale Agreement for the Purchaser. The
10 Purchaser has posted a Deposit of \$50,000 and has opened escrow at Thomas Title &
11 Escrow. The Purchaser has demonstrated that it has ample funds to purchase the Property.
12 The balance of the Purchase Price will be payable at close in cash. The sale is anticipated
13 to close around September 10, 2012. The Purchaser is a non-related third party with no
14 connections to ML Manager, the Board members, the investors or the exit financier.

15 The Borrower failed to pay or appeal the real property taxes. So the unpaid taxes
16 for 2008 are about \$131,822.01, for 2009 are about \$299,364.65, and for 2010 are about
17 \$219,860.60, plus accruing interest and penalties. That is over \$651,047.35 plus interest
18 and penalties that were not paid by the Borrower and were a lien on the property prior to
19 foreclosure. ML Manager foreclosed in August 2010. The taxes for 2011 were reduced to
20 \$111,379.22 and for 2012 to \$49,388.93. ML Manager hired the tax firm Integral Property
21 Tax Services to assist in the review and analysis of the taxes. Contrary to the unfounded
22 allegations in the Objection, ML Manager has addressed the unpaid taxes and has acted in
23 the best interest of the investors. The real property taxes will be paid from the sale
24 proceeds.

25 CGSR Loan LLC who owns 74.082% of the interests in the Property approved the
26 sale and no other Pass-Through Investors with the remaining interests in the Property

1 (other than the Rev Op Group) objected to the sale. ML Manager asserts that the sale at
2 this time, for this price and to the Purchaser under the terms of the Sale Agreement and
3 Motion is in the best interest of the investors and is a valid exercise of its business
4 judgment consistent with its fiduciary duties and should be approved.

5 WHEREFORE, ML Manager requests that the Court enter an order authorizing and
6 approving the sale as requested by ML Manager, overrule the Objection and grant such
7 other and further relief as is just and proper under the circumstances.

8 DATED: July 16, 2012

9 FENNEMORE CRAIG, P.C.

10 By /s/ Cathy L. Reece
11 Cathy L. Reece
12 Attorneys for ML Manager LLC

13 Copy of the foregoing sent this
14 16th day of July, 2012 by email to:

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