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7 Attorneys for Debtor

10 UNITED STATES BANKRUPTCY COURT

11 DISTRICT OF OREGON

12 In re

Case No. 14-30394-rld11

13 Bay Club Partners-472, LLC,

**DEBTOR'S FIRST AMENDED**  
**DISCLOSURE STATEMENT**

14 Debtor.

**(~~April 11~~ June 30, 2014)**

16 **1. INTRODUCTION**

17 On January 28, 2014 (the "Petition Date"), Bay Club Partners-472, LLC  
18 ("Debtor") filed a voluntary petition under Chapter 11 of Title 11 of the United States Code  
19 (the "Bankruptcy Code"). This Disclosure Statement ("Disclosure Statement") describes  
20 various transactions contemplated under the Plan, including the manner in which Claims and  
21 interests will be satisfied. A copy of the Plan is attached hereto as **Exhibit 1**. You are urged  
22 to review the Plan and, if appropriate, consult with counsel about the Plan and its impact  
23 upon your legal rights before voting on the Plan. Capitalized terms used but not defined in  
24 this Disclosure Statement shall have the meanings assigned to such terms in the Plan or the  
25 Bankruptcy Code.

1 This Disclosure Statement has been prepared by Debtor based on information  
2 contained in its books and records. The information contained herein has been prepared in  
3 good faith, based upon information available to it. The information concerning the Plan has  
4 not been subject to a verified audit. Debtor believes this Disclosure Statement complies with  
5 the requirements of the Bankruptcy Code.

6 The statements contained in this Disclosure Statement are made as of the date  
7 hereof, unless another time is specified herein, and the delivery of this Disclosure Statement  
8 shall not imply there has been no change in the facts set forth herein since the date of this  
9 Disclosure Statement and the date of the material relied on in preparation of this Disclosure  
10 Statement was compiled. The description of the Plan contained in this Disclosure Statement  
11 is intended as a summary only and is qualified in its entirety by reference to the Plan itself. If  
12 any inconsistency exists between the Plan and this Disclosure Statement, the terms of the  
13 Plan are controlling. Each holder of a Claim is encouraged to read, consider, and carefully  
14 analyze the terms and provisions of the Plan. This Disclosure Statement may not be relied on  
15 for any purpose other than to determine how to vote on the Plan. Nothing contained herein  
16 shall constitute an admission of any fact or liability by any party, or be admissible in any  
17 proceeding involving Debtor or any other party, or be deemed conclusive advice on the tax or  
18 other legal effects of the reorganization on the holders of Claims or interests.

19 This Disclosure Statement is submitted in accordance with Section 1125 of  
20 the Bankruptcy Code and Bankruptcy Rule 3016. The Bankruptcy Court has scheduled a  
21 hearing on confirmation of the Plan to commence on ~~\_\_\_\_\_~~, September 5, 2014 at 9:00  
22 a.m.~~\_\_\_\_\_~~. That hearing will be held at the United States Bankruptcy Court for the District  
23 of Oregon, Courtroom 3, 1001 SW Fifth Avenue, Portland, Oregon 97204 before the  
24 Honorable Randall L. Dunn. The hearing on confirmation may be adjourned from time to  
25 time by the Bankruptcy Court without further notice, except for an announcement made at  
26 the hearing or any adjournment thereof.

1 A ballot has been enclosed with this Disclosure Statement for use in voting on  
 2 the Plan. In order to be tabulated for purposes of determining whether the Plan has been  
 3 accepted or rejected, ballots must be received at the address indicated on the ballot no later  
 4 than 4:00 p.m. Pacific Time on ~~\_\_\_\_\_~~, August 29, 2014.

## 5 **2. SUMMARY OF PLAN**

6 A copy of the Plan is attached hereto as **Exhibit 1** and discussed in detail later  
 7 in this Disclosure Statement. The following description of the Plan is intended as a summary  
 8 only and is qualified in its entirety by reference to the Plan. Debtor urges each holder of a  
 9 Claim to carefully review the entire Plan, together with this Disclosure Statement, before  
 10 voting on the Plan.

### 11 **2.1 GENERAL**

12 Generally, the Plan provides that (a) CDO will be repaid in full with interest  
 13 by the third anniversary of the Effective Date; ~~-(b) General Unsecured creditors will be paid~~  
 14 in full with interest on the third anniversary of the Effective Date unless any such creditors  
 15 elect to be paid 60% of their Allowed Claims within 90 days of the Effective Date ~~unless any~~  
 16 ~~such creditor elects to be repaid in full with interest within three years of the Effective Date;~~  
 17 (c) all membership interests in Debtor will be retained; and (d) Debtor will operate in the  
 18 ordinary course and pay all Creditors pursuant to the Plan.

### 19 **2.2 SECURED CREDITORS**

20 Reorganized Debtor will pay its Secured Creditor, Legg Mason Real Estate  
 21 CDO I, Ltd. as follows.

22 2.2.1 CDO's Allowed Secured Claim will be paid in full as follows: CDO  
 23 will be paid monthly payments of interest only for 12 months at an interest rate of 4.50%, or  
 24 at such other rate fixed by the Court at confirmation. Commencing on first anniversary of  
 25 the Effective Date and continuing until the third anniversary of the Effective Date, CDO will  
 26 be paid equal, monthly amortizing payments of principal and interest at a fixed rate of 4.50%,

1 or at such other rate fixed by the Court at confirmation, based upon a 30-year amortization  
2 schedule with a balloon payment of the unpaid principal plus accrued interest due on the  
3 third anniversary of the Effective Date. Reorganized Debtor will maintain and insure  
4 Midtown on Main and promptly pay all real property taxes as they come due.

5 **2.3 UNSECURED CREDITORS**

6 2.3.1 Each holder of an Allowed Class 4 General Unsecured Claim shall  
7 be paid in full in Cash on the third anniversary of the Effective Date together with interest at  
8 a fixed rate of 3.0% accruing from the Effective Date. Alternatively, a holder of an Allowed  
9 Class 4 General Unsecured Claim may elect at the time of balloting to be paid 60% of its  
10 Claim in Cash within 90 days of the Effective Date in full satisfaction of its Claim. To the  
11 extent Allowed Unsecured Claims are paid on the third anniversary of the Effective Date, the  
12 aforementioned balloon payment to CDO will be paid before Debtor pays Allowed  
13 Unsecured Claims. Alternatively, a holder of an Allowed Class 4 General Unsecured Claim  
14 may elect at the time of balloting to be paid in full in Cash with interest at a fixed rate of  
15 3.0% within three years of the Effective Date.

16 **2.4 EQUITY INTERESTS**

17 The Plan provides that existing equity interests in Debtor will be retained.

18 **2.5 LEASES AND EXECUTORY CONTRACTS**

19 All unexpired leases and executory contracts will be treated as set out in  
20 Section 8.1 below.

21 **2.6 MISCELLANEOUS**

22 The Effective Date of the Plan shall be the first day of the first month  
23 following the date that the Confirmation Order becomes a Final Order.

24 In the event any Class does not accept the Plan, Debtor reserves the right to  
25 request that the Bankruptcy Court confirm the Plan in accordance with Section 1129(b) of the  
26 Bankruptcy Code or otherwise modify the Plan.

1 **3. BRIEF EXPLANATION OF CHAPTER 11**

2 Chapter 11 of the Bankruptcy Code is the principal reorganization provision  
3 of the Bankruptcy Code. Pursuant to Chapter 11, a debtor attempts to reorganize its business  
4 for the benefit of the debtor, its creditors, and other parties in interest.

5 The formulation and confirmation of a plan of reorganization is the principal  
6 purpose of a Chapter 11 case. A plan of reorganization sets forth a proposed method for  
7 compensating the holders of claims and interests in the debtor. A claim or interest is  
8 impaired under a plan of reorganization if the plan provides that the legal, equitable, or  
9 contractual rights of the holder of such claim or interest are altered. A holder of an impaired  
10 claim or interest is entitled to vote to accept or reject the plan. Chapter 11 does not require  
11 all holders of claims and interests to vote in favor of a plan in order for the Bankruptcy Court  
12 to confirm it. However, the Bankruptcy Court must find that the plan meets a number of  
13 statutory tests before it may approve the plan. These tests are designed to protect the  
14 interests of holders of claims or interests who do not vote to accept the plan, but who will  
15 nonetheless be bound by the plan's provisions if it is confirmed by the Bankruptcy Court.

16 An official committee of unsecured creditors may be appointed by the trustee  
17 in Chapter 11 cases to, among other things, negotiate the plan of reorganization on behalf of  
18 the unsecured creditors of the debtor. A committee of unsecured creditors has not yet been  
19 appointed by the United States Trustee in this case.

20 **4. VOTING PROCEDURES AND CONFIRMATION OF A PLAN**

21 **4.1 BALLOTS AND VOTING DEADLINE**

22 A ballot to be used for voting to accept or reject the Plan is enclosed with each  
23 copy of this Disclosure Statement mailed to all Creditors entitled to vote. After carefully  
24 reviewing this Disclosure Statement and its exhibits, including the Plan, please indicate your  
25 acceptance or rejection of the Plan by voting in favor or against the Plan on the enclosed  
26 ballot as directed below.

1 The Bankruptcy Court has directed that, to be counted for voting purposes,  
2 ballots for the acceptance or rejection of the Plan must be received no later than 4:00 p.m.  
3 Pacific Time, on ~~\_\_\_\_\_~~, August 29, 2014 by Debtor at the following address:

4 Tonkon Torp LLP  
5 Attention: Ava L. Schoen  
6 1600 Pioneer Tower  
888 S.W. Fifth Avenue  
Portland, OR 97204-2099

7 Holders of each Claim scheduled by Debtor or with respect to which a Proof  
8 of Claim has been filed will receive ballots and are permitted to vote based on the amount of  
9 the Proof of Claim. If no Proof of Claim has been filed, then the vote will be based on the  
10 amount scheduled by Debtor in its Schedules. Holders of disputed Claims who have settled  
11 their dispute with Debtor are entitled to vote the settled amount of their Claim. The  
12 Bankruptcy Code provides that such votes will be counted unless the Claim has been  
13 disputed, disallowed, disqualified or suspended prior to computation of the vote on the Plan.  
14 The Claim to which an objection has been filed is not allowed to vote unless and until the  
15 Bankruptcy Court rules on the objection. The Bankruptcy Code provides that the Bankruptcy  
16 Court may, if requested to do so by the holder of such claim, estimate or temporarily allow a  
17 disputed claim for the purposes of voting on the Plan.

18 If a person holds claims in more than one class entitled to vote on the Plan,  
19 such person will be entitled to complete and return a ballot for each Class. If you do not  
20 receive a ballot or if a ballot is damaged or lost, please contact:

21 Tonkon Torp LLP  
22 Attention: Ava L. Schoen  
23 1600 Pioneer Tower  
888 S.W. Fifth Avenue  
Portland, OR 97204-2099

24 All persons entitled to vote on the Plan may cast their vote for or against the  
25 Plan by completing, dating and signing the ballot accompanying this Disclosure Statement  
26 and returning it, by First Class Mail or hand delivery, to Debtor at the address indicated

1 above. In order to be counted, all ballots must be executed and received at the above address  
2 no later than 4:00 p.m. Pacific Time on ~~\_\_\_\_\_~~, August 29, 2014. Any ballots received after  
3 4:00 p.m. Pacific Time on ~~\_\_\_\_\_~~, August 29, 2014 will not be included in any calculation  
4 to determine whether the parties entitled to vote on the Plan have voted to accept or reject the  
5 Plan.

6 When a ballot is signed and returned without further instruction regarding  
7 acceptance or rejection of the Plan, the signed ballot shall be counted as a vote accepting the  
8 Plan. When a ballot is returned indicating acceptance or rejection of the Plan but is unsigned,  
9 the unsigned ballot will not be included in any calculation to determine whether parties  
10 entitled to vote on the Plan have voted to accept or reject the Plan. When a ballot is returned  
11 without indicating the amount of the Claim, the amount shall be as set forth on Debtor's  
12 Schedules or any Proof of Claim filed with respect to such Claim.

#### 13 **4.2 PARTIES ENTITLED TO VOTE**

14 Pursuant to Section 1126 of the Bankruptcy Code, each class of impaired  
15 claims or interests that is not deemed to reject the Plan is entitled to vote to accept or reject  
16 the Plan. Any holder of an Allowed Claim that is in an impaired class under the Plan, and  
17 whose Class is not deemed to reject the Plan, is entitled to vote. A Class is "impaired" unless  
18 the legal, equitable and contractual rights of the holders of claims in that Class are left  
19 unaltered by the Plan or if the Plan reinstates the Claims held by members of such Class by  
20 (1) curing any defaults, (2) reinstating the maturity of such claim, (3) compensating the  
21 holder of such claim for damages that result from the reasonable reliance on any contractual  
22 provision of law that allows acceleration of such claim and (4) otherwise leaving unaltered  
23 any legal, equitable or contractual right of which the Claim entitles the holder of such claim.  
24 Because of their favorable treatment, classes that are not impaired are conclusively presumed  
25 to accept the Plan. Accordingly, it is not necessary to solicit votes from the holders of claims  
26 in classes that are not impaired.

1 Classes of Claims or interests that will not receive or retain any money or  
2 property under a Plan on account of such Claims or interests are deemed, as a matter of law  
3 under Section 1126(g) of the Bankruptcy Code, to have rejected the Plan and are likewise not  
4 entitled to vote on the Plan.

5 Class 1 (Other Priority Claims) and Class 2 (Equity Security Holders) are not  
6 impaired and therefore are deemed to have accepted the Plan. Classes 3 (CDO) and Class 4  
7 (General Unsecured Claims) are impaired under the Plan and those holding Class 3 and  
8 Class 4 Claims are entitled to vote to accept or reject the Plan.

#### 9 **4.3 VOTES REQUIRED FOR CLASS ACCEPTANCE OF THE PLAN**

10 As a condition to confirmation, the Bankruptcy Code requires that each  
11 impaired Class of Claims or interests accept the Plan, subject to the exceptions described  
12 below in the section entitled "Cram Down of the Plan." At least one impaired Class of  
13 Claims must accept the Plan in order for the Plan to be confirmed.

14 For a Class of Claims to accept a plan, Section 1126 of the Bankruptcy Code  
15 requires acceptance by Creditors that hold at least two-thirds in dollar amount and a majority  
16 in number of the Allowed Claims of such Class, in both cases counting only those claims  
17 actually voting to accept or reject the plan. The holders of Claims who fail to vote are not  
18 counted as either accepting or rejecting the Plan. If the Plan is confirmed, the Plan will be  
19 binding with respect to all holders of Claims and interests in each Class, including Classes  
20 and members of Classes that did not vote or that voted to reject the Plan.

#### 21 **4.4 "CRAM DOWN" OF THE PLAN**

22 If the Plan is not accepted by all the impaired Classes of Claims, the Plan may  
23 still be confirmed by the Bankruptcy Court pursuant to Section 1129(b) of the Bankruptcy  
24 Code's "Cram Down" provision if the Plan has been accepted by at least one Impaired Class  
25 of Claims, without counting the acceptances of any insiders of Debtor, and the Bankruptcy  
26 Court determines, among other things, that the Plan "does not discriminate unfairly" and is



1 "fair and equitable" with respect to each non-accepting Impaired Class of Claims or interests.

## 2 4.5 CONFIRMATION HEARING

3 The Bankruptcy Court has scheduled a hearing on confirmation of the Plan to  
 4 take place on ~~\_\_\_\_\_~~, September 5, 2014 at ~~\_\_\_\_\_~~ 9:00 a.m. Pacific Time. The  
 5 Confirmation Hearing will be held at the United States Bankruptcy Court for the District of  
 6 Oregon, Courtroom 3, 1001 SW Fifth Avenue, 8th Floor, Portland, Oregon, before the  
 7 Honorable Randall L. Dunn, United States Bankruptcy Judge. At the hearing, the  
 8 Bankruptcy Court will consider whether the Plan satisfies the various requirements of the  
 9 Bankruptcy Code, including whether it is feasible and whether it is in the best interest of the  
 10 creditors of Debtor. At that time, Debtor will submit a report to the Bankruptcy Court  
 11 concerning the votes for acceptance or rejection of the Plan by the persons entitled to vote  
 12 thereon.

13 Section 1128(b) of the Bankruptcy Code provides that any party in interest  
 14 may object to confirmation of the Plan. Any objections to confirmation of the Plan must be  
 15 made in writing and filed with the Bankruptcy Court and received by counsel for Debtor no  
 16 later than ~~\_\_\_\_\_~~, August 29, 2014 by ~~\_\_\_\_\_~~ Pacific Time. Unless an objection to  
 17 confirmation is timely filed and received, it may not be considered by the Bankruptcy Court.

## 18 5. BACKGROUND AND GENERAL INFORMATION

### 19 5.1 DEBTOR

20 Debtor is an Oregon limited liability company formed in 2005 with its  
 21 principal place of business in Beaverton, Oregon. Debtor was formed to acquire, renovate  
 22 and operate multifamily residential property located at 2121 W. Main St., Mesa, Arizona  
 23 85201 known as Midtown on Main Street ("Midtown on Main" or the "Property"). Midtown  
 24 on Main has approximately 472 rental units and offers residents amenities including a fitness  
 25 center, spa, clubhouse, three swimming pools, a covered play area, assigned parking, and 24-  
 26 hour emergency maintenance services. Each unit has a dishwasher, refrigerator, air

1 conditioner, and full-sized washer/dryer. As of the Petition date, Midtown on Main has  
2 leased approximately 91% of the Property's apartments to residential tenants.

### 3 5.2 DEBTOR'S BUSINESS STRATEGY

4 Debtor's strategy was and is to lease residential units in a well-managed  
5 apartment complex at competitive rental rates. Midtown on Main offers desirable space to  
6 tenants and potential tenants. It is located directly on the METRO Light Rail line and near  
7 Interstate 10 and Highway 101, and is within easy access to Tempe, Arizona State  
8 University, and the greater Phoenix metropolitan area. As described above, the Property  
9 provides extensive amenities to tenants.

### 10 5.3 MANAGEMENT

11 Debtor is a limited liability company made up of four members: Red River  
12 Holdings, LLC; Residential Equity Partners, LLC; Trail Ranch Partners, LLC; and DRMMC  
13 Midtown, LLC. Bay Club Management, LLC is the manager of Debtor. Reorganized Debtor  
14 will continue to be managed by Bay Club Management, LLC.

15 Bay Club Management, LLC, managed by Residential Equity Partners, LLC  
16 or its successor manager will be entitled to reimbursement of expenses (including travel) not  
17 to exceed \$4,000 per month. ~~All members of Debtor will be entitled to distributions~~  
18 ~~necessary to pay any federal, state, or local income taxes arising from taxable income of the~~  
19 ~~Reorganized Debtor.~~ No other distributions will be made to members until all creditors have  
20 been paid in full pursuant to the Plan.

21 Debtor is party to an agreement with MEB Management ("MEB"), which  
22 provides third-party property management services for Midtown on Main. MEB was formed  
23 in 1998 and is currently the largest fee management company in Arizona. It manages over  
24 90 apartment communities throughout Arizona and the Southwest. Its services include asset  
25 and facility management for large apartment communities. Debtor has no ownership interest  
26 in MEB and MEB has no ownership interest in Debtor. MEB acts as Debtor's exclusive

1 agent for purposes of managing and operating the Property. MEB's responsibilities include  
 2 providing 24-hour emergency maintenance services, ensuring that repairs are made; entering  
 3 into service contracts; collecting and segregating rent; and paying expenses, taxes and  
 4 insurance. MEB renders comprehensive monthly statements to Debtor; these statements  
 5 reflect income, expenses, details of rent payments received, and details of payments made,  
 6 among other things. For its services, MEB is paid a fee of 2.75% of Midtown on Main's  
 7 gross revenues each month and an administration fee of 2% of MEB's gross payroll to cover  
 8 the cost of employers liability insurance and other related administrative costs. As of the  
 9 Effective Date, MEB will continue to carry out its work as property manager of Midtown on  
 10 Main.

11 Bay Club Management, LLC and MEB have in-depth experience in the  
 12 residential real estate industry and with the rental market in Mesa, Arizona.

#### 13 5.4 FINANCIAL PERFORMANCE

14 Attached as **Exhibit 2** is a spreadsheet that presents in summary fashion the  
 15 projected operating results for Debtor for three years from the anticipated Effective Date on a  
 16 monthly basis [as well as a summary of historical operating results through May 2014](#).

17 **Exhibit 2** reflects that Debtor has had financial success leasing units in Midtown on Main  
 18 and that Debtor projects that it will have adequate funds with which to repay its creditors.

19 Debtor's projections are based on the following assumptions:

- 20 • The projections are based on the historical operating performance of
- 21 Midtown on Main.
- 22 • The rental income projections are based upon market reports and operating
- 23 history indicating projected annual rent increases in Year 1 of 3.38%; in
- 24 Year 2 of 4.10%; and in Year 3 of 3.50%.
- 25 • Vacancy is projected to be approximately 6.9% per year.
- 26 • An annual increase in property taxes in Year 2 and Year 3 of 5%.

- An annual increase in insurance in Year 1 of 10%; in Year 2 of 5%; and in Year 3 of 5%.
- An overall 3% annual increase in other expenses.
- The CDO secured claim is assumed to be \$27,000,000.
- The CDO's secured claim will accrue interest at 4.50% per annum.

Debtor believes the projections are reasonable and achievable, but there are many variables that can and will affect the actual financial results that are achieved by Reorganized Debtor.

## **6. THE BANKRUPTCY CASE**

### **6.1 THE FILING**

On or about November 15, 2005, Legg Mason CDO Real Estate Capital II, Inc. made a loan in the original amount of \$23,600,000 to Debtor, as reflected by the promissory note of that same date (the "Note"). The Note is secured by a Deed of Trust, Security Agreement and Financing Statement (the "Deed of Trust") and Assignment of Leases and Rents. The Note and related loan documents were subsequently assigned to the CDO. The Deed of Trust encumbers real property and improvements referred to herein as Midtown on Main. The Note, Deed of Trust and all related documents are referred to collectively herein as the "Loan Documents."

The terms of the Loan Documents were modified four times. As a result of these modifications, the principal balance on the Note was increased to \$24,000,000, [additional funds were deposited in reserve accounts](#), the maturity date of the Note was extended to March 1, 2014, and [CDO permitted Debtor to defer a portion of the accrued interest until maturity](#)~~an exit fee of almost \$3,000,000.~~

On or about January 17, 2014, Debtor received a notice of default on the Note

1 from CDO. On that same day, CDO offset Debtor's reserve accounts (including taxes,  
2 insurance, and capital expenses) in the total amount of \$345,006.68.

3 In order to keep Debtor operating, and protect Debtor's creditors, Debtor  
4 resolved to seek the protection of Chapter 11 Bankruptcy.

5 As of the Petition Date and assuming a forced sale in a short time frame,  
6 Debtor believed the Property was worth approximately \$27,000,000. Debtor believes the  
7 Property has increased in value and that the market has improved since that time. Debtor  
8 believes that after it emerges from bankruptcy and has flexibility to market the Property in  
9 the ordinary course and without deadlines, the value of the Property will exceed \$32,000,000.  
10 After the bankruptcy case was filed, Debtor received a non-binding indication of interest  
11 from a qualified buyer in the amount of \$31,500,000.

12 Debtor marketed the Property for sale in 2013 prior to filing for bankruptcy.  
13 In connection with that marketing effort, Debtor received non-binding indications of interest  
14 ranging from \$27,000,000 to \$32,000,000 subject to inspection and due diligence periods, as  
15 set forth in the summary attached as **Exhibit 3**. Given that any sale would have been a  
16 distressed sale, Debtor believed that the sale price would have been depressed and would not  
17 have exceeded \$28,000,000.

## 18 **6.2 MOTION TO DISMISS**

19 The CDO filed a motion to dismiss the bankruptcy case on March 6, 2014,  
20 based on whether Debtor had authority to file for bankruptcy. Debtor ~~opposes~~ opposed the  
21 motion to dismiss, ~~and believes~~ believing it had the legal authority to file for bankruptcy  
22 protection. A hearing on the motion to dismiss ~~took place on~~ is set for April 23, 2014. On  
23 May 12, 2014, the Court entered an order denying the motion to dismiss for the reasons cited  
24 in the Court's May 6, 2014 Memorandum Opinion.

25 Trail Ranch Partners, LLC, the owner of a 20% membership interest in  
26 Debtor, opposed the bankruptcy filing. Trail Ranch Partners indicated that it would prefer a

1 prompt sale of the Property. CDO wants a prompt sale of the Property and believes the  
2 Property could be sold now at a price sufficient to pay creditors in full. –Debtor disagrees  
3 and believes that a prompt sale of the Property would be a distressed sale that would not  
4 generate adequate proceeds to pay all creditors in full. Debtor believes that by having up to  
5 three years to sell the Property, it will generate a higher sale price for the Property.

6  
7 **6.3 ADEQUATE PROTECTION PAYMENTS**

8 Debtor paid CDO \$115,000 in May, 2014 and \$135,000 in June, 2014  
9 as adequate protection payments. Debtor will continue making adequate protection payments  
10 pending the confirmation hearing.

11 **7. ASSETS AND LIABILITIES**

12 **7.1 ASSETS**

13 Debtor's principal asset is the multifamily residential property, Midtown on  
14 Main, located at 2121 W. Main Street, Mesa, Arizona 85201.

15 Debtor generates revenue from ~~the~~ leasing residential units to tenants.  
16 Currently, Debtor has 472 residential units available to lease; approximately 94% of the units  
17 are currently leased. Debtor generates approximately \$311,000 per month in operating  
18 revenue.

19 **7.2 LIABILITIES**

20 7.2.1 Legg Mason Real Estate CDO I, Ltd. Debtor scheduled CDO's  
21 secured claim for \$26,913,000. The obligations of Debtor to the CDO are secured by a  
22 perfected security interest in Midtown on Main and rents. The CDO is a secured creditor of  
23 Debtor up to the value of the collateral. Debtor believes CDO's claim is fully secured.

24 7.2.2 Unsecured Creditors. Debtor owes approximately \$285,000 to  
25 unsecured creditors, excluding security deposits that may become owing pursuant to Tenant  
26 Leases.

1 **8. ADMINISTRATIVE EXPENSES**

2 Debtor has retained Tonkon Torp LLP as its counsel in this case. Debtor has  
3 retained Maginnis & Carey LLP to provide accounting and tax services. Debtor anticipates it  
4 will incur approximately \$131,000 in professional fees and expenses through confirmation of  
5 the Plan. In addition, Debtor's manager continues to incur out-of-pocket expenses totaling  
6 approximately \$10,000.

7 **8.1 EXECUTORY CONTRACTS**

8 Debtor is a party to (a) a contract with MEB Management for property  
9 management services and (b) leases with the tenants in Midtown on Main.

10 Debtor will assume its contract with MEB Management and cure any default  
11 of that contract on the Effective Date.

12 On the Effective Date, Debtor will assume all Tenant Leases.

13 **9. DESCRIPTION OF PLAN OF REORGANIZATION**

14 **9.1 BRIEF EXPLANATION OF CHAPTER 11**

15 Chapter 11 is the principal business reorganization chapter of the Bankruptcy  
16 Code. Under Chapter 11, a debtor is authorized to reorganize its business for the benefit of  
17 itself, its creditors and equity holders. In addition to permitting rehabilitation of the debtor,  
18 another goal of Chapter 11 is to promote equality of treatment of creditors and equity holders  
19 of equal rank with respect to the distribution of a debtor's assets. In furtherance of these two  
20 goals, upon the filing of the reorganization under Chapter 11, Section 362 of the Bankruptcy  
21 Code generally provides for an automatic stay of substantially all acts and proceedings  
22 against the debtor and its property, including all attempts to collect debts or enforce liens that  
23 arose prior to commencement of the debtor's case under Chapter 11.

24 The confirmation of a plan of reorganization is the principal objective of a  
25 Chapter 11 reorganization case. A plan of reorganization sets forth the means for satisfying  
26 claims against, and interests in, a debtor. Confirmation of a plan of reorganization by a

1 bankruptcy court makes the plan binding upon the debtor, any issuer of securities under the  
 2 plan, any person acquiring property under the plan, and any creditor and any equity holder of  
 3 the debtor. Subject to certain limited exceptions provided by the Bankruptcy Code and  
 4 except as specifically provided in the plan of reorganization, the confirmation order  
 5 discharges the debtor from any debt that arose prior to the date of such confirmation and  
 6 order and substitutes therefor the obligations specified in the plan.

7 **9.2 SOLICITATION AND CLASSIFICATION AND TREATMENT OF**  
 8 **CLAIMS AND INTERESTS**

9 9.2.1 General. Pursuant to Section 1123(a)(1) of the Bankruptcy Code, a  
 10 plan of reorganization must designate classes of claims and classes of interest. The plan  
 11 classifies all Claims and interests into four classes. The classification of Claims and interests  
 12 is made for the purpose of voting on the plan and making distributions thereunder, and for  
 13 ease of administration of the Plan. A Claim or interest is classified in a particular Class only  
 14 to the extent that the Claim or Interest qualifies within the description of that Class and is  
 15 classified in a different Class to the extent that the Claim or interest qualifies within the  
 16 description of such different Class. A Claim or interest is entitled to vote in a particular  
 17 Class and to receive distribution in such Class only to the extent that such Claim or interest is  
 18 an Allowed Claim or Allowed interest in that Class and has not been paid prior to the  
 19 Effective Date. Under the Plan, a Claim or interest is an Allowed Claim against or an  
 20 Allowed interest in Debtor to the extent that ~~(a1)~~ a proof of the Claim or interest was  
 21 ~~(aA)~~ timely filed, or ~~(Bb)~~ deemed filed under applicable law by reason of an order of the  
 22 Bankruptcy Court; or ~~(eC)~~ scheduled by Debtor on its Schedules of Liabilities as neither  
 23 contingent, unliquidated or disputed; and ~~(b2)~~ ~~(aA)~~ no party in interest has filed an objection  
 24 within the time fixed by the Bankruptcy Court; or ~~(bB)~~ the Claim or interest is allowed by  
 25 Final Order; and ~~(e3)~~ with respect to an application for compensation or reimbursement of an  
 26



1 Administrative Expense Claim, the amount of Administrative Expense Claim ~~of which~~ has  
2 been approved by the Bankruptcy Court.

3 9.2.2 Unclassified Claims. Administrative Expense Claims and Priority  
4 Tax Claims are not classified. An Administrative Expense Claim is a claim against Debtor  
5 constituting an expense of administration of the Bankruptcy Case allowed under  
6 Section 503(b) of the Bankruptcy Code, including, without limitation, the actual and  
7 necessary costs and expenses of preserving the estate and operating the business of Debtor  
8 during the case, any indebtedness or obligations incurred by Debtor during the pendency of  
9 the case in connection with the conduct of, the acquisition or lease of property by, or the  
10 rendition of services to, Debtor and compensation for legal and other professional services  
11 and reimbursement of expenses and statutory fees payable to the United States Trustee.

12 A "Priority Tax Claim" is a claim of a governmental unit of the kind entitled  
13 to priority under Section 507(a)(8) of the Bankruptcy Code. Debtor does not believe it owes  
14 any significant amount of Priority Tax Claims.

15 Pursuant to the Plan, Administrative Expense Claims will be paid in full on  
16 the later of the Effective Date or the date on which any such Administrative Expense Claim  
17 becomes an Allowed Claim; provided, however, that the Administrative Expense Claim  
18 representing liabilities incurred in the ordinary course of business (including amounts owed  
19 to vendors and suppliers that have sold products or furnished services to Debtor after the  
20 Petition Date) will be paid in accordance with the terms and conditions of the particular  
21 transactions and any other agreements relating thereto.

22 Priority Tax Claims will be paid as allowed by Section 1129(a)(9) on the  
23 Effective Date or the date the claim is Allowed, whichever first occurs.

24 9.2.3 Classified Claims. The following summary of distributions under  
25 the Plan to Classified Claims does not purport to be complete and is subject to, and is  
26 qualified in its entirety by reference to, the Plan attached hereto as **Exhibit 1**.

1                   9.2.3.1. Class 1 - Allowed Other Priority Claims. An "Other  
2 Priority Claim" is a claim against Debtor entitled to priority under Section 507(a) of the  
3 Bankruptcy Code (other than an Administrative Expense Claim or Priority Tax Claim).  
4 Debtor is unaware of any unpaid Other Priority Claim. However, pursuant to the Plan, unless  
5 otherwise agreed by any holder of an Allowed Other Priority Claim, any such holder shall be  
6 paid in full on the latest to occur of (1) the Effective Date, (2) the date such claim becomes  
7 an Allowed Claim and (3) the date that the such claim becomes due and owing.

8                   9.2.3.2. Class 2 – Equity Security Holders. The Plan provides  
9 that holders of Debtor's Equity Securities will retain their Equity Securities.

10                   Class 2 is unimpaired and is not entitled to vote on the Plan.

11                   9.2.3.3. Class 3 - Legg Mason Real Estate CDO I, Ltd. 's Secured  
12 Claim. Class 3 consists of the Allowed Secured Claim of the CDO. The CDO's Allowed  
13 Secured Claim is secured by a perfected security interest in substantially all of Debtor's  
14 assets, including rents. The CDO will retain its interests in its Collateral with the same  
15 priority that it had as of the Petition Date. The CDO's claim will be an Allowed Secured  
16 Claim up to the value of the property securing the claim as agreed by the parties or set by the  
17 Court. CDO's Allowed Secured Claim will be paid in full as follows: CDO will be paid  
18 monthly payments of interest only for 12 months at an interest rate of 4.50%, or at such other  
19 rate fixed by the Court at confirmation. Commencing on first anniversary of the Effective  
20 Date and continuing until the third anniversary of the Effective Date, CDO will be paid  
21 equal, monthly amortizing payments of principal and interest at a fixed rate of 4.50%, or at  
22 such other rate fixed by the Court at confirmation, based upon a 30-year amortization  
23 schedule with a balloon payment of the unpaid principal plus accrued interest due on the  
24 third anniversary of the Effective Date. Any Allowed accrued and unpaid interest on the  
25 secured claim of CDO and any Allowed reasonable attorney fees and costs of CDO will be  
26

1 added to the Allowed claim of CDO. Reorganized Debtor will maintain and insure Midtown  
2 on Main and promptly pay all real property taxes as they come due.

3 Class 3 is impaired and the CDO is entitled to vote on the Plan.

4 9.2.3.4. Class 4 – General Unsecured Claims. Each holder of an  
5 Allowed Class 4 General Unsecured Claim shall be paid in full in Cash on the third  
6 anniversary of the Effective Date with interest accruing from the Effective Date at a fixed  
7 rate of 3.0%. ~~60% of its Claim in Cash within 90 days of the Effective Date in full satisfaction~~  
8 ~~of its Claim.~~ Alternatively, a holder of an Allowed Class 4 General Unsecured Claim may  
9 elect at the time of balloting to be paid 60% of its Claim in Cash within 90 days of the  
10 Effective Date in full satisfaction of its Claim. ~~in full in Cash with interest at a fixed rate of~~  
11 ~~3.0% within three years of the Effective Date.~~ Debtor believes that General Unsecured  
12 Claims total approximately \$285,000 (or approximately \$171,000 at 60%) excluding any  
13 security deposits that may become owing pursuant to Tenant Leases.  Holders of security  
14 deposit claims are not included in Class 4; security deposits will be returned to tenants of the  
15 Property in the ordinary course.

16 Class 4 is impaired and General Unsecured Creditors are entitled to vote on  
17 the Plan.

## 18 **10. EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

19 The Bankruptcy Code gives debtors the right, after commencement of their  
20 Chapter 11 Cases, subject to the approval of the Bankruptcy Court, to assume or reject  
21 executory contracts and unexpired leases. Generally, an "executory contract" is a contract  
22 under which material performance (other than the payment of money) is still due by each  
23 party. The Plan provides for the assumption by the Debtor of all executory contracts and  
24 unexpired leases that are not expressly rejected or subject to a motion for rejection filed on or  
25 before the Confirmation Date.

26 If an executory contract or unexpired lease is or has been rejected, the other

1 party to the agreement may file a Proof of Claim for damages resulting from such rejection.  
 2 The Plan provides that a Proof of Claim with respect to any such Claim must be filed within  
 3 30 days of approval of the Bankruptcy Court of the rejection of the relevant executory  
 4 contract or unexpired lease. Any such Claim shall constitute a Class 4 Claim to the extent  
 5 that such Claim is finally treated as an Allowed Claim. To the extent Debtor rejects an  
 6 unexpired lease of nonresidential real property, the Claim for damages resulting from such  
 7 rejection will be limited to the amount allowed under the Bankruptcy Code.

8           Upon assumption of an executory contract or unexpired lease, Debtor must  
 9 cure or provide adequate assurance of prompt cure of any monetary defaults. The Plan  
 10 provides that Reorganized Debtor will promptly cure all monetary defaults.

## 11 **11. EFFECT OF CONFIRMATION**

12           11.1.1 Discharge. The treatment of, and consideration received by, holders  
 13 of Allowed Claims and Allowed interests pursuant to the Plan of Reorganization will be in  
 14 full satisfaction, release and discharge of their respective Claims against or interests in the  
 15 Debtor. The Confirmation will discharge Debtor from any liability that arose before the  
 16 Effective Date as provided in Sections 524 and 1141 of the Bankruptcy Code and any debt  
 17 and liability of a kind specified in Sections 502(g), 502(h) or 502(i) of the Bankruptcy Code,  
 18 whether or not: (a) a Proof of Claim based on such debt or liability is filed or deemed filed  
 19 under Section 501 of the Bankruptcy Code; (b) a Claim based on such debt or liability is  
 20 Allowed; or (c) the holder of the Claim based on such debt or liability has accepted the Plan.

21           11.1.2 Revesting, Operation of Business. All property of the estate shall  
 22 revert in the Reorganized Debtor on the Effective Date free and clear of all rights, claims,  
 23 liens, charges, encumbrances and interests, except as otherwise provided in the Plan.

24           11.1.3 Injunction. Except as otherwise expressly provided in the Plan, all  
 25 persons who have held, hold, or may hold Claims or who may have held, hold or may hold  
 26 any interest are permanently enjoined from and after the Effective Date from

1 (a) commencing or continuing in any manner any action or other proceedings of any kind  
2 with respect to any Claims or interests against Reorganized Debtor; (b) enforcing, attaching,  
3 collecting or recovering by any manner or any means any judgment, award, decree or order  
4 against Reorganized Debtor; (c) creating, perfecting or enforcing any encumbrances of any  
5 kind against Reorganized Debtor with respect to any such Claim except as specifically set  
6 forth in the Plan; (d) asserting any setoff, right of subrogation, or recoupment of any kind  
7 against any obligation due to Debtor, Reorganized Debtor or their property; and  
8 (e) proceeding in any manner in any place whatsoever that does not conform to, does not  
9 comply with, or is inconsistent with the provisions of the Plan or the order confirming the  
10 Plan.

11 11.1.4 Event of Default. Upon the occurrence of an Event of Default, the  
12 holder of an Allowed Claim to whom performance is due shall have all rights and remedies  
13 granted by law (namely, state law breach of contract rights), this Plan, or any agreement  
14 between the holder of such Claim and Debtor or Reorganized Debtor.

15 11.1.5 Utility Deposits. The Plan provides that all utilities holding a Utility  
16 Deposit shall immediately after the Effective Date return or refund such Utility Deposit to  
17 Reorganized Debtor. At the sole option of Reorganized Debtor, Reorganized Debtor may  
18 apply any Utility Deposit that has not been refunded to Reorganized Debtor in satisfaction of  
19 any payments due or to become due from Reorganized Debtor to a utility holding such a  
20 Utility Deposit.

21 11.1.6 Modification of the Plan; Revocation or Withdrawal of the Plan.

22 Subject to Section 1127 of the Bankruptcy Code, Debtor reserves the right to  
23 alter, amend or modify the Plan before its substantial consummation so long as the treatment  
24 of holders of Claims and interests under the Plan is not adversely affected.

25 11.1.7 Retention of Jurisdiction. Notwithstanding the entry of the  
26 Confirmation Order or the Effective Date having occurred, the Bankruptcy Court shall retain

1 exclusive jurisdiction over all matters arising out of or relating to the Chapter 11 Case,  
2 including but not limited to the following matters~~to~~: (a) hear and determine any pending  
3 applications for the rejection of executory contracts or unexpired leases, and the allowance of  
4 Claims resulting therefrom; (b) determine any adversary proceedings, applications, contested  
5 matters or other litigation matters pending on the Effective Date; (c) insure that distributions  
6 to holders of Allowed Claims are accomplished; (d) hear and determine objections to or  
7 requests for estimations of Claims, including any objections to the classification of any Claim  
8 and to allow, disallow and/or estimate any Claim in whole or in part; (e) enter and implement  
9 such orders as may be appropriate in the event the Confirmation Order is for any reason  
10 stayed, revoked, modified or vacated; (f) issue any appropriate orders in aid of execution of  
11 the Plan or to enforce the Confirmation Order and/or the discharge, or the effect of such  
12 discharge, provided to Debtor; (g) hear and determine any applications to modify the Plan, to  
13 cure any defect~~ive~~ or omission or to reconcile any inconsistency in the Plan or in any order of  
14 the Bankruptcy Court, including, without limitation, the Confirmation Order; (h) hear and  
15 determine all applications for compensation and reimbursement of expenses of professionals  
16 under the Bankruptcy Code; (a) hear and determine disputes arising in connection with the  
17 interpretation, implementation or enforcement of the Plan; (j) hear and determine other issues  
18 presented or arising under the Plan; (k) hear and determine any other matters related hereto  
19 and not inconsistent with Chapter 11 of the Bankruptcy Code; and (l) enter a final decree  
20 closing the Chapter 11 Case.

21 11.1.8 U.S. Trustee Fees. Reorganized Debtor shall be responsible for  
22 timely payment of fees incurred pursuant to 28 U.S.C. § 1930(a)(6) until the case is closed,  
23 converted or dismissed. After confirmation, Reorganized Debtor shall serve on the United  
24 States Trustee a financial report for each quarter, or portion thereof, that the case remains  
25 open. The quarterly financial report shall include a statement of all disbursements made  
26 during the course of the quarter, whether or not pursuant to the Plan.

**12. LIQUIDATION ANALYSIS**

A Plan of Reorganization cannot be confirmed unless the Bankruptcy Court finds the Plan is in the best interests of each holder of a Claim in an impaired Class that has not voted to accept the Plan. The best interest test is satisfied if the plan provides each dissenting or non-voting member of each impaired Class with a recovery not less than the recovery such member would receive if the debtor was liquidated in a hypothetical case under Chapter 7 of the Bankruptcy Code by a Chapter 7 Trustee. Debtor believes the holders of impaired Claims will receive more than they would receive under a Chapter 7 liquidation. In applying the "best interest" test, the Bankruptcy Court would ascertain the hypothetical recovery in a Chapter 7 proceeding to secured creditors, priority claimants, general unsecured creditors and equity interest holders. The hypothetical Chapter 7 recoveries would then be compared with the distribution offered to each Class of Claims or interests under the Plan to determine that the Plan satisfied the "best interest" test set forth in the Bankruptcy Code.

~~In a liquidation, it is likely that the CDO's secured claim (Class 3) would be paid a little less than in full and General Unsecured Claims (Class 4) would receive nothing.~~ Debtor believes the current market value for the Property is approximately \$32,000,000. If the Property were sold in a Chapter 7 forced sale, a Chapter 7 trustee would not be able to maximize the value of the Property. For purposes of the liquidation analysis set out below, Debtor assumes that the Property would sell for approximately 15% less in a Chapter 7 liquidation than it would sell for in a competitive market environment. Accordingly, Debtor starts its liquidation analysis with an asset value of \$27,200,000. In a liquidation, it is likely that the CDO's secured claim (Class 3) would be paid a little less than in full and General Unsecured Claims (Class 4) would receive nothing. The following chart demonstrates this:

Total Assets (Liquidation Value of Building)	\$27, <del>000</del> <u>200</u> ,000
Less Selling Expenses (5%)	\$1, <del>350</del> <u>360</u> ,000

1	Net Available to Creditors	\$25, <del>650</del> <u>840</u> ,000
2	Less CDO's Secured Claims	\$26,913,000
3	Net Available After Payment of Secured Claim	(\$1, <del>263</del> <u>073</u> ,000)
4	Less Other Claimants:	
	Administrative Expenses	\$141,000
5	Unsecured Claims	\$285,314
6	Projected Distributions Other Than To Secured Creditors:	0%

7 **13. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

8 Internal Revenue Service Circular 230 Notice

9 TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY

10 THE INTERNAL REVENUE SERVICE, EACH CREDITOR AND EACH MEMBER IS  
11 HEREBY NOTIFIED THAT (A) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN  
12 THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED  
13 UPON, AND CANNOT BE RELIED UPON BY ANY CREDITOR OR MEMBER, FOR  
14 PURPOSES OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON SUCH  
15 CREDITOR OR MEMBER UNDER THE INTERNAL REVENUE CODE OF 1986, AS  
16 AMENDED; (B) SUCH DISCUSSION IS WRITTEN TO SUPPORT THE PROMOTION  
17 OF THE PLAN; AND (C) EACH CREDITOR AND EACH MEMBER SHOULD SEEK  
18 ADVICE BASED ON SUCH CREDITOR'S OR MEMBER'S PARTICULAR  
19 CIRCUMSTANCE FROM AN INDEPENDENT TAX ADVISOR.

20 **13.1 INTRODUCTION**

21 Implementation of the Plan may have federal, state, local and foreign tax  
22 consequences to the Debtor, Creditors and Members. No tax opinion or ruling has been  
23 sought or will be obtained with respect to any tax consequences of the Plan, and the  
24 following discussion does not constitute and is not intended to constitute either a tax opinion  
25 or tax advice to any person.

26 The following discussion is based upon the provisions of the Internal Revenue



1 Code of 1986, as amended (the "IRC"), the Treasury regulations promulgated thereunder, and  
2 published rulings and court decisions in effect as of the date hereof, all of which are subject  
3 to change, possibly retroactively, and such changes could modify or adversely affect the  
4 federal income tax consequences summarized below. There can be no assurance that the  
5 Internal Revenue Service will agree with the federal income tax consequences described  
6 below.

7 The federal income tax consequences of the Plan are complex. Each Creditor  
8 and each Member is strongly urged to consult its own tax advisors as to the particular federal,  
9 state, local and foreign income and other tax consequences of the transactions contemplated  
10 by the Plan.

### 11 12 13 **13.2 CANCELLATION OF DEBT INCOME: GENERAL RULE**

14 Subject to certain exceptions, a debtor realizes income (referred to herein as  
15 "cancellation of debt" or "COD" income) upon the discharge or cancellation of its  
16 outstanding indebtedness in an amount equal to the excess (if any) of (a) the amount of the  
17 indebtedness discharged over (b) the amount of cash plus the issue price of any new  
18 indebtedness issued plus the fair market value of any other consideration given in satisfaction  
19 of the indebtedness.

20 One of the exceptions to this general rule provides that a debtor is not required  
21 to include COD income in gross income if the debtor is under the jurisdiction of the court in  
22 a Title 11 case and the discharge is granted by the court or the discharge is pursuant to a plan  
23 approved by the court (the "Bankruptcy Exception"). Instead, the amount excluded from  
24 gross income is applied to reduce certain tax attributes of the debtor in a specified order. Tax  
25 attributes generally are reduced by one dollar for each dollar excluded from gross income,  
26 except that tax credits are reduced by one-third of the amount excluded from gross income.

1 Notwithstanding the general order of attribute reduction, the IRC provides a debtor with an  
2 election to reduce its tax basis in depreciable assets prior to reducing net operating losses.  
3 The reduction in tax attributes generally takes place after the federal income tax is  
4 determined for the tax year in which the debt discharge occurs. As Debtor is a partnership  
5 for federal income tax purposes, the COD rules will apply at the Member level only.

### 6 **13.3 GENERAL DISCUSSION AND CANCELLATION OF DEBT** 7 **INCOME: DEBTOR AND MEMBERS**

8 The Debtor is classified as a partnership for federal income tax purposes.  
9 Section 1399 of the IRC provides that no separate taxable entity is created as a result of a  
10 partnership in bankruptcy. Therefore, the commencement of a bankruptcy proceeding by or  
11 against the Debtor will not result in the creation of a new taxable entity, nor will the  
12 commencement of the proceedings result in the recognition of any income, gain or loss to the  
13 Debtor, or result in the acceleration of any income or recapture of any tax benefits to the  
14 Debtor or its Members.

15 Under the IRC, any cancellation of debt income recognized by the Debtor  
16 flows through to the ultimate beneficial owners of membership interests in the Debtor.  
17 Because the IRC exclusions from cancellation of debt income for discharge of debt in a Title  
18 11 bankruptcy case or with respect to an insolvent taxpayer are applied at the ultimate  
19 beneficial owner level, they are not available with respect to a Member's allocable share of  
20 cancellation of debt income of the Debtor, unless that ultimate beneficial owner is itself the  
21 subject of a Title 11 bankruptcy case or is insolvent.

### 22 **13.4 INFORMATION REPORTING AND BACKUP WITHHOLDING**

23 Certain payments, including the payments with respect to Claims pursuant to  
24 the Plan, are generally subject to information reporting by the payor to the IRS. Moreover,  
25 under certain circumstances, a holder of a Claim may be subject to "backup withholding"  
26 with respect to payments made pursuant to the Plan, unless such holder either (a) comes

1 within certain exempt categories (which generally include corporations) and, when required,  
 2 demonstrates this fact, or (b) provides a correct United States taxpayer identification number  
 3 and certifies under penalty of perjury that the holder is a United States person, the taxpayer  
 4 identification number is correct, and that the taxpayer is not subject to backup withholding  
 5 because of a failure to report all dividend and interest income. Backup withholding is not an  
 6 additional tax. Amounts withheld under the backup withholding rules may be credited  
 7 against the holder's United States federal income tax liability, and the holder may obtain a  
 8 refund of any excess amounts withheld under the backup withholding rules by filing an  
 9 appropriate claim for refund with the IRS.

### 10 **13.5 GENERAL DISCLAIMER**

11 The federal income tax consequences of the Plan are complex. The foregoing  
 12 discussion is not intended to be a substitute for careful tax planning, particularly since certain  
 13 of the federal income tax consequences of the Plan will not be the same for all Creditors or  
 14 Members due to their individual circumstances. Each Creditor and each Member is strongly  
 15 urged to consult with its own tax advisors in determining the federal, state, local, and foreign  
 16 income and other tax consequences of the transactions contemplated by the Plan.

## 17 **14. ACCEPTANCE AND CONFIRMATION OF THE PLAN**

### 18 **14.1 CONFIRMATION HEARING**

19 The Bankruptcy Court has scheduled a hearing on confirmation of the Plan on  
 20 September 5, 2014, at 9:00 a.m. Pacific Time. The hearing will be  
 21 held at the United States Bankruptcy Court for the District of Oregon, Courtroom 3,  
 22 1001 SW Fifth Avenue, Portland, Oregon 97204, before the Honorable Randall L. Dunn,  
 23 United States Bankruptcy Judge. At that hearing, the Bankruptcy Court will consider  
 24 whether the Plan satisfies the various requirements of the Bankruptcy Code, including  
 25 whether it is feasible and whether it is in the best interest of Creditors and interest holders of  
 26 Debtor. Debtor will submit a report to the Bankruptcy Court at that time concerning the

1 votes for acceptance or rejection of the Plan by the parties entitled to vote thereon. Any  
2 objection to confirmation of the Plan must be timely filed as stated above.

3 **14.2 REQUIREMENTS OF CONFIRMATION**

4 At the hearing on confirmation, the Bankruptcy Court will determine whether  
5 the provisions of Section 1129 of the Bankruptcy Code have been satisfied. If all of the  
6 provisions of Section 1129 are met, the Bankruptcy Court may enter an order confirming the  
7 Plan. Debtor believes the Plan satisfies all of the requirements of Chapter 11 of the  
8 Bankruptcy Code, that it has complied or will have complied with all of the requirements of  
9 Chapter 11, and that the Plan has been proposed and is made in good faith.

10 14.2.1 The Best Interests of Creditors - Liquidation Alternative.

11 Notwithstanding acceptance of the Plan by each impaired Class, to confirm the Plan the  
12 Bankruptcy Court must determine that the Plan meets the requirements of Section 1129(a)(7)  
13 of the Bankruptcy Code; that is, that the Plan is in the best interests of each holder of a Claim  
14 or interest in an impaired Class that has not voted to accept the Plan. Accordingly, if an  
15 impaired Class does not unanimously accept the Plan, the "best interests" test requires that  
16 the Bankruptcy Court find that the Plan provides to each holder of a Claim or interest in such  
17 impaired Class a recovery on account of the holder's Claim or interest that has a value at least  
18 equal to the value of the distribution that each such holder would receive if the debtor was  
19 liquidated under Chapter 7 of the Bankruptcy Code. In the opinion of Debtor, confirmation  
20 of the Plan is in the best interests of the holders of Claims and interests because it provides to  
21 holders of impaired Claims a distribution having a present value as of the Effective Date of  
22 not less than the value such holders would likely receive if Debtor were liquidated under  
23 Chapter 7 of the Bankruptcy Code.

24 Debtor believes that Chapter 7 liquidation would result in a diminution in the  
25 value to be realized by holders of Claims and interests due to, among other factors, (a) the  
26 loss of the going concern value of Debtor's assets; (b) additional costs and expenses in the

1 appointment of a Chapter 7 trustee and attorneys, accountants and other professionals to  
2 assist such trustee in the Chapter 7 case; and (c) additional expenses and Claims, some of  
3 which would be entitled to priority in payment, which would arise by reason of the  
4 liquidation, including Claims resulting from the breach of Debtor's ~~real-estate~~tenant leases  
5 and in connection with cessation of the Debtor's business. Consequently, Debtor believes the  
6 Plan, which provides for the continuation of Debtor's business, will provide a greater ultimate  
7 return to the holders of Claims and interests than would a Chapter 7 liquidation.

8 At the confirmation hearing, the Bankruptcy Court will determine whether the  
9 holders of impaired Claims and interests receive a distribution under the Plan that is at least  
10 as great as the distribution that such holders would receive upon liquidation of Debtor  
11 pursuant to Chapter 7 of the Bankruptcy Code.

12 14.2.2 Feasibility of the Plan. Debtor believes that confirmation of the Plan  
13 is not likely to be followed by the liquidation of Reorganized Debtor or a need for a further  
14 financial reorganization of Reorganized Debtor. The projections of Debtor's post-  
15 confirmation business, attached hereto as **Exhibit 2**, show sufficient earnings and cash flow  
16 from operations to support and meet the ongoing financial needs of Reorganized Debtor.  
17 The projections indicate that the Plan as proposed by Debtor is feasible and that Reorganized  
18 Debtor will be financially viable after confirmation of the Plan.

### 19 **14.3 CRAM DOWN**

20 A Court may confirm a Plan, even if it is not accepted by all impaired classes  
21 if the Plan has been accepted by at least one impaired class of claims and the Plan meets the  
22 cram down requirements set forth in Section 1129(b) of the Bankruptcy Code. In the event  
23 any impaired Class of Claims does not accept the Plan, Debtor hereby requests the  
24 Bankruptcy Court to confirm the Plan in accordance with Section 1129(b) of the Bankruptcy  
25 Code or otherwise permit Debtor to modify the Plan.  
26

1           **14.4 RISK FACTORS**

2           There are a number of risks associated with Debtor's proposed Plan. Each  
3           Creditor should carefully consider those risks in evaluating its vote on Debtor's Plan. All of  
4           the risks associated with Debtor's Plan are too numerous to identify, however, a few of those  
5           risks are set forth below.

6                   14.4.1 General Financial Market Conditions. The recent disruption with  
7           numerous major financial institutions and the resulting crisis in the financial markets has  
8           rippled through the economy, and has impacted the real estate industry in particular. While  
9           the ultimate effects of this crisis on the owners and operators of buildings, such as Debtor,  
10          are as yet unclear, it is possible that this financial market will prevent even qualified  
11          borrowers from being able to obtain mortgages on affordable terms, if at all. A continued  
12          freeze of the credit markets could have a significant adverse impact on the Debtor.

13                   14.4.2 Projected Financial Results. The Debtor's projected financial results  
14          reflect management's best estimate of Reorganized Debtor's future financial performance  
15          based on currently known facts and hypothetical assumptions about, among other matters, the  
16          timing, confirmation and consummation of the Plan in accordance with its terms, the  
17          anticipated future performance of the Reorganized Debtor, and the real estate market. Many  
18          of these factors are beyond the control of the Reorganized Debtor. As a consequence, the  
19          actual financial results may differ significantly from the projections. Specifically, the  
20          Reorganized Debtor may not be able to meet the projected financial results or achieve the  
21          revenue or cash flow that it has assumed in projecting future leases and lease rates. Further,  
22          in the event that the Court fixes an interest rate on the Class 3 Claim substantially higher than  
23          4.50% per annum, then Debtor's ability to meet the projected financial results will be  
24          jeopardized.

25           **15. ALTERNATIVES TO CONFIRMATION OF THE PLAN**

26           If a Plan is not confirmed, Debtor or another party in interest may attempt to

1 formulate or propose a different Plan or Plans of Reorganization. Such Plans might involve a  
2 reorganization and continuation of Debtor's business, a sale of Debtor's business as a going  
3 concern, an orderly liquidation of Debtor's assets or any combination thereof. If no Plan of  
4 Reorganization is determined by the Bankruptcy Court to be confirmable, the Chapter 11  
5 case may be converted to a liquidation proceeding under Chapter 7 of the Bankruptcy Code.

6 In a liquidation, a Chapter 7 Trustee would be appointed with the purpose of  
7 liquidating the assets of Debtor. Typically, in a liquidation, assets are sold for less than their  
8 going concern value and, accordingly, the return to Creditors and interest holders is less than  
9 the return in a reorganization, which derives the value to be distributed in a Plan from the  
10 business as a going concern. Proceeds from liquidation would be distributed to Creditors and  
11 Equity Security Holders in accordance with the priorities set forth in the Bankruptcy Code.

12  
13 Debtor believes there is no currently available alternative that would offer  
14 holders of Claims and interests in Debtor greater than the Plan. In fact, the likely alternative  
15 to confirmation of the Plan is that CDO will foreclose on the Property and no unsecured  
16 creditor will be paid anything. Debtor urges all parties entitled to vote on the Plan to vote to  
17 accept the Plan.

18  
19 **16. CONCLUSION**

20 Please read this Disclosure Statement and the Plan carefully. After reviewing  
21 all the information and making an informed decision, please vote by using the enclosed  
22 ballot.

23 DATED this ~~11th~~30th day of ~~April~~June, 2014.

24 Bay Club Partners-472, LLC

25 By: Bay Club Management, LLC, Its Manager  
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By: Residential Equity Partners, LLC, Its  
Managing Member

By: \_\_\_\_\_  
David Butler, Manager

Presented by:

TONKON TORP LLP

By: \_\_\_\_\_  
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7 Attorneys for Debtor

10 UNITED STATES BANKRUPTCY COURT

11 DISTRICT OF OREGON

12 In re

Case No. 14-30394-rld11

13 Bay Club Partners-472, LLC,

**DEBTOR'S FIRST AMENDED  
DISCLOSURE STATEMENT  
(June 30, 2014)**

14 Debtor.

16 **1. INTRODUCTION**

17 On January 28, 2014 (the "Petition Date"), Bay Club Partners-472, LLC  
18 ("Debtor") filed a voluntary petition under Chapter 11 of Title 11 of the United States Code  
19 (the "Bankruptcy Code"). This Disclosure Statement ("Disclosure Statement") describes  
20 various transactions contemplated under the Plan, including the manner in which Claims and  
21 interests will be satisfied. A copy of the Plan is attached hereto as **Exhibit 1**. You are urged  
22 to review the Plan and, if appropriate, consult with counsel about the Plan and its impact  
23 upon your legal rights before voting on the Plan. Capitalized terms used but not defined in  
24 this Disclosure Statement shall have the meanings assigned to such terms in the Plan or the  
25 Bankruptcy Code.

1 This Disclosure Statement has been prepared by Debtor based on information  
2 contained in its books and records. The information contained herein has been prepared in  
3 good faith, based upon information available to it. The information concerning the Plan has  
4 not been subject to a verified audit. Debtor believes this Disclosure Statement complies with  
5 the requirements of the Bankruptcy Code.

6 The statements contained in this Disclosure Statement are made as of the date  
7 hereof, unless another time is specified herein, and the delivery of this Disclosure Statement  
8 shall not imply there has been no change in the facts set forth herein since the date of this  
9 Disclosure Statement and the date of the material relied on in preparation of this Disclosure  
10 Statement was compiled. The description of the Plan contained in this Disclosure Statement  
11 is intended as a summary only and is qualified in its entirety by reference to the Plan itself. If  
12 any inconsistency exists between the Plan and this Disclosure Statement, the terms of the  
13 Plan are controlling. Each holder of a Claim is encouraged to read, consider, and carefully  
14 analyze the terms and provisions of the Plan. This Disclosure Statement may not be relied on  
15 for any purpose other than to determine how to vote on the Plan. Nothing contained herein  
16 shall constitute an admission of any fact or liability by any party, or be admissible in any  
17 proceeding involving Debtor or any other party, or be deemed conclusive advice on the tax or  
18 other legal effects of the reorganization on the holders of Claims or interests.

19 This Disclosure Statement is submitted in accordance with Section 1125 of  
20 the Bankruptcy Code and Bankruptcy Rule 3016. The Bankruptcy Court has scheduled a  
21 hearing on confirmation of the Plan to commence on September 5, 2014 at 9:00 a.m. That  
22 hearing will be held at the United States Bankruptcy Court for the District of Oregon,  
23 Courtroom 3, 1001 SW Fifth Avenue, Portland, Oregon 97204 before the Honorable  
24 Randall L. Dunn. The hearing on confirmation may be adjourned from time to time by the  
25 Bankruptcy Court without further notice, except for an announcement made at the hearing or  
26 any adjournment thereof.

1 A ballot has been enclosed with this Disclosure Statement for use in voting on  
2 the Plan. In order to be tabulated for purposes of determining whether the Plan has been  
3 accepted or rejected, ballots must be received at the address indicated on the ballot no later  
4 than 4:00 p.m. Pacific Time on August 29, 2014.

5 **2. SUMMARY OF PLAN**

6 A copy of the Plan is attached hereto as **Exhibit 1** and discussed in detail later  
7 in this Disclosure Statement. The following description of the Plan is intended as a summary  
8 only and is qualified in its entirety by reference to the Plan. Debtor urges each holder of a  
9 Claim to carefully review the entire Plan, together with this Disclosure Statement, before  
10 voting on the Plan.

11 **2.1 GENERAL**

12 Generally, the Plan provides that (a) CDO will be repaid in full with interest  
13 by the third anniversary of the Effective Date; (b) General Unsecured creditors will be paid  
14 in full with interest on the third anniversary of the Effective Date unless any such creditors  
15 elect to be paid 60% of their Allowed Claims within 90 days of the Effective Date (c) all  
16 membership interests in Debtor will be retained; and (d) Debtor will operate in the ordinary  
17 course and pay all Creditors pursuant to the Plan.

18 **2.2 SECURED CREDITORS**

19 Reorganized Debtor will pay its Secured Creditor, Legg Mason Real Estate  
20 CDO I, Ltd. as follows.

21 2.2.1 CDO's Allowed Secured Claim will be paid in full as follows: CDO  
22 will be paid monthly payments of interest only for 12 months at an interest rate of 4.50%, or  
23 at such other rate fixed by the Court at confirmation. Commencing on first anniversary of  
24 the Effective Date and continuing until the third anniversary of the Effective Date, CDO will  
25 be paid equal, monthly amortizing payments of principal and interest at a fixed rate of 4.50%,  
26 or at such other rate fixed by the Court at confirmation, based upon a 30-year amortization

1 schedule with a balloon payment of the unpaid principal plus accrued interest due on the  
2 third anniversary of the Effective Date. Reorganized Debtor will maintain and insure  
3 Midtown on Main and promptly pay all real property taxes as they come due.

4 **2.3 UNSECURED CREDITORS**

5 2.3.1 Each holder of an Allowed Class 4 General Unsecured Claim shall  
6 be paid in full in Cash on the third anniversary of the Effective Date together with interest at  
7 a fixed rate of 3.0% accruing from the Effective Date. Alternatively, a holder of an Allowed  
8 Class 4 General Unsecured Claim may elect at the time of balloting to be paid 60% of its  
9 Claim in Cash within 90 days of the Effective Date in full satisfaction of its Claim. To the  
10 extent Allowed Unsecured Claims are paid on the third anniversary of the Effective Date, the  
11 aforementioned balloon payment to CDO will be paid before Debtor pays Allowed  
12 Unsecured Claims. .

13 **2.4 EQUITY INTERESTS**

14 The Plan provides that existing equity interests in Debtor will be retained.

15 **2.5 LEASES AND EXECUTORY CONTRACTS**

16 All unexpired leases and executory contracts will be treated as set out in  
17 Section 8.1 below.

18 **2.6 MISCELLANEOUS**

19 The Effective Date of the Plan shall be the first day of the first month  
20 following the date that the Confirmation Order becomes a Final Order.

21 In the event any Class does not accept the Plan, Debtor reserves the right to  
22 request that the Bankruptcy Court confirm the Plan in accordance with Section 1129(b) of the  
23 Bankruptcy Code or otherwise modify the Plan.

24 **3. BRIEF EXPLANATION OF CHAPTER 11**

25 Chapter 11 of the Bankruptcy Code is the principal reorganization provision  
26 of the Bankruptcy Code. Pursuant to Chapter 11, a debtor attempts to reorganize its business

1 for the benefit of the debtor, its creditors, and other parties in interest.

2 The formulation and confirmation of a plan of reorganization is the principal  
3 purpose of a Chapter 11 case. A plan of reorganization sets forth a proposed method for  
4 compensating the holders of claims and interests in the debtor. A claim or interest is  
5 impaired under a plan of reorganization if the plan provides that the legal, equitable, or  
6 contractual rights of the holder of such claim or interest are altered. A holder of an impaired  
7 claim or interest is entitled to vote to accept or reject the plan. Chapter 11 does not require  
8 all holders of claims and interests to vote in favor of a plan in order for the Bankruptcy Court  
9 to confirm it. However, the Bankruptcy Court must find that the plan meets a number of  
10 statutory tests before it may approve the plan. These tests are designed to protect the  
11 interests of holders of claims or interests who do not vote to accept the plan, but who will  
12 nonetheless be bound by the plan's provisions if it is confirmed by the Bankruptcy Court.

13 An official committee of unsecured creditors may be appointed by the trustee  
14 in Chapter 11 cases to, among other things, negotiate the plan of reorganization on behalf of  
15 the unsecured creditors of the debtor. A committee of unsecured creditors has not yet been  
16 appointed by the United States Trustee in this case.

#### 17 **4. VOTING PROCEDURES AND CONFIRMATION OF A PLAN**

##### 18 **4.1 BALLOTS AND VOTING DEADLINE**

19 A ballot to be used for voting to accept or reject the Plan is enclosed with each  
20 copy of this Disclosure Statement mailed to all Creditors entitled to vote. After carefully  
21 reviewing this Disclosure Statement and its exhibits, including the Plan, please indicate your  
22 acceptance or rejection of the Plan by voting in favor or against the Plan on the enclosed  
23 ballot as directed below.

24 The Bankruptcy Court has directed that, to be counted for voting purposes,  
25 ballots for the acceptance or rejection of the Plan must be received no later than 4:00 p.m.  
26 Pacific Time, on August 29, 2014 by Debtor at the following address:

1 Tonkon Torp LLP  
2 Attention: Ava L. Schoen  
3 1600 Pioneer Tower  
4 888 S.W. Fifth Avenue  
5 Portland, OR 97204-2099

6 Holders of each Claim scheduled by Debtor or with respect to which a Proof  
7 of Claim has been filed will receive ballots and are permitted to vote based on the amount of  
8 the Proof of Claim. If no Proof of Claim has been filed, then the vote will be based on the  
9 amount scheduled by Debtor in its Schedules. Holders of disputed Claims who have settled  
10 their dispute with Debtor are entitled to vote the settled amount of their Claim. The  
11 Bankruptcy Code provides that such votes will be counted unless the Claim has been  
12 disputed, disallowed, disqualified or suspended prior to computation of the vote on the Plan.  
13 The Claim to which an objection has been filed is not allowed to vote unless and until the  
14 Bankruptcy Court rules on the objection. The Bankruptcy Code provides that the Bankruptcy  
15 Court may, if requested to do so by the holder of such claim, estimate or temporarily allow a  
16 disputed claim for the purposes of voting on the Plan.

17 If a person holds claims in more than one class entitled to vote on the Plan,  
18 such person will be entitled to complete and return a ballot for each Class. If you do not  
19 receive a ballot or if a ballot is damaged or lost, please contact:

20 Tonkon Torp LLP  
21 Attention: Ava L. Schoen  
22 1600 Pioneer Tower  
23 888 S.W. Fifth Avenue  
24 Portland, OR 97204-2099

25 All persons entitled to vote on the Plan may cast their vote for or against the  
26 Plan by completing, dating and signing the ballot accompanying this Disclosure Statement  
and returning it, by First Class Mail or hand delivery, to Debtor at the address indicated  
above. In order to be counted, all ballots must be executed and received at the above address  
no later than 4:00 p.m. Pacific Time on August 29, 2014. Any ballots received after 4:00  
p.m. Pacific Time on August 29, 2014 will not be included in any calculation to determine

1 whether the parties entitled to vote on the Plan have voted to accept or reject the Plan.

2           When a ballot is signed and returned without further instruction regarding  
3 acceptance or rejection of the Plan, the signed ballot shall be counted as a vote accepting the  
4 Plan. When a ballot is returned indicating acceptance or rejection of the Plan but is unsigned,  
5 the unsigned ballot will not be included in any calculation to determine whether parties  
6 entitled to vote on the Plan have voted to accept or reject the Plan. When a ballot is returned  
7 without indicating the amount of the Claim, the amount shall be as set forth on Debtor's  
8 Schedules or any Proof of Claim filed with respect to such Claim.

#### 9           **4.2 PARTIES ENTITLED TO VOTE**

10           Pursuant to Section 1126 of the Bankruptcy Code, each class of impaired  
11 claims or interests that is not deemed to reject the Plan is entitled to vote to accept or reject  
12 the Plan. Any holder of an Allowed Claim that is in an impaired class under the Plan, and  
13 whose Class is not deemed to reject the Plan, is entitled to vote. A Class is "impaired" unless  
14 the legal, equitable and contractual rights of the holders of claims in that Class are left  
15 unaltered by the Plan or if the Plan reinstates the Claims held by members of such Class by  
16 (1) curing any defaults, (2) reinstating the maturity of such claim, (3) compensating the  
17 holder of such claim for damages that result from the reasonable reliance on any contractual  
18 provision of law that allows acceleration of such claim and (4) otherwise leaving unaltered  
19 any legal, equitable or contractual right of which the Claim entitles the holder of such claim.  
20 Because of their favorable treatment, classes that are not impaired are conclusively presumed  
21 to accept the Plan. Accordingly, it is not necessary to solicit votes from the holders of claims  
22 in classes that are not impaired.

23           Classes of Claims or interests that will not receive or retain any money or  
24 property under a Plan on account of such Claims or interests are deemed, as a matter of law  
25 under Section 1126(g) of the Bankruptcy Code, to have rejected the Plan and are likewise not  
26 entitled to vote on the Plan.

1 Class 1 (Other Priority Claims) and Class 2 (Equity Security Holders) are not  
2 impaired and therefore are deemed to have accepted the Plan. Classes 3 (CDO) and Class 4  
3 (General Unsecured Claims) are impaired under the Plan and those holding Class 3 and  
4 Class 4 Claims are entitled to vote to accept or reject the Plan.

5 **4.3 VOTES REQUIRED FOR CLASS ACCEPTANCE OF THE PLAN**

6 As a condition to confirmation, the Bankruptcy Code requires that each  
7 impaired Class of Claims or interests accept the Plan, subject to the exceptions described  
8 below in the section entitled "Cram Down of the Plan." At least one impaired Class of  
9 Claims must accept the Plan in order for the Plan to be confirmed.

10 For a Class of Claims to accept a plan, Section 1126 of the Bankruptcy Code  
11 requires acceptance by Creditors that hold at least two-thirds in dollar amount and a majority  
12 in number of the Allowed Claims of such Class, in both cases counting only those claims  
13 actually voting to accept or reject the plan. The holders of Claims who fail to vote are not  
14 counted as either accepting or rejecting the Plan. If the Plan is confirmed, the Plan will be  
15 binding with respect to all holders of Claims and interests in each Class, including Classes  
16 and members of Classes that did not vote or that voted to reject the Plan.

17 **4.4 "CRAM DOWN" OF THE PLAN**

18 If the Plan is not accepted by all the impaired Classes of Claims, the Plan may  
19 still be confirmed by the Bankruptcy Court pursuant to Section 1129(b) of the Bankruptcy  
20 Code's "Cram Down" provision if the Plan has been accepted by at least one Impaired Class  
21 of Claims, without counting the acceptances of any insiders of Debtor, and the Bankruptcy  
22 Court determines, among other things, that the Plan "does not discriminate unfairly" and is  
23 "fair and equitable" with respect to each non-accepting Impaired Class of Claims or interests.

24 **4.5 CONFIRMATION HEARING**

25 The Bankruptcy Court has scheduled a hearing on confirmation of the Plan to  
26 take place on September 5, 2014 at 9:00 a.m. Pacific Time. The Confirmation Hearing will



1 be held at the United States Bankruptcy Court for the District of Oregon, Courtroom 3, 1001  
2 SW Fifth Avenue, 8th Floor, Portland, Oregon, before the Honorable Randall L. Dunn,  
3 United States Bankruptcy Judge. At the hearing, the Bankruptcy Court will consider whether  
4 the Plan satisfies the various requirements of the Bankruptcy Code, including whether it is  
5 feasible and whether it is in the best interest of the creditors of Debtor. At that time, Debtor  
6 will submit a report to the Bankruptcy Court concerning the votes for acceptance or rejection  
7 of the Plan by the persons entitled to vote thereon.

8 Section 1128(b) of the Bankruptcy Code provides that any party in interest  
9 may object to confirmation of the Plan. Any objections to confirmation of the Plan must be  
10 made in writing and filed with the Bankruptcy Court and received by counsel for Debtor no  
11 later than August 29, 2014. Unless an objection to confirmation is timely filed and received,  
12 it may not be considered by the Bankruptcy Court.

## 13 **5. BACKGROUND AND GENERAL INFORMATION**

### 14 **5.1 DEBTOR**

15 Debtor is an Oregon limited liability company formed in 2005 with its  
16 principal place of business in Beaverton, Oregon. Debtor was formed to acquire, renovate  
17 and operate multifamily residential property located at 2121 W. Main St., Mesa, Arizona  
18 85201 known as Midtown on Main Street ("Midtown on Main" or the "Property"). Midtown  
19 on Main has approximately 472 rental units and offers residents amenities including a fitness  
20 center, spa, clubhouse, three swimming pools, a covered play area, assigned parking, and 24-  
21 hour emergency maintenance services. Each unit has a dishwasher, refrigerator, air  
22 conditioner, and full-sized washer/dryer. As of the Petition date, Midtown on Main has  
23 leased approximately 91% of the Property's apartments to residential tenants.

### 24 **5.2 DEBTOR'S BUSINESS STRATEGY**

25 Debtor's strategy was and is to lease residential units in a well-managed  
26 apartment complex at competitive rental rates. Midtown on Main offers desirable space to

1 tenants and potential tenants. It is located directly on the METRO Light Rail line and near  
2 Interstate 10 and Highway 101, and is within easy access to Tempe, Arizona State  
3 University, and the greater Phoenix metropolitan area. As described above, the Property  
4 provides extensive amenities to tenants.

### 5 **5.3 MANAGEMENT**

6 Debtor is a limited liability company made up of four members: Red River  
7 Holdings, LLC; Residential Equity Partners, LLC; Trail Ranch Partners, LLC; and DRMMC  
8 Midtown, LLC. Bay Club Management, LLC is the manager of Debtor. Reorganized Debtor  
9 will continue to be managed by Bay Club Management, LLC.

10 Bay Club Management, LLC, managed by Residential Equity Partners, LLC  
11 or its successor manager will be entitled to reimbursement of expenses (including travel) not  
12 to exceed \$4,000 per month. No distributions will be made to members until all creditors  
13 have been paid in full pursuant to the Plan.

14 Debtor is party to an agreement with MEB Management ("MEB"), which  
15 provides third-party property management services for Midtown on Main. MEB was formed  
16 in 1998 and is currently the largest fee management company in Arizona. It manages over  
17 90 apartment communities throughout Arizona and the Southwest. Its services include asset  
18 and facility management for large apartment communities. Debtor has no ownership interest  
19 in MEB and MEB has no ownership interest in Debtor. MEB acts as Debtor's exclusive  
20 agent for purposes of managing and operating the Property. MEB's responsibilities include  
21 providing 24-hour emergency maintenance services, ensuring that repairs are made; entering  
22 into service contracts; collecting and segregating rent; and paying expenses, taxes and  
23 insurance. MEB renders comprehensive monthly statements to Debtor; these statements  
24 reflect income, expenses, details of rent payments received, and details of payments made,  
25 among other things. For its services, MEB is paid a fee of 2.75% of Midtown on Main's  
26 gross revenues each month and an administration fee of 2% of MEB's gross payroll to cover

1 the cost of employers liability insurance and other related administrative costs. As of the  
2 Effective Date, MEB will continue to carry out its work as property manager of Midtown on  
3 Main.

4 Bay Club Management, LLC and MEB have in-depth experience in the  
5 residential real estate industry and with the rental market in Mesa, Arizona.

#### 6 **5.4 FINANCIAL PERFORMANCE**

7 Attached as **Exhibit 2** is a spreadsheet that presents in summary fashion the  
8 projected operating results for Debtor for three years from the anticipated Effective Date on a  
9 monthly basis as well as a summary of historical operating results through May 2014.

10 **Exhibit 2** reflects that Debtor has had financial success leasing units in Midtown on Main  
11 and that Debtor projects that it will have adequate funds with which to repay its creditors.

12 Debtor's projections are based on the following assumptions:

- 13 • The projections are based on the historical operating performance of  
14 Midtown on Main.
- 15 • The rental income projections are based upon market reports and operating  
16 history indicating projected annual rent increases in Year 1 of 3.38%; in  
17 Year 2 of 4.10%; and in Year 3 of 3.50%.
- 18 • Vacancy is projected to be approximately 6.9% per year.
- 19 • An annual increase in property taxes in Year 2 and Year 3 of 5%.
- 20 • An annual increase in insurance in Year 1 of 10%; in Year 2 of 5%; and in  
21 Year 3 of 5%.
- 22 • An overall 3% annual increase in other expenses.
- 23 • The CDO secured claim is assumed to be \$27,000,000.
- 24 • The CDO's secured claim will accrue interest at 4.50% per annum.
- 25
- 26

1 Debtor believes the projections are reasonable and achievable, but there are  
2 many variables that can and will affect the actual financial results that are achieved by  
3 Reorganized Debtor.

4 **6. THE BANKRUPTCY CASE**

5 **6.1 THE FILING**

6 On or about November 15, 2005, Legg Mason CDO Real Estate Capital II,  
7 Inc. made a loan in the original amount of \$23,600,000 to Debtor, as reflected by the  
8 promissory note of that same date (the "Note"). The Note is secured by a Deed of Trust,  
9 Security Agreement and Financing Statement (the "Deed of Trust") and Assignment of  
10 Leases and Rents. The Note and related loan documents were subsequently assigned to the  
11 CDO. The Deed of Trust encumbers real property and improvements referred to herein as  
12 Midtown on Main. The Note, Deed of Trust and all related documents are referred to  
13 collectively herein as the "Loan Documents."

14 The terms of the Loan Documents were modified four times. As a result of  
15 these modifications, the principal balance on the Note was increased to \$24,000,000,  
16 additional funds were deposited in reserve accounts, the maturity date of the Note was  
17 extended to March 1, 2014, and CDO permitted Debtor to defer a portion of the accrued  
18 interest until maturity.

19 On or about January 17, 2014, Debtor received a notice of default on the Note  
20 from CDO. On that same day, CDO offset Debtor's reserve accounts (including taxes,  
21 insurance, and capital expenses) in the total amount of \$345,006.68.

22 In order to keep Debtor operating, and protect Debtor's creditors, Debtor  
23 resolved to seek the protection of Chapter 11 Bankruptcy.

24 As of the Petition Date and assuming a forced sale in a short time frame,  
25 Debtor believed the Property was worth approximately \$27,000,000. Debtor believes the  
26 Property has increased in value and that the market has improved since that time. Debtor

1 believes that after it emerges from bankruptcy and has flexibility to market the Property in  
2 the ordinary course and without deadlines, the value of the Property will exceed \$32,000,000.  
3 After the bankruptcy case was filed, Debtor received a non-binding indication of interest  
4 from a qualified buyer in the amount of \$31,500,000.

5 Debtor marketed the Property for sale in 2013 prior to filing for bankruptcy.  
6 In connection with that marketing effort, Debtor received non-binding indications of interest  
7 ranging from \$27,000,000 to \$32,000,000 subject to inspection and due diligence periods, as  
8 set forth in the summary attached as **Exhibit 3**. Given that any sale would have been a  
9 distressed sale, Debtor believed that the sale price would have been depressed and would not  
10 have exceeded \$28,000,000.

## 11 **6.2 MOTION TO DISMISS**

12 The CDO filed a motion to dismiss the bankruptcy case on March 6, 2014,  
13 based on whether Debtor had authority to file for bankruptcy. Debtor opposed the motion to  
14 dismiss, believing it had the legal authority to file for bankruptcy protection. A hearing on  
15 the motion to dismiss took place on April 23, 2014. On May 12, 2014, the Court entered an  
16 order denying the motion to dismiss for the reasons cited in the Court's May 6, 2014  
17 Memorandum Opinion.

18 Trail Ranch Partners, LLC, the owner of a 20% membership interest in  
19 Debtor, opposed the bankruptcy filing. Trail Ranch Partners indicated that it would prefer a  
20 prompt sale of the Property. CDO wants a prompt sale of the Property and believes the  
21 Property could be sold now at a price sufficient to pay creditors in full. Debtor disagrees and  
22 believes that a prompt sale of the Property would be a distressed sale that would not generate  
23 adequate proceeds to pay all creditors in full. Debtor believes that by having up to three  
24 years to sell the Property, it will generate a higher sale price for the Property.

1           **6.3    ADEQUATE PROTECTION PAYMENTS**

2           Debtor paid CDO \$115,000 in May, 2014 and \$135,000 in June, 2014 as  
3 adequate protection payments. Debtor will continue making adequate protection payments  
4 pending the confirmation hearing.

5           **7.     ASSETS AND LIABILITIES**

6           **7.1    ASSETS**

7           Debtor's principal asset is the multifamily residential property, Midtown on  
8 Main, located at 2121 W. Main Street, Mesa, Arizona 85201.

9           Debtor generates revenue from leasing residential units to tenants. Currently,  
10 Debtor has 472 residential units available to lease; approximately 94% of the units are  
11 currently leased. Debtor generates approximately \$311,000 per month in operating revenue.

12          **7.2    LIABILITIES**

13           7.2.1    Legg Mason Real Estate CDO I, Ltd. Debtor scheduled CDO's  
14 secured claim for \$26,913,000. The obligations of Debtor to the CDO are secured by a  
15 perfected security interest in Midtown on Main and rents. The CDO is a secured creditor of  
16 Debtor up to the value of the collateral. Debtor believes CDO's claim is fully secured.

17           7.2.2    Unsecured Creditors. Debtor owes approximately \$285,000 to  
18 unsecured creditors, excluding security deposits that may become owing pursuant to Tenant  
19 Leases.

20          **8.     ADMINISTRATIVE EXPENSES**

21           Debtor has retained Tonkon Torp LLP as its counsel in this case. Debtor has  
22 retained Maginnis & Carey LLP to provide accounting and tax services. Debtor anticipates it  
23 will incur approximately \$131,000 in professional fees and expenses through confirmation of  
24 the Plan. In addition, Debtor's manager continues to incur out-of-pocket expenses totaling  
25 approximately \$10,000.

1           **8.1 EXECUTORY CONTRACTS**

2           Debtor is a party to (a) a contract with MEB Management for property  
3 management services and (b) leases with the tenants in Midtown on Main.

4           Debtor will assume its contract with MEB Management and cure any default  
5 of that contract on the Effective Date.

6           On the Effective Date, Debtor will assume all Tenant Leases.

7           **9. DESCRIPTION OF PLAN OF REORGANIZATION**

8           **9.1 BRIEF EXPLANATION OF CHAPTER 11**

9           Chapter 11 is the principal business reorganization chapter of the Bankruptcy  
10 Code. Under Chapter 11, a debtor is authorized to reorganize its business for the benefit of  
11 itself, its creditors and equity holders. In addition to permitting rehabilitation of the debtor,  
12 another goal of Chapter 11 is to promote equality of treatment of creditors and equity holders  
13 of equal rank with respect to the distribution of a debtor's assets. In furtherance of these two  
14 goals, upon the filing of the reorganization under Chapter 11, Section 362 of the Bankruptcy  
15 Code generally provides for an automatic stay of substantially all acts and proceedings  
16 against the debtor and its property, including all attempts to collect debts or enforce liens that  
17 arose prior to commencement of the debtor's case under Chapter 11.

18           The confirmation of a plan of reorganization is the principal objective of a  
19 Chapter 11 reorganization case. A plan of reorganization sets forth the means for satisfying  
20 claims against, and interests in, a debtor. Confirmation of a plan of reorganization by a  
21 bankruptcy court makes the plan binding upon the debtor, any issuer of securities under the  
22 plan, any person acquiring property under the plan, and any creditor and any equity holder of  
23 the debtor. Subject to certain limited exceptions provided by the Bankruptcy Code and  
24 except as specifically provided in the plan of reorganization, the confirmation order  
25 discharges the debtor from any debt that arose prior to the date of such confirmation and  
26 order and substitutes therefor the obligations specified in the plan.

1           **9.2    SOLICITATION AND CLASSIFICATION AND TREATMENT OF**  
2           **CLAIMS AND INTERESTS**

3           9.2.1    General. Pursuant to Section 1123(a)(1) of the Bankruptcy Code, a  
4 plan of reorganization must designate classes of claims and classes of interest. The plan  
5 classifies all Claims and interests into four classes. The classification of Claims and interests  
6 is made for the purpose of voting on the plan and making distributions thereunder, and for  
7 ease of administration of the Plan. A Claim or interest is classified in a particular Class only  
8 to the extent that the Claim or Interest qualifies within the description of that Class and is  
9 classified in a different Class to the extent that the Claim or interest qualifies within the  
10 description of such different Class. A Claim or interest is entitled to vote in a particular  
11 Class and to receive distribution in such Class only to the extent that such Claim or interest is  
12 an Allowed Claim or Allowed interest in that Class and has not been paid prior to the  
13 Effective Date. Under the Plan, a Claim or interest is an Allowed Claim against or an  
14 Allowed interest in Debtor to the extent that (1) a proof of the Claim or interest was  
15 (A) timely filed, or (B) deemed filed under applicable law by reason of an order of the  
16 Bankruptcy Court, or (C) scheduled by Debtor on its Schedules of Liabilities as neither  
17 contingent, unliquidated or disputed; and (2) (A) no party in interest has filed an objection  
18 within the time fixed by the Bankruptcy Court, or (B) the Claim or interest is allowed by  
19 Final Order; and (3) with respect to an application for compensation or reimbursement of an  
20 Administrative Expense Claim, the amount of Administrative Expense Claim has been  
21 approved by the Bankruptcy Court.

22           9.2.2    Unclassified Claims. Administrative Expense Claims and Priority  
23 Tax Claims are not classified. An Administrative Expense Claim is a claim against Debtor  
24 constituting an expense of administration of the Bankruptcy Case allowed under  
25 Section 503(b) of the Bankruptcy Code, including, without limitation, the actual and  
26 necessary costs and expenses of preserving the estate and operating the business of Debtor



1 during the case, any indebtedness or obligations incurred by Debtor during the pendency of  
2 the case in connection with the conduct of, the acquisition or lease of property by, or the  
3 rendition of services to, Debtor and compensation for legal and other professional services  
4 and reimbursement of expenses and statutory fees payable to the United States Trustee.

5 A "Priority Tax Claim" is a claim of a governmental unit of the kind entitled  
6 to priority under Section 507(a)(8) of the Bankruptcy Code. Debtor does not believe it owes  
7 any significant amount of Priority Tax Claims.

8 Pursuant to the Plan, Administrative Expense Claims will be paid in full on  
9 the later of the Effective Date or the date on which any such Administrative Expense Claim  
10 becomes an Allowed Claim; provided, however, that the Administrative Expense Claim  
11 representing liabilities incurred in the ordinary course of business (including amounts owed  
12 to vendors and suppliers that have sold products or furnished services to Debtor after the  
13 Petition Date) will be paid in accordance with the terms and conditions of the particular  
14 transactions and any other agreements relating thereto.

15 Priority Tax Claims will be paid as allowed by Section 1129(a)(9) on the  
16 Effective Date or the date the claim is Allowed, whichever first occurs.

17 9.2.3 Classified Claims. The following summary of distributions under  
18 the Plan to Classified Claims does not purport to be complete and is subject to, and is  
19 qualified in its entirety by reference to, the Plan attached hereto as **Exhibit 1**.

20 9.2.3.1. Class 1 - Allowed Other Priority Claims. An "Other  
21 Priority Claim" is a claim against Debtor entitled to priority under Section 507(a) of the  
22 Bankruptcy Code (other than an Administrative Expense Claim or Priority Tax Claim).  
23 Debtor is unaware of any unpaid Other Priority Claim. However, pursuant to the Plan, unless  
24 otherwise agreed by any holder of an Allowed Other Priority Claim, any such holder shall be  
25 paid in full on the latest to occur of (1) the Effective Date, (2) the date such claim becomes  
26 an Allowed Claim and (3) the date that the such claim becomes due and owing.

1                   9.2.3.2. Class 2 – Equity Security Holders. The Plan provides  
2 that holders of Debtor's Equity Securities will retain their Equity Securities.

3                   Class 2 is unimpaired and is not entitled to vote on the Plan.

4                   9.2.3.3. Class 3 - Legg Mason Real Estate CDO I, Ltd. 's Secured  
5 Claim. Class 3 consists of the Allowed Secured Claim of the CDO. The CDO's Allowed  
6 Secured Claim is secured by a perfected security interest in substantially all of Debtor's  
7 assets, including rents. The CDO will retain its interests in its Collateral with the same  
8 priority that it had as of the Petition Date. The CDO's claim will be an Allowed Secured  
9 Claim up to the value of the property securing the claim as agreed by the parties or set by the  
10 Court. CDO's Allowed Secured Claim will be paid in full as follows: CDO will be paid  
11 monthly payments of interest only for 12 months at an interest rate of 4.50%, or at such other  
12 rate fixed by the Court at confirmation. Commencing on first anniversary of the Effective  
13 Date and continuing until the third anniversary of the Effective Date, CDO will be paid  
14 equal, monthly amortizing payments of principal and interest at a fixed rate of 4.50%, or at  
15 such other rate fixed by the Court at confirmation, based upon a 30-year amortization  
16 schedule with a balloon payment of the unpaid principal plus accrued interest due on the  
17 third anniversary of the Effective Date. Any Allowed accrued and unpaid interest on the  
18 secured claim of CDO and any Allowed reasonable attorney fees and costs of CDO will be  
19 added to the Allowed claim of CDO. Reorganized Debtor will maintain and insure Midtown  
20 on Main and promptly pay all real property taxes as they come due.

21                   Class 3 is impaired and the CDO is entitled to vote on the Plan.

22                   9.2.3.4. Class 4 – General Unsecured Claims. Each holder of an  
23 Allowed Class 4 General Unsecured Claim shall be paid in full in Cash on the third  
24 anniversary of the Effective Date with interest accruing from the Effective Date at a fixed  
25 rate of 3.0%. Alternatively, a holder of an Allowed Class 4 General Unsecured Claim may  
26 elect at the time of balloting to be paid 60% of its Claim in Cash within 90 days of the

1 Effective Date in full satisfaction of its Claim. Debtor believes that General Unsecured  
2 Claims total approximately \$285,000 (or approximately \$171,000 at 60%) excluding any  
3 security deposits that may become owing pursuant to Tenant Leases. Holders of security  
4 deposit claims are not included in Class 4; security deposits will be returned to tenants of the  
5 Property in the ordinary course.

6 Class 4 is impaired and General Unsecured Creditors are entitled to vote on  
7 the Plan.

#### 8 **10. EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

9 The Bankruptcy Code gives debtors the right, after commencement of their  
10 Chapter 11 Cases, subject to the approval of the Bankruptcy Court, to assume or reject  
11 executory contracts and unexpired leases. Generally, an "executory contract" is a contract  
12 under which material performance (other than the payment of money) is still due by each  
13 party. The Plan provides for the assumption by the Debtor of all executory contracts and  
14 unexpired leases that are not expressly rejected or subject to a motion for rejection filed on or  
15 before the Confirmation Date.

16 If an executory contract or unexpired lease is or has been rejected, the other  
17 party to the agreement may file a Proof of Claim for damages resulting from such rejection.  
18 The Plan provides that a Proof of Claim with respect to any such Claim must be filed within  
19 30 days of approval of the Bankruptcy Court of the rejection of the relevant executory  
20 contract or unexpired lease. Any such Claim shall constitute a Class 4 Claim to the extent  
21 that such Claim is finally treated as an Allowed Claim. To the extent Debtor rejects an  
22 unexpired lease of nonresidential real property, the Claim for damages resulting from such  
23 rejection will be limited to the amount allowed under the Bankruptcy Code.

24 Upon assumption of an executory contract or unexpired lease, Debtor must  
25 cure or provide adequate assurance of prompt cure of any monetary defaults. The Plan  
26 provides that Reorganized Debtor will promptly cure all monetary defaults.

1 **11. EFFECT OF CONFIRMATION**

2 11.1.1 Discharge. The treatment of, and consideration received by, holders  
3 of Allowed Claims and Allowed interests pursuant to the Plan of Reorganization will be in  
4 full satisfaction, release and discharge of their respective Claims against or interests in the  
5 Debtor. The Confirmation will discharge Debtor from any liability that arose before the  
6 Effective Date as provided in Sections 524 and 1141 of the Bankruptcy Code and any debt  
7 and liability of a kind specified in Sections 502(g), 502(h) or 502(i) of the Bankruptcy Code,  
8 whether or not: (a) a Proof of Claim based on such debt or liability is filed or deemed filed  
9 under Section 501 of the Bankruptcy Code; (b) a Claim based on such debt or liability is  
10 Allowed; or (c) the holder of the Claim based on such debt or liability has accepted the Plan.

11 11.1.2 Revesting, Operation of Business. All property of the estate shall  
12 revest in the Reorganized Debtor on the Effective Date free and clear of all rights, claims,  
13 liens, charges, encumbrances and interests, except as otherwise provided in the Plan.

14 11.1.3 Injunction. Except as otherwise expressly provided in the Plan, all  
15 persons who have held, hold, or may hold Claims or who may have held, hold or may hold  
16 any interest are permanently enjoined from and after the Effective Date from  
17 (a) commencing or continuing in any manner any action or other proceedings of any kind  
18 with respect to any Claims or interests against Reorganized Debtor; (b) enforcing, attaching,  
19 collecting or recovering by any manner or any means any judgment, award, decree or order  
20 against Reorganized Debtor; (c) creating, perfecting or enforcing any encumbrances of any  
21 kind against Reorganized Debtor with respect to any such Claim except as specifically set  
22 forth in the Plan; (d) asserting any setoff, right of subrogation, or recoupment of any kind  
23 against any obligation due to Debtor, Reorganized Debtor or their property; and  
24 (e) proceeding in any manner in any place whatsoever that does not conform to, does not  
25 comply with, or is inconsistent with the provisions of the Plan or the order confirming the  
26 Plan.

1           11.1.4 Event of Default. Upon the occurrence of an Event of Default, the  
2 holder of an Allowed Claim to whom performance is due shall have all rights and remedies  
3 granted by law (namely, state law breach of contract rights), this Plan, or any agreement  
4 between the holder of such Claim and Debtor or Reorganized Debtor.

5           11.1.5 Utility Deposits. The Plan provides that all utilities holding a Utility  
6 Deposit shall immediately after the Effective Date return or refund such Utility Deposit to  
7 Reorganized Debtor. At the sole option of Reorganized Debtor, Reorganized Debtor may  
8 apply any Utility Deposit that has not been refunded to Reorganized Debtor in satisfaction of  
9 any payments due or to become due from Reorganized Debtor to a utility holding such a  
10 Utility Deposit.

11           11.1.6 Modification of the Plan; Revocation or Withdrawal of the Plan.

12           Subject to Section 1127 of the Bankruptcy Code, Debtor reserves the right to  
13 alter, amend or modify the Plan before its substantial consummation so long as the treatment  
14 of holders of Claims and interests under the Plan is not adversely affected.

15           11.1.7 Retention of Jurisdiction. Notwithstanding the entry of the

16 Confirmation Order or the Effective Date having occurred, the Bankruptcy Court shall retain  
17 exclusive jurisdiction over all matters arising out of or relating to the Chapter 11 Case,  
18 including but not limited to the following matters: (a) hear and determine any pending  
19 applications for the rejection of executory contracts or unexpired leases, and the allowance of  
20 Claims resulting therefrom; (b) determine any adversary proceedings, applications, contested  
21 matters or other litigation matters pending on the Effective Date; (c) insure that distributions  
22 to holders of Allowed Claims are accomplished; (d) hear and determine objections to or  
23 requests for estimations of Claims, including any objections to the classification of any Claim  
24 and to allow, disallow and/or estimate any Claim in whole or in part; (e) enter and implement  
25 such orders as may be appropriate in the event the Confirmation Order is for any reason  
26 stayed, revoked, modified or vacated; (f) issue any appropriate orders in aid of execution of

1 the Plan or to enforce the Confirmation Order and/or the discharge, or the effect of such  
2 discharge, provided to Debtor; (g) hear and determine any applications to modify the Plan, to  
3 cure any defect or omission or to reconcile any inconsistency in the Plan or in any order of  
4 the Bankruptcy Court, including, without limitation, the Confirmation Order; (h) hear and  
5 determine all applications for compensation and reimbursement of expenses of professionals  
6 under the Bankruptcy Code; (a) hear and determine disputes arising in connection with the  
7 interpretation, implementation or enforcement of the Plan; (j) hear and determine other issues  
8 presented or arising under the Plan; (k) hear and determine any other matters related hereto  
9 and not inconsistent with Chapter 11 of the Bankruptcy Code; and (l) enter a final decree  
10 closing the Chapter 11 Case.

11 11.1.8 U.S. Trustee Fees. Reorganized Debtor shall be responsible for  
12 timely payment of fees incurred pursuant to 28 U.S.C. § 1930(a)(6) until the case is closed,  
13 converted or dismissed. After confirmation, Reorganized Debtor shall serve on the United  
14 States Trustee a financial report for each quarter, or portion thereof, that the case remains  
15 open. The quarterly financial report shall include a statement of all disbursements made  
16 during the course of the quarter, whether or not pursuant to the Plan.

## 17 **12. LIQUIDATION ANALYSIS**

18 A Plan of Reorganization cannot be confirmed unless the Bankruptcy Court  
19 finds the Plan is in the best interests of each holder of a Claim in an impaired Class that has  
20 not voted to accept the Plan. The best interest test is satisfied if the plan provides each  
21 dissenting or non-voting member of each impaired Class with a recovery not less than the  
22 recovery such member would receive if the debtor was liquidated in a hypothetical case  
23 under Chapter 7 of the Bankruptcy Code by a Chapter 7 Trustee. Debtor believes the holders  
24 of impaired Claims will receive more than they would receive under a Chapter 7 liquidation.  
25 In applying the "best interest" test, the Bankruptcy Court would ascertain the hypothetical  
26 recovery in a Chapter 7 proceeding to secured creditors, priority claimants, general unsecured

creditors and equity interest holders. The hypothetical Chapter 7 recoveries would then be compared with the distribution offered to each Class of Claims or interests under the Plan to determine that the Plan satisfied the "best interest" test set forth in the Bankruptcy Code.

Debtor believes the current market value for the Property is approximately \$32,000,000. If the Property were sold in a Chapter 7 forced sale, a Chapter 7 trustee would not be able to maximize the value of the Property. For purposes of the liquidation analysis set out below, Debtor assumes that the Property would sell for approximately 15% less in a Chapter 7 liquidation than it would sell for in a competitive market environment.

Accordingly, Debtor starts its liquidation analysis with an asset value of \$27,200,000. In a liquidation, it is likely that the CDO's secured claim (Class 3) would be paid a little less than in full and General Unsecured Claims (Class 4) would receive nothing. The following chart demonstrates this:

Total Assets (Liquidation Value of Building)	\$27,200,000
Less Selling Expenses (5%)	\$1,360,000
Net Available to Creditors	\$25,840,000
Less CDO's Secured Claims	\$26,913,000
Net Available After Payment of Secured Claim	(\$1,073,000)
Less Other Claimants:	
Administrative Expenses	\$141,000
Unsecured Claims	\$285,314
Projected Distributions Other Than To Secured Creditors:	0%

**13. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

Internal Revenue Service Circular 230 Notice

TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE INTERNAL REVENUE SERVICE, EACH CREDITOR AND EACH MEMBER IS HEREBY NOTIFIED THAT (A) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED

1 UPON, AND CANNOT BE RELIED UPON BY ANY CREDITOR OR MEMBER, FOR  
2 PURPOSES OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON SUCH  
3 CREDITOR OR MEMBER UNDER THE INTERNAL REVENUE CODE OF 1986, AS  
4 AMENDED; (B) SUCH DISCUSSION IS WRITTEN TO SUPPORT THE PROMOTION  
5 OF THE PLAN; AND (C) EACH CREDITOR AND EACH MEMBER SHOULD SEEK  
6 ADVICE BASED ON SUCH CREDITOR'S OR MEMBER'S PARTICULAR  
7 CIRCUMSTANCE FROM AN INDEPENDENT TAX ADVISOR.

8 **13.1 INTRODUCTION**

9 Implementation of the Plan may have federal, state, local and foreign tax  
10 consequences to the Debtor, Creditors and Members. No tax opinion or ruling has been  
11 sought or will be obtained with respect to any tax consequences of the Plan, and the  
12 following discussion does not constitute and is not intended to constitute either a tax opinion  
13 or tax advice to any person.

14 The following discussion is based upon the provisions of the Internal Revenue  
15 Code of 1986, as amended (the "IRC"), the Treasury regulations promulgated thereunder, and  
16 published rulings and court decisions in effect as of the date hereof, all of which are subject  
17 to change, possibly retroactively, and such changes could modify or adversely affect the  
18 federal income tax consequences summarized below. There can be no assurance that the  
19 Internal Revenue Service will agree with the federal income tax consequences described  
20 below.

21 The federal income tax consequences of the Plan are complex. Each Creditor  
22 and each Member is strongly urged to consult its own tax advisors as to the particular federal,  
23 state, local and foreign income and other tax consequences of the transactions contemplated  
24 by the Plan.



**13.2 CANCELLATION OF DEBT INCOME: GENERAL RULE**

Subject to certain exceptions, a debtor realizes income (referred to herein as "cancellation of debt" or "COD" income) upon the discharge or cancellation of its outstanding indebtedness in an amount equal to the excess (if any) of (a) the amount of the indebtedness discharged over (b) the amount of cash plus the issue price of any new indebtedness issued plus the fair market value of any other consideration given in satisfaction of the indebtedness.

One of the exceptions to this general rule provides that a debtor is not required to include COD income in gross income if the debtor is under the jurisdiction of the court in a Title 11 case and the discharge is granted by the court or the discharge is pursuant to a plan approved by the court (the "Bankruptcy Exception"). Instead, the amount excluded from gross income is applied to reduce certain tax attributes of the debtor in a specified order. Tax attributes generally are reduced by one dollar for each dollar excluded from gross income, except that tax credits are reduced by one-third of the amount excluded from gross income. Notwithstanding the general order of attribute reduction, the IRC provides a debtor with an election to reduce its tax basis in depreciable assets prior to reducing net operating losses. The reduction in tax attributes generally takes place after the federal income tax is determined for the tax year in which the debt discharge occurs. As Debtor is a partnership for federal income tax purposes, the COD rules will apply at the Member level only.

**13.3 GENERAL DISCUSSION AND CANCELLATION OF DEBT INCOME: DEBTOR AND MEMBERS**

The Debtor is classified as a partnership for federal income tax purposes. Section 1399 of the IRC provides that no separate taxable entity is created as a result of a partnership in bankruptcy. Therefore, the commencement of a bankruptcy proceeding by or against the Debtor will not result in the creation of a new taxable entity, nor will the commencement of the proceedings result in the recognition of any income, gain or loss to the

1 Debtor, or result in the acceleration of any income or recapture of any tax benefits to the  
2 Debtor or its Members.

3 Under the IRC, any cancellation of debt income recognized by the Debtor  
4 flows through to the ultimate beneficial owners of membership interests in the Debtor.  
5 Because the IRC exclusions from cancellation of debt income for discharge of debt in a Title  
6 11 bankruptcy case or with respect to an insolvent taxpayer are applied at the ultimate  
7 beneficial owner level, they are not available with respect to a Member's allocable share of  
8 cancellation of debt income of the Debtor, unless that ultimate beneficial owner is itself the  
9 subject of a Title 11 bankruptcy case or is insolvent.

#### 10 **13.4 INFORMATION REPORTING AND BACKUP WITHHOLDING**

11 Certain payments, including the payments with respect to Claims pursuant to  
12 the Plan, are generally subject to information reporting by the payor to the IRS. Moreover,  
13 under certain circumstances, a holder of a Claim may be subject to "backup withholding"  
14 with respect to payments made pursuant to the Plan, unless such holder either (a) comes  
15 within certain exempt categories (which generally include corporations) and, when required,  
16 demonstrates this fact, or (b) provides a correct United States taxpayer identification number  
17 and certifies under penalty of perjury that the holder is a United States person, the taxpayer  
18 identification number is correct, and that the taxpayer is not subject to backup withholding  
19 because of a failure to report all dividend and interest income. Backup withholding is not an  
20 additional tax. Amounts withheld under the backup withholding rules may be credited  
21 against the holder's United States federal income tax liability, and the holder may obtain a  
22 refund of any excess amounts withheld under the backup withholding rules by filing an  
23 appropriate claim for refund with the IRS.

#### 24 **13.5 GENERAL DISCLAIMER**

25 The federal income tax consequences of the Plan are complex. The foregoing  
26 discussion is not intended to be a substitute for careful tax planning, particularly since certain

1 of the federal income tax consequences of the Plan will not be the same for all Creditors or  
2 Members due to their individual circumstances. Each Creditor and each Member is strongly  
3 urged to consult with its own tax advisors in determining the federal, state, local, and foreign  
4 income and other tax consequences of the transactions contemplated by the Plan.

#### 5 **14. ACCEPTANCE AND CONFIRMATION OF THE PLAN**

##### 6 **14.1 CONFIRMATION HEARING**

7 The Bankruptcy Court has scheduled a hearing on confirmation of the Plan on  
8 September 5, 2014, at 9:00 a.m. Pacific Time. The hearing will be held at the United States  
9 Bankruptcy Court for the District of Oregon, Courtroom 3, 1001 SW Fifth Avenue, Portland,  
10 Oregon 97204, before the Honorable Randall L. Dunn, United States Bankruptcy Judge. At  
11 that hearing, the Bankruptcy Court will consider whether the Plan satisfies the various  
12 requirements of the Bankruptcy Code, including whether it is feasible and whether it is in the  
13 best interest of Creditors and interest holders of Debtor. Debtor will submit a report to the  
14 Bankruptcy Court at that time concerning the votes for acceptance or rejection of the Plan by  
15 the parties entitled to vote thereon. Any objection to confirmation of the Plan must be timely  
16 filed as stated above.

##### 17 **14.2 REQUIREMENTS OF CONFIRMATION**

18 At the hearing on confirmation, the Bankruptcy Court will determine whether  
19 the provisions of Section 1129 of the Bankruptcy Code have been satisfied. If all of the  
20 provisions of Section 1129 are met, the Bankruptcy Court may enter an order confirming the  
21 Plan. Debtor believes the Plan satisfies all of the requirements of Chapter 11 of the  
22 Bankruptcy Code, that it has complied or will have complied with all of the requirements of  
23 Chapter 11, and that the Plan has been proposed and is made in good faith.

###### 24 **14.2.1 The Best Interests of Creditors - Liquidation Alternative.**

25 Notwithstanding acceptance of the Plan by each impaired Class, to confirm the Plan the  
26 Bankruptcy Court must determine that the Plan meets the requirements of Section 1129(a)(7)

1 of the Bankruptcy Code; that is, that the Plan is in the best interests of each holder of a Claim  
2 or interest in an impaired Class that has not voted to accept the Plan. Accordingly, if an  
3 impaired Class does not unanimously accept the Plan, the "best interests" test requires that  
4 the Bankruptcy Court find that the Plan provides to each holder of a Claim or interest in such  
5 impaired Class a recovery on account of the holder's Claim or interest that has a value at least  
6 equal to the value of the distribution that each such holder would receive if the debtor was  
7 liquidated under Chapter 7 of the Bankruptcy Code. In the opinion of Debtor, confirmation  
8 of the Plan is in the best interests of the holders of Claims and interests because it provides to  
9 holders of impaired Claims a distribution having a present value as of the Effective Date of  
10 not less than the value such holders would likely receive if Debtor were liquidated under  
11 Chapter 7 of the Bankruptcy Code.

12 Debtor believes that Chapter 7 liquidation would result in a diminution in the  
13 value to be realized by holders of Claims and interests due to, among other factors, (a) the  
14 loss of the going concern value of Debtor's assets; (b) additional costs and expenses in the  
15 appointment of a Chapter 7 trustee and attorneys, accountants and other professionals to  
16 assist such trustee in the Chapter 7 case; and (c) additional expenses and Claims, some of  
17 which would be entitled to priority in payment, which would arise by reason of the  
18 liquidation, including Claims resulting from the breach of Debtor's tenant leases and in  
19 connection with cessation of the Debtor's business. Consequently, Debtor believes the Plan,  
20 which provides for the continuation of Debtor's business, will provide a greater ultimate  
21 return to the holders of Claims and interests than would a Chapter 7 liquidation.

22 At the confirmation hearing, the Bankruptcy Court will determine whether the  
23 holders of impaired Claims and interests receive a distribution under the Plan that is at least  
24 as great as the distribution that such holders would receive upon liquidation of Debtor  
25 pursuant to Chapter 7 of the Bankruptcy Code.  
26

1           14.2.2 Feasibility of the Plan. Debtor believes that confirmation of the Plan  
2 is not likely to be followed by the liquidation of Reorganized Debtor or a need for a further  
3 financial reorganization of Reorganized Debtor. The projections of Debtor's post-  
4 confirmation business, attached hereto as **Exhibit 2**, show sufficient earnings and cash flow  
5 from operations to support and meet the ongoing financial needs of Reorganized Debtor.  
6 The projections indicate that the Plan as proposed by Debtor is feasible and that Reorganized  
7 Debtor will be financially viable after confirmation of the Plan.

### 8           **14.3 CRAM DOWN**

9           A Court may confirm a Plan, even if it is not accepted by all impaired classes  
10 if the Plan has been accepted by at least one impaired class of claims and the Plan meets the  
11 cram down requirements set forth in Section 1129(b) of the Bankruptcy Code. In the event  
12 any impaired Class of Claims does not accept the Plan, Debtor hereby requests the  
13 Bankruptcy Court to confirm the Plan in accordance with Section 1129(b) of the Bankruptcy  
14 Code or otherwise permit Debtor to modify the Plan.

### 15           **14.4 RISK FACTORS**

16           There are a number of risks associated with Debtor's proposed Plan. Each  
17 Creditor should carefully consider those risks in evaluating its vote on Debtor's Plan. All of  
18 the risks associated with Debtor's Plan are too numerous to identify, however, a few of those  
19 risks are set forth below.

20           14.4.1 General Financial Market Conditions. The recent disruption with  
21 numerous major financial institutions and the resulting crisis in the financial markets has  
22 rippled through the economy, and has impacted the real estate industry in particular. While  
23 the ultimate effects of this crisis on the owners and operators of buildings, such as Debtor,  
24 are as yet unclear, it is possible that this financial market will prevent even qualified  
25 borrowers from being able to obtain mortgages on affordable terms, if at all. A continued  
26 freeze of the credit markets could have a significant adverse impact on the Debtor.

1           14.4.2 Projected Financial Results. The Debtor's projected financial results  
2 reflect management's best estimate of Reorganized Debtor's future financial performance  
3 based on currently known facts and hypothetical assumptions about, among other matters, the  
4 timing, confirmation and consummation of the Plan in accordance with its terms, the  
5 anticipated future performance of the Reorganized Debtor, and the real estate market. Many  
6 of these factors are beyond the control of the Reorganized Debtor. As a consequence, the  
7 actual financial results may differ significantly from the projections. Specifically, the  
8 Reorganized Debtor may not be able to meet the projected financial results or achieve the  
9 revenue or cash flow that it has assumed in projecting future leases and lease rates. Further,  
10 in the event that the Court fixes an interest rate on the Class 3 Claim substantially higher than  
11 4.50% per annum, then Debtor's ability to meet the projected financial results will be  
12 jeopardized.

### 13 **15. ALTERNATIVES TO CONFIRMATION OF THE PLAN**

14           If a Plan is not confirmed, Debtor or another party in interest may attempt to  
15 formulate or propose a different Plan or Plans of Reorganization. Such Plans might involve a  
16 reorganization and continuation of Debtor's business, a sale of Debtor's business as a going  
17 concern, an orderly liquidation of Debtor's assets or any combination thereof. If no Plan of  
18 Reorganization is determined by the Bankruptcy Court to be confirmable, the Chapter 11  
19 case may be converted to a liquidation proceeding under Chapter 7 of the Bankruptcy Code.

20           In a liquidation, a Chapter 7 Trustee would be appointed with the purpose of  
21 liquidating the assets of Debtor. Typically, in a liquidation, assets are sold for less than their  
22 going concern value and, accordingly, the return to Creditors and interest holders is less than  
23 the return in a reorganization, which derives the value to be distributed in a Plan from the  
24 business as a going concern. Proceeds from liquidation would be distributed to Creditors and  
25 Equity Security Holders in accordance with the priorities set forth in the Bankruptcy Code.

1 Debtor believes there is no currently available alternative that would offer  
2 holders of Claims and interests in Debtor greater than the Plan. In fact, the likely alternative  
3 to confirmation of the Plan is that CDO will foreclose on the Property and no unsecured  
4 creditor will be paid anything. Debtor urges all parties entitled to vote on the Plan to vote to  
5 accept the Plan.

6  
7 **16. CONCLUSION**

8 Please read this Disclosure Statement and the Plan carefully. After reviewing  
9 all the information and making an informed decision, please vote by using the enclosed  
10 ballot.

11 DATED this 30th day of June, 2014.

12 Bay Club Partners-472, LLC

13  
14 By: Bay Club Management, LLC, Its Manager

15 By: Residential Equity Partners, LLC, Its  
16 Managing Member

17 By: David Butler  
18 David Butler, Manager

19 Presented by:

20 TONKON TORP LLP

21 By: Ava L. Schoen  
22 Albert N. Kennedy, OSB No. 821429  
23 Ava L. Schoen, OSB No. 044072  
24 Attorneys for Debtor  
25  
26

**DEBTOR'S DISCLOSURE  
STATEMENT  
EXHIBIT 1**



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7 Attorneys for Debtor

8

9

10 UNITED STATES BANKRUPTCY COURT

11 DISTRICT OF OREGON

12 In re

Case No. 14-30394-rld11

13 Bay Club Partners-472, LLC,

**DEBTOR'S FIRST AMENDED PLAN  
OF REORGANIZATION  
(June 30, 2014)**

14 Debtor.

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DEBTOR'S FIRST AMENDED PLAN OF REORGANIZATION (June 30, 2014)

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1 Bay Club Partners-472, LLC, as debtor and debtor in possession, proposes  
2 this Plan of Reorganization (the "Plan") pursuant to Section 1121(a) of Title 11 of the United  
3 States Code:

4 This Plan provides for the repayment of Debtor's obligations to its Creditors.  
5 The Plan provides for payment to all Creditors over time as set forth below. A Disclosure  
6 Statement is enclosed herewith to assist you in understanding this Plan and making an  
7 informed judgment concerning its terms.

## 8 **ARTICLE 1**

### 9 **DEFINITIONS**

10 Definitions of certain terms used in this Plan are set forth below. Other terms  
11 are defined in the text of this Plan or the text of the Disclosure Statement. In either case,  
12 when a defined term is used, the first letter of each word in the defined term is capitalized.  
13 Terms used and not defined in this Plan or the Disclosure Statement shall have the meanings  
14 given in the Bankruptcy Code or Bankruptcy Rules, or otherwise as the context requires.  
15 The meanings of all terms shall be equally applicable to both the singular and plural, and  
16 masculine and feminine, forms of the terms defined. The words "herein," "hereof," "hereto,"  
17 "hereunder," and others of similar import, refer to the Plan as a whole and not to any  
18 particular section, subsection or clause contained in the Plan. Captions and headings to  
19 articles, sections and exhibits are inserted for convenience of reference only and are not  
20 intended to be part of or to affect the interpretation of the Plan. The rules of construction set  
21 forth in Section 102 of the Bankruptcy Code shall apply. In computing any period of time  
22 prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.  
23 Any capitalized term that is not defined herein but is defined in the Bankruptcy Code shall  
24 have the meaning ascribed to such term in the Bankruptcy Code.

25 1.1. "Administrative Expense Claim" means any Claim entitled to the priority  
26 afforded by Sections 503(b) and 507(a)(1) of the Bankruptcy Code.

1 1.2. "Allowed" means, with respect to any Claim, proof of which has been  
2 properly Filed or, if no Proof of Claim was so Filed, which was or hereafter is listed on  
3 the Schedules as liquidated in amount and not disputed or contingent, and, in either case,  
4 a Claim as to which no objection to the allowance thereof, or motion to estimate for  
5 purposes of allowance, shall have been Filed on or before any applicable period of  
6 limitation that may be fixed by the Bankruptcy Code, the Bankruptcy Rules and/or the  
7 Bankruptcy Court, or as to which any objection, or any motion to estimate for purposes  
8 of allowance, shall have been so Filed, to the extent allowed by a Final Order.

9 1.3. "Allowed Secured Claim" means an Allowed Claim that is secured by a  
10 lien, security interest or other charge against or interest in property in which Debtor has  
11 an interest or that is subject to setoff under Section 553 of the Bankruptcy Code, to the  
12 extent of the value (as set forth in the Plan, or if no value is specified, as determined in  
13 accordance with Section 506(a) of the Bankruptcy Code or, if applicable, Section 1111(b)  
14 of the Bankruptcy Code) of the interest of the holder of such Claim in Debtor's interest in  
15 such property or to the extent of the amount subject to setoff, as the case may be.

16 1.4. "Allowed Unsecured Claim" means an Allowed Claim that is not an  
17 Allowed Secured Claim.

18 1.5. "Bankruptcy Code" means the Bankruptcy Reform Act of 1978, as  
19 amended from time to time, set forth in Sections 101 et seq. of Title 11 of the United  
20 States Code.

21 1.6. "Bankruptcy Court" means the United States Bankruptcy Court for the  
22 District of Oregon, or such other court that exercises jurisdiction over the Bankruptcy  
23 Case or any proceeding therein, including the United States District Court for the District  
24 of Oregon, to the extent that the reference to the Bankruptcy Case or any proceeding  
25 therein is withdrawn.  
26

1 1.7. "Bankruptcy Rules" means, collectively, the Federal Rules of Bankruptcy  
2 Procedure, as amended and promulgated under Section 2075, Title 28, of the United  
3 States Code, and the local rules and standing orders of the Bankruptcy Court.

4 1.8. "Business Day" means a day other than a Saturday, Sunday or other day  
5 on which banks in Portland, Oregon are authorized or required by law to be closed.

6 1.9. "CDO" means Legg Mason Real Estate CDO I, Ltd.

7 1.10. "Cash" means lawful currency of the United States of America.

8 1.11. "Chapter 11 Case" means the case under Chapter 11 of the Bankruptcy  
9 Code with respect to the Debtor, pending in the District of Oregon, administered as *In re*  
10 *Bay Club Partners—472, LLC*, Case No. 14-30394-rld11.

11 1.12. "Claim" means (a) any right to payment from Debtor arising before the  
12 Effective Date, whether or not such right is reduced to judgment, liquidated, unliquidated,  
13 fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or  
14 unsecured; or (b) any right to an equitable remedy against Debtor arising before the  
15 Effective Date for breach of performance if such breach gives rise to a right of payment  
16 from Debtor, whether or not such right to an equitable remedy is reduced to judgment,  
17 fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

18 1.13. "Class" means one of the classes of Claims defined in Article 3 hereof.

19 1.14. "Collateral" means any property in which Debtor has an interest that is  
20 subject to a lien or security interest securing the payment of an Allowed Secured Claim.

21 1.15. "Confirmation Date" means the date on which the Confirmation Order is  
22 entered on the docket by the Clerk of the Bankruptcy Court.

23 1.16. "Confirmation Order" means the order of the Bankruptcy Court  
24 confirming the Plan in accordance with the provisions of Chapter 11 of the Bankruptcy  
25 Code.

26 1.17. "Creditor" means any entity holding a Claim against Debtor.

1 1.18. "Debtor" means Bay Club Partners—472, LLC, as Debtor and Debtor-in-  
2 Possession in the Bankruptcy Case.

3 1.19. "Disclosure Statement" means Debtor's Disclosure Statement as amended,  
4 modified, restated or supplemented from time to time, pertaining to the Plan.

5 1.20. "Disputed Claim" means a Claim with respect to which a Proof of Claim  
6 has been timely Filed or deemed timely Filed under applicable law, and as to which an  
7 objection, timely Filed, has not been withdrawn on or before the Effective Date or any  
8 date fixed for filing such objections by order of the Bankruptcy Court, and has not been  
9 denied by a Final Order and which Claim has not been estimated or temporarily allowed  
10 by the Bankruptcy Court on timely motion by the holder of such Claim. If an objection  
11 related to the allowance of only a part of a Claim has been timely Filed or deemed timely  
12 Filed, such Claim shall be a Disputed Claim only to the extent of the objection.

13 1.21. "Effective Date" means the first day of the first month following the date  
14 that the Confirmation Order becomes a Final Order.

15 1.22. "Equity Security" shall have the meaning ascribed to it by Section 101(16)  
16 of the Bankruptcy Code.

17 1.23. "Equity Security Holders" means a holder of an Equity Security of Debtor.

18 1.24. "Filed" means filed with the Bankruptcy Court in the Bankruptcy Case.

19 1.25. "Final Order" means an order or judgment entered on the docket by the  
20 Clerk of the Bankruptcy Court or any other court exercising jurisdiction over the subject  
21 matter and the parties that has not been reversed, stayed, modified or amended and as to  
22 which the time for filing a notice of appeal, petition for certiorari, request for certiorari,  
23 or request for rehearing shall have expired.

24 1.26. "Insider" shall have the meaning ascribed to it by Section 101(31) of the  
25 Bankruptcy Code.

1 1.27. "Midtown on Main" means the building and real property located at 2121  
2 W. Main St., Mesa, Arizona 85201.

3 1.28. "Other Priority Claim" means any Claim for an amount entitled to priority  
4 in right of payment under Section 507(a)(3), (4), (5), (6), or (7) of the Bankruptcy Code.

5 1.29. "Petition Date" means January 28, 2014, the date on which the petition  
6 commencing the Chapter 11 Case was Filed.

7 1.30. "Plan" means this Plan of Reorganization, as amended, modified, restated  
8 or supplemented from time to time.

9 1.31. "Priority Tax Claim" means a Claim of a governmental unit of the kind  
10 entitled to priority under Section 507(a)(8) of the Bankruptcy Code or that would  
11 otherwise be entitled to priority but for the secured status of the Claim.

12 1.32. "Reorganized Debtor" means the Debtor from and after the Effective Date.

13 1.33. "Restated Articles of Organization" means the restated articles of  
14 organization and restated operating agreement ("Organizational Document") of Debtor,  
15 which shall modify and amend Debtor's Organizational Documents to prohibit the  
16 issuance of non-voting equity securities to the extent required by Section 1123(a)(6) of  
17 the Bankruptcy Code.

18 1.34. "Scheduled Amounts" means the Claim amounts as set forth in Debtor's  
19 Bankruptcy Schedules.

20 1.35. "Schedules" means the Schedules of Assets and Liabilities and the  
21 Statement of Financial Affairs Filed by Debtor pursuant to Section 521 of the Bankruptcy  
22 Code, as amended, modified, restated or supplemented from time to time.

23 1.36. "Secured Claim" means any Claim against Debtor held by any entity,  
24 including, without limitation, an Affiliate or judgment creditor of Debtor, to the extent  
25 such Claim constitutes a secured Claim under Sections 506(a) or 1111(b) of the  
26 Bankruptcy Code.

1 1.37. "Tenant Leases" means all leases between Debtor and tenants of units in  
2 Midtown on Main.

3 1.38. "Unsecured Claim" means an unsecured Claim that is not an  
4 Administrative Claim, a Secured Claim, a Tax Claim, or an Other Priority Claim.

5 1.39. "Unsecured Creditor" means a holder of an Allowable Unsecured Claim.

6 1.40. "Utility Deposits" means deposits with utilities made by Debtor after the  
7 Petition Date pursuant to Section 366(b) of the Bankruptcy Code.

8 **ARTICLE 2**

9 **UNCLASSIFIED CLAIMS**

10 2.1. Administrative Expense Claims. Each holder of an Allowed  
11 Administrative Expense Claim shall be paid by Debtor in full in Cash on the later of  
12 (a) the Effective Date or (b) the date on which such Claim becomes Allowed, unless such  
13 holder shall agree in writing to a different treatment of such Claim (including, without  
14 limitation, any different treatment that may be provided for in any documentation, statute  
15 or regulation governing such Claim); provided, however, that Administrative Expense  
16 Claims representing obligations incurred in the ordinary course of business by Debtor  
17 during the Bankruptcy Case shall be paid by Debtor or Reorganized Debtor in the  
18 ordinary course of business and in accordance with any terms and conditions of the  
19 particular transaction, and any agreements relating thereto.

20 2.2. Priority Tax Claims. Each holder of an Allowed Priority Tax Claim shall  
21 be paid by Debtor the full amount of its Allowed Priority Tax Claim on the Effective  
22 Date or the date the claim is Allowed, whichever first occurs.

23 2.3. Bankruptcy Fees. Fees payable by Debtor under 28 USC § 1930, or to the  
24 Clerk of the Bankruptcy Court, will be paid in full in Cash on the Effective Date. After  
25 confirmation, Reorganized Debtor shall continue to pay quarterly fees of the Office of the  
26 United States Trustee and to file quarterly reports with the Office of the United States



1 Trustee until this case is closed by the Court, dismissed or converted. This requirement is  
2 subject to any amendments to 28 USC § 1930(a)(6) that Congress makes retroactively  
3 applicable to confirmed Chapter 11 cases.

4 **ARTICLE 3**

5 **CLASSIFICATION**

6 For purposes of this Plan, Claims and interests are classified as provided  
7 below. A Claim is classified in a particular Class only to the extent that such Claim qualifies  
8 within the description of such Class, and is classified in a different Class to the extent that  
9 such Claim qualifies within the description of such different Class.

10 3.1. Class 1 - Other Priority Claims. Class 1 consists of Allowed Other  
11 Priority Claims.

12 3.2. Class 2 – Equity Security Holders. Class 2 consists of the Equity Security  
13 interests or claims of the Equity Security Holders.

14 3.3. Class 3 – Legg Mason Real Estate CDO I Ltd.'s Secured Claim. Class 3  
15 consists of the Allowed Secured Claim of CDO.

16 3.4. Class 4 – General Unsecured Claims. Class 4 consists of all Allowed  
17 Unsecured Claims other than Administrative Expense Claims, Priority Tax Claims, and  
18 Other Priority Tax Claims.

19 **ARTICLE 4**

20 **TREATMENT OF UNIMPAIRED CLASSES**

21 4.1. Class 1 (Other Priority Claims). Each holder of an Allowed Class 1 Claim  
22 shall be paid in full in Cash the amount of its Allowed Class 1 Claim on the latest to  
23 occur of (1) the Effective Date, (2) the date such claim becomes an Allowed Claim, or  
24 (3) the date that the such claim becomes due and owing, unless such holder shall agree in  
25 writing or has agreed to a different treatment of such Claim (including, without  
26

1 limitation, any different treatment that may be provided for in any documentation,  
2 agreement, contract, statute, law or regulation creating and governing such Claim).

3 4.2. Class 2 (Equity Security Holders). Class 2 Equity Security Holders will  
4 retain their Equity Securities in the Debtor.

5 **ARTICLE 5**

6 **TREATMENT OF IMPAIRED CLASSES**

7 5.1. Class 3 (CDO's Secured Claim). CDO's Allowed Secured Claim is  
8 secured by a perfected security interest in substantially all of Debtor's assets, including  
9 rents. CDO will retain its interests in its Collateral with the same priority that it had as of  
10 the Petition Date. CDO's Claim will be an Allowed Secured Claim (including interest  
11 and fees as provided in section 506(b) of the Bankruptcy Code) up to the value of CDO's  
12 interest in the estate's interest in the Collateral securing the Claim as agreed by the parties  
13 or determined by the Court. CDO's Allowed Secured Claim will be paid in full as  
14 follows: CDO will be paid monthly payments of interest only for 12 months at an  
15 interest rate of 4.50%, or at such other rate fixed by the Court at confirmation.

16 Commencing on first anniversary of the Effective Date and continuing until the third  
17 anniversary of the Effective Date, CDO will be paid equal, monthly amortizing payments  
18 of principal and interest at a fixed rate of 4.50%, or at such other rate fixed by the Court  
19 at confirmation, based upon a 30-year amortization schedule with a balloon payment of  
20 the unpaid principal plus accrued interest due on the third anniversary of the Effective  
21 Date. Any Allowed accrued and unpaid interest on the secured claim of CDO and any  
22 Allowed reasonable attorney fees and costs of CDO will be added to the Allowed claim  
23 of CDO. Reorganized Debtor will maintain and insure Midtown on Main and promptly  
24 pay all real property taxes as they come due.

25 5.2. Class 4 –General Unsecured Claims. Each holder of an Allowed Class 4  
26 General Unsecured Claim shall be paid in full in Cash on the third anniversary of the

1 Effective Date together with interest accruing from the Effective Date at a fixed rate of  
2 3.0%. Alternatively, a holder of an Allowed Class 4 General Unsecured Claim may elect  
3 at the time of balloting to be paid 60% of its Claim in Cash within 90 days of the  
4 Effective Date in full satisfaction of its Claim. To the extent Allowed Unsecured Claims  
5 are paid on the third anniversary of the Effective Date, the aforementioned balloon  
6 payment to CDO will be paid before Debtor pays Allowed Unsecured Claims.

7 **ARTICLE 6**

8 **DISPUTED CLAIMS; OBJECTIONS TO CLAIMS**

9 Disputed Claims; Objections to Claims. Only Claims that are Allowed shall  
10 be entitled to distributions under the Plan. Debtor reserves the right to contest and object to  
11 any Claims and previously Scheduled Amounts, including, without limitation, those Claims  
12 and Scheduled Amounts that are specifically referenced herein, are not listed in the  
13 Schedules, are listed therein as disputed, contingent and/or unliquidated in amount, or are  
14 listed therein at a different amount than the Debtor currently believes is validly due and  
15 owing. Unless otherwise ordered by the Bankruptcy Court, all objections to Claims and  
16 Scheduled Amounts (other than Administrative Expense Claims) shall be Filed and served  
17 upon counsel for Debtor and the holder of the Claim objected to on or before the later of  
18 (a) thirty (30) days after the Effective Date or (b) sixty (60) days after the date (if any) on  
19 which a Proof of Claim is Filed in respect of a Rejection Claim. The last day for filing  
20 objections to Administrative Expense Claims shall be set pursuant to an order of the  
21 Bankruptcy Court. All Disputed Claims shall be resolved by the Bankruptcy Court, except to  
22 the extent that (a) Debtor may otherwise elect consistent with the Plan and the Bankruptcy  
23 Code or (b) the Bankruptcy Court may otherwise order.

1 **ARTICLE 7**

2 **IMPLEMENTATION OF THE PLAN**

3 7.1. General.

4 7.1.1. Reorganized Debtor will pay Allowed Claims pursuant to the Plan.

5 7.1.2. All Equity Securities in Debtor will be retained.

6 7.1.3. Upon the Effective Date, all reserves held by CDO for the benefit of  
7 Debtor shall be transferred to Reorganized Debtor.

8 7.2. Member Compensation and Distributions.

9 The manager of Reorganized Debtor shall be entitled to reimbursement of  
10 expenses (including travel) in an amount not to exceed \$4,000 per month. Except for the  
11 forgoing Reorganized Debtor will not make any payments or distributions to any members of  
12 Reorganized Debtor until the Class 3 and Class 4 Claims have been paid and satisfied in full  
13 as provided in this Plan.

14 7.3. Restated Articles of Organization. Reorganized Debtor shall be deemed to  
15 have adopted the Restated Articles of Organization on the Effective Date and shall  
16 promptly thereafter cause the same to be filed with the Secretary of State of the State of  
17 Oregon. After the Effective Date, Reorganized Debtor may amend the Restated  
18 Organizational Documents and may amend its bylaws in accordance with the Restated  
19 Articles of Organization, such bylaws and applicable state law.

20 7.4. Setoffs. Debtor may, but shall not be required to, set off against any  
21 Claim and the distributions to be made pursuant to the Plan in respect of such Claim, any  
22 claims of any nature whatsoever which Debtor may have against the holder of such  
23 Claim, but neither the failure to do so nor the allowance of any Claim hereunder shall  
24 constitute a waiver or release of any such claim Debtor may have against such holder.

25 7.5. Corporate Action. Upon entry of the Confirmation Order by the Clerk of  
26 the Bankruptcy Court, all actions contemplated by the Plan shall be authorized and

1 approved in all respects (subject to the provisions of the Plan), including, without  
2 limitation, the following: (a) the adoption and filing with the Secretary of State of the  
3 State of Oregon the Restated Articles of Organization, and (b) the execution, delivery and  
4 performance of all documents and agreements relating to the Plan and any of the  
5 foregoing. On the Effective Date, the manager of Reorganized Debtor is authorized and  
6 directed to execute and deliver the agreements, documents and instruments contemplated  
7 by the Plan and the Disclosure Statement in the name of and on behalf of Reorganized  
8 Debtor.

9 7.6. Saturday, Sunday or Legal Holiday. If any payment or act under the Plan  
10 is required to be made or performed on a date that is not a Business Day, then the making  
11 of such payment or the performance of such act may be completed on the next  
12 succeeding Business Day, but shall be deemed to have been completed as of the required  
13 date.

14 7.7. Utility Deposit. All utilities holding a Utility Deposit shall immediately  
15 after the Effective Date return or refund such Utility Deposit to Reorganized Debtor. At  
16 the sole option of Reorganized Debtor, Reorganized Debtor may apply any Utility  
17 Deposit that has not been refunded to Reorganized Debtor in satisfaction of any payments  
18 due or to become due from Reorganized Debtor to a utility holding such a Utility  
19 Deposit.

20 7.8. Event of Default; Remedy. Any material failure by Reorganized Debtor to  
21 perform any term of this Plan, which failure continues for a period of five Business Days  
22 following receipt by Reorganized Debtor of written notice of such default from the holder  
23 of an Allowed Claim to whom performance is due, shall constitute an event of Default.  
24 Upon the occurrence of an Event of Default, the holder of an Allowed Claim to whom  
25 performance is due shall have all rights and remedies granted by law, this Plan or any  
26 agreement between the holder of such Claim and Debtor or Reorganized Debtor. An

1 Event of Default with respect to one Claim shall not be an Event of Default with respect  
2 to any other Claim.

3 **ARTICLE 8**

4 **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

5 8.1. Assumption. Except as may otherwise be provided, all executory  
6 contracts and unexpired leases of Debtor, which are not otherwise subject to a prior  
7 Bankruptcy Court order or pending motion before the Bankruptcy Court are assumed by  
8 Reorganized Debtor on the Effective Date. The Confirmation Order shall constitute an  
9 order authorizing assumption of all executory contracts and unexpired leases except those  
10 otherwise specifically rejected or otherwise provided for or subject to other Court Order  
11 or pending motion. Reorganized Debtor shall promptly pay all amounts required under  
12 Section 365 of the Bankruptcy Code to cure any defaults and assume the executory  
13 contracts.

14 8.2. Assignment. To the extent necessary and except as may otherwise be  
15 provided, all executory contracts and unexpired leases shall be deemed assigned to  
16 Reorganized Debtor as of the Effective Date. The Confirmation Order shall constitute an  
17 order authorizing such assignment of executory contracts and unexpired leases, and no  
18 further assignment documentation shall be necessary to effectuate such assignment.

19 8.3. Rejection Claims. Rejection Claims must be Filed no later than 30 days  
20 after the entry of the order rejecting the executory contract or unexpired lease or 30 days  
21 after the Effective Date, whichever is sooner. Any such Rejection Claim not Filed within  
22 such time shall be forever barred from assertion against Debtor, Reorganized Debtor, and  
23 its property and estates. Each Rejection Claim resulting from such rejection shall  
24 constitute a Class 4 Claim.

1 **ARTICLE 9**

2 **EFFECT OF CONFIRMATION**

3 9.1. Injunction. The effect of confirmation shall be as set forth in Section 1141  
4 of the Bankruptcy Code. Except as otherwise provided in the Plan or in the Confirmation  
5 Order, confirmation of the Plan shall act as a permanent injunction applicable to entities  
6 against (a) the commencement or continuation, including the issuance or employment of  
7 process, of a judicial, administrative, or other action or proceeding against Reorganized  
8 Debtor that was or could have been commenced before the entry of the Confirmation  
9 Order, (b) the enforcement against Reorganized Debtor or its assets of a judgment  
10 obtained before the Petition Date, and (c) any act to obtain possession of or to exercise  
11 control over, or to create, perfect or enforce a lien upon all or any part of the assets.

12 9.2. Discharge. Except as otherwise expressly provided herein, the  
13 confirmation of the Plan shall, provided that the Effective Date shall have occurred,  
14 discharge all Claims, and the distributions and rights provided in this Plan and the  
15 Confirmation Order shall be in complete satisfaction of all Claims, whether known or  
16 unknown, against Debtor that arose prior to the Effective Date.

17 **ARTICLE 10**

18 **RETENTION OF JURISDICTION**

19 10.1. Jurisdiction of the Bankruptcy Court. Notwithstanding the entry of the  
20 Confirmation Order, the Court shall retain jurisdiction of this Chapter 11 Case pursuant  
21 to and for the purposes set forth in Section 1127(b) of the Bankruptcy Code and

22 10.1.1. to classify the Claim or interest of any Creditor or stockholder,  
23 reexamine Claims or interests which have been owed for voting purposes and determine any  
24 objections that may be Filed to Claims or interests,  
25  
26

1 10.1.2. to determine requests for payment of Claims entitled to priority  
2 under Section 507(a)(1) of the Bankruptcy Code, including compensation and reimbursement  
3 of expenses in favor of professionals employed at the expense of the Estate,

4 10.1.3. to avoid transfers or obligations to subordinate Claims under  
5 Chapter 5 of the Bankruptcy Code,

6 10.1.4. to approve the assumption, assignment or rejection of an executory  
7 contract or an unexpired lease pursuant to this Plan,

8 10.1.5. to resolve controversies and disputes regarding the interpretation of  
9 this Plan,

10 10.1.6. to implement the provisions of this Plan and enter orders in aid of  
11 confirmation,

12 10.1.7. to adjudicate adversary proceedings and contested matters pending  
13 or hereafter commenced in this Chapter 11 Case, and

14 10.1.8. to enter a final decree closing this Chapter 11 proceeding.

15 10.2. Failure of Bankruptcy Court to Exercise Jurisdiction. If the Bankruptcy  
16 Court abstains from exercising or declines to exercise jurisdiction over any matter arising  
17 under, arising in or related to the Chapter 11 Case, this Article shall not prohibit or limit  
18 the exercise of jurisdiction by any other court having competent jurisdiction with respect  
19 to such subject matter.

## 20 **ARTICLE 11**

### 21 **ADMINISTRATIVE PROVISIONS**

22 11.1. Modification or Withdrawal of the Plan. Debtor may alter, amend or  
23 modify the Plan pursuant to Section 1127 of the Bankruptcy Code and Bankruptcy Rule  
24 3019 at any time prior to the time that the Bankruptcy Court has signed the Confirmation  
25 Order. After such time, and prior to the substantial consummation of the Plan, Debtor  
26 may, so long as the treatment of holders of Claims and interests under the Plan is not



1 adversely affected, institute proceedings in Bankruptcy Court to remedy any defect or  
2 omission or to reconcile any inconsistencies in the Plan, the Disclosure Statement or the  
3 Confirmation Order, and any other matters as may be necessary to carry out the purposes  
4 and effects of the Plan; provided, however, that prior notice of such proceedings shall be  
5 served in accordance with Bankruptcy Rule 2002.

6 11.2. Revocation or Withdrawal of Plan.

7 11.2.1. Right to Revoke. Debtor reserves the right to revoke or  
8 withdraw the Plan at any time prior to the Effective Date.

9 11.2.2. Effect of Withdrawal or Revocation. If Debtor revokes or  
10 withdraws the Plan prior to the Effective Date, then the Plan shall be deemed null and void.  
11 In such event, nothing contained herein shall be deemed to constitute a waiver or release of  
12 any claims by or against Debtor or any other Entity or to prejudice in any manner the rights  
13 of Debtor or any Entity in any further proceeding involving Debtor.

14 11.3. Nonconsensual Confirmation. Debtor shall request that the Bankruptcy  
15 Court confirm the Plan pursuant to Section 1129(b) of the Bankruptcy Code if the  
16 requirements of all provisions of Section 1129(a) of the Bankruptcy Code, except  
17 subsection 1129(a)(8), are met.

18 **ARTICLE 12**

19 **MISCELLANEOUS PROVISIONS**

20 12.1. Revesting. Except as otherwise expressly provided herein, on the  
21 Effective Date, all property and assets of the estate of Debtor shall revest in Reorganized  
22 Debtor, free and clear of all claims, liens, encumbrances, charges and other interests of  
23 Creditors arising on or before the Effective Date, and Reorganized Debtor may operate,  
24 from and after the Effective Date, free of any restrictions imposed by the Bankruptcy  
25 Code or the Bankruptcy Court.  
26

1           12.2. Rights of Action. Except as otherwise expressly provided herein, any  
2 rights or causes of action (including, without limitation, any and all avoidance actions)  
3 accruing to Debtor shall remain assets of Reorganized Debtor. Reorganized Debtor may  
4 pursue such rights of action, as appropriate, in accordance with what is in its best  
5 interests and for its benefit.

6           12.3. Governing Law. Except to the extent the Bankruptcy Code, the  
7 Bankruptcy Rules or other federal laws are applicable, the laws of the State of Oregon  
8 shall govern the construction and implementation of the Plan, and all rights and  
9 obligations arising under the Plan.

10           12.4. Withholding and Reporting Requirements. In connection with the Plan  
11 and all instruments issued in connection therewith and distributions thereon, Debtor and  
12 Reorganized Debtor shall comply with all withholding, reporting, certification and  
13 information requirements imposed by any federal, state, local or foreign taxing  
14 authorities and all distributions hereunder shall, to the extent applicable, be subject to any  
15 such withholding, reporting, certification and information requirements. Entities entitled  
16 to receive distributions hereunder shall, as a condition to receiving such distributions,  
17 provide such information and take such steps as Reorganized Debtor may reasonably  
18 require to ensure compliance with such withholding and reporting requirements, and to  
19 enable Reorganized Debtor to obtain the certifications and information as may be  
20 necessary or appropriate to satisfy the provisions of any tax law.

21           12.5. Time. Unless otherwise specified herein, in computing any period of time  
22 prescribed or allowed by the Plan, the day of the act or event from which the designated  
23 period begins to run shall not be included. The last day of the period so computed shall  
24 be included, unless it is not a Business Day, in which event the period runs until the end  
25 of the next succeeding day which is a Business Day.

1           12.6. Section 1146(c) Exemption. Pursuant to Section 1146(a) of the  
2 Bankruptcy Code, the issuance, transfer or exchange of any security under the Plan, or  
3 the execution, delivery or recording of an instrument of transfer pursuant to, in  
4 implementation of or as contemplated by the Plan, or the revesting, transfer or sale of any  
5 real property of Debtor or Reorganized Debtor pursuant to, in implementation of or as  
6 contemplated by the Plan, shall not be taxed under any state or local law imposing a  
7 stamp tax, transfer tax, or similar tax or fee. Consistent with the foregoing, each recorder  
8 of deeds or similar official for any city, county or governmental unit in which any  
9 instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be  
10 ordered and directed to accept such instrument without requiring the payment of any  
11 documentary stamp tax, deed stamps, transfer tax, intangible tax or similar tax.

12           12.7. Severability. In the event that any provision of the Plan is determined to  
13 be unenforceable, such determination shall not limit or affect the enforceability and  
14 operative effect of any other provisions of the Plan. To the extent that any provision of  
15 the Plan would, by its inclusion in the Plan, prevent or preclude the Bankruptcy Court  
16 from entering the Confirmation Order, the Bankruptcy Court, on the request of Debtor,  
17 may modify or amend such provision, in whole or in part, as necessary to cure any defect  
18 or remove any impediment to the confirmation of the Plan existing by reason of such  
19 provision.

20           12.8. Binding Effect. The provisions of the Plan shall bind Debtor, Reorganized  
21 Debtor and all holders of Claims and Equity Securities, and their respective successors,  
22 heirs and assigns. Any note, agreement, instrument, judgment or other document  
23 evidencing a Claim in any Class shall be deemed cancelled, null and void, provided that  
24 nothing in this Plan will affect the liability of any entity other than the Debtor for any  
25 such Claim.  
26

1           12.9. Recordable Order. The Confirmation Order shall be deemed to be in  
2 recordable form, and shall be accepted by any recording officer for filing and recording  
3 purposes without further or additional orders, certifications or other supporting  
4 documents.

5           12.10. Plan Controls. In the event and to the extent that any provision of the Plan  
6 is inconsistent with the provisions of the Disclosure Statement, or any other instrument or  
7 agreement contemplated to be executed pursuant to the Plan, the provisions of the Plan  
8 shall control and take precedence.

9           12.11. Effectuating Documents and Further Transactions. Debtor and  
10 Reorganized Debtor shall execute, deliver, file or record such contracts, instruments,  
11 assignments, and other agreements or documents, and take or direct such actions, as may  
12 be necessary or appropriate to effectuate and further evidence the terms and conditions of  
13 this Plan.

14                           DATED this 30th day of June, 2014.

15   Bay Club Partners-472, LLC

16   By: Bay Club Management, LLC, Its Manager

17   By: Residential Equity Partners, LLC, Its  
18   Managing Member

19   By: /s/ David Butler  
20   David Butler, Manager

21 Presented by:

22 TONKON TORP LLP

23  
24 By: /s/ Ava L. Schoen  
25       Albert N. Kennedy, OSB No. 821429  
26       Ava L. Schoen, OSB No. 044072  
       Attorneys for Debtor

**DEBTOR'S DISCLOSURE  
STATEMENT  
EXHIBIT 2**

## 2012 Midtown on Main - Bay Club Partners 472, LLC

	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Total
TOTAL RENTAL INCOME	256,960.69	261,330.76	268,226.72	271,019.52	265,533.41	261,065.41	261,963.17	277,441.29	276,819.29	273,766.03	271,259.50	274,579.89	3,219,965.68
TOTAL OTHER REVENUE	28,674.07	27,304.80	28,007.37	29,652.55	25,532.98	32,284.84	36,772.96	29,613.31	25,909.68	26,824.67	29,636.20	28,721.03	348,934.46
TOTAL INCOME	285,634.76	288,635.56	296,234.09	300,672.07	291,066.39	293,350.25	298,736.13	307,054.60	302,728.97	300,590.70	300,895.70	303,300.92	3,568,900.14
TOTAL GENERAL & ADMIN	10,942.40	11,887.68	10,938.73	11,105.02	10,063.48	10,056.34	8,741.75	13,955.02	12,034.87	10,940.22	10,376.79	7,942.46	128,984.76
TOTAL PAYROLL	39,318.81	50,170.22	45,832.01	48,096.28	55,300.83	47,907.79	46,794.15	53,940.52	51,521.87	40,362.66	45,019.00	50,257.14	574,521.28
TOTAL LEASING & MARKETING	8,502.78	5,780.42	8,695.35	5,759.72	5,924.00	9,187.42	5,376.88	5,891.39	5,169.43	5,038.74	5,462.92	8,519.33	79,308.38
TOTAL UTILITIES	23,147.99	24,392.23	23,602.95	22,977.36	23,068.50	25,567.80	26,532.98	32,119.51	26,998.03	28,209.81	26,858.90	34,339.44	317,815.50
TOTAL REPAIRS & MAINTENANC	36,351.84	40,601.18	37,830.81	16,155.58	13,809.19	19,169.27	14,663.54	40,989.35	49,557.65	46,624.32	18,139.88	44,274.65	378,167.26
TOTAL SUPPLY EXPENSE	6,702.58	6,843.23	8,765.54	4,446.10	10,416.19	7,665.05	9,892.87	11,368.13	9,177.53	10,389.92	6,167.71	12,374.92	104,209.77
TOTAL CONTRACT SERVICES	17,965.08	18,507.83	18,257.38	20,281.87	19,290.75	21,604.11	20,568.00	19,663.13	19,171.39	18,371.06	22,953.77	18,730.13	235,364.50
INSURANCE-PROPERTY & CASUALTY	4,205.76	4,162.00	4,162.00	4,162.00	4,162.00	4,162.00	4,162.00	4,162.00	4,162.00	4,162.00	4,162.00	4,162.00	49,987.76
REAL PROPERTY TAXES	17,472.11	17,472.11	17,472.11	17,472.11	17,472.11	17,472.11	17,472.11	17,472.11	6,822.72	6,822.72	6,822.72	6,782.70	167,027.74
TOTAL OPERATING EXPENSES	164,609.35	179,816.90	175,556.88	150,456.04	159,507.05	162,791.89	154,204.28	199,561.16	184,615.49	170,921.45	145,963.69	187,382.77	2,035,386.95
NET OPERATING INCOME	121,025.41	108,818.66	120,677.21	150,216.03	131,559.34	130,558.36	144,531.85	107,493.44	118,113.48	129,669.25	154,932.01	115,918.15	1,533,513.19
TOTAL DEBT SERVICE	234,581.15	108,345.01	100,172.29	84,843.33	101,320.93	127,200.50	112,201.41	115,367.25	121,519.60	88,133.22	84,452.59	103,415.38	1,381,552.66
CAPITAL EXPENSE													
APPLIANCES	4,285.37	4,521.45	6,202.56	3,914.79	1,910.52	5,948.79	6,343.88	7,247.51	7,778.53	9,729.40	4,175.96	7,030.96	69,089.72
WATER HEATER	503.56	755.31	1,258.85	755.31	251.77	251.77	503.54	755.31	1,441.26	848.24	1,103.91	2,207.61	10,636.44
CARPET REPLACEMENT	3,940.82	6,365.61	3,725.71	4,296.48	4,197.97	6,332.89	5,595.19	7,505.80	2,032.37	9,904.45	5,598.70	6,989.15	66,485.14
EXTERIOR REPAIRS & REPLACEMENT	606.39	2,950.00	11,800.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	15,356.39
HVAC	0.00	0.00	4,449.96	2,392.56	3,651.50	2,945.64	4,765.62	9,498.03	5,582.36	0.00	0.00	0.00	33,285.67
LANDSCAPING UPGRADES	0.00	4,500.00	4,250.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	8,750.00
PERSONAL PROPERTY	2,929.24	2,336.79	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5,266.03
POOL	0.00	0.00	4,190.57	-84.86	3,863.22	10,700.00	0.00	0.00	0.00	0.00	0.00	3,997.00	22,665.93
TOTAL CAPITAL EXPENSES	12,265.38	21,429.16	35,877.65	11,274.28	13,874.98	26,179.09	17,208.23	25,006.65	16,834.52	20,482.09	10,878.57	20,224.72	231,535.32

## 2013 Midtown on Main - Bay Club Partners 472, LLC

	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Total
TOTAL RENTAL INCOME	274,948.18	265,985.08	273,870.19	276,085.03	271,672.29	275,542.30	277,340.07	278,981.18	286,220.61	281,680.78	283,093.61	285,045.98	3,330,465.30
TOTAL OTHER REVENUE	28,252.56	32,216.89	29,891.06	29,291.10	30,504.41	34,070.90	37,501.38	37,224.78	36,733.48	32,105.21	28,745.01	34,939.82	391,476.60
TOTAL INCOME	303,200.74	298,201.97	303,761.25	305,376.13	302,176.70	309,613.20	314,841.45	316,205.96	322,954.09	313,785.99	311,838.62	319,985.80	3,721,941.90
TOTAL GENERAL & ADMIN	12,110.53	9,873.19	8,637.51	12,004.87	10,808.91	12,146.57	10,320.90	10,764.06	9,339.13	11,016.91	51,100.71	7,701.71	165,825.00
TOTAL PAYROLL	50,040.30	45,995.49	43,490.21	48,468.83	43,606.47	48,870.51	43,080.67	49,160.77	49,057.27	44,630.19	45,857.27	51,227.63	563,485.61
TOTAL LEASING & MARKETING	8,018.51	7,430.30	9,127.00	10,309.03	5,427.31	10,986.62	3,679.28	7,205.83	7,052.74	10,809.29	11,826.33	6,267.19	98,139.43
TOTAL UTILITIES	23,720.64	22,905.93	21,097.87	22,144.50	21,687.53	24,696.50	24,371.23	33,597.05	27,434.28	23,535.00	21,501.10	24,812.45	291,504.08
TOTAL REPAIRS AND MAINTENANCE	38,409.27	74,594.31	29,721.44	25,670.47	18,558.60	20,881.25	18,082.25	34,190.64	24,138.55	31,484.95	25,297.10	18,733.69	359,762.52
TOTAL SUPPLY EXPENSE	3,579.30	7,866.42	6,691.26	9,299.05	8,872.71	11,164.21	11,967.22	10,353.23	11,054.37	8,665.36	8,861.87	4,997.18	103,372.18
TOTAL CONTRACT SERVICES	19,034.32	18,410.42	20,019.09	17,972.14	21,818.36	19,968.88	25,096.07	19,081.61	17,537.77	20,369.89	23,421.25	22,922.23	245,652.03
INSURANCE-PROPERTY & CASUALTY	4,162.00	5,114.35	5,114.35	5,114.35	5,114.35	5,114.35	5,114.35	5,114.35	5,114.35	5,114.35	5,114.35	5,114.35	60,419.85
REAL PROPERTY TAXES	13,918.98	13,918.98	13,918.98	13,918.98	13,918.98	13,918.97	13,918.97	13,918.97	13,918.97	25,407.99	25,407.99	25,447.96	201,534.72
TOTAL OPERATING EXPENSES	172,993.85	206,109.39	157,817.71	164,902.22	149,813.22	167,747.86	150,774.21	183,386.51	164,647.43	181,033.93	218,387.97	167,224.39	2,084,838.69
NET OPERATING INCOME	130,206.89	92,092.58	145,943.54	140,473.91	152,363.48	141,865.34	164,067.24	132,819.45	158,306.66	132,752.06	93,450.65	152,761.41	1,637,103.21
DEBT SERVICE													
TOTAL DEBT SERVICE	126,853.21	82,331.41	114,692.27	70,241.27	127,734.46	118,624.14	134,152.87	121,835.15	142,219.76	114,606.54	137,460.70	120,196.42	1,410,948.20
CAPITAL EXPENSES													
APPLIANCES	10,920.22	14,362.13	2,244.10	9,437.38	4,234.89	6,408.14	13,764.28	10,457.15	8,952.50	11,026.43	9,500.06	2,389.89	103,697.17
WATER HEATER	1,130.98	848.24	1,130.99	1,130.98	1,413.73	565.49	744.02	0.00	840.47	280.16	840.48	687.16	9,612.70
CARPET REPLACEMENT	3,152.76	7,237.61	6,602.72	4,897.75	4,458.94	5,779.26	7,573.20	10,326.77	6,368.25	6,989.58	11,967.83	1,319.34	76,674.01
HVAC	0.00	0.00	3,395.00	1,676.64	3,891.58	3,960.72	3,368.11	2,194.61	7,840.24	0.00	0.00	0.00	26,326.90
PERSONAL PROPERTY	0.00	1,799.33	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,799.33
POOL	0.00	3,997.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,898.44	6,895.44
TOTAL CAPITAL EXPENSES	15,203.96	28,244.31	13,372.81	17,142.75	13,999.14	16,713.61	25,449.61	22,978.53	24,001.46	18,296.17	22,308.37	7,294.83	225,005.55

**Midtown on Main - Bay Club Partners 472 LLC**  
**Income Statement: Petition Date through May 2014**

	Feb-14	Mar-14	Apr-14	May-14	Total
TOTAL RENTAL INCOME	283,647.34	280,756.12	295,527.32	296,372.76	1,156,303.54
TOTAL OTHER REVENUE	24,812.03	23,029.34	25,040.66	25,015.77	97,897.80
<b>TOTAL INCOME</b>	<b>308,459.37</b>	<b>303,785.46</b>	<b>320,567.98</b>	<b>321,388.53</b>	<b>1,254,201.34</b>
OPERATING EXPENSES					
GENERAL & ADMIN	48.09	9,536.38	9,622.07	6,522.32	25,728.86
PAYROLL	36,960.20	44,425.64	66,171.63	44,457.21	192,014.68
LEASING & MARKETING	125.00	1,984.00	6,990.20	5,456.53	14,555.73
UTILITIES	0.00	20,210.12	20,359.06	20,958.98	61,528.16
REPAIRS & MAINTENANCE	0.00	2,014.52	12,785.72	8,780.93	23,581.17
SUPPLY EXPENSE	0.00	12,790.29	15,881.05	7,205.59	35,876.93
TURNOVER EXPENSE	0.00	8,699.55	11,833.06	5,893.59	26,426.20
CONTRACT SERVICES	0.00	20,115.82	14,935.11	15,443.21	50,494.14
INSURANCE	54,690.17	0.00	0.00	0.00	54,690.17
TAXES & OTHER ASSESSMENTS	0.00	0.00	100,747.37	0.00	100,747.37
TOTAL OPERATING EXPENSES	91,823.46	119,776.32	259,325.27	114,718.36	585,643.41
<b>NET OPERATING INCOME</b>	<b>216,635.91</b>	<b>184,009.14</b>	<b>61,242.71</b>	<b>206,670.17</b>	<b>668,557.93</b>
NON-OPERATING EXPENSES					
DEBT SERVICE	0.00	0.00	0.00	115,000.00	115,000.00
REPLACEMENT RESERVES	0.00	23,526.16	55,572.11	19,547.15	98,645.42
TOTAL NON-OPERATING EXPENSES	0.00	23,526.16	55,572.11	134,547.15	213,645.42



Case 14-30394-JLD-11 Doc 179 Filed 06/30/14  
 Bay Club Partners-472, LLC dba Midtown on Main Apartments  
 Plan of Reorganization August 2014 - July 2017

	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Total
TOTAL RENTAL INCOME	285,000.00	286,000.00	286,000.00	284,000.00	283,000.00	283,000.00	286,000.00	287,000.00	289,000.00	290,000.00	295,000.00	298,000.00	3,452,000.00
TOTAL OTHER REVENUE	32,872.00	32,872.00	32,872.00	32,872.00	32,872.00	32,872.00	32,872.00	32,872.00	32,872.00	32,872.00	32,872.00	32,872.00	394,464.00
TOTAL INCOME	317,872.00	318,872.00	318,872.00	316,872.00	315,872.00	315,872.00	318,872.00	319,872.00	321,872.00	322,872.00	327,872.00	330,872.00	3,846,464.00
TOTAL GENERAL & ADMIN	10,213.00	10,213.00	10,213.00	10,213.00	10,213.00	10,213.00	10,213.00	10,213.00	10,213.00	10,213.00	10,213.00	10,213.00	122,556.00
TOTAL PAYROLL	47,809.00	47,809.00	47,809.00	47,809.00	47,809.00	47,809.00	47,809.00	47,809.00	47,809.00	47,809.00	47,809.00	47,809.00	573,708.00
TOTAL LEASING & MARKETING	8,436.00	8,436.00	8,436.00	8,436.00	8,436.00	8,436.00	8,436.00	8,436.00	8,436.00	8,436.00	8,436.00	8,436.00	101,232.00
TOTAL UTILITIES	25,406.00	25,406.00	25,406.00	25,406.00	25,406.00	25,406.00	25,406.00	25,406.00	25,406.00	25,406.00	25,406.00	25,406.00	304,872.00
TOTAL REPAIRS & MAINTENANC	16,777.00	16,777.00	16,777.00	16,777.00	16,777.00	16,777.00	16,777.00	16,777.00	16,777.00	16,777.00	16,777.00	16,777.00	201,324.00
TOTAL SUPPLY EXPENSE	20,978.00	20,978.00	20,978.00	20,978.00	20,978.00	20,978.00	20,978.00	20,978.00	20,978.00	20,978.00	20,978.00	20,978.00	251,736.00
TOTAL CONTRACT SERVICES	18,791.48	18,818.98	18,818.98	18,763.98	18,736.48	18,736.48	18,818.98	18,846.48	18,901.48	18,928.98	19,066.48	19,148.98	226,377.76
INSURANCE-PROPERTY & CASUALTY	6,016.00	6,016.00	6,016.00	6,016.00	6,016.00	6,016.00	5,264.00	5,264.00	5,264.00	5,264.00	5,264.00	5,264.00	67,680.00
REAL PROPERTY TAXES	10,374.00	10,374.00	16,791.00	16,791.00	16,791.00	16,791.00	16,791.00	16,791.00	17,631.00	17,631.00	17,631.00	17,631.00	192,018.00
TOTAL OPERATING EXPENSES	164,800.48	164,827.98	171,244.98	171,189.98	171,162.48	171,162.48	170,492.98	170,520.48	171,415.48	171,442.98	171,580.48	171,662.98	2,041,503.76
NET OPERATING INCOME	153,071.52	154,044.02	147,627.02	145,682.02	144,709.52	144,709.52	148,379.02	149,351.52	150,456.52	151,429.02	156,291.52	159,209.02	1,804,960.24
Secured Creditor Payment - Interest	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	1,215,000.00
Principal Payments	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Unsecured Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL DEBT SERVICE	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	101,250.00	1,215,000.00
CAPITAL EXPENSES													
APPLIANCES	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	168,000.00
WATER HEATER	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	18,000.00
CARPET/VINYL REPLACEMENT	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	138,000.00
HVAC	8,000.00	7,000.00	3,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	3,000.00	4,000.00	32,000.00
PERSONAL PROPERTY	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
POOL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
PARKING LOT RESURFACING	0.00	0.00	0.00	0.00	0.00	48,000.00	0.00	0.00	0.00	48,000.00	0.00	0.00	96,000.00
BALCONY AND HANDRAILS	15,000.00	15,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	30,000.00
LANDING POLES AND BEAMS	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	48,000.00
ROOF REPAIRS	20,000.00	20,000.00	20,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	60,000.00
TOTAL CAPITAL EXPENSES	74,000.00	73,000.00	54,000.00	32,000.00	32,000.00	80,000.00	32,000.00	32,000.00	32,000.00	80,000.00	34,000.00	35,000.00	590,000.00
US TRUSTEE FEES	0.00	0.00	4,875.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4,875.00
ADMIN FEES/Legal	125,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	125,000.00
ADMIN FEES/CPA	6,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6,000.00	0.00	0.00	0.00	12,000.00
ADMIN FEES/ REP	10,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	10,000.00
<b>Total Cash Flow</b>	<b>-163,178.48</b>	<b>-20,205.98</b>	<b>-12,497.98</b>	<b>12,432.02</b>	<b>11,459.52</b>	<b>-36,540.48</b>	<b>15,129.02</b>	<b>16,101.52</b>	<b>11,206.52</b>	<b>-29,820.98</b>	<b>21,041.52</b>	<b>22,959.02</b>	<b>-151,914.76</b>

**Beginning Cash for August 2014**      \$ 589,503.00

Total Cash Including Security Deposits      \$ 426,324.52    \$ 406,118.54    \$ 393,620.56    \$ 406,052.58    \$ 417,512.10    \$ 380,971.62    \$ 396,100.64    \$ 412,202.16    \$ 423,408.68    \$ 393,587.70    \$ 414,629.22    \$ 437,588.24

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 Bay Club Partners-472, LLC dba Midtown on Main Apartments  
 Plan of Reorganization August 2014 - July 2017

	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Total
TOTAL RENTAL INCOME	299,018.17	300,036.33	301,054.50	302,072.67	303,090.83	304,109.00	305,127.17	306,145.33	307,163.50	308,181.67	309,199.83	310,218.00	3,655,417.00
TOTAL OTHER REVENUE	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	398,400.00
TOTAL INCOME	332,218.17	333,236.33	334,254.50	335,272.67	336,290.83	337,309.00	338,327.17	339,345.33	340,363.50	341,381.67	342,399.83	343,418.00	4,053,817.00
TOTAL GENERAL & ADMIN	10,519.00	10,519.00	10,519.00	10,519.00	10,519.00	10,519.00	10,519.00	10,519.00	10,519.00	10,519.00	10,519.00	10,519.00	126,228.00
TOTAL PAYROLL	49,243.00	49,243.00	49,243.00	49,243.00	49,243.00	49,243.00	49,243.00	49,243.00	49,243.00	49,243.00	49,243.00	49,243.00	590,916.00
TOTAL LEASING & MARKETING	8,689.00	8,689.00	8,689.00	8,689.00	8,689.00	8,689.00	8,689.00	8,689.00	8,689.00	8,689.00	8,689.00	8,689.00	104,268.00
TOTAL UTILITIES	26,168.00	26,168.00	26,168.00	26,168.00	26,168.00	26,168.00	26,168.00	26,168.00	26,168.00	26,168.00	26,168.00	26,168.00	314,016.00
TOTAL REPAIRS & MAINTENANC	17,280.00	17,280.00	17,280.00	17,280.00	17,280.00	17,280.00	17,280.00	17,280.00	17,280.00	17,280.00	17,280.00	17,280.00	207,360.00
TOTAL SUPPLY EXPENSE	21,607.00	21,607.00	21,607.00	21,607.00	21,607.00	21,607.00	21,607.00	21,607.00	21,607.00	21,607.00	21,607.00	21,607.00	259,284.00
TOTAL CONTRACT SERVICES	19,477.00	19,505.00	19,533.00	19,561.00	19,589.00	19,617.00	19,645.00	19,673.00	19,701.00	19,729.00	19,757.00	19,785.00	235,571.97
INSURANCE-PROPERTY & CASUALTY	5,264.00	5,264.00	5,264.00	5,264.00	5,264.00	5,264.00	5,527.00	5,527.00	5,527.00	5,527.00	5,527.00	5,527.00	64,746.00
REAL PROPERTY TAXES	17,631.00	17,631.00	17,631.00	17,631.00	17,631.00	17,631.00	17,631.00	17,631.00	18,512.00	18,512.00	18,512.00	18,512.00	215,096.00
TOTAL OPERATING EXPENSES	175,878.00	175,906.00	175,934.00	175,962.00	175,990.00	176,018.00	176,309.00	176,337.00	177,246.00	177,274.00	177,302.00	177,330.00	2,117,485.97
NET OPERATING INCOME	156,340.17	157,330.33	158,320.50	159,310.67	160,300.84	161,291.00	162,018.17	163,008.34	163,117.50	164,107.67	165,097.84	166,088.01	1,936,331.03
Secured Creditor Payment - Interest	101,250.00	101,108.26	100,965.98	100,823.17	100,679.83	100,535.95	100,391.53	100,246.57	100,101.06	99,955.01	99,808.41	99,661.26	1,205,527.03
Principal Payments	37,798.20	37,939.94	38,082.21	38,225.02	38,368.37	38,512.25	38,656.67	38,801.63	38,947.14	39,093.19	39,239.79	39,386.94	463,051.35
Unsecured Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL DEBT SERVICE	139,048.20	139,048.20	139,048.19	139,048.19	139,048.20	139,048.20	139,048.20	139,048.20	139,048.20	139,048.20	139,048.20	139,048.20	1,668,578.38
CAPITAL EXPENSE													
APPLIANCES	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	168,000.00
WATER HEATER	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	18,000.00
CARPET/VINYL REPLACEMENT	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	138,000.00
HVAC	8,000.00	7,000.00	3,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	3,000.00	4,000.00	32,000.00
PERSONAL PROPERTY	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
POOL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Parking Lot Resurfacing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Roof Repairs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL CAPITAL EXPENSES	35,000.00	34,000.00	30,000.00	28,000.00	28,000.00	28,000.00	28,000.00	28,000.00	28,000.00	28,000.00	30,000.00	31,000.00	356,000.00
US TRUSTEE FEES	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ADMIN FEES/Legal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ADMIN FEES/CPA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6,000.00	0.00	0.00	0.00	6,000.00
ADMIN FEES/ REP	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Cash Flow</b>	<b>-17,708.03</b>	<b>-15,717.87</b>	<b>-10,727.69</b>	<b>-7,737.52</b>	<b>-6,747.36</b>	<b>-5,757.20</b>	<b>-5,030.03</b>	<b>-4,039.86</b>	<b>-9,930.70</b>	<b>-2,940.53</b>	<b>-3,950.36</b>	<b>-3,960.19</b>	<b>-94,247.35</b>
Total Cash Including Security Deposits	\$ 419,880.21	\$ 404,162.34	\$ 393,434.65	\$ 385,697.13	\$ 378,949.77	\$ 373,192.57	\$ 368,162.54	\$ 364,122.68	\$ 354,191.98	\$ 351,251.45	\$ 347,301.09	\$ 343,340.89	

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 Bay Club Partners-472, LLC dba Midtown on Main Apartments  
 Plan of Reorganization August 2014 - July 2017

	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Total (Aug-16 to Jul-17)	Aug-17 (Not Totaled)
TOTAL RENTAL INCOME	311,122.80	312,027.61	312,932.41	313,837.21	314,742.01	315,646.82	316,551.62	317,456.42	318,361.22	319,266.03	320,170.83	321,075.63	3,793,190.60	321,980.43
TOTAL OTHER REVENUE	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	33,200.00	398,400.00	33,200.00
TOTAL INCOME	344,322.80	345,227.61	346,132.41	347,037.21	347,942.01	348,846.82	349,751.62	350,656.42	351,561.22	352,466.03	353,370.83	354,275.63	4,191,590.60	355,180.43
TOTAL GENERAL & ADMIN	10,835.00	10,835.00	10,835.00	10,835.00	10,835.00	10,835.00	10,835.00	10,835.00	10,835.00	10,835.00	10,835.00	10,835.00	130,020.00	10,835.00
TOTAL PAYROLL	50,720.00	50,720.00	50,720.00	50,720.00	50,720.00	50,720.00	50,720.00	50,720.00	50,720.00	50,720.00	50,720.00	50,720.00	608,640.00	50,720.00
TOTAL LEASING & MARKETING	8,949.00	8,949.00	8,949.00	8,949.00	8,949.00	8,949.00	8,949.00	8,949.00	8,949.00	8,949.00	8,949.00	8,949.00	107,388.00	8,949.00
TOTAL UTILITIES	26,953.00	26,953.00	26,953.00	26,953.00	26,953.00	26,953.00	26,953.00	26,953.00	26,953.00	26,953.00	26,953.00	26,953.00	323,436.00	26,953.00
TOTAL REPAIRS & MAINTENANC	17,798.00	17,798.00	17,798.00	17,798.00	17,798.00	17,798.00	17,798.00	17,798.00	17,798.00	17,798.00	17,798.00	17,798.00	213,576.00	17,798.00
TOTAL SUPPLY EXPENSE	22,255.00	22,255.00	22,255.00	22,255.00	22,255.00	22,255.00	22,255.00	22,255.00	22,255.00	22,255.00	22,255.00	22,255.00	267,060.00	22,255.00
CONTRACT SERVICES														
TOTAL CONTRACT SERVICES	20,106.88	20,131.76	20,156.64	20,181.52	20,206.41	20,231.29	20,256.17	20,281.05	20,305.93	20,330.82	20,355.70	20,380.58	242,924.74	20,405.46
INSURANCE-PROPERTY & CASUALTY	5,527.00	5,527.00	5,527.00	5,527.00	5,527.00	5,527.00	5,803.00	5,803.00	5,803.00	5,803.00	5,803.00	5,803.00	67,980.00	5,803.00
REAL PROPERTY TAXES	18,512.00	18,512.00	18,512.00	18,512.00	18,512.00	18,512.00	18,512.00	18,512.00	19,438.00	19,438.00	19,438.00	19,438.00	225,848.00	19,438.00
TOTAL OPERATING EXPENSES	181,655.88	181,680.76	181,705.64	181,730.52	181,755.41	181,780.29	182,081.17	182,106.05	183,056.93	183,081.82	183,106.70	183,131.58	2,186,872.74	183,156.46
NET OPERATING INCOME	162,666.93	163,546.85	164,426.77	165,306.69	166,186.61	167,066.53	167,670.45	168,550.37	168,504.29	169,384.21	170,264.13	171,144.05	2,004,717.85	172,023.97
Secured Creditor Payment - Interest	99,513.56	99,365.30	99,216.49	99,067.12	98,917.19	97,766.70	98,615.65	98,464.02	98,311.83	98,159.07	98,005.74	97,851.83	1,183,254.50	0.00
Principal Payments *	39,534.64	39,682.89	39,831.70	39,981.07	40,131.00	40,281.49	40,432.55	40,584.17	40,736.36	40,889.12	41,042.46	41,196.37	484,323.82	26,052,624.82
Unsecured Creditors **	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	310,650.00	310,650.00
TOTAL DEBT SERVICE	139,048.20	139,048.19	139,048.19	139,048.19	139,048.19	138,048.19	139,048.20	139,048.19	139,048.19	139,048.19	139,048.20	139,048.20	1,667,578.32	26,363,274.82
CAPITAL EXPENSE														
APPLIANCES	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	168,000.00	14,000.00
WATER HEATER	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	18,000.00	1,500.00
CARPET/VINYL REPLACEMENT	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	138,000.00	11,500.00
HVAC	8,000.00	7,000.00	3,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	3,000.00	4,000.00	32,000.00	4,000.00
PERSONAL PROPERTY	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
POOL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Roof Repairs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL CAPITAL EXPENSES	35,000.00	34,000.00	30,000.00	28,000.00	28,000.00	28,000.00	28,000.00	28,000.00	28,000.00	28,000.00	30,000.00	31,000.00	356,000.00	31,000.00
US TRUSTEE FEES	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ADMIN FEES/Legal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ADMIN FEES/CPA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6,000.00	0.00	0.00	0.00	6,000.00	0.00
ADMIN FEES/ REP	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Cash Flow</b>	<b>-11,381.27</b>	<b>-9,501.34</b>	<b>-4,621.42</b>	<b>-1,741.50</b>	<b>-861.58</b>	<b>1,018.34</b>	<b>622.25</b>	<b>1,502.18</b>	<b>-4,543.90</b>	<b>2,336.02</b>	<b>1,215.93</b>	<b>1,095.85</b>	<b>-24,860.47</b>	

Total Cash Including Security Deposits \$ 331,959.62 \$ 322,458.27 \$ 317,836.85 \$ 316,095.35 \$ 315,233.76 \$ 316,252.10 \$ 316,874.35 \$ 318,376.53 \$ 313,832.63 \$ 316,168.65 \$ 317,384.58 \$ 318,480.43

\* Balloon payment in August 2017.

\*\* Assumes total unsecured claims of \$285,000 plus interest accrued.

**DEBTOR'S DISCLOSURE  
STATEMENT  
EXHIBIT 3**

Case 14-30394-rld11 Doc 179 Filed 06/30/14  
 Contingent Expressions of Interest  
 (472 units)

Date	Buyer	Price	Due Diligence	1 <sup>st</sup> Deposit	COE	Financing Cont.
		Price per Unit		2 <sup>nd</sup> Deposit		
				3 <sup>rd</sup> Deposit		
10/18/2013	Buyer No. 1 (#1 of 2)	\$30,500,000	45 days from PSA	\$500,000	30 days following expiration of DD	45 days from PSA
		\$64,619				
10/18/2013	Buyer No. 2 (#1 of 2)	\$30,100,000	30 calendar days from PSA	\$300,000	15 days following loan commitment	45 calendar days from expiration of DD
		\$63,771				
10/18/2013	Buyer No. 3 (#1 of 3)	\$29,000,000	30 days from PSA	\$300,000	60 business days following expiration of DD	n/a
		\$61,441		\$100,000	One 15 day option to extend	
10/18/2013	Buyer No. 4	\$27,000,000	30 days from PSA	\$100,000	30 days following expiration of DD	n/a
		\$57,203.39		\$100,000		
				\$100,000	One 30 day option to extend	
10/22/2013	Buyer No. 5	\$27,500,000	30 days from PSA	\$200,000	30 days from expiration of DD	n/a
		\$58,262.71		\$400,000		
10/22/2013	Buyer No. 6	(dollar amount based on multiple properties)	45 days from PSA	\$200,000	30 days from expiration of DD	n/a
				\$500,000		

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 Contingent Expressions of Interest  
 (472 units)

Date	Buyer	Price	Due Diligence	1 <sup>st</sup> Deposit	COE	Financing Cont.
		Price per Unit		2 <sup>nd</sup> Deposit		
				3 <sup>rd</sup> Deposit		
10/24/2013	Buyer No. 7	\$28,500,000	30 days from PSA	\$300,000	75 days from execution of PSA	45 days from PSA
		\$60,381		\$300,000		
11/01/2013	Buyer No. 8	\$27,000,000	30 days from PSA	\$350,000	30 days following expiration of DD	
		\$57,203.39		\$150,000	30 day extension for increased deposit	
11/05/2013	Buyer No. 9	\$28,400,000	30 days from PSA & all inspection items delivered	\$284,000	30 days from expiration of DD	n/a
		\$60,169				
11/08/2013	Buyer No. 1 (#2 of 2)	\$31,500,000	45 days from PSA	\$500,000	30 days following expiration of DD	45 days from PSA
		\$66,737.29				
11/08/2013	Buyer No. 3 (#2 of 3)	\$31,000,000	30 days from PSA	\$400,000		
		\$65,677.97		\$400,000		
				\$100,000	One 15 day option to extend	
11/26/2013	Buyer No. 2 (#2 of 2)	\$30,500,000	30 calendar days from PSA	\$300,000	15 days following loan commitment	45 calendar days from expiration of DD
		\$64,618.64				

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 Contingent Expressions of Interest  
 (472 units)

Date	Buyer	Price	Due Diligence	1 <sup>st</sup> Deposit	COE	Financing Cont.
		Price per Unit		2 <sup>nd</sup> Deposit		
				3 <sup>rd</sup> Deposit		
11/26/2013	Buyer No. 3 (#3 of 3)	\$32,000,000	30 days from PSA	\$400,000	30 bus. days following expiration of DD	n/a
		\$67,796.61		\$400,000		
				\$100,000	One 15 day option to Extend	
11/27/2013	Buyer No. 10	\$32,000,000	30 days from PSA	\$500,000	60 days following from PSA	n/a
		\$67,796.61				
					One 15 day option to extend	
05/05/2014	Buyer No. 11	\$31,500,000	30 days from PSA	\$500,000		
		\$66,737.29		\$500,000		

037108/00001/5636542v4

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **DEBTOR'S FIRST AMENDED DISCLOSURE STATEMENT (June 30, 2014)** was served on the parties indicated as "ECF" on the attached List of Interested Parties by electronic means through the Court's Case Management/Electronic Case File system on the date set forth below.

In addition, the parties indicated as "Non-ECF" on the attached List of Interested Parties were served by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to each party's last-known address and depositing in the U.S. mail at Portland, Oregon on the date set forth below.

DATED this 30th day of June, 2014.

TONKON TORP LLP

By Ava L. Schoen

Albert N. Kennedy, OSB No. 821429

Ava L. Schoen, OSB No. 044072

Attorneys for Debtor



**LIST OF INTERESTED PARTIES**

***In re Bay Club Partners-472, LLC***  
**U.S. Bankruptcy Court Case No. 14-30394-rld11**

**ECF PARTICIPANTS**

- GARY M BULLOCK docket@garymbullock.com
- CAROLYN J JOHNSEN cjjohnsen@dickinsonwright.com
- ALBERT N KENNEDY al.kennedy@tonkon.com, leslie.hurd@tonkon.com;andy.haro@tonkon.com
- AVA L SCHOEN ava.schoen@tonkon.com, larissa.stec@tonkon.com
- US Trustee, Portland USTPRegion18.PL.ECF@usdoj.gov
- LAURA J WALKER lwalker@cablehouston.com, mingram@cablehouston.com

**NON-ECF PARTICIPANTS**

**SECURED CREDITOR**

LEGG Mason Real Estate CDO I,  
Ltd.  
10880 Wilshire Blvd. #1750  
Los Angeles CA 90024

LEGG Mason Real Estate CDO I,  
Ltd.  
c/o Latitude Management Real  
Estate Investors, Inc.  
Attn: Michael Schlesinger  
350 S. Beverly Dr. #300  
Beverly Hills CA 90212

**TOP 20 UNSECURED  
CREDITORS**

SMD Remodeling LLC  
3102 57th Ave.  
Phoenix, AZ 85031

HD Supply Facilities  
Maintenance, L.T.D.  
POB 509058  
San Diego, CA 92150-9058

IDT Landscaping LLC  
1876 3rd St  
Tempe, AZ 85281

J.R. McDade Co. Inc.  
1102 N. 21st Ave.  
Phoenix, AZ 85009

AZ Partsmaster  
POB 23169  
Phoenix, AZ 85063

AZ Brite Carpet Care  
1602 N Gilbert Rd  
Mesa, AZ 85203

Wildcat Fire Protection  
2929 Clarendon Ave.  
Phoenix, AZ 85017

Apartments Resurfacing  
3039 W. Peoria Ave. C102 #115  
Phoenix, AZ 85029

P & J's Painting Inc  
273 S. Link Creek Rd.  
Prescott, AZ 86303

Level One LLC  
POB 671476  
Dallas, TX 75267-1476

Rainforest Plumbing & Air  
127 S. Weber Dr.  
Chandler, AZ 85226

Valley Protective Services Inc  
POB 11568  
Chandler, AZ 85248

Sherwin Williams Co.  
2760 E. Main St. #105  
Mesa, AZ 85213-9275

Apartment Interior Supply  
POB 41570  
Mesa, AZ 85274

Maria Gonzales  
dba Allshine Cleaning  
POB 41253  
Mesa, AZ 85274

Burns Pest Elimination Inc  
2620 W. Grovers Ave.  
Phoenix, AZ 85053

Leslies Poolmart, Inc.  
POB 501162  
St. Louis, MO 63150

Maintenance Supply Headquarters  
POB 301451  
Dallas TX 75303

Koglmeier Law Group, PLC  
715 Gilbert Rd #2  
Mesa AZ 85203

AAA Landlord Services, Inc.  
POB 5960  
Mesa AZ 85211