

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION**
www.flsb.uscourts.gov

In re:

LEVITT AND SONS, LLC,
a Florida limited liability company, *et al.*¹

Chapter 11 Cases
Case No. 07-19845-BKC-RBR
(Jointly Administered)

Debtors.

**ORDER GRANTING JOINT MOTION OF THE DEBTORS AND THE JOINT
COMMITTEE OF UNSECURED CREDITORS FOR ORDER APPROVING
THE SECOND AMENDED DISCLOSURE STATEMENT AND ESTABLISHING**

¹ The last four digits of the taxpayer identification number for each of the Debtors follows in parentheses: (i) Levitt and Sons, LLC (3500); (ii) BankAtlantic Venture Partners 5, LLC (7328); (iii) Bellaggio by Levitt and Sons, LLC (8507); (iv) Levitt GP, LLC (9466); (v) Levitt Construction Corp.-East (6292); (vi) Levitt Construction-East, LLC (2487); (vii) Levitt Industries, LLC (6273); (viii) Levitt Homes Bellaggio Partners, LLC (9490); (ix) Levitt Homes, LLC (1650); (x) Avalon Park by Levitt and Sons, LLC (2188); (xi) Levitt and Sons of Lake County, LLC (8547); (xii) Levitt and Sons of Manatee County, LLC (3563); (xiii) Levitt and Sons of Hernando County, LLC (1563); (xiv) Regency Hills by Levitt and Sons, LLC (9482); (xv) Levitt and Sons at Hunter's Creek, LLC (5870); (xvi) Levitt and Sons of Seminole County, LLC (1888); (xvii) Levitt and Sons of Osceola County, LLC (4596); (xviii) Levitt and Sons of Lee County, LLC (1561); (xix) Cascades by Levitt and Sons, LLC (2022); (xx) Levitt and Sons at Hawks Haven, LLC (4963); (xxi) Magnolia Lakes by Levitt and Sons, LLC (5370); (xxii) Levitt and Sons at Tradition, LLC (9053); (xxiii) Levitt and Sons at World Golf Village, LLC (4959); (xxiv) Levitt and Sons of Flagler County, LLC (0685); (xxv) Lev-Brn, LLC (3445); (xxvi) Summerport by Levitt and Sons, LLC (3494); (xxvii) Levitt and Sons of Georgia, LLC (9568); (xxviii) Levitt and Sons of Cherokee County, LLC (2322); (xxix) Levitt and Sons of Hall County, LLC (4416); (xxx) Levitt and Sons of Paulding County, LLC (1632); (xxxi) Levitt Construction Georgia, LLC (3043); (xxxii) Levitt and Sons of South Carolina, LLC (8109); (xxxiii) Levitt and Sons of Horry County, LLC (3186); (xxxiv) Levitt Construction – South Carolina, LLC (3234); (xxxv) Levitt and Sons of Tennessee, LLC (4793); (xxxvi) Bowden Building Corporation (6090); (xxxvii) Levitt and Sons of Nashville, LLC (0295); and (xxxviii) Levitt and Sons of Shelby County, LLC (1345). The mailing address for the Debtors is 2200 West Cypress Creek Road, Fort Lauderdale, FL 33309.

**AND APPROVING SOLICITATION AND VOTING PROCEDURES WITH
RESPECT THERETO**

Upon the motion [D.E. #__] (the “Motion”)² filed by Levitt and Sons, LLC (“LAS”) and each of the other above-captioned debtors (collectively, the “Debtors”) and the Joint Committee of Unsecured Creditors (the “Committee,” with the Debtors, the “Proponents”) for the entry of an order (the “Disclosure Statement Order”) approving (i) the Proponents’ Second Amended Disclosure Statement in Connection with Second Amended Joint Liquidating Chapter 11 Plan for Debtors, filed by the Proponents on December 5, 2008 [D.E. #____] (as may be supplemented before and after the hearing on adequacy of the “Amended Disclosure Statement”); (ii) the form of the ballot to be used in connection with voting on the Plan; and (iii) certain procedures that will govern the Proponents’ solicitation and tabulation of votes to accept or reject the Plan, which procedures are described in the Motion and this Order; and (iv) the form and content of those certain letters from the Committee and the Deposit Holders’ Committee soliciting acceptances of the Plan from their respective constituencies (the “Solicitation Letters”), which Solicitation Letters are attached to the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and upon the arguments presented at the hearing before the Court, and any objections to the Motion having been withdrawn, resolved or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is ORDERED that:

1. The Motion is granted in its entirety.

² All capitalized terms not otherwise defined herein shall have the meaning set forth in the Motion.

A. Approval of the Second Amended Disclosure Statement

2. The Second Amended Disclosure Statement complies with all aspects of section 1125 of the Bankruptcy Code and is hereby approved as containing “adequate information” (as defined by section 1125(a) of the Bankruptcy Code).

3. The Proponents have provided adequate notice of the time fixed for filing objections and the hearing to consider approval of the Second Amended Disclosure Statement in accordance with Bankruptcy Rules 2002 and 3017 and Rules 2002-1 and 3017-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of Florida (the “Local Bankruptcy Rules”).

4. Any objections to approval of the Second Amended Disclosure Statement that were not withdrawn or resolved at or prior to the hearing to consider approval of the Second Amended Disclosure Statement are overruled.

B. Establishment of the Voting Record Date and the Voting Deadline

5. Voting Record Date. December 10, 2008, shall be the Voting Record Date for identifying:

(a) holders of claims that are entitled to receive the Solicitation Package;

(b) holders of claims that are entitled to vote to accept or reject the Plan; and

(c) transferred claims that have been properly assigned or transferred to an assignee pursuant to Bankruptcy Rule 3001(e) such that the assignee can vote as the holder of a claim against the Debtors.

6. Voting Deadline. _____, 2009 at 5:00 p.m. prevailing Pacific Time shall be the last date on which all properly executed and completed ballots voting to reject or accept the Plan must be actually received by the Voting and Claims Agent at the following address: Levitt

and Sons Balloting Center, c/o Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, California 90245.

C. Approval of Forms of Ballots

7. The General Ballots, the GUC Ballots and the Deposit Holder Ballots, substantially in the forms attached hereto as Exhibit 1, Exhibit 2 and Exhibit 3, respectively, are hereby approved.

8. The form of the ballot instructions, substantially in the form attached to the General Ballots, GUC Ballots and Deposit Holder Ballots, are hereby approved.

9. All votes to accept or reject the Plan must be cast by using the appropriate General Ballot, GUC Ballot or Deposit Holder Ballot.

10. All General Ballots, GUC Ballots and Deposit Holder Ballots must be properly executed, completed and delivered according to their applicable ballot instructions by first class mail, overnight courier; or personal delivery, in each case, so that the General Ballots, GUC Ballots and Deposit Holder Ballots are **actually received** by the Voting and Claims Agent at the return address set forth in the applicable Ballot no later than the Voting Deadline.

D. Approval of the Solicitation and Voting Procedures

11. The following procedures with respect to solicitation and voting procedures (collectively, the “Solicitation and Voting Procedures”) shall govern the Proponents’ solicitation and tabulation of votes to accept or reject the Plan.

12. The Solicitation and Voting Procedures set forth herein satisfy the requirements of the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules, and the Proponents shall distribute or cause to be distributed Solicitation Packages to all entities entitled to vote to accept or reject the Plan.

13. Notwithstanding anything to the contrary contained herein, the Proponents shall reserve the right (subject to approval of this Court) to amend or supplement the Solicitation Procedures and Voting Procedures to better facilitate the solicitation process.

(i) The Solicitation Package

14. The following documents and materials shall constitute the solicitation package with respect to soliciting votes to accept or reject the Plan (the “Solicitation Package”):

(a) a cover letter, substantially in the form annexed hereto as Exhibit 4 describing the contents of the Solicitation Package;

(b) the Solicitation Letter from the Deposit Holders’ Committee urging Deposit Holders to vote to accept the Plan, and the form of the Deposit Holders’ Notice, which will not be included in the Solicitation Package, but may be posted by the Deposit Holders’ Committee on their website;

(c) the Solicitation letter a cover letter from the Committee urging Holders of Allowed General Unsecured Claims to vote to accept the Plan;

(d) the appropriate form of Ballot(s), together with instructions on how to complete the Ballot(s);

(e) the approved Second Amended Disclosure Statement;

(f) the Plan;

(g) the Disclosure Statement Order; and

(h) the Confirmation Hearing Notice substantially in the form annexed hereto as Exhibit 6.

15. The Proponents are hereby authorized to serve, in their discretion, copies of the Second Amended Disclosure Statement, the Plan and the Disclosure Statement Order and the

other documents in the Solicitation Package in CD-ROM format instead of paper format; provided, however, that any party that receives a CD-ROM copy of the Solicitation Package, but which desires a paper copy of those documents may request such documents (a) at <http://www.kccllc.net/levittandsons>, (b) by writing to Levitt and Sons Balloting Center, c/o Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, California 90245, (c) by calling 866-381-9100 or (d) by emailing KCC_LEVITT@kccllc.com.

16. The Solicitation Letters substantially in the form annexed hereto as Composite Exhibit 5 are hereby approved, and the Committee and the Deposit Holders' Committee are authorized to mail their respective Solicitation Letter to their respective creditor constituencies.

(ii) Distribution of the Solicitation Package

17. No fewer than 25 days before the Voting Deadline (the "Solicitation Date"), the Proponents shall distribute a copy of the Solicitation Package to all holders of claims in the following Voting Classes: **LAS-2, LAS-3, LAS-4, LAS-5, LAS-6, LAS-7, LAS-8, LAS-9A, LAS-9B, Tenn-2, Tenn-3, Tenn-4, Tenn-5, Tenn-6A and Tenn-6B** as well all creditors and parties in interest whose claim is or may be the subject of an objection pending when the Plan was filed on December 5, 2008 or as of the Voting Deadline; provided, however, that the Proponents shall not distribute a copy of the Solicitation Package to holders of claims that have been disallowed by a final non-appealable Order of the Court as of the Voting Record Date.

18. The Proponents shall provide paper copies of, or a CD-ROM containing, the Solicitation Package (excluding General Ballots, GUC Ballots or Deposit Holder Ballots, as applicable) to each party on the Master Service List as of the Voting Record Date as well as the Internal Revenue Service and the Securities and Exchange Commission.

19. General Ballots, GUC Ballots or Deposit Holder Ballots and copies of the Plan and Second Amended Disclosure Statement need not be provided to the holders of claims in unimpaired classes or who are unclassified under the Plan and are, therefore, deemed to accept the Plan.

20. General Ballots, GUC Ballots or Deposit Holder Ballots and copies of the Plan and Second Amended Disclosure Statement need not be provided to the holders of equity interests who will not receive any distribution under the Plan and are, therefore, conclusively deemed to reject the Plan.

(iii) Delivery of Solicitation Packages to Undeliverable or Changed Addresses

21. For any holder of a claim for which certain notices relating to the hearing on the Amended Disclosure Statement have been returned as undeliverable, the Proponents shall not be required to mail a Solicitation Package unless such holder provides written confirmation correcting its address no less than ten business days before the Solicitation Date to Levitt and Sons Balloting Center, c/o Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, California 90245.

22. For any holder of a claim that that has changed its mailing address since the Petition Date, that holder shall provide written notice of the address change to the Voting and Claims Agent no less than ten business days before the Solicitation Date, at the address set forth in the preceding paragraph. In no event shall the Proponents be required to update a mailing address without a timely written notice provided by the addressee.

(iv) Voting and Tabulation Procedures

(a) Completion of Ballots

23. A Ballot shall not be counted in determining the acceptance or rejection of the Plan if it is:

(a) illegible or contains insufficient information to permit the identification of the holder of a claim;

(b) submitted by a holder of a claim in a class that is not entitled to vote on the Plan;

(c) submitted by a holder of a claim listed in the Schedules as contingent, unliquidated or disputed, or any combination thereof, for which the applicable Bar Date has passed and no proof of claim was timely filed;

(d) submitted by a holder of a claim whose claim has been disallowed by a final and non-appealable Order as of the Voting Deadline;

(e) unsigned;

(f) not clearly marked to accept or reject the Plan or any Ballot marked both to accept and reject the Plan;

(g) not filed on the approved form of Ballot(s); or

(h) submitted by any entity not entitled to vote pursuant to the Bankruptcy Code, the Bankruptcy Rules or otherwise.

(b) *Establishing Claims Amounts for Voting Purposes*

24. In determining for purposes of tabulation the amount of the claim associated with each properly received vote, the Proponents shall, for voting purposes only, use the following claim amounts:

(a) the amount of the claim settled and/or agreed upon by the Debtors, as reflected in a court pleading, stipulation, agreement or other document filed with the Bankruptcy

Court, in an order of the Bankruptcy Court or in a document executed by the Debtors pursuant to authority granted by the Bankruptcy Court;

(b) the amount of the claim allowed (temporarily or otherwise) pursuant to a Resolution Event described in paragraph 27 below;

(c) the amount of the claim contained in a proof of claim that has been timely filed by the applicable Bar Date or determined to be timely filed by a final order of the Court, except for any amounts in such proofs of claim asserted on account of any interest accrued after the Petition Date; provided, however, that Ballots cast by holders of claims whose claims are not listed on the Schedules, but that (i) timely file a proof of claim in an unliquidated or unknown amount (ii) and whose claims are not the subject of an objection, will count for numerosity purposes, and solely for the purposes of satisfying the dollar amount provisions of section 1126(c) of the Bankruptcy Code, will count in the amount of \$1.00;

(d) the amount of each claim listed in the Debtors' Schedules to the extent that such claim (i) is not listed on the Schedules as contingent, unliquidated or disputed and (ii) has not been paid during the Debtors' chapter 11 cases pursuant to the terms of a settlement, stipulation, order of the Bankruptcy Court or otherwise; provided further that if the bar date applicable to a holder of a contingent, unliquidated or disputed claim has not passed, then the amount of the claim listed in the Schedules, solely for voting purposes; and (e) in the absence of any of the foregoing, zero, in which case the creditor shall not be allowed to vote to accept or reject the Plan.

25. For the avoidance of doubt, the criteria provided in this subsection shall control for voting purposes only and shall not constitute the allowed amount of any claim, the amount of

any claim for any other purpose, or for any other purpose under the Plan, including whether the holder of any such claim is bound by the Third Party Release and Injunction.

(c) General Ballot Tabulation

26. The Proponents shall use the following procedures to tabulate all Ballots:

(a) the Proponents shall reject as invalid each and every Ballot that is not timely submitted on or before the Voting Deadline and shall, except as otherwise expressly set forth herein or by a final order of the Bankruptcy Court, decline to count such Ballot in voting to accept or reject the Plan;

(b) the Voting and Claims Agent shall date and time-stamp all Ballots when received. The Voting and Claims Agent shall retain originals and copies of all Ballots for a period of one year after the effective date of the Plan, unless otherwise ordered by the Bankruptcy Court;

(c) each party permitted to submit a Ballot shall submit an originally executed version of such Ballot in paper form to the Voting and Claims Agent. Submission of a Ballot by facsimile, email or any other electronic means shall not be valid and the Proponents shall decline to count such Ballot solely for purposes of tabulating votes to accept or reject the Plan;

(d) the Proponents shall file a joint report of all votes received (a "Voting Report") with the Bankruptcy Court no later than five (5) calendar days before the Confirmation Hearing. The Voting Report shall, among other things, delineate every irregular Ballot including, without limitation, those Ballots that are late or (in whole or in material part as determined by the Voting and Claims Agent) illegible, unidentifiable, lacking signatures or lacking necessary information, received via facsimile or electronic

mail or damaged. The Voting Report shall indicate the Proponents' intentions with regard to such irregular Ballots;

(e) the method of delivery of Ballots to the Voting and Claims Agent is at the election and risk of each holder of a claim. Except as otherwise provided herein, such delivery will be deemed made only when the Voting and Claims Agent actually receives the originally executed Ballot;

(f) no Ballot shall be sent to any of the Debtors, the Committee, the Deposit Holders Committee, their agents (other than the Voting and Claims Agent) or their financial or legal advisors and if so sent shall not be counted;

(g) if multiple Ballots are received from the same holder of a claim with respect to the same claim or with respect to duplicative claims before the Voting Deadline, the last Ballot timely received will supersede and revoke in its entirety any previously received Ballot;

(h) holders must vote all of their claims within a particular class either to accept or reject the Plan and may not split any such votes. A Ballot that includes an individual claim, the amount of which partially rejects and partially accepts an individual Plan, shall not be counted. Further, if a holder has multiple claims within the same class, the Proponents may, in their discretion, aggregate the claims of any particular holder within a class for the purpose of counting votes;

(i) a person signing a Ballot in its capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation or otherwise acting in a fiduciary or representative capacity must indicate such capacity when signing and, if required or

requested by the Voting and Claims Agent, the Proponents or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such holder;

(j) the Proponents, subject to contrary order of the Bankruptcy Court, may waive any defects or irregularities as to any particular Ballot at any time, either before or after the close of voting, and any such waivers shall be documented in the Voting Report;

(k) neither the Debtors, the Committee, the Deposit Holders Committee nor any other party, shall be under any duty to provide notification of defects or irregularities with respect to delivered Ballots other than as provided in the Voting Report, nor will any such party incur any liability for failure to provide such notification;

(l) unless waived by the Debtors and the Committee and subject to contrary order of the Bankruptcy Court, any defects or irregularities in connection with the delivery of a Ballot must be cured before the Voting Deadline or such Ballots will not be counted in voting to accept or reject the Plan;

(m) in the event a designation for lack of good faith is requested by a party in interest under section 1126(e) of the Bankruptcy Code, the Bankruptcy Court shall determine whether any vote to accept and/or reject the Plan cast with respect to that claim will be counted for purposes of determining whether the Plan has been accepted and/or rejected by such claim;

(n) subject to any contrary order of the Bankruptcy Court, the Debtors and the Committee reserve the right to reject any and all Ballots not in proper form, the acceptance of which, in the opinion of the Debtors and the Committee, would not be in accordance with the provisions of the Bankruptcy Code or the Bankruptcy Rules; provided that any such rejections shall be documented in the Voting Report;

(o) the following Ballots shall not be counted in determining the acceptance or rejection of the Plan: (i) any Ballot that is illegible or contains insufficient information to permit the identification of the holder of the claim; (ii) any Ballot cast by a party that does not hold a claim in a class that is entitled to vote on the Plan; (iii) any Ballot cast for a claim scheduled as contingent, unliquidated or disputed for which the applicable Bar Date has passed and no proof of claim was timely filed; (iv) any Ballot cast for a claim that have been disallowed by a final and non-appealable Order of the Court as of the Voting Deadline; (v) any unsigned Ballot; (vi) any Ballot not marked to accept or reject the Plan; (vii) any Ballot submitted by any entity not entitled to vote pursuant to the procedures described herein; and (viii) any Ballot submitted by any entity not entitled to vote pursuant to the Bankruptcy Code, the Bankruptcy Rules or otherwise.

(d) Temporary Allowance of Claims for Voting Purposes

27. The amount of a claim for voting purposes shall be calculated in accordance with paragraph 26 hereof. If a creditor holds a Disputed Claim, as defined in the Motion, the holder of such claim may seek to obtain one of the following “Resolution Events” at least five business days before the Voting Deadline:

(a) an order by the Bankruptcy Court, after notice and a hearing, allowing a Disputed Claim in a specified amount;

(b) an order by the Bankruptcy Court temporarily allowing a Disputed Claim in a specified amount for voting purposes only pursuant to Bankruptcy Rule 3018(a), after notice and a hearing;

(c) a stipulation or other agreement is executed between the holder of a Disputed Claim and the Debtors resolving the objection and allowing such Disputed Claim in an agreed upon amount;

(d) a stipulation or other agreement is executed between the holder of Disputed Claim and the Debtors temporarily allowing the holder of such claim to vote its claim in an agreed upon amount; or

(e) the Debtors voluntarily withdraw a pending objection to a Disputed Claim.

28. In the event the holder of a claim receives a Solicitation Package and the Debtors or the Committee object to such claim after the Voting Record Date but at least 5 days before the Confirmation Hearing, the notice of objection will inform such holder of the rules applicable to Claims subject to a pending objection and the procedures for temporary allowance for voting purposes. Additionally, in the event the holder of a claim receives a Solicitation Package and the Debtors or the Committee object to such claim less than 5 days before the Confirmation Hearing, the holder's claim will be deemed temporarily allowed for voting purposes only without further action by the holder of such claim and without further order of the Bankruptcy Court.

E. Confirmation of the Plan

(i) The Confirmation Hearing

29. The Confirmation Hearing shall commence on _____, 2009 at _____ m. prevailing Eastern Standard Time, which hearing may be continued from time to time without further notice other than such adjournment announced in open court or a notice of adjournment filed with the Bankruptcy Court and served on the Master Service List and the entities who have filed objections to the Plan, without further notice to parties in interest.

(ii) Procedures for Filing Objections to Confirmation of the Plan

30. The Plan Objection Deadline shall be 5:00 p.m. prevailing Eastern Standard Time _____, 2009.

31. Any objections to the Plan must be filed by the Plan Objection Deadline and must:

- (a) be in writing;
- (b) conform to the Bankruptcy Rules and the Local Bankruptcy Rules;
- (c) state the name and address of the objecting party and the amount and nature of the claim or equity interest of such party; and
- (d) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection.

32. The Second Amended Disclosure Statement, the Plan and the form of Ballots (including instructions for such ballots), substantially in the form annexed hereto provide holders of claims and equity interests and other parties in interest with sufficient notice regarding the injunction, exculpation and release provisions contained in the Plan in compliance with Bankruptcy Rule 3016(c).

33. The terms of this Disclosure Statement Order shall be binding upon the Debtors, the Committee, the Deposit Holders Committee, all holders of claims and equity interests and any trustees appointed under chapter 7 or chapter 11 of the Bankruptcy Code relating to the Debtors and all other parties in interest.

34. All time periods set forth in this Disclosure Statement Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

35. The requirements set forth in Local Bankruptcy Rules 2002-1, 3016-2 and 3017-1 are satisfied by the contents of the Motion or otherwise deemed waived.

36. The Proponents are authorized to take all actions necessary to effectuate the relief granted pursuant to this Disclosure Statement Order in accordance with the Motion.

37. The terms and conditions of this Disclosure Statement Order shall be immediately effective and enforceable upon its entry.

38. The Bankruptcy Court shall retain jurisdiction, even after the closing of these chapter 11 cases, with respect to all matters arising from or related to the implementation of this Disclosure Statement Order.

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Submitted by:

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