UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In re:	*	
	*	
GORDON PROPERTIES, LLC,	*	**Case No. 09-18086-RGM**
	*	Chapter 11
Debtor.	*	

DISCLOSURE STATEMENT

ARTICLE I

INTRODUCTORY STATEMENT

The above named Debtor filed with the United States Bankruptcy Court for the Eastern District of Virginia, Alexandria Division (the "Bankruptcy Court"), a Plan of Reorganization dated March 10, 2014 (the "Plan") in the captioned proceedings. Pursuant to the terms of the United States Bankruptcy Code, this disclosure statement has been presented to and approved by the Bankruptcy Court. Such approval is that required by statute and does not constitute a judgment by the court as to the desirability of the Plan or as to the value or suitability of any consideration offered thereby. Interested parties are referred to 11 U.S.C. § 1125, which reads, in part:

> (b) An acceptance or rejection of a plan may not be solicited after the commencement of the case under this title from a holder of a claim or interest with respect to such claim or interest, unless, at the time or before such solicitation, there is transmitted to such holder the plan or a summary of the plan, and a written disclosure statement approved, after notice and a hearing, by the court as containing adequate information. The court may approve a disclosure statement without a valuation of the debtor or an appraisal of the debtor's assets.

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> (d) Whether a disclosure statement required under subsection (b) of this section contains adequate information is not governed by any otherwise applicable nonbankruptcy law, rule, or regulation, but an agency or official whose duty is to administer or enforce such a law, rule, or regulation may be heard on the issue of whether a disclosure statement contains adequate information. Such an agency or official may not appeal from, or otherwise seek review of, an order approving a disclosure statement.
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> (e) A person that solicits acceptance or rejection of a plan, in good faith and in compliance with the applicable provisions of this title, or that participates, in good faith and in compliance with the applicable provisions of this title, in the offer, issuance, sale, or purchase of a security, offered or sold under the plan, of the debtor, of an affiliate participating in a joint plan with the debtor, or of a newly organized successor to the debtor under the plan, is not liable, on account of such solicitation or participation, for violation of any applicable law, rule, or regulation governing solicitation of acceptance or rejection of a plan or the offer, issuance, sale, or purchase of securities.

The Debtor has prepared this disclosure statement to disclose that information which, in its opinion, is material, important and necessary to an evaluation of the Plan. The material herein contained is intended solely for that purpose and solely for the use of known creditors of the named Debtor, and, accordingly, may not be relied upon for any purpose other than determination of how to vote on the Plan. In addition, materials contained in this disclosure statement are not necessarily sufficient for the formation of a judgment by any creditor of the preferability of any alternative to the Plan. Finally, neither this disclosure statement nor any of the schedules or exhibits have been reviewed or audited by an independent accountant but are based solely upon compilations prepared by the Debtor.

The Debtor has proposed the Plan hereinafter described and favors it, and materials referring to alternatives to the Plan are limited by both practical considerations of space and the opinions of the Debtor regarding same. In addition, applicable law does

not require inclusion in a disclosure statement of information regarding alternative plans of reorganization.

In order to vote on the Plan, a creditor must have filed a proof of claim, unless such claim is scheduled by the Debtor as not disputed, liquidated, and not contingent. Any creditor scheduled as not disputed, liquidated, and not contingent is, to the extent scheduled, deemed to have filed a claim, and, absent objection, such claim will be deemed allowed. Any creditor's claim which was listed in the Debtor's schedules as disputed, contingent, or unliquidated shall be deemed disallowed for distribution and voting purposes if no proof of claim was filed within the time allowed by the court. A creditor may vote to accept or reject the Plan by filling out and mailing to the Debtor's counsel the ballot which the Debtor has provided.

Whether a creditor votes on the Plan or not, such person will be bound by the terms and treatment set forth in the Plan if the Plan is accepted by the requisite majorities of classes of creditors and/or is confirmed by the Bankruptcy Court. Absent some affirmative act constituting a vote, such creditor will not be included in the tally. Allowance or disallowance of a claim for voting purposes does not necessarily mean that all or a portion of the claim will be allowed or disallowed for distribution purposes.

In order for the Plan to be accepted by creditors, a majority in number and a two-thirds majority in amount of claims filed and allowed (for voting purposes) and voting of each impaired class of creditors must vote to accept the Plan. You are, therefore, urged to fill in, date, sign, and promptly mail the enclosed ballot furnished by the Debtor. Please be sure to properly complete the form and legibly identify the name, address, and phone number of the claimant.

The Debtor, the creditors' committee (if any), or others may solicit your vote. The cost of any solicitation by the Debtor will be borne by the Debtor. No representative of the Debtor shall receive any additional compensation for any solicitation.

No representations concerning the Debtor or the Plan are authorized by the Debtor other than as set forth in this disclosure statement. Any representations or inducements made by any person to secure your vote which are other than as herein contained should not be relied upon, and such representations or inducements should be reported to counsel for the Debtor, who shall deliver such information to the Bankruptcy Court.

ARTICLE II

NATURE AND HISTORY OF BUSINESS

Presently,[1] the Debtor owns thirty-nine (39) rental condominium units (the "Condo Units") in The 4600 Condominium (the "Condominium"), a mixed-use condominium located at 4600 Duke Street, Alexandria, Virginia.[2] The Debtor's Condo Units consist of (i) a commercial street-front unit (the "Street-Front Unit"),[3] (ii) thirty-four (34) commercial units, and (iii) four (4) residential units. The Debtor also owns all of the equity of a subsidiary, Condominium Services, Inc. ("CSI"), which operates as a condominium management company.[4]

[1] While the case was pending, the Debtor disposed of several units pursuant Bankruptcy Court orders.

[2] The Condominium is a mixed-use condominium consisting of three types of units, commercial units, residential units, and commercial street-front units. The commercial and residential units are located in a free-standing high-rise building, and the two commercial street-front units are located on pad sites adjacent to the high-rise building, one of which is owned by the Debtor and the other of which is owned by an unrelated third party and on which is operated a Shell gas station.

[3] The Street-Front Unit is leased to an unrelated third party and operated as a restaurant known as Mango Mike's.

[4] CSI commenced its own chapter 11 case in this Court (Case No. 10-10581-RGM) following the judgment obtained by FOA. Shortly thereafter, the Debtor and CSI filed a motion for joint administration. That motion was granted by the Bankruptcy Court, and since that time the cases of the Debtor and CSI have

The Debtor is owned by related family members, Bryan Sells ("Mr. Sells"), Mr. Sells' sister, Elizabeth Greenwell, and his cousins, Lindsay Wilson and Julia Langdon.[5] The Debtor was created in 2002 to take title to the Condo Units which had been held in a trust that was created under the will of Bryan Gordon following his death. Bryan Gordon was the grandfather of the four members of the Debtor. The trust was terminated in 2002, and the Condo Units were transferred to the Debtor. Mr. Gordon also owned CSI, and that company also became an asset of the Debtor after its creation.

The Condominium is governed by a unit owners association, First Owners' Association of Forty-Six Hundred Condominium, Inc. ("FOA"). Since approximately 2006, the Debtor has been embroiled in litigation with FOA over a number of issues, but primarily dealing with assessment of the Debtor's Street-Front Unit. In May 2009, FOA issued a retroactive assessment seeking to recover approximately $300,000 in alleged underpayment of assessments. The Debtor disputed the assessment. Moreover, although the Debtor's balance sheet reflected that it had significant equity in its Condo Units, it was illiquid and unable to pay the assessment. As a result, FOA terminated the Debtor's voting rights and issued a lien against the Debtor's Condo Units. This chapter 11 case followed shortly thereafter.

The litigation between the parties continued after the filing. As of the filing of this disclosure statement, all of the litigation had been resolved, and the Bankruptcy Court's rulings are on appeal. The litigation included:

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been jointly administered. CSI has filed its own disclosure statement and plan, and readers are referred to the CSI case for additional information regarding CSI and its plan. Because the Debtor and CSI elected to file separate plans, they requested that the Bankruptcy Court terminate joint administration. That motion was pending at the time of the filing of this disclosure statement.

[5] Julia Langdon is under a legal disability. Her court-appointed conservators are her sister and co-member, Lindsay Wilson, and Richard Mendelson, an Alexandria attorney.

(i) The Debtor commenced an adversary proceeding against FOA for intentional violation of the automatic stay. The Debtor alleged that FOA intentionally violated the automatic stay by denying the Debtor its voting rights as a unit owner as an act to collect its claim. The Bankruptcy Court found that FOA intentionally violated the automatic stay, issued various orders to remedy the stay violation, and entered a monetary judgment against FOA for damages incurred by the Debtor. The Bankruptcy Court's orders presently are on appeal to the U. S. District Court.

(ii) The Debtor objected to FOA's proof of claim. The Bankruptcy Court sustained the Debtor's objection and disallowed the proof of claim in its entirety. The order presently is on appeal to the U. S. District Court.

(iii) Approximately one year after the Debtor's case was filed, FOA filed a motion seeking to dismiss the case. The motion was denied by the Bankruptcy Court. FOA appealed the denial to the U. S. District Court, but the District Court dismissed the appeal as interlocutory.

(iv) FOA filed a motion to substantively consolidate the estates of the Debtor and its subsidiary, CSI, in order to collect from Gordon Properties a judgment that FOA had obtained against CSI. The Bankruptcy Court denied the motion, and FOA appealed the denial to the U. S. District Court. The District Court reversed the Bankruptcy Court on the grounds that it failed to apply applicable Fourth Circuit precedent and remanded to the Bankruptcy Court for further proceedings consistent with that precedent. The Debtor filed a motion to reconsider with the District Court, which was denied, but the order denying the motion has not yet been entered by the District Court, and the matter remains pending at this time with the District Court.

(v) Following court-ordered mediation, the Debtor and FOA entered into a settlement agreement and sought approval of the settlement agreement by the Bankruptcy Court. The Bankruptcy Court denied approval of the settlement agreement. The parties engaged in further mediation thereafter, but mediation was unsuccessful.

(vi) The United States Trustee filed a motion seeking appointment of a chapter 11 trustee or, in the alternative, appointment of an examiner. The Bankruptcy Court appointed an examiner, who performed his assigned duties and filed his required report. Thereafter, the United States Trustee renewed its motion for appointment of a chapter 11 trustee. That motion was denied by the Bankruptcy Court, without prejudice.

(vii) The Debtor recently filed an action in Alexandria Circuit Court to contest FOA's 2013 election. That action is pending and responsive pleadings have not yet been filed.

In addition to the claim filed by FOA, the Debtor's former attorneys, Stites and Harbison, filed a claim for attorney's fees incurred in the state court litigation.[6] The Debtor objected to the claim. The parties entered into a settlement of the claim objection, the settlement was approved, and Stites and Harbison has been paid in full on its claim.

Burke & Herbert Bank holds two allowed secured claims, the first in the original principal amount of $525,000, and the second in the original principal amount of $450,000, both of which are secured by deeds of trust against several of the Debtor's Condo Units. The Debtor's Condo Units also secured certain loans made to the Debtor by the Debtor's members during this case to fund operating shortfalls, primarily the legal fees being incurred by the Debtor in its battles with FOA. Each of those loans was

[6] Troutman Sanders LLP also was listed as an unsecured creditor with a disputed and unliquidated claim. Troutman Sanders did not file a proof of claim, and its claim is accordingly disallowed.

approved by orders of the Bankruptcy Court. A chart of the Debtor's Condo Units and liens against the various Condo Units is attached hereto as Schedule A.

The only priority claims in the case are administrative claims of the Debtor's attorneys, Odin Feldman & Pittleman PC (bankruptcy counsel) and Mercer Trigiani (condominium counsel) for legal fees related to this chapter 11 case. All administrative claims are current, although the Debtor anticipates incurring additional fees and costs that will be submitted for court approval at a later date.

ARTICLE III

THE PLAN OF REORGANIZATION

The Plan has been provided to all creditors or possible creditors known to the Debtor. The Plan should be read carefully and independently of this disclosure statement.

The following analysis of the Plan is intended to provide a context for understanding the remainder of this disclosure statement. This Article contains only a summary of the Plan. Creditors should read the Plan to determine the exact treatment of claims and means for executing the Plan. In the event of a conflict between this disclosure statement and the Plan, the provisions of the Plan will control.

A. Creditor Claims

1. Secured Claim of Burke & Herbert Bank

Burke & Herbert Bank holds two (2) allowed secured claims. The first is in the amount of $525,000 and is secured by deeds of trust against Condo Units 300, 317, 326, 417, 427, and 430. The second is in the amount of $450,000 and is secured by deeds of trust against Condo Units 328, 428, and 432. Burke & Herbert Bank

is unimpaired. Neither the claims nor the liens securing the claims will be affected by this Plan, its liens shall be preserved, and it shall retain all rights available under applicable law and its loan documents.

2. Secured Claim of Debtor's Members

Pursuant to orders entered by the Bankruptcy Court, the Debtor's Members were authorized to make loans to the Debtor on a secured, subordinate basis. Those loans presently total $2,200,000. Neither the claims nor the liens held to secure these loans will be affected by this Plan, the liens shall be preserved, and the lenders shall retain all rights available under applicable law and their loan documents, provided, however, that the liens shall remain subordinate to all allowed unsecured claims pursuant to the terms of the Bankruptcy Court's orders.

3. Unsecured Claims

At the time of the filing of this disclosure statement and the Plan, there were no allowed unsecured claims. However, should FOA succeed on its appeals, it could obtain an allowed claim for either the assessment against the Street-Front Unit or the judgment against CSI by virtue of substantive consolidation, or both. FOA is unimpaired. In the event a final, unappealable order is entered in favor of FOA by either the Bankruptcy Court or a court of appeals, FOA's claim will be allowed and it will retain all rights under applicable law to enforce its claim. In that event, the Debtor will liquidate so many of its Condo Units as is necessary to pay the claim. Pending entry of a final, unappealable order in the claim objection and substantive consolidation appeals, the Debtor will not further encumber its Condo Units, except pursuant to additional subordinate secured borrowing from its owners, similar to that previously approved by

the Bankruptcy Court, as the Debtor deems necessary to pay its expenses. In addition, in the event the Debtor elects to sell any of its Condo Units, the Debtor will be required to escrow with its bankruptcy counsel all of the net proceeds pending entry of such final, unappealable orders, up to the amount necessary to pay such claim. In this case, net proceeds means the gross sales price less all customary costs of sale and closing costs, and a distribution to the Debtor's members of an amount sufficient to pay any capital gains tax on such sale that the member may incur.

B. Executory Contracts/Unexpired Leases

The Debtor is not aware of any executory contracts. To the extent that the Debtor is a party to any executory contract, such executory contracts shall be deemed rejected upon confirmation of the Plan.

The Debtor's only unexpired leases are its leases, as landlord, for its Condo Units. All such leases shall be deemed assumed upon entry of the order confirming the Plan.

C. Tax Analysis of Plan

The Debtor does not believe that the Plan imposes any negative tax consequences on the Debtor. Each creditor in this case should consult its own advisors to determine the tax effect to it of the Plan.

D. Post-confirmation business operations

The Debtor will continue to own and operate its Condo Units, the equity of the Debtor will remain with its present owners, and Mr. Sells will continue to serve as the managing member. It is anticipated that the Debtor will lose its equity interest in CSI pursuant to CSI's plan of reorganization.

The foregoing summary is not intended to serve as a substitute for the Plan. All creditors are urged to carefully review the Plan.

ARTICLE IV

CONSIDERATION IN VOTING ON THE CHAPTER 11 PLAN

A. Operation of Chapter 11

In a chapter 11 case, the debtor is the only possible proponent of a plan of reorganization during the initial 120 days of the proceedings unless certain special conditions not present in this case (appointment of a trustee or reduction of the 120 day period) are met. After the 120 day period (unless the Bankruptcy Court extends it), any party in interest may propose a plan of reorganization. Once a plan has been filed by the debtor, no other plan may be submitted to creditors until additional time has expired without acceptance of that plan.

Chapter 11 of the Bankruptcy Code permits the adjustment of secured debts, unsecured debts and equity interests. A chapter 11 plan may provide less than full satisfaction of senior indebtedness and payment of junior indebtedness or may provide for return to equity owners absent full satisfaction of indebtedness so long as no impaired class votes against the plan.

If an impaired class votes against the plan, this does not necessarily make confirmation of the plan impossible so long as the plan is fair and equitable and that class is afforded certain treatment defined by the Bankruptcy Code. That certain treatment may be very broadly defined as fully satisfying the claims in the dissenting class. Confirmation may also occur notwithstanding dissent of a class if junior classes do not

participate under the plan. If an impaired class rejects the plan, and if the debtor is not able to meet the requirements of 11 U.S.C. §1129(b), then the plan will not be confirmed.

In the event a class is unimpaired, it is automatically deemed to accept the plan. A class is unimpaired, in essence, if: (1) its rights after confirmation are the same as what existed (or would have existed absent defaults) before the commencement of the chapter 11 case and any existing defaults are cured or provided for and the class is reimbursed actual damages; or (2) the allowed claims of the class are paid in full in cash as though matured.

If there is no dissenting class, the test for confirmation of a chapter 11 plan is whether the plan is in the best interests of creditors and interest holders and is feasible. In simple terms, a plan is considered by the court to be in the best interests of creditors and interest holders if the plan will provide an equal or better recovery to the creditors and interest holders than they would obtain if the debtor were liquidated and the proceeds of liquidation were distributed in accordance with the bankruptcy liquidation (Chapter 7) priorities. In other words, if the plan provides creditors and interest holders with money or other property of a value exceeding the probable dividend in liquidation bankruptcy, then the plan is in the best interests of creditors and interest holders.

The court, in considering this factor, is not required to consider any other alternative to the plan than liquidation bankruptcy.

In considering feasibility, that is, that confirmation is not likely to be followed by liquidation or further reorganization, the court is only required to determine whether the plan can be accomplished by the debtor. This entails determining (1) the availability of cash for payments required at confirmation, (2) the ability of the debtor to generate future

cash flow sufficient to make payments called for under the plan and to continue in business, and (3) the absence of any other factor which might make it impossible for the debtor to accomplish that which it promises to accomplish in the plan or continue its existence as contemplated in the plan.

In addition, in order to confirm a plan, the court must find among other things that the plan was proposed in good faith and that the plan and its proponents are in compliance with the applicable provisions of the Bankruptcy Code.

These determinations by the court occur at the hearing on confirmation after a plan has been accepted. The court's judgment on these matters does not constitute an expression of the court's opinion as to whether the plan is a good one or an opinion by the court regarding any debt instrument or equity interests or securities issued to creditors under the plan.

B. Alternatives to the Plan-Liquidation Analysis

Although the disclosure statement is intended to provide information to assist in the formation of a judgment as to whether to vote for or against the Plan, and although creditors are not being offered through that vote an opportunity to express an opinion concerning alternatives to the Plan, a brief discussion of alternatives to the Plan may be useful. These alternatives include continuation of the Chapter 11 case, conversion to liquidation bankruptcy, or dismissal of the proceedings. The Debtor, of course, believes the proposed Plan to be in the best interests of creditors and the Debtor. Thus, the Debtor does not favor any alternative to the proposed Plan.

Because there are no allowed unsecured claims, liquidation is not necessary. However, should it become necessary to pay a claim of FOA following completion of the

pending litigation, then the Debtor will liquidate such Condo Units as necessary to pay the claim.

The Debtor has attempted to set forth alternatives to the proposed Plan. However, the Debtor must caution creditors that a vote must be for or against the Plan. The vote on the Plan does not include a vote on alternatives to the Plan. There is no assurance what turn the proceedings will take if the Plan is not accepted. If you believe one of the alternatives referred to is preferable to the Plan and you wish to urge it upon the court, you should consult counsel.

C. Special Considerations in Voting

All of the foregoing gives rise in the instant case to the following implications and risks concerning the Plan.

(i) While the Plan provides for certain payments at confirmation, such payments will only apply to allowed claims, including claims arising from defaults. Under the Bankruptcy Code, a claim may not be paid until it is allowed. A claim will be allowed in the absence of objection, which may be made at any time prior to payment under the Plan. A claim, including a claim arising from default, which has been or in the future is objected to, will be heard by the court at a regular evidentiary hearing and allowed in full or in part or disallowed. In addition, a claimant against which an avoidance action is commenced will not be paid until the avoidance action is resolved. Accordingly, payment on some claims, including claims arising from defaults, may be delayed until objections and avoidance actions are resolved.

(ii) Certain risks inherent in the economy prevent the Debtor from assuring that it will achieve performance expectations.

D. Disclosures Required by the Bankruptcy Code

The Bankruptcy Code requires disclosure of certain facts:

(i) There are no payments made or promises of the kind specified in §1129(a)(4) of the Bankruptcy Code that will not be subject to approval by the court.

(ii) The Debtor intends to retain its current management team post-confirmation.

(iii) Counsel to the Debtor has advised the Debtor that it may require legal and accounting services in connection with this Plan, which fees will be deemed administrative expenses.

ARTICLE V

CONCLUSION

The materials provided in this disclosure statement are intended to assist you in voting on the Plan in an informed fashion. Since you will be bound by the Plan's terms if the Plan is confirmed, you are urged to review this material and make such further inquiries as you may deem appropriate and then cast an informed vote on the Plan.

DATED: March 10, 2014

GORDON PROPERTIES, LLC
By Counsel

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