

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>In re:</p> <p>HORSHAM VALLEY GOLF CLUB</p> <p style="text-align: center;">Debtor</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>CHAPTER 11</p> <p>Case No. 16-14764 (ELF)</p>
---	---	--

DEBTOR’S COMBINED MOTION TO (1) AUTHORIZE THE SALE OF CERTAIN REAL PROPERTY; (2) AUTHORIZE THE ASSUMPTION OF AN EXECUTORY CONTRACT WITH TOTAL CUSTOM HOMES, INC.; AND (3) APPROVE A STIPULATION WITH HRC, LLC AND TOTAL CUSTOM HOMES, INC.

Horsham Valley Golf Club, as debtor-in-possession (the “Debtor”), hereby requests the entry of an order, pursuant to Sections 105(a), 363(b) and (f), 365(a) and (b) of the United States Bankruptcy Code, and Bankruptcy Rules 6004, 6006 and 9019, (i) authorizing the sale of certain real property below described; (ii) authorizing the assumption of an executory contract with Total Custom Homes, Inc. with respect to said real property; and (iii) approving a certain stipulation with HRC, LLC and Total Custom Homes, Inc., and, in support of the Motion, the Debtor states as follows:

Introduction And Background

1. On July 5, 2016 (the “Petition Date”), the Debtor filed a voluntary petition under chapter 11 of the Bankruptcy Code and since that date has owned its property and operated its business as a debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.
2. As of the Petition Date, the Debtor owns 7 lots in the Final Subdivision Plans for Horsham Valley Estates dated July 11, 2011 as follows: 5, 7, 8, 9 , 10, 11 and 12, which lots are also known as 481 Barrington Street, Horsham, PA; 485 Barrington Street, Horsham, PA; 487

Barrington Street, Horsham, PA; 489 Barrington Street, Horsham, PA; 491 Barrington Street, Horsham, PA; 493 Barrington Street, Horsham, PA and 495 Barrington Street, Horsham, PA (the "Real Property;" also sometimes referred to herein as the "Lots" or individually as a "Lot"). The aforesaid property initially consisted of 10 lots, but the Debtor sold 3 lots prior to the Petition Date.

3. In order to sell the Lots in a manner that maximized the value to the Debtor, the Debtor and its partners entered into a certain Agreement with Total Custom Contractors, LLC ("TCC") dated May 27, 2015 as amended by a certain Addendum dated October 31, 2015 (collectively, the "TCH Agreement") (pursuant to the Addendum, among other things, Total Custom Homes, Inc. ("TCH") was added as a party to replace TCC under the Agreement). A true and correct copy of the TCH Agreement is attached hereto and incorporated herein by reference as Exhibit "A".

4. Generally, pursuant to the TCH Agreement, the Debtor contracted with TCH to construct single-family homes on Lots as they were sold to the general public, with an allocation of expenses and income related to the Lots and realized from sales, all as more fully set forth in the TCH Agreement.

5. In connection with and in furtherance of the TCH Agreement, the Debtor retained Joanna Bellinger from Long & Foster Real Estate, Inc. (the "Realtor") as its exclusive real estate agent to sell Lots.

6. On April 7, 2016, Royal Bank America (a) obtained a judgment by confession against the Debtor (and others) in the amount of \$1,567,005.86 in the Court of Common Pleas of Montgomery County Pennsylvania in the matter styled *Royal Bank America v. Horsham Valley Golf Club, et al.*, No. 2016-07311 (the "COJ Action"); and (b) filed a civil action against the Debtor and

others also in the Court of Common Pleas of Montgomery County Pennsylvania in the matter styled *Royal Bank America v. Horsham Valley Golf Club, et al.*, No. 2016-06883 seeking relief in the nature of, among other things, quieting title to the Lots (the “Quiet Title Action”).

7. With respect to the Quiet Title Action, Royal Bank America filed a *lis pendens* indexed against the Real Property and also sought injunctive relief, which relief was ultimately denied.

8. On May 25, 2016, HRC, LLC (“HRC”) substituted itself for Royal Bank America as the plaintiff in the Quiet Title Action.

9. With respect to the COJ Action, the Debtor and other named defendants petitioned to strike or open the confessed judgment, which petition was still pending and had not been ruled upon by the presiding court as of the Petition Date.

10. On May 17, 2016, the COJ Action was marked assigned by Royal Bank America to HRC.

11. The combined effect of the Quiet Title Action, including the filed *lis pendens*, as well as the judgment against the Debtor in the COJ Action effectively prevented the Debtor from selling the Lots and ultimately precipitated the filing of the within bankruptcy case.

12. The filing of the Debtor’s bankruptcy case stayed both the Quiet Title Action as well as the COJ Action, at least as to the Debtor.

13. Subsequent to the Petition Date, the Debtor has reached certain understandings with HRC and TCH that are memorialized in a certain Stipulation by and between those three parties that will enable the Debtor to continue to market and sell the Lots pursuant to the TCH Agreement and as otherwise set forth in the Stipulation.

Jurisdiction and Venue

14. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (K), (M), (N) and (O). Venue of the Debtor's case and this proceeding is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Summary Of How the Debtor Intends to Proceed

15. By this Motion, the Debtor seeks authority to sell the Lots pursuant to the TCH Agreement, which as set forth below, will enable the Debtor to realize not only the value of the Lots in their present unbuilt state, but share in the economic upside of each Lot after it is improved with a custom single-family home.

16. The Stipulation will enable the Lots to be sold once the terms are agreed to by each of the Debtor, HRC and TCH and free and clear of any liens, claims or encumbrances, including any cloud on title that existed by virtue of the Quiet Title Action and the COJ Action. Also in connection with the Stipulation, any proceeds from the sale of Lots, as well as any tail payments arising from the sale of lots that occurred prepetition, will be escrowed subject to a judicially-approved determination or resolution.

17. To effectively market the sale of the Lots, contemporaneously with the filing of this Motion, the Debtor intends to apply to retain the Realtor as its listing agent/broker. The Debtor is doing so with the consent and support of both TCH and HRC. The Realtor has familiarity with the Lots given her involvement in the sale of lots at the location prepetition. The Realtor will subject the Lots to true market conditions, thereby maximizing the value thereof.

18. Given the above described proposed procedure for the sale of Lots, the Debtor

believes that a piecemeal procedure to seek court approval for each individual sale agreement, not to mention a procedure soliciting higher and better offers, is both impractical and unnecessary under the circumstances.

The Section 363 Sale of the Real Property

19. Pursuant to section 363(b)(1) of the Bankruptcy Code, the Debtor, “after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” Furthermore, Section 105(a) of the Bankruptcy Code authorizes bankruptcy courts to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].”

20. A proposed sale of property pursuant to Section 363(b) of the Bankruptcy Code is proper if the bankruptcy court finds that the Debtor has exercised its reasonable business judgment. *See Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063 (2d Cir. 1983).

21. The business judgment test involves four factors: (i) whether a sound business reason exists for the proposed transaction; (ii) whether fair and reasonable consideration is provided; (iii) whether the transaction has been proposed and negotiated in good faith; and (iv) whether adequate and reasonable notice is provided. *Id.* at 1071.

22. The sale of the Lots pursuant to the TCH Agreement and the Stipulation is within the Debtor’s sound business judgment because it will maximize the value of the Lots well beyond any attempted sale of the Lots in their present unbuilt condition. In addition, getting approval of the sale procedure set forth herein without the burden and expense of seeking individual, piecemeal approval of sales will be the most efficient and cost effective way for the Debtor to sell the Real Property.

23. The Lots will be marketed by being listed with the Realtor through the Multiple Listing Service, thereby allowing the market to effectively dictate the value of the Lots. Furthermore, as a safeguard, the Stipulation calls for the Debtor, TCH and HRC (i.e., the Debtor's largest creditor) to approve the sale of all Lots. Needless to say, each of those parties is equally motivated to maximize the value of the Lots.

24. In the first instance, all negotiations with prospective purchasers will be done through the Realtor and will therefore be at arm's length. Moreover, pursuant to the Stipulation, all agreements of sale will be approved by the Debtor, TCH and HRC prior to executing and consummating same.

25. The Debtor will notify the Office of the United States Trustee, all creditors and all parties in interests of this Motion and, thus, the Debtor submits that notice of the Debtor's proposed sale procedure will be adequate and reasonable.

26. The sale process being proposed by the Debtor is not a *sub rosa* plan because the Debtor is not proposing to adjust any rights of creditors. Instead, pursuant to the Stipulation, which includes HRC—i.e., the only non-Debtor party with a possible interest in the Real Property—all sale proceeds will be escrowed pending a judicial determination or resolution as to who is entitled to said proceeds.

27. Under Bankruptcy Code Section 363(f), a debtor-in-possession may sell property free and clear of any lien, claim or interest in such property if one of the following conditions is satisfied: "(1) applicable nonbankruptcy law permits the sale of such property free and clear of such interest; (2) such entity consents; (3) such interest is a lien and the price at which property is sold is greater than the aggregate value of all liens on such property; (4) such interest is in bona fide

dispute; or (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.”

28. Here, HRC is the only party with a possible interest in the Property, and it has consented to the sale of the Lots pursuant to the Stipulation.

Assumption of the TCH Agreement

29. The Debtor believes that the TCH Agreement is an executory contract, subject to treatment pursuant to Section 365 of the Bankruptcy Code.

30. Section 365(a) of the Bankruptcy Code requires court approval for the Debtor to assume the TCH Agreement.

31. The Debtor believes that assuming the TCH Agreement is the best interest of the Debtor’s estate insofar as it will enable the Debtor to sell the Lots pursuant to a relationship that the Debtor believes has a track record of maximizing the value of the Lots and, thus, maximizing the return to creditors of the Debtor.

32. The Debtor does not believe that there are any defaults under the TCH Agreement and, thus, there is no need to cure the TCH Agreement as is otherwise required pursuant to Bankruptcy Code Section 365(b)(1).

33. If this Court finds that the TCH Agreement is not an executory contract, then the Debtor seeks confirmation that it can continue to perform under the TCH Agreement in the ordinary course of its business pursuant to Bankruptcy Code Section 363(c)(1). Alternatively, if performing under the TCH Agreement is outside the ordinary course of its business, then the Debtor seeks this Court’s approval pursuant to Bankruptcy Code Section 363(b)(1).

Approval of the Stipulation

34. The Debtor, TCH and HRC have engaged in good faith negotiations to resolve issues relating to the prepetition clouds on title to the Lots as well as how proceeds from the sale of Lots will be distributed. The result of those negotiations is memorialized in the Stipulation, which is attached hereto and incorporated herein by reference as Exhibit "B".

35. The Debtor submits that the Stipulation is less of a settlement or compromise and more in the nature of a reservation of rights as between the Debtor and HRC, and therefore should be approved outright by this Court.

36. If, however, the Stipulation is a compromise, Federal Rule of Bankruptcy Procedure 9019(a) provides in pertinent part that "[o]n motion by the [debtor in possession] and after hearing on notice to creditors . . . , the court may approve a compromise or settlement."

37. The Debtor submits that the Stipulation comports with the standards set forth in In re Martin, 91 F.3d 389, 393 (3d Cir. 1996) and is in the best interests of the bankruptcy estate and all of the creditors because it paves the way for the Lots to be sold, with a reservation by the Debtor and HRC of each of their rights to the proceeds.

WHEREFORE, the Debtor respectfully requests the entry of an Order, in the form attached, granting the relief set forth in this Motion and any other and further relief as is just under the circumstances.

Respectfully submitted,

SMITH KANE HOLMAN, LLC

Date: August 29, 2016

By: /s/David B. Smith
David B. Smith, Esquire
112 Moores Road
Suite 300
Malvern, PA 19355
Tel: (610) 407-7217
Fax: (610) 407-7218
dsmith@skhlaw.com
Counsel to the Debtor

Exhibit A – TCH Agreement

**FIRST AMENDMENT TO AGREEMENT
DATED MAY 27th day of May, 2015**

THIS AGREEMENT is made this 17th day of June, 2015, by and between **HARRY C. BARBIN, HARRY C. BARBIN, III and DAVID R. KOCH, Partners of HORSHAM VALLEY GOLF CLUB, a General Partnership, ("Owner") and TOTAL CUSTOM CONTRACTORS, LLC, ("Builder") and TOTAL CUSTOM HOMES, INC. ("Builder")**

BACKGROUND

The Owner and Builder entered into an Agreement dated May 27, 2015. The Owner and Builder now wish to amend that Agreement. The terms and conditions of the May 27, 2015 Agreement are restated herein and are still in full force and effect, as of this day.

The parties heretby agree to delete **TOTAL CUSTOM CONTRACTORS, LLC** and insert **TOTAL CUSTOM HOMES, INC.** as the Builder.

The Owner, owns, or shall have ownership to certain Lots ("Lots") numbered 4 to 13 on or before June 30, 2015, situated in Horsham Township, ("Township"), Montgomery County ("County"), Pennsylvania. Said Lots are more fully described in Final Subdivision Plans for Horsham Valley Estates, dated July 11, 2011. Said Lots are subject to the Final Subdivision Plans and Horsham Valley Estates Home Owner's Association and certain Horsham Valley Estates Architectural Restrictions and Guidelines, are attached hereto,

as Exhibit "A" and made a part hereof. The property consists of ten (10) Lots, and Owner and Builder intend to sell, partially improved Lots and construct, Custom-Built single-family homes on each Lot to buyers (the "Buyers"). The Owner and Builder intend to cause certain improvements to the Lots, or shall reimburse Toll Brothers to the extent that Toll Brothers make such improvements to the Lots, in conformance with the Final Subdivision and Land Development Plan for Horsham Valley Estates, dated July 11, 2011 and prepared by Stout, Tacconelli and Associates, Inc. The Owner and Builder shall be responsible to Horsham Township, to pay certain fees and make certain improvements to the Lots as, more fully described in Exhibit "B", attached hereto and made a part hereof. Owner has made a payment in the amount of \$9,968.30, per Lot (a total amount of \$99,683.00) to Toll Brothers for certain fees as set forth in both Exhibit "B" and captured as an expense in Exhibit "C" hereto and shall be entitled to be reimbursed \$9,968.30 for each Lot when each home is conveyed to a Buyer and receipt of payment pursuant to the terms of an Agreement of Sale for said Lot. The Owner and Builder shall upon completion of each Custom-Built single-family home and subsequent final settlement to Buyers and receipt of payment pursuant to the terms of an Agreement of Sale for said Lot, shall share the proceeds as generally described in Exhibit "C", attached hereto and made a part hereto, until the ten (10) Lots have been conveyed to Buyers.

NOW THEREFORE, in consideration of the foregoing and of the respective promises, representations, warranties and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereto do hereby covenant and agree as follows:

1. **TERM OF AGREEMENT.** This Agreement shall be for a period of time necessary for the Owner and Builder to sell, build and warrant ten (10) Custom-Built single-family homes, unless mutually agreed, by the parties hereto, to terminate this Agreement in writing.

2. Owner shall identify any and all restrictions to the Lots as restrictions are required by the Final Subdivision Plans, Horsham Township or the Homeowner's Association for review and approval of Builder.

3. Owner and Builder shall obtain any and all insurance as required by either party, hereto. Owner and Builder must approve of the insurance obtained by the other party.

4. Exhibit "C" hereto, shall be subject to market conditions such that each Lot shall have a unique net proceeds.

5. Owner shall cause Royal Bank, NA to agree to a per-lot pay-down, in writing, to release each of the Lots from any and all Wrap-around/Blanket Mortgage that Royal Bank, NA has on various real property owned by Owner, as said Lots are placed under an Agreement of Sale, with Buyers. Proceeds from an initial closing of Buyer's financing shall be applied to make such payment to Royal Bank as provided hereunder.

6. Builder shall obtain a title report on Lots to insure that Lots are not subject to any other mortgages, judgments, liens. In the event, there are any other mortgages, judgments, liens, other than the mortgage of Royal Bank, NA, Owner shall take the action necessary to have those mortgages,

judgments, liens removed prior to any further action required of Builder under this agreement. Owner shall not subject the Lots, whether voluntarily or involuntary, to any mortgages, judgments or liens during the term of this Agreement. In the event said Lots are subjected to any future mortgages, judgments or liens, which mortgage, judgment or lien is caused by the Owner, Owner shall be responsible, at Owners expense, to deliver clear and marketable title, that would be insured by a reputable Title Company at regular costs to the Buyer of said Lot.

7. Owner and Builder shall cause a depository account to be opened in a Bank of their mutual approval. All proceeds from any transaction contemplated hereunder including but no limited to loans, loan draws, payments, and settlements shall be deposited in said account. Both parties to this agreement shall be required to sign and/or approve any withdrawals/distributions from this mutual account, or as further amended by the parties hereto in writing.

8. Builder shall take any and all action necessary to design, market, construct and warrant any Custom-Built single-family homes on the ten (10) Lots.

9. Owner shall not be required to fund expenses related to the design, marketing and construction, ("up-front costs") of the Custom-Built single-family homes. Builder shall advance all up-front costs related to the Custom-Built single-family homes, however, those up-front costs shall ultimately be shared by the Owner and Builder as part of the allocable expenses to each Buyer sale.

10. Builder shall be entitled to receive reimbursement of those up-front costs, advanced by the Builder from the proceeds of sale for the first four (4) Lots, in an amount consistent with the budgets for marketing along with plan reproduction and spec., bid & buyout under indirect construction within Exhibit "C", herein, as a priority distribution of proceeds to the parties hereto. The amount Builder shall be entitled to be reimbursed for up front costs from each of the first four Lot closings as a priority distribution shall in no case exceed \$50,000.00 for any one closing or \$200,000.00 in total for the first four Lot closings unless approved by the parties hereto in writing. Notwithstanding the foregoing, reimbursement to Builder for expenses within the budget, set forth in Exhibit C, and in excess of \$200,000.00, shall be made in the normal course of business as and when funds within the aforementioned depository account are available.

11. Builder projects that two (2) Lots per quarter after the fourth quarter of 2015 will be under Agreement of Sale to Buyers. Owner and Builder shall have the responsibility to approve each Agreement of Sale. If within twelve (12) months of the execution of this Agreement, less than four (4) Agreements of Sale have been entered into with Buyers, either party hereto may declare this Agreement null and void, with written notice to the other party, provided that the Builder is reimbursed for any and all up-front costs. In that event, upon Builders receipt of the up-front costs, and subsequent termination of this Agreement, either party hereto may use the any information developed for the sale of Custom-Built single-family homes, including but not limited to marketing material, plans and budgets.

12. The Owner and Builder agree to value each fully improved Lot at twenty-five (25%) percent of the total sales price of each Agreement of Sale entered into with a Buyer. Owner agrees that any distribution of proceeds from a closing with Buyer shall have improvement costs deducted in the amounts set forth in Exhibit "C" and will have a Lot release payment made to Royal Bank, prior to any distribution to Owner.

13. Owner and Builder will share equally in the net proceeds, (50% to Owner and 50% to Builder), as that term is used in General Accepted Accounting Principals, after all expenses have been paid, or reserved in accordance with Exhibit "C" or any amendment thereto.

14. Assignment. This agreement may not be assigned to anyone by either party, unless agreed to in writing by both parties to this Agreement.

15. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.

16. Enforceability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of the Agreement will remain in full force and effect


17. This Agreement shall be governed by and construed under the Laws of the Commonwealth of Pennsylvania, without regard to conflict of laws principals that would require the application of any other laws.

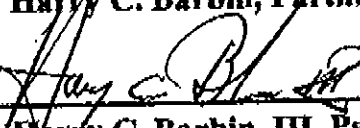
18. This document may be executed in any number of counterparts and by the different parties hereto on separate counterparts each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Agreement as of the date first written.

WITNESS:

**HORSHAM VALLEY GOLF CLUB, A
GENERAL PARTNERSHIP**

By: 
Harry C. Barbin, Partner

By: 
Harry C. Barbin, III, Partner

By: _____
David R. Koch

TOTAL CUSTOM CONTRACTORS, LLC

By: _____
Its: President

TOTAL CUSTOM HOMES, INC.

By: _____
Its: President

Exhibit "A"

**Horseshoe Valley Estates
Architectural Restrictions and Guidelines**

All homes constructed shall be single family, residential homes with a minimum of 2,900 square feet of living space. All homes shall have a minimum of a 2-car and maximum of 4-car attached garage which shall be accessed from the side elevation or courtyard elevation of the home. No garage doors will face the interior roads of the community. All homes will have basements. Please note, neither the garage area nor the basement area shall not be included in the minimum square feet of living area.

Homes shall be consistent in respect of style and materials with the home designs of Toll Brothers which are attached to these restrictions and guidelines for reference only. While a mixture of materials including brick, stone and stucco can be used on the front elevation of a home, it is acknowledged that vinyl and/or cement-plank siding material used on the front elevation of a home can only be used as an accent and not on the entire elevation.

It is the intent of Toll Brothers that the Community contain a variety of home styles and the repetition of the same elevations of homes be limited. Accordingly, homes with the same elevation adjacent to and/or facing one another on the same street, shall be prohibited. It is acknowledged that elevation means the (i) design of the home, (ii) trim color and (iii) materials used on the facade of that home. It is also acknowledged that a home can vary one of the above items for diversity purposes.

Construction shall be completed and a Certificate of Occupancy issued within 18-months from the start of construction on each lot.

EXHIBIT "B"

PREPAID ITEMS BY TOLL FOR THE REMAINING 10 LOTS

Park and Rec Fee	\$350.00
Traffic Impact Fee	\$780.00
Water Tap	\$2,887.00
Sewer Tap	\$5,800.00
SW Outfall	\$62.00
TOTAL PREPAID	\$9,968.00

TOTAL PREPAID LOTS \$99,683.00

**ACCOUNTING OF RESPONSIBILITY AND COSTS RELATED TO
REMAINING LOTS-OWNER/DEVELOPER TO CONSTRUCT
AND/OR PAY:**

- Driveway Apron
- Public Sidewalks
- Street Trees - 2-3/lot based upon approved LD Plans
- Rear "On Lot" trees-3/lot based upon approval LD Plans or PECO equivalent
- Traffic Impact Paid at Permit - currently \$2,500/lot

"Exhibit C" Page 1

Horsham Valley Estates Estimate

5/14/2015

Models	2900	SF	3400	SF	3600	SF
Total Sale Price	\$ 625,349.00		\$ 674,310.00		\$ 689,038.00	
Expense						
Land	\$ 127,827.95	20%	\$ 140,068.20	21%	\$ 143,750.20	21%
Site Improvements	\$ 27,384.30	4.4%	\$ 27,384.30	4.1%	\$ 27,384.30	4.0%
Building	\$ 267,275.00	43%	\$ 297,475.00	44%	\$ 310,275.00	45%
Indirect	\$ 30,737.00	4.9%	\$ 30,737.00	4.6%	\$ 30,737.00	4.5%
Sales	\$ 36,758.67	5.9%	\$ 39,577.05	5.9%	\$ 40,447.36	5.9%
Marketing	\$ 14,370.00	2.3%	\$ 14,370.00	2.1%	\$ 14,370.00	2.1%
Interest	Buyer		Buyer		Buyer	
Bank Fees	Buyer		Buyer		Buyer	
Contribution to G & A	\$ 120,996.08	19%	\$ 124,698.46	18%	\$ 122,074.14	18%
G & A	4% \$ 25,013.96	4%	\$ 26,972.40	4%	\$ 27,561.52	4%
Pre-tax Profit	\$ 95,982.12		\$ 97,726.06		\$ 94,512.62	
# of Sales	2		5		3	
Total	\$ 191,964.25		\$ 488,630.28		\$ 283,537.86	\$ 964,132.38
Owner Share	\$ 95,982.12		\$ 244,315.14		\$ 141,768.93	\$ 482,066.19
Land At Closing	\$ 255,655.90		\$ 700,341.00		\$ 431,250.60	\$ 1,387,247.50
Owner Reimburse	\$ 19,936.60		\$ 49,841.50		\$ 29,904.90	\$ 99,683.00
Total Owner Share						\$ 1,968,996.69
Total Builder Share	\$ 95,982.12		\$ 244,315.14		\$ 141,768.93	\$ 482,066.19

ADDENDUM

THIS ADDENDUM is made the ³¹ day of October, 2015 by and between Harry C. Barbin, III, ^{DAVID} ~~DAVID~~ Koch and Harry C. Barbin II, partners of Horsham Valley Golf Club, a general partnership, ("Owner") and Total Custom Contractors LLC, ("Builder").

NOTWITHSTANDING anything contained in the Agreement by the parties first executed on May 27, 2015, and in consideration of their respective promises, representations, warranties and covenants therein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, Owner and Builder further agree to the following:

1. Builder will substitute a new entity, Total Custom Homes, Inc. as the party to the transaction hereunder instead of Total Custom Contractors, LLC. Total Custom Homes, Inc. will have all of the same rights, privileges and obligations as Total Custom Contractors, LLC to the Agreement and the Addendum.
2. In return for Builder advancing funds to pay the real estate taxes due on the Lots, lots 4-13 of Horsham Valley Estates, due by October 31, 2015, the parties agree to extend the requirement, that four lots be under agreement of sale with home buyers, from the stated period of 12 months after the execution date, until the date October 31, 2016.
3. The parties hereto agree that Harry C. Barbin III, partner of Horsham Valley Golf Club and Jack MacCord, President of Total Custom Homes, Inc. shall have the obligation and authority to negotiate and enter into agreements of sale with home buyers purchasing the Lots and Homes to be sold.
4. The parties agree to borrow funds collectively to build a speculative home on one of the Lots, entering into a note and mortgage on one or more Lots, the lender, the terms and conditions of the note and mortgage to be approved by the parties hereto at a later date.

IN WITNESS WHEREOF, The parties hereto have executed this Addendum on the date first appearing above.

Horsham Valley Golf Club, a general partnership,

By Harry C. Barbin III Harry C Barbin III

By David R. Koch David R Koch

By Harry C. Barbin II Harry C Barbin II

Total Custom Contractors, LLC

By Jack MacCord, President Jack MacCord

Total Custom Homes, Inc.,

By Jack MacCord, President Jack MacCord

Exhibit B - Stipulation

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
(Philadelphia)**

IN RE:

HORSHAM VALLEY GOLF CLUB,

Debtor.

Chapter 11

Case Number 16-14764(elf)

STIPULATION

WHEREAS:

The Residential Lots and the Pending Montgomery County Litigation

A. Horsham Valley Golf Club, the Debtor herein (“HVGC” or “Debtor”), is the owner of seven residential building lots in Horsham, Pennsylvania (the “HVGC Lots”);

B. HRC, LLC (“HRC”), is a creditor of the Debtor, having received an assignment from Royal Bank America (“Royal Bank”) of a promissory note (the “Note”) executed by the Debtor and two related entities in favor of Royal Bank, together with related assets;

C. Royal Bank is the plaintiff in an action in the Court of Common Pleas, Montgomery County, bearing the caption “Royal Bank America v. Horsham Valley Golf Club, *et al.*,” and Case Number 2016-06883, seeking an Order quieting title as to the HVGC Lots, and other relief (the “Quiet Title Action”);

D. In connection with the Quiet Title Action, a *lis pendens* against the HVGC Lots has been recorded;

E. Royal Bank is also the plaintiff in a Confession of Judgment action in the Court of Common Pleas, Montgomery County, against HVGC and two other entities bearing the caption

“Royal Bank America v. Horsham Valley Golf Club, *et al.*,” and Case Number 2016-07311 (the “COJ Action”);

The Agreements with Total Custom Homes

F. HVGC has previously signed agreements for the building of single-family houses on the HVGC Lots with Total Custom Homes, LLC. (“Total Custom”), a builder, and for the marketing and sale of the HVGC Lots;

G. Because of the *lis pendens* in the Quiet Title Action and the COJ Action, Total Custom and Long & Foster (“L&F”), its real estate agent, have stopped all their efforts to market or sell any of the remaining, as-yet-unsold HVGC Lots;

H. The Debtor and HRC desire to allow the marketing and sale of those lots to go forward while the instant Chapter 11 action is pending, on the understanding that any proceeds of those sales that would otherwise belong to or be paid to HVGC, as well as any remaining payments that hereafter would otherwise be made to HVGC from prior sales, will be placed in escrow with Debtor’s counsel pending the resolution of this Chapter 11 proceeding or further Order of the Court;

NOW, THEREFORE, in light of the foregoing and seeking to accomplish the purposes stated above, the undersigned parties hereby STIPULATE AND AGREE THAT:

1. The contracts between or among Total Custom, L&F and HVGC with respect to the HVGC Lots will remain in force, subject to approval of the Court, and also subject to the provisions below, all of which shall also be subject to approval by the Court;
2. Total Custom and L&F shall resume their efforts to market and sell the HVGC Lots;
3. Each and every sale of any of the HVGC Lots shall require the approval of Total Custom, HVGC and HRC, and HRC shall be copied on any and all communications between or among Total Custom, L&F and HVGC;

4. With respect to each lot for which an approved agreement of sale has been entered, HRC shall at the closing of that lot sale provide a release of that specific lot from the *lis pendens* in the Quiet Title Action and the confessed judgment lien;

5. In place of its *lis pendens* and confessed judgment lien (collectively, the “LP and CJ Liens”), liens in favor of HRC shall attach to the portion of the proceeds of the sale that pursuant to the agreements between Total Custom and HVGC would otherwise belong to or be paid to HVGC pending the Court’s determination as to whether the LP and CJ Liens are valid and/or enforceable against the Lots and/or the payments that would otherwise be made to HVGC from prior sales under the agreement between Total Custom and HVGC. In all other respects, the sales of lots will be free and clear of any claims of HRC.

6. All such proceeds as described in paragraph 5 above shall be placed in escrow with Debtor’s counsel pending the resolution of the instant Chapter 11 proceeding, or further order of the Court.

Dated: _____ Horsham Valley Golf Club
By: _____

Dated: _____ HRC, LLC
By: _____

Dated: _____ Total Custom Homes, LLC
By: _____

4. With respect to each lot for which an approved agreement of sale has been entered, HRC shall at the closing of that lot sale provide a release of that specific lot from the *lis pendens* in the Quiet Title Action and the confessed judgment lien;

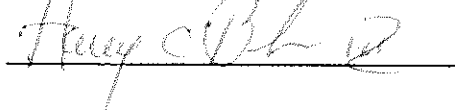
5. In place of its *lis pendens* and confessed judgment lien (collectively, the "LP and CJ Liens"), liens in favor of HRC shall attach to the portion of the proceeds of the sale that pursuant to the agreements between Total Custom and HVGC would otherwise belong to or be paid to HVGC pending the Court's determination as to whether the LP and CJ Liens are valid and/or enforceable against the Lots and/or the payments that would otherwise be made to HVGC from prior sales under the agreement between Total Custom and HVGC. In all other respects, the sales of lots will be free and clear of any claims of HRC.

6. All such proceeds as described in paragraph 5 above shall be placed in escrow with Debtor's counsel pending the resolution of the instant Chapter 11 proceeding, or further order of the Court.

Dated:

Horsham Valley Golf Club

By:

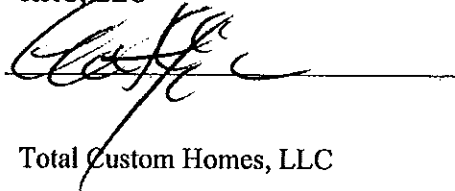


Dated:

8/20/16

HRC, LLC

By:



Dated:

Total Custom Homes, LLC

By:

DocuSign Envelope ID: 515D34BB-27F3-476D-8EE9-02C6AEEB173B

4. With respect to each lot for which an approved agreement of sale has been entered, HRC shall at the closing of that lot sale provide a release of that specific lot from the *lis pendens* in the Quiet Title Action and the confessed judgment lien;

5. In place of its *lis pendens* and confessed judgment lien (collectively, the “LP and CJ Liens”), liens in favor of HRC shall attach to the portion of the proceeds of the sale that pursuant to the agreements between Total Custom and HVGC would otherwise belong to or be paid to HVGC pending the Court’s determination as to whether the LP and CJ Liens are valid and/or enforceable against the Lots and/or the payments that would otherwise be made to HVGC from prior sales under the agreement between Total Custom and HVGC. In all other respects, the sales of lots will be free and clear of any claims of HRC.

6. All such proceeds as described in paragraph 5 above shall be placed in escrow with Debtor’s counsel pending the resolution of the instant Chapter 11 proceeding, or further order of the Court.

Dated: Horsham Valley Golf Club
By: _____

Dated: HRC, LLC
By: _____

Dated: 8/24/2016
Total Custom Homes, Inc.
By: DocuSigned by:
Jack MacLords, President
-770339C9A310470..