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10 Attorneys for Debtor

11 **IN THE UNITED STATES BANKRUPTCY COURT**

12 **FOR THE DISTRICT OF ARIZONA**

13 IN RE

14 BRYAN MOORE DEVELOPMENT, LLC

15 Debtor.

16 Case No. 2:10-bk-09233--RTBP

17 **Chapter 11**

18 **DISCLOSURE STATEMENT**

19 I. INTRODUCTION TO DISCLOSURE STATEMENT

20 1.1 Purpose of This Disclosure Statement.

21 This Disclosure Statement has been approved by order of the Bankruptcy Court,  
22 dated \_\_\_\_\_ as containing information of a kind and  
23 in sufficient detail to enable a hypothetical reasonable investor typical of the holders of  
24 claims against or interests in the debtor to make an informed judgment about the Debtor's  
25 Plan. The Court's approval of this Disclosure Statement, however, does not constitute a  
26 recommendation by the Bankruptcy Court either for or against the Plan. The purpose of

1 this Disclosure Statement is to provide the holders of claims against or interests in the  
2 Company with adequate information about the Company and the Plan to make an  
3 informed judgment about the merits of approving the Plan.  
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5 1.2 The Debtor's Plan.

6 **THE DEBTOR'S PLAN ACCOMPANIES THIS DISCLOSURE**  
7 **STATEMENT AS EXHIBIT A. THE READER IS URGED TO REVIEW THE**  
8 **DEBTOR'S PLAN CAREFULLY IN CONJUNCTION WITH THIS**  
9 **DISCLOSURE STATEMENT. IF THERE IS ANY CONFLICT BETWEEN THE**  
10 **PROVISIONS OF THIS DISCLOSURE STATEMENT AND THOSE OF THE**  
11 **DEBTOR'S PLAN, THE PROVISIONS OF THE PLAN SHALL CONTROL.**

12 1.3 The Voting Process and Deadline.

13 A ballot accompanies this Disclosure Statement for use in voting on the Debtor's  
14 Plan. **To vote to accept or to reject the Plan, creditors and interest holders of the**  
15 **Debtor in any of the impaired classes should indicate their acceptance or rejection**  
16 **of the Plan and otherwise complete the Ballot which pertains to the Plan.** See the  
17 "Summary of Plan" contained herein and the Classification and Treatment of Claims and  
18 Interests" contained in the copy of the Plan attached hereto to determine whether you are  
19 a member of an impaired class. **Any creditor or equity holder holding claims in more**  
20 **than one impaired class must file separate Ballots for each such class.** Additional  
21 Ballots may be obtained by written request to the Debtor's lawyer, Pernell McGuire of  
22 McGuire Gardner, PLLC, 320 N. Leroux, Suite A, Flagstaff, AZ 86001. (928) 779-1173.  
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1           You are urged to fill in, date, sign and promptly process your Ballot or Ballots.  
2  
3       **Please be sure to properly complete the form and to legibly identify the name of the**  
4       **claimant or interest holder.** The holders of claims and interests may vote on the Plan  
5 by filling out and mailing a copy of the accompanying Ballot for Accepting or Rejecting  
6 the Debtor's Plan to:

7           Pernell W. McGuire  
8           McGuire Gardner, PLLC  
9           320 N. Leroux, Suite A  
10          Flagstaff AZ, 86001

11           **SIGNED AND COMPLETED BALLOTS MUST BE RECEIVED ON OR**  
12 **BEFORE 5:00 P.M. ON \_\_\_\_\_.** SINCE  
13 MAIL DELAYS MAY OCCUR, IT IS IMPORTANT THAT THE BALLOT OR  
14 BALLOTS BE MAILED OR DELIVERED WELL IN ADVANCE OF THE DATE  
15 SPECIFIED. ANY BALLOTS RECEIVED OR FILED AFTER THAT DATE MAY  
16 BE EXCLUDED FROM THE CALCULATION TO DETERMINE WHETHER THE  
17 CREDITORS AND INTEREST HOLDERS OF A PARTICULAR CLASS HAVE  
18 VOTED TO ACCEPT OR TO REJECT THE DEBTOR'S PLAN.

21           1.4    The Importance of Your Vote

22           As a creditor or interest holder your vote is important. The Plan can be confirmed  
23 by the Court if it is accepted by the holders of *two-thirds in amount* and more than  
24 *one-half in number* of claims in each impaired class of claims voting on the Plan, and if  
25 it is accepted by the holders of two-thirds in amount of interests in each impaired class of  
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1 equity interests voting on the Plan. In the event the requisite acceptances are not  
2 obtained, the Court may nevertheless confirm the Plan if the Court finds that it accords  
3 fair and equitable treatment to the class or classes rejecting it.  
4

5 1.5 The Confirmation Process

6 After the votes are tallied, the Court will hold a hearing on the confirmation of the  
7 Plan and may enter a Confirmation Order if it finds that the requirements for  
8 confirmation have been met.

9 If the required acceptance of one or more impaired classes of claims or interests is  
10 not obtained, § 1129(b)(1) of the Bankruptcy Code nevertheless permits the Bankruptcy  
11 Court to confirm the Plan upon request of the Debtor, if the Court finds that the Plan does  
12 not discriminate unfairly against and accords fair and equitable treatment to the impaired  
13 class or classes rejecting it and that the Plan otherwise meets the requirements for  
14 confirmation.  
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17 At the hearing on confirmation of the Plan, the Bankruptcy Court will hear any  
18 timely filed objections from a party in interest to confirmation of the Plan.  
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20 1.6 Confirmation Hearing

21 **The Bankruptcy Court has set \_\_\_\_\_, 2010, at \_\_\_\_\_ o'clock**  
22 **\_\_\_\_.m for a hearing on confirmation of the Debtor's Plan.**

23 1.7 Binding Effect of Plan

24 If the Court confirms the Plan, each creditor or interest holder will be bound by  
25 the terms of and the treatment set forth in the Plan.  
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1 II. DEFINITIONS

2 1. Defined Terms. In addition to any terms defined elsewhere in the  
3 Disclosure Statement or Plan the following terms have the indicated meanings:  
4

5 Allowed Claim. A claim that (i) is liquidated and has been scheduled as  
6 undisputed, or (ii) for which a proof of claim has been filed that has not  
7 been objected to or that has been objected to but has been allowed by the  
8 Court.

9 Allowed Interest. An interest that (i) has been scheduled as undisputed, or  
10 (ii) for which a proof in interest has been filed that has not been objected to  
11 or that has been objected to but has been allowed by the Court.

12 Bankruptcy Code. Title 11 of the United States Code.

13 Bankruptcy Court. The United State Bankruptcy Court for the District of  
14 Arizona.

15 Confirmation Date. The date on which the Court enters the Confirmation  
16 Order.

17 Confirmation Order. The order of the Court confirming the Plan.

18 Debtor. Bryon Moore Development, LLC

19 Distribution. The cash to be distributed under the Plan to the holder of  
20 Allowed Claims and Allowed Interests.

21 Disbursing Agent. The Debtor, or any other entity designated by the  
22 Debtor to act in such capacity.

23 Effective Date. The first business day following the date upon which the  
24 Confirmation Order has become final and non-appealable with no appeal  
25 then pending, except that the Debtor will have the right to treat this date as  
26 having occurred under any circumstances which would moot any such  
appeal.

Insider. Any person or entity defined as an insider in Section 101 of the  
Bankruptcy Code.

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Plan. The Debtor's Plan of Reorganization, together with any modifications thereto as may be filed by the proponent of the Plan.

Pro-Rata. Proportionately so that the ratio of the amount of consideration distributed on account of an Allowed Claim in a particular class to the amount of consideration distributed on all Allowed Claims in the same class, is the same as the ratio of the amount of that Allowed Claim to all Allowed Claims in the same class.

Reorganized Debtor. The Debtor following confirmation, as reorganized by this Plan.

2. Undefined Terms. A term used but not defined herein, but that is defined in the Bankruptcy Code, has the meaning given to that term in the Bankruptcy Code.

A term used but not defined herein, but that is defined in the Bankruptcy Code, has the meaning given to that term in the Bankruptcy Code.

### III. HISTORY AND EVENTS LEADING TO THE CHAPTER 11 FILING

#### 3.1 Events Precipitating this Case.

In September, 1998, the debtor's predecessor in interest, Bryan Moore, LP, a California Limited Partnership, acquired the real property located at 2824 – 2930 N. Power Road in Mesa Arizona, commonly referred to as Ridgeview Plaza. Thereafter, in March 2000 Ridgeview Plaza was conveyed to Bryan Moore, LLC, and in September 2002 from Bryan Moore, LLC to the debtor. The debtor is an Arizona limited liability company formed by Louise Moore in September 2002 for the purpose of acquiring Ridgeview Plaza. Ridgeview Plaza is a retail shopping center with a number of tenants including anchor tenant Bashas' grocery store. Bashas' is currently a debtor in its own chapter 11 proceeding pending before the Court, Case No. 2:09-bk-16050-JMM.

To finance the acquisition of Ridgeview Plaza, the debtor obtained a loan from Archon Financial in May of 2003 in the amount of \$13,200,000.00, secured by, among



1 other things, a deed of trust on Ridgeview Plaza. Archon later assigned its interest in the  
2 loan to Wells Fargo bank who in turn assigned its interest to Bank of America. The  
3 promissory note evidencing the loan required the debtor to pay monthly interest only  
4 payments at 4.67% per annum on the outstanding principal balance of \$13,200,000  
5 through June 1, 2008, when the entire principal balance and any accrued interest would  
6 be due in full. The debtor made the monthly interest payments, but was unable to pay off  
7 the amounts due upon maturity of the loan.

8 As a result, in May, 2009, the debtor and Wells Fargo entered into a loan  
9 modification agreement, which required the debtor to make monthly payments of \$123,  
10 826.54 commencing April 1, 2009, pay a modification fee of \$99,000.00, as well as other  
11 costs in the amount of \$17,830 for property protection advances, in exchange for an  
12 extension of the maturity date of the loan to October 1, 2009. In July, 2009 the debtor  
13 was unable to make the payments required under the loan modification agreement, and as  
14 a result Bank of America commenced an action on January 5, 2010 filed a complaint in  
15 the Maricopa County Superior Court seeking the appointment of a receiver (Case No.  
16 CV2010-000639, the "Receivership Action"). Bank of America also commenced a  
17 foreclosure action by recording a notice of trustee's sale on December 31, 2010. The sale  
18 was scheduled to be conducted on April 1, 2010.

19 On February 12, 2010, the Superior Court entered an order appointing Hannay  
20 Investment Properties, Inc. (the "Receiver") as a receiver over Ridgeview Plaza. The  
21 debtor commenced this chapter 11 case to protect the equity in Ridgeview Plaza, which  
22 the debtor believes exceeds \$1,000,000.

### 23 3.2 Actions Taken by Debtors Post-Petition.

24 Shortly after the case was filed, Bank of America filed a Motion for Order  
25 Excusing Compliance with 11 U.S.C. § 543 and Allowing Receiver to Remain in  
26 Possession of Property. After negotiation with Bank of America, the debtor entered into  
a stipulation with Bank of America permitting the Receiver to remain in possession of

1 Ridgeview Plaza. The Debtor weighed the costs to the estate of litigating this matter  
2 against the benefits of removing the Receiver and concluded that it was in the best  
3 interests of the estate at that time to not oppose leaving the Receiver in place. The  
4 debtor, however, reserves its right to seek removal of the Receiver. The debtor has also  
5 entered into a Stipulation Regarding Cash Collateral Issues with Bank of America.  
6 Under the terms of the stipulation, the parties agreed that the Receiver may  
7 immediately make a payment to Bank of America in an amount equal to interest  
8 accrued on the underlying indebtedness since the filing of the bankruptcy petition, at  
9 the contract rate, and, thereafter, on a monthly basis that ongoing monthly payments  
10 of interest at the contract rate shall be made by the Receiver to Bank of America. An  
11 order approving the stipulation was approved by the Court on July 22, 2010.

12 The Debtor has also listed Ridgeview Plaza for sale and has received  
13 significant interest from various parties. The Debtor signed a letter of intent (the  
14 “LOI”) with Paul Habeeb, a copy of which is attached hereto as Exhibit B. The LOI  
15 required certain concessions by Bank of America including an extension of the  
16 existing loan, which the Bank has refused to give. The debtor intends to continue  
17 marketing the property and discussing a sale with interested parties.

18 During the chapter 11 case, the Receiver has entered into various negotiations  
19 with existing tenants. For example, shortly before the commencement of the chapter  
20 11 case, the Receiver signed a lease amendment with Bashas’ which reduced Bashas’  
21 rent from \$8.00 to \$6.50 per square foot from January 1, 2010 to December 31, 2012,  
22 when it will return to \$8.00. In addition, the amendment provides for payment of  
23 \$71,000 in past due rent. The lease amendment is pending approval in Bashas’  
24 chapter 11 proceeding. The Receiver has negotiated a 42 month lease renewal with  
25 Premier Martial Arts, and has also negotiated a lease amendment with Tropical  
26 Smoothie which provides for a rent reduction and 48 month increase in the tenant’s



1 lease term.

2 3.3 Litigation.

3 The debtor is a party to the Receivership Action, which has been stayed by the  
4 filing of this case.

5 3.4 Retention of Professionals.

6 The debtor has applied to the Court for approval of the employment of the  
7 following professionals:

8 McGuire Gardner, PLLC (the “Firm”) has applied to act as the attorney for the  
9 estate. An order approving the Firm was entered by the Court on April 5, 2010. The  
10 debtor has also applied to employ Cassidy Turley, BRE as real estate broker, which  
11 application was granted by order of the Court dated May 18, 2010.

12 IV. FINANCIAL INFORMATION

13 4.1 Assets.

14 The Debtor has assets consisting of real and personal property. The Debtor’s  
15 property is listed in Schedules A and B of its Schedules, a copy of which is attached  
16 hereto as Exhibit C. The Debtor’s primary asset is Ridgeview Plaza and the income  
17 derived thereby. Attached hereto as Exhibit D is the most recent Receiver’s report dated  
18 July 20, 2010. The report sets forth pertinent financial information regarding the current  
19 status of rental receipts and expenses for Ridgeview Plaza.

20 4.2 Claims.

21 Claims against the debtor are set forth in Schedules D, E, and F to the Debtor's  
22 Schedules and amended schedules a copy of which is attached as Exhibit E.

23 **FOR PURPOSES OF PLAN COMPUTATION, ALL OBLIGATIONS OF**  
24 **THE VARIOUS CREDITORS LISTED IN THE SCHEDULES IN THIS**  
25 **DISCLOSURE STATEMENT AND PLAN SHOULD BE CONSIDERED AS**  
26 **ESTIMATES ONLY AND ALL CLAIMS ARE CONSIDERED DISPUTED AS**

1 TO THE AMOUNT UNLESS SUPPORTED BY A TIMELY FILED PROOF OF  
2 CLAIM (AND IF OBJECTION THERETO IS FILED BY DEBTOR  
3 FOLLOWING RESOLUTION BY THE BANKRUPTCY COURT AS TO  
4 AMOUNT OF THE CLAIM), OR IF THE CLAIM HAS BEEN SCHEDULED AS  
5 UNDISPUTED, FIXED AND LIQUIDATED. ALL CREDITORS' CLAIMS NOT  
6 SUPPORTED BY TIMELY FILED PROOF OF CLAIM OR SCHEDULED AS  
7 UNDISPUTED, FIXED AND LIQUIDATED, MAY BE EXCLUDED FROM  
8 PLAN COMPUTATIONS AND DISTRIBUTIONS UNDER THE PLAN OR AT  
9 DEBTOR'S OPTION, INCLUDED AT THE AMOUNTS OR VALUES LISTED  
10 HEREIN.

11 V. SUMMARY OF PLAN

12 The following description of the plan is for informational purposes only and does  
13 not purport to change or supersede any of the specific contractual language of the plan.  
14 THE PLAN IS CONTROLLING IN THE EVENT OF ANY INCONSISTENCY  
15 BETWEEN THE CONTENTS OF THE PLAN AND THE CONTENTS OF THIS  
16 DISCLOSURE STATEMENT.

17 5.1 Classification and Treatment of Claims

18 The plan divides Claims against the Debtor into classes which the Debtor believes  
19 are in compliance with the Bankruptcy Code. Their classification and treatment are as  
20 follows:

21 A. Class 1: Priority Claims. Class 1 claims will consist of all claims  
22 which are allowed claims pursuant to Bankruptcy Code § 507(a)(1), including, without  
23 limitation, the Allowed Claims of the Debtor's professionals, any other professionals  
24 approved by the Court, any quarterly fees payable to the United States Trustee, and other  
25 claims of creditors holding Administrative Claims, including post-petition taxes.

26 B. Class 2: Secured Claim. Class 2 claim will consist of the Allowed  
Secured Claim of Bank of America secured by the debtor's real property located at 2824

1 – 2930 N. Power Road, Mesa Arizona in the principal amount of \$13,056,523.94, plus  
2 all accrued interest at the non-default contractual rate of interest of 4.67% plus all  
3 reasonable attorney’s fees and costs as allowed by the Deed of Trust Note dated May 9,  
4 2003, and as approved by the Court.

5 C. Class 3: General Unsecured Claims. Class 3 will consist of all  
6 Allowed Unsecured Claims.

7 D. Class 4: The Interest of Bryan Moore, LLC. Class 4 consists of the  
8 membership interest of Bryan Moore, LLC.

9 Classes 2 and 3 are impaired.

10 5.2 Operation of Plan.

11 Unless otherwise stated, the Debtor intends to restructure the Class 2 claim and  
12 use the net rents generated by the real property to service the indebtedness, and to pay all  
13 administrative and unsecured claims in full.

14 A. Treatment of Class 1

15 Administrative claims pursuant to 11 U.S.C. § 503(b) including but not limited to  
16 pre-confirmation attorney's fees approved by the Court, U.S. Trustee expense, expenses  
17 of the U.S. Bankruptcy Clerk, and pre-confirmation administrative taxes, if any, shall be  
18 paid in full upon the Effective Date unless otherwise agreed in writing with said creditor.  
19 Moneys for payment of the above described expenses shall be paid from the proceeds of  
20 the sale of the debtor's property as hereafter provided. The U.S. Trustee fees shall be  
21 paid in full as of the Effective Date of the Plan, and shall continue to be paid until the  
22 case is closed. The debtor owes approximately \$12,000 in attorney’s fees and debtors’  
23 counsel has approximately \$10,600 in trust. The debtors estimate they will have another  
24 \$20,000 in fees through confirmation due to anticipated opposition from its only secured  
25 creditor, Bank of America.

26 B. Treatment of Class 2

Beginning on the 1<sup>st</sup> of the month following the Effective Date, the debtors shall

1 pay the Class 2 Claim Holder Bank of America, the sum of \$13,056,523.94, plus all  
 2 accrued interest at the non-default contract rate of 4.67% through the Effective Date, plus  
 3 attorney's fees and costs as allowed by the Court, (less amounts paid for adequate  
 4 protection) in monthly interest only payments at the fixed rate of 5.75% with a balloon  
 5 payment of all principal and interest coming due three years after the Effective Date. All  
 6 other terms and conditions of the parties' loan documents shall remain the same. The  
 7 debtor shall pay to Bank of America on the Effective Date all funds held by the Receiver,  
 8 which constitute the Bank's Cash Collateral, which amount shall reduce the Class 2  
 9 Allowed Secured Claim.

10 Inasmuch as the debtor will cure all defaults under the loan documents, unless  
 11 otherwise determined by the Court, the debtor will not pay default interest, late charges  
 12 or other charges not authorized by the loan documents. See, In re Phoenix Business Park  
 13 Ltd. P'ship, 257 B.R. 517 (Bankr. D. Ariz. 2001); In re Zamani, 390 B.R. 680, (Bankr.  
 14 N.D. Cal. 2008).

15 The debtor estimates the total amount of the Class 2 claim to be:

16	Principal	\$13,056,523.94
17	Interest Accrued to 10/1/2010	\$ 775,724.24
18	Advances for Taxes	\$ 182,014.92
19	Attorney's Fees and Costs	\$ 70,855.00
20	Total	\$14,085,118.10
21	Less Adequate Protection Payments	\$ 304,869.83
	6 payments of \$50,811.64	
22	Less estimated Cash Collateral	\$ 366,751.72 <sup>1</sup>

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24	<sup>1</sup> Current Cash Balance in Receiver's Possession	\$345,439.00
25	Projected Net Rents July to Sept (\$85,000 per month)	\$255,000.00
	Bashas' Rent	\$ 71,000.00
26	Less Adequate Protection Payments for April to Sept.	\$304,867.28
	Projected Cash Balance as of 10/1/2010	\$366,571.72

1	Less Amounts Held in Suspense	\$ 282,709.60
2	Estimated Claim	\$13,130,966.95

3 Based on the Estimated Claim amount, the debtor anticipates a monthly payment  
4 of approximately \$62,919.00.

5 C. Treatment of Classes 3

6 Beginning 60 days from the Effective Date, all Allowed Class 3 Claims shall be  
7 paid in full, in cash.

8 D. Treatment of Class 4

9 Class 4 consists of the Interest of Bryan Moore, LLC. The debtor intends to pay  
10 all Allowed Claims in full and thus Bryan Moore, LLC will retain its interest in the  
11 Debtor.

12 E. The holder of any claim to which an objection has been made prior  
13 to or on the date on which the first payment to the holder of such a claim is made, shall  
14 not be entitled to receive any distribution otherwise attributable to that claim until the  
15 objection has been resolved by order of the Court. Any distribution which would  
16 otherwise accrue to the benefit of the holder of an Allowed Claim prior to resolution of  
17 an objection shall be held by the Debtor in a segregated account and upon resolution of  
18 the objection either paid to the claimholder or returned to the estate, as appropriate, in  
19 light of the Court's resolution of the objection. In the event a claim is reduced voluntarily  
20 by the claimholder or by ruling of the Court following objection by the Debtor or any  
21 other party in interest, the Debtor may at its option continue to make payments in the  
22 monthly amounts specified in this Disclosure Statement and the Plan of Reorganization  
23 until the reduced claimholder has received all amounts to which it is entitled, or  
24 alternatively, reduce the monthly amount payable on behalf of the reduced claim (and all  
25 claims of the same class) so that the claims are paid within the time specified in the  
26 Disclosure Statement and Plan of Reorganization. This option to decrease the monthly  
payment but pay for the full term specified in the Plan or maintain the monthly payment

1 and reduce the term over which such payments must be paid, shall be within in the sole  
2 discretion of the Debtor and the exercise of his reasonable business judgment.

3 F. At any time during the duration of this Plan, the Debtor reserves the  
4 right to sell all or any part of his property interests provided the remaining assets and/or  
5 the value received upon sale permits the full distributions required by the Plan. In such  
6 event, the Reorganized Debtor will retain any surplus funds following distribution in full  
7 to eligible classes.

8 G. All undisputed taxes generated by any step of the operation of this  
9 Plan, or accruing during the operation of this Plan, will be considered administrative  
10 expenses to be satisfied as they accrue.

11 **THE DEBTOR BELIEVES THAT THE PLAN DESCRIBED**  
12 **HEREIN PROVIDES THE GREATEST AND EARLIEST POSSIBLE**  
13 **RECOVERIES TO CREDITORS. THE DEBTOR THEREFORE BELIEVES**  
14 **THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTEREST OF EACH**  
15 **AND EVERY CLASS OF CREDITOR AND INTEREST HOLDER, AND**  
16 **RECOMMENDS THAT EACH CLASS VOTE TO ACCEPT THE PLAN.**

17 VI. IMPLEMENTATION OF THE PLAN

18 6.1 Projection of Operation. A projection of income and expenses upon which  
19 this Plan is based is appended hereto in Exhibit "F" Exhibit "F" is a projection of the  
20 expected rental income for 2011 through 2013. In addition, the Receiver estimates Net  
21 Income (before debt service) for the months of March 1, to December 31, 2010 of \$953,  
22 085 (or \$95,308.50 per month) The economic assumptions underlying this Plan are set  
23 forth below.

24 6.2 Assumptions. In addition to the economic assumptions set forth in the  
25 projections attached as Exhibits to the Disclosure Statements, there are a number of other  
26 assumptions upon which this Plan is based:



1           A.     It is assumed that the Debtors have, or will have, sufficient funds on  
2 hand on the Effective Date of the Plan to pay administrative expenses as reflected herein  
3 and retain an initial capital reserve so that all revenues projected may be used to make  
4 distributions to creditors.

5           B.     It is assumed that the debtors will be able to achieve its target  
6 revenues based upon a continued occupancy of the rental properties.

7           6.3    Risk Factors. Just as in any business, the business in which the Debtor is  
8 engaged involved certain risks, including the following:

9           A.     Tenant Default/Vacancies. There can be no assurance that existing or  
10 future tenants will not default on their existing leases, or that upon expiration of their  
11 existing lease that such tenants will renew their leases on terms at least as favorable as  
12 now exist. A list of the tenants and their lease expiration dates is attached hereto as  
13 Exhibit G.

14   VII   LIQUIDATION ANALYSIS

15           In order to arrive at a judgment on whether or not to vote for or against the Plan, a  
16 creditor or other party in interest needs to have an understanding of the consequences that  
17 would be realized if the Debtors' estate were liquidated pursuant to Chapter 7 of the  
18 Bankruptcy Code.

19           In the instant case, it is anticipated if the Debtor's estate were liquidated and the  
20 assets sold pursuant to a Chapter 7 liquidation, the sale of the real property would be  
21 accomplished at prices less than the fair market value than if sold in a non-liquidation  
22 setting. In the event of liquidation the debtor estimates that there would be no funds  
23 available for distribution to general unsecured creditors.

24           The debtor's primary asset is its interest in Ridgeview Plaza.

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2 Sample Chapter 7 Scenario

3 Available Assets in Chapter 7

4 Total Assets Available for distribution to unsecured  
5 Creditors in Chapter 7 Liquidation

6	Ridgeview Plaza	\$12,480,000
7	Cash on Hand	\$ 345,000
8	Bashas' Rent	\$ 71,000
9	Personal Property	\$ 25,000
10	Total Assets	\$12,921,000
11	Secured Claim of Bank of America	\$13,130,9
12	Total Available to General Unsecured Creditors in Chapter 7	\$0.00
13	Total Payable to General Unsecured Creditors in Chapter 11	100%

14 VII. TAX CONSEQUENCES OF PLAN

15 In 1978, a massive revision of the bankruptcy laws was enacted as the Bankruptcy  
16 Code now in effect. In turn, the impact of the Bankruptcy Code on the existing tax laws  
17 led to the enactment of the Bankruptcy Tax Act of 1980, P.L. 96-589, 94 Stat. 3389  
18 (1980). this Act made a number of significant changes in the law, relating inter alia, to  
19 how the bankruptcy estate is taxed, whether the occurrence of the bankruptcy will  
20 interrupt the Debtor's taxable year, whether income and deductions belong to the Debtor  
21 or the estate, and whether individual losses are available to the estate.

22 It is believed by the Debtor herein that the implementation of the Plan would have  
23 no tax consequences, other than taxes associated with the sale of the debtor's property.  
24 However, any tax analysis is subject to significant uncertainties because of a variety of  
25 factors, including changes made by the Tax Reform Acts of 1984 and 1986; differences  
26 in the nature of claims of the various claimants, their taxpayer status and methods of  
accounting; and any prior treatment of the claimants with respect to their claims. In



1 addition, no assurance can be given that legislative, judicial or administrative changes in  
2 the law will not be forthcoming which would materially impact the Debtor herein and/or  
3 its creditors. Any such changes could be retroactive with respect to transactions entered  
4 into or completed prior to the enactment or promulgation  
5 thereof.

6 **CLAIMANTS ARE ADVISED TO CONSULT WITH THEIR TAX**  
7 **ADVISORS CONCERNING THE INDIVIDUAL TAX CONSEQUENCES OF**  
8 **THE TRANSACTIONS CONTEMPLATED IN THIS PLAN, INCLUDING**  
9 **STATE AND LOCAL TAX CONSEQUENCES.**

10 VII. VOTING/CONFIRMATION/ALTERNATIVES

11 8.1 Voting. A creditor may vote either to accept the Plan or to reject the Plan.  
12 Only the votes of impaired classes will be counted in connection with confirmation of the  
13 Plan, since classes of claims and interests which are not impaired are deemed to have  
14 accepted the Plan. In determining acceptance of the Plan, votes will be counted only if  
15 submitted by a party with an Allowed claim or an Allowed Interest, and the ballot for  
16 voting on the Plan does not constitute a proof of claim for this purpose. A claim to which  
17 an objection has been filed is not an Allowed Claim unless and until the Bankruptcy  
18 Court has ruled on the objection, and although holders of disputed claims will receive  
19 ballots, these votes will not be counted unless the Bankruptcy Court temporarily allows  
20 such claim for purposes of voting on the Plan.

21 8.2 Confirmation. In order for the Plan to be approved, it must either (i) be  
22 accepted by at least two-third in amount and more than one-half in number of the  
23 creditors of each impaired class, or (ii) be approved by the Court as being in the best  
24 interest of all parties in spite of failure to receive the required votes of creditors in any  
25 particular class (i.e. "cram-down").

26 The Bankruptcy Code defines acceptance of a plan by a class of claims as  
acceptance by holders of two-thirds in dollar amount and a majority in number of claims

1 of that class, counting only those members of the class who actually vote. The  
2 Bankruptcy Code defines acceptance of a plan by a class of interests (equity securities) as  
3 acceptance by two-thirds of the number of shares, counting only those shares actually  
4 voted.

5 Classes of claims and interests that are unimpaired under the Plan are conclusively  
6 deemed to have accepted the Plan. A class of creditors or interest holders is unimpaired  
7 if the Plan (i) does not alter the legal, equitable or contractual rights between the Debtor  
8 and the creditor or interest holder (with the exception of reinstating the claim by curing  
9 any defaults), or (ii) pays the claimant the full amount of the claim or interest by cash  
10 payment on the Effective Date. Classes of claim and interests that receive no distribution  
11 under the Plan are deemed to have rejected the Plan. Consequently, ballots are being sent  
12 only to those classes which are impaired but are to receive a distribution under the Plan.

13 The Plan may be confirmed by the Bankruptcy court even if it is not accepted by  
14 all classes of impaired claim, as long as at least one impaired class of claims has  
15 accepted.

16 8.3 Alternative To Confirmation. In the event this Plan is not confirmed, the  
17 Chapter 11 proceeding can be (i) continued for the submission of other plans, (ii)  
18 converted to Chapter 7, or (iii) dismissed. In the event the Plan is not confirmed through  
19 acceptance of the claimholders, it is the Debtor's intention to seek confirmation through  
20 cram-down.

## 21 IX. INFORMATION/REPRESENTATIONS

22 9.1 Source of Information. Unless otherwise stated, all of the information  
23 contained herein is based on information supplied by the Debtor or its agents, and no  
24 representations concerning the Debtor are authorized by the Debtor other than as set forth  
25 in this Disclosure Statement.

26 9.2 Conflicts. To the extent any information set forth in this Disclosure  
Statement conflicts with any information set forth in the Debtor's schedules or statement



1 of financial affairs, this Disclosure Statement will govern and will, to the extent  
2 necessary, constitute an amendment to the affected schedules or statement of financial  
3 affairs.

4 9.3 Unauthorized Representations. Any representations or inducements made  
5 to secure acceptance other than as contained in this Disclosure Statement should not be  
6 relied upon arriving at a decision, and such representations and inducements should be  
7 reported to counsel for Debtor, who, in turn, shall deliver such information to the Court  
8 for appropriate action.

9 9.4 Disclaimer.

10 **NO REPRESENTATIONS CONCERNING THE DEBTOR OR THE PLAN**  
11 **ARE AUTHORIZED OTHER THAN AS SET FORTH HEREIN. YOU SHOULD**  
12 **NOT RELY ON ANY REPRESENTATIONS OR INDUCEMENTS TO ACCEPT**  
13 **THE PLAN OTHER THAN THOSE CONTAINED HEREIN.**

14 **AN ACCOUNTANT HAS NOT REVIEWED OR APPROVED THE**  
15 **INFORMATION CONTAINED HEREIN. MUCH OF THE INFORMATION**  
16 **CONTAINED HEREIN WAS DERIVED FROM THE DEBTOR OR THE**  
17 **DEBTOR'S RECORDS AND HAS NOT BEEN VERIFIED FROM**  
18 **INDEPENDENT SOURCES. THE DEBTOR IS UNABLE TO WARRANT OR**  
19 **REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS**  
20 **WITHOUT ANY INACCURACY ALTHOUGH ALL SUCH INFORMATION IS**  
21 **ACCURATE TO THE DEBTOR'S BEST KNOWLEDGE, INFORMATION, AND**  
22 **BELIEF.**

23 **THE COURT HAS NOT VERIFIED THE ACCURACY OF THE**  
24 **INFORMATION CONTAINED HEREIN. THE COURT'S APPROVAL OF THE**  
25 **DISCLOSURE STATEMENT DOES NOT IMPLY THAT THE COURT**  
26 **ENDORSES OR APPROVES THE PLAN, BUT ONLY THAT IF THE**  
**INFORMATION IS ACCURATE, IT IS SUFFICIENT TO PROVIDE AN**

1 **ADEQUATE BASIS FOR CREDITORS AND INTEREST HOLDERS TO MAKE**  
2 **INFORMED DECISIONS WHETHER TO APPROVE OR REJECT THE PLAN.**

3 Dated this 29<sup>th</sup> day of July, 2010

4 BRYAN MOORE DEVELOPMENT, LLC

5 /s/ Louise Moore

6 Louise Moore

7 MCGUIRE GARDNER, P.L.L.C.

8 /s/ Pernell W. McGuire

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12 Attorneys for the Debtors



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