

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

IN THE MATTER OF:)	
)	Case No.: 12-32540
MOSS FAMILY LIMITED PARTNERSHIP and)	
BEACHWALK, L.P.)	Chapter 11 Proceeding
)	Jointly Administered
Debtors.)	

FIRST AMENDED JOINT DISCLOSURE STATEMENT

I. INTRODUCTION

Moss Family Limited Partnership and Beachwalk, L.P., the Debtors-in-Possession, provide this Disclosure Statement to all of their creditors in order to disclose that information deemed by the Debtors to be important and necessary for exercising their right to vote for acceptance of the First Amended Joint Plan of Reorganization filed with the Court on December ____, 2013.

Those creditors whose claims are impaired under the Plan may vote on the Plan by filling out and mailing to Daniel L. Freeland and Sheila A. Ramacci, Daniel L. Freeland & Associates, P.C., 9105 Indianapolis Blvd., Highland, Indiana, 46322, a Ballot which will be supplied by the Court. In order for the Plan to be accepted by Ballot, Ballots of voting creditors who hold at least two-thirds (2/3) in amount and more than one-half (1/2) in number of allowed claims of all Classes must be cast in favor of the acceptance of the Plan.

NO REPRESENTATIONS CONCERNING THE DEBTORS(PARTICULARLY AS TO THEIR FUTURE BUSINESS OPERATIONS, VALUE OF PROPERTY, OR THE VALUE OF ANY PROMISSORY NOTE TO BE ISSUED UNDER THE PLAN) ARE AUTHORIZED BY THE DEBTORS OTHER THAN AS SET FORTH IN THIS STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE WHICH ARE OTHER THAN AS CONTAINED IN THIS STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION, AND SUCH ADDITIONAL REPRESENTATIONS AND/OR INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR THE DEBTORS WHO IN TURN SHALL DELIVER SUCH INFORMATION TO THE BANKRUPTCY COURT FOR SUCH ACTION AS MAY BE DEEMED APPROPRIATE.

II. GENERAL INFORMATION AND HISTORY

A. INTRODUCTION

Essentially, the purpose of any reorganization or rehabilitation under chapter 11 is to preserve

the assets of the Debtors and save it from disastrous or premature sales, such as at foreclosure, so that junior interests (junior mortgage holders and unsecured, general creditors, and debtors) will receive the greatest possibility of preserving their right to recovery or equity in the Debtors' property. Plans of Reorganization providing for extensions of debt as a primary system of restructuring finances appear to be the most practical solution of the problem under chapter 11 of our present Bankruptcy Code.

There are limitations on what a debtor can do under a Chapter 11 Plan; primarily, a Plan may be confirmed over the objections of a Class of secured creditors only if the Court finds that those creditors are given fair and equitable treatment, and secured creditors must receive the "indubitable equivalent" of the value of their security. However, "indubitable equivalent" does not necessarily mean that secured creditors must receive payment right away; what it means is that the secured creditors, if they must wait, are entitled to a reasonable rate of interest on their money until they are paid. In other words, where a secured creditor is receiving payment in full over a reasonable period of time, with an appropriate interest or discount factor being paid, that creditor is receiving all the law requires, that is – full payment over a reasonable period of time. Under the Bankruptcy Code, the term of any mortgage debt may be extended; payments required under the mortgage, or either principal or interest, may be postponed; and deferred or reduced payments of principal or interest may be added to the mortgage balance. Illustrative of this point is the case of *In re Hollanger*, 8 B.C.D. 365 (1981) involving farmers in which the Court allowed postponement of arrearages on mortgage debt for seven (7) years.

B. GENERAL BACKGROUND

1. Beachwalk LP

Beachwalk LP (originally named Sheridan Shores LP) was organized in 1990 as a land development limited partnership for the development of a former sand mining property in Michigan City, Indiana. Beachwalk LP founded and operated the Beachwalk development that began in 1992 and it is the principal purpose of the partnership. The Beachwalk development has received two national awards and significant national and regional recognition.

The Beachwalk development (named after the boardwalk that the partnership built and donated to the City of Michigan City in 1992 that connects the community to the Lake Michigan beach) has moved forward in five phases (1992, 1993, 1996, 2001 and 2006) to develop 36.5 acres of the 99-acre west parcel (now 105 acres with the acquisition of the 6.4-acre "Dune Top" property in 2005). The remaining west parcel land (68.5 acres) includes a lake (23 acres). The undeveloped east parcel contains approximately 57 acres.

The five phases include 214 residential lots and six other properties. There are a total of 155 homes and other buildings. Beachwalk LP owns 31 of the remaining unfinished lots.

The original capital for the partnership came from investment and loans from the general and limited partners. Land development loans were obtained from banks and others for each phase. From 1993 to 2006, the Beachwalk community grew at a modest pace of lot purchases and home development, approximately 10-15 per year. Home and home site values also increased steadily over

this period. Beachwalk LP's principal income was and is from lot sales and prices and margins were sufficient to operate the partnership effectively largely without additional capital. The owner of the General Partner made strategic purchases from time to time and several banks were amenable to lending to Beachwalk LP for operating funds or strategic purchases (e.g., Dune Top in 2005).

From 2006 to 2012, Beachwalk LP has seen the following:

- (1) A change in assessment practices in LaPorte County resulted in near universal uncertainty as to property tax levels;
- (2) Higher interest and insurance rates led to increased expenses for Beachwalk LP properties;
- (3) Deflation (prices have fallen 35-40% for homes and over 50% for home sites at Beachwalk) and the depression in our real estate market strongly discouraged sales. Builder/Developers were no longer able to "take down" lots for home building. Fear of further deflation (as we now know, justified for many of these years) discouraged wholesale or retail home site purchases.
- (4) Although market acceptance of Beachwalk as a place remained strong, deflation, uncertainty, and increased expenses combined to make sales of the Beachwalk LP properties extremely difficult;
- (5) Home site sales, at the new price points, have largely disappeared until 2012-2013.

In 2006 Beachwalk LP's principle source of sales revenues first slowed and then, in 2008, stopped. The resulting shortfall in operating funds was filled by banks willing to increase lending lines for increased collateral and increased rates. When the absence of home site sales extended to 2009-2010, Beachwalk LP and the banks, except LaPorte Savings Bank, engaged in forbearance agreements that addressed curtailment of debt and reduced interest to assist in the orderly resolution. In 2010, Horizon Bank, while a forbearance agreement was being finalized, began foreclosure proceedings. In January, 2011, Horizon Trust (an affiliate of Horizon Bank) without Debtors' knowledge or consent, deeded all the contents/property held or believed to be held in Horizon Trust 08-3923 out of the trust. This transfer exposed the properties to judgment liens. LaPorte Savings Bank extended new credit lines at higher interest rates with additional collateral to assist Beachwalk LP until January, 2011, when LaPorte Savings Bank suspended and withdrew the substantial lending line and moved for foreclosure in April, 2011. The forbearance agreement with Horizon was completed and signed in May, 2011. Horizon dropped their foreclosure but LaPorte Savings Bank continued with theirs. As a result of LaPorte Savings Bank foreclosure, the other banks, including Horizon Bank, indicated that they had no choice but to also file for foreclosure. Regretfully, the bankruptcy filing was the only sensible course for Beachwalk LP and for the other secured and unsecured creditors.

2. Moss Family LP

Moss Family LP was organized in 2006 as a consolidation of ownership of rental residential and other real estate ownership since 1980. Moss Family LP was also part of an estate plan developed at that time.

Moss Family LP (under several predecessor names) owned small apartment buildings in the City of Chicago from 1980 to the middle 1990's and provided modest income for its owners in some years, losses in others. Moss Family LP also owned several parcels of land in Michigan. From the mid-1990's, Moss Family LP has owned houses and other properties in Michigan City, Indiana and specifically, in the Beachwalk development. These properties were owned as income-producing properties but also to support the growth and development of the Beachwalk development. At the same time, the success of the Beachwalk development allowed its principal owner to subsidize Moss Family LP as it faced a sometimes challenging income-producing environment.

From 2006 to 2012, Moss Family LP's challenges accelerated with the following issues:

- (1) A strong selling market (total absorption was still very modest) and a doubling of rental competition made for weaker demand and less rental income for Moss Family LP for the early part of this period;
- (2) A change in assessment practices in LaPorte County resulted in a perceived increase of 100% or more in property taxes for the Moss Family LP properties and all properties in this market;
- (3) Higher interest and insurance rates led to increased expenses for Moss Family LP properties;
- (4) Deflation (prices have fallen 35-40% for homes and over 50% for home sites at Beachwalk) and the depression in our real estate market encouraged a flood of rental competition into the rental marketplace (much of this competition operating as an "underground economy" and, thereby, avoiding state and county taxes and regulation;
- (5) Deflation and increased expenses combined to make sales of the Moss Family LP properties extremely difficult;
- (6) In the later years for this period, the rental market demand surged but with strong (and often unfair competition), Moss Family LP has needed to make continuous capital improvements to compete;
- (7) With the sales at Beachwalk home sites now stalled for years, the owner of Moss Family LP faced a growing demand for subsidy without funds;
- (8) Even under these difficult conditions, Moss Family LP had made positive

steps toward resolution with four of its banks through forbearance and curtailment agreements in 2010 and 2011.

- (9) In 2011 and 2012, LaPorte Savings Bank (LPSB) moved through foreclosure process which would have resulted in the loss of much of the property of Moss Family, LP (and Beachwalk LP). As a result of LPSB's foreclosure, other banks stated they had no choice but to also file for foreclosure. The Debtor believes that the foreclosures would have resulted in a total loss for Beachwalk LP, Moss Family LP, and major losses for all the secured and unsecured creditors. Regretfully, the bankruptcy filing was the only sensible course for Moss Family and for the other secured and unsecured creditors.

C. RETENTION OF PROFESSIONALS

The Debtors, with the approval from the Bankruptcy Court, immediately employed experienced bankruptcy counsel, Daniel L. Freeland & Associates, P.C. of Highland, Indiana, to assist it in their functions. Debtors' counsel has fully participated in the Debtors' reorganization process.

Likewise, on March 12, 2013, the Court approved the appointment of David Ambers as special counsel relating to issues with the sanitary district, planning commission and other general local government entities. David Ambers has yet to participate fully in any of the matters he has been authorized to represent Debtors with regards to.

The Court approved the employment of Faegre Baker Daniels, LLP to assist as special counsel with negotiations and discussions with the town of Michigan City and its officials, with debtors creditors regarding valuation of collateral and restructuring and development of strategies regarding new capital for development. The scope of Faegre Baker Daniels, LLP work was revised to limit work with the town of Michigan City on behalf of the Debtors, but to add negotiations with the Beachwalk Homeowners Association.

The Court approved the employment of Patrick Kepchar of PK Financial as accountant for the Debtors. PK Financial has been employed and has performed duties relating to the preparation of and filing of all necessary tax returns, preparation of cash flow projections and assistance with workout options, preparation of monthly operating reports for the Debtors and general accounting services as needed by the Debtors.

D. POST-PETITION OPERATIONS

After the filing of the Petition, the Debtors have continued in operations. Unless restricted by the Court, a Debtor-in-Possession is generally permitted to conduct their business in the ordinary course, subject to limited supervisory powers of the Court. These powers generally include consideration of transactions by the Debtors-in-Possession which are outside the ordinary course of business, such as the sales of major assets, approval of the retention of attorneys, accountants, and various other professionals, review of matters involving claims against the Debtors and

considerations of objections raised by parties in interest to the operations or proposed operations of the Debtors-in- Possession.

Immediately upon filing their petition for relief, the Debtors' management attempted to modify their business operations so as to increase their profitability and reduce their debt. The Debtors prepared budgets which they have been successful in adhering to. The Debtors filed all monthly reports with the Court, as required by the U.S. Trustee. These reports show that the Debtors entered into their slow season in October due to the change in season.

Upon the filing of the petition for relief, the United States Trustee scheduled a creditors' meeting, as required under 11 U.S.C. §341. Prior to these meetings being held, the Debtors filed their Schedules and Statement of Financial Affairs, and participated in meetings with the U.S. Trustee's office, where all of the books and records of the Debtors were opened up to the U.S. Trustee to review and request copies of documents.

In the fall of 2012 and spring of 2013, the Debtors entered into settlement negotiations with First Bank, Fifth Third Bank, Horizon Bank and LaPorte Savings Bank in an effort to resolve the outstanding claims of these creditors which are secured by certain real estate of the Debtors. The Debtors made great strides towards resolution of the claims of First Bank, Horizon Bank and Fifth Third Bank before the Debtors Plan was filed; however, the Debtors and LaPorte Savings Bank fell short of reaching any type of agreement before the Debtors' Plan were filed.

On August 13, 2012, this Court approved the joint administration of the Debtors Chapter 11 cases. This allowed the Debtors to proceed with the administration of the two distinct bankruptcy cases utilizing only one court docket which alleviated the need for the Debtors to file duplicate motions and orders under separate administration of cases. On March 28, 2013, the Debtors filed a Motion to Consolidate the two bankruptcy cases. This was done in order to allow the Debtors to file one Plan of Reorganization dealing with the creditors, many of whom are creditors in both cases. The Motion to Consolidate remains pending with objection by Fifth Third Bank and LaPorte Savings Bank.

In 2005, Horizon Bank, N.A., Trust 08-1292, sold real estate to Horizon Bank, N.A. Trust 08-3923 ("Dunetop Property"). At the closing, Alexander Gaydasch, Claire Gaydasch, J. Richard Childers, John L. Turner, Suzanne Turner and Thomas J. Moss (collectively the "Dunetop Lenders") who all lent money for the purchase of the Dunetop Property, were provided Notes secured by Mortgages against the Dunetop Property. These mortgages were all executed but were never recorded. At the time Beachwalk Limited Partnership filed its Bankruptcy Petition, it was the title owners to the Dunetop Property, subject to the judgment lien of LaPorte Savings Bank. On April 1, 2013, Beachwalk Limited Partnership filed its Complaint to avoid the mortgage liens against the Dunetop Lenders under adversary No. 13-0319 pursuant to 11 U.S.C. §§ 544(a)(3) and 547 and preserve the avoided transfer of the unrecorded mortgages for the Estate pursuant to 11 U.S.C. § 551. This is the only avoidance action that has been identified or filed by the Debtors prior to the Plan being filed.

In the last 16 months, the long awaited rebound from the historic depression of real estate in

general and Beachwalk development in particular, appears to be occurring. A total of 20 Beachwalk development homes have sold in this period, many as a result of Beachwalk Realty, LLC's ability to overcome objections and concerns and to continue to effectively market the Beachwalk real estate. All the purchases were retail in purpose. Values appear to be rising and buyer interest continues to grow, causing the Debtors realistic hope that it can continue to sell real estate and reorganize under the plan proposed.

E. EQUITY SECURITY HOLDERS AND POST-PETITION MANAGEMENT

At the commencement of the case, as well as presently, Debtor, Moss, had three partners:

Thomas J. Moss -	limited partner	- 49.5%
Mary D. Moss -	limited partner	- 49.5%
Tom Moss, L.L.C. -	general partner	- 1.0%

At the commencement of the case, as well as presently, Debtor, Beachwalk, had four partners:

Tom Moss Land Development Co. -	general partner	- 42.1052%
Richard Childers -	limited partner	- 15.7895%
Joseph and Susan Powers -	limited partner	- 15.7895%
Thomas J. Moss -	limited partner	- 26.3158%

There is presently one general manager of each Debtor. It is anticipated that the both Debtors, Beachwalk and Moss, shall be consolidated into one Debtor (Moss Family Limited Partnership) upon confirmation. The pre-petition partners of each Debtor listed above shall be given an interest in the Consolidated Debtor equal to half the percentage said interest holder had in either Beachwalk or Moss pre-consolidation. Tom Moss, LLC shall be the general partner of the consolidated Debtor post confirmation and serve as the general manager of the Consolidated Debtor and will receive an annual fee of \$102,000.00. This salary is based upon Thomas Moss' pre-petition salaries for the respective companies and the fair market value of the services Thomas Moss will be required to perform for the reorganized Debtor in ensuring the implementation of the terms of this Plan.

F. SYNOPSIS OF TAX IMPLICATION FOR REORGANIZATION

The Debtors are limited partnerships. As such, potential forgiveness issues and tax implications would generally flow through capital accounts as reflected on 1065 Partnership tax returns that would be filed. However, since it is not anticipated that there would be forgiveness of debt and that all creditors would be paid in full, it is not anticipated that there would be tax implications either through the reduction of tax attributes at a partnership level or at an equity level. As such, to the best of Debtors' current knowledge, information and belief, the reorganization and discharge of debt as provided under the proposed Chapter 11 Plan will not have major implications. By this statement, Debtors and Debtors' counsel are not and should not be construed to be rendering tax advice to any creditor, party-in-interest or recipient of this Disclosure Statement. Each such

entity should seek their own tax advice.

G. DEBTS AND ASSETS ANALYSIS

A. **Assets** - Pursuant to information set forth in the Schedules filed in the Chapter 11 case, the Debtors had the following assets:

1. **Real Estate:** The Debtors listed on their Schedules many different parcels and pieces of real estate that were owned as of the Petition Date with the values believed at the time by the Debtors to be accurate. Since the filing of the bankruptcies, some of the pieces of real estate were sold, with approval from the Court. The "Plan Value" placed on each piece of property below is a combination of agreements with the secured creditors (Fifth Third and Horizon) and the values placed on the properties by other secured creditors (LaPorte Savings) and the Debtors' actual current values on such properties (First Bank, Bank of America, Metropolitan Bank, Childers, Turner, Moss, Burnstine, and properties without any first mortgage liens against them). The Debtor believes in many instances the Plan Values placed on the properties are less than the current fair market value, but has elected to use these values in their Plan in an effort to reduce and hopefully avoid confirmation disputes as to the actual values of the real estate. Even using the Plan Values, each secured creditor is over secured and there is sufficient value remaining in the properties to pay all creditors, over time, in full.

Moss Family Limited Partnership

Description of Real Estate	Scheduled Value	Plan Value	Secured Creditors
416 Beachwalk Lane, Michigan City, IN- Lot 113C	\$ 120,000.00	\$41,429.00	Fifth Third Bank
420 Beachwalk Lane, Michigan City, IN	120,000.00	Sold	Fifth Third Bank
311 Childers Lane, Michigan City, IN	80,000.00	\$40,500.00	LaPorte Savings
103 Joe Lane, Michigan City, IN	70,000.00	\$30,000.00	First Bank
201 Joe Lane, Michigan City, IN	60,000.00	\$30,000.00	First Bank
Lot 81/82 - Turner Court, Michigan City, IN	200,000.00	\$120,000.00	Horizon Bank
Lot 84 - Turner Court, Michigan City, IN	150,000.00	\$60,000.00	Horizon Bank
103 Mary Street, Michigan City, IN	60,000.00	\$30,000.00	First Bank
109 Mary Street, Michigan City, IN	70,000.00	\$30,000.00	First Bank
Lots 141B-146 B (a/k/a 202-212 Mary Street, Michigan City, IN)	360,000.00 (\$60,000 each)	\$248,571 (\$41,429 each)	Fifth Third Bank

Description of Real Estate	Scheduled Value	Plan Value	Secured Creditors
Lot 83 - Turner Court, Michigan City, IN	150,000.00	\$150,000.00	Robert & Virginia Burnstine
101 Moorman, Michigan City, IN	95,000.00	\$94,000.00	Fifth Third Bank
1602 Tennessee Street, Michigan City, IN	270,000.00	\$108,000.00	LaPorte Savings
1622 Tennessee Street, Michigan City, IN	175,000.00	\$175,000.00	Mary D. Moss
511 Washington Street, Michigan City, IN	90,000.00	\$50,000.00	Fifth Third Bank
205 Childers, Michigan City, IN	500,000.00	\$427,000.00	Fifth Third Bank
221 Childers, Michigan City, IN	500,000.00	\$540,000.00	Bank of America
303 Childers, Michigan City, IN	260,000.00	\$240,663.00	LaPorte Savings
305 Childers, Michigan City, IN	260,000.00	\$245,000.00	LaPorte Savings
323 Childers, Michigan City, IN	525,000.00	\$545,000.00	Fifth Third
325 Childers, Michigan City, IN	530,000.00	\$550,000.00	Bank of America
101 Cottage Camp, Michigan City, IN	200,000.00	Sold	First Bank
102 Cottage Camp, Michigan City, IN	225,000.00	Sold	First Bank
112 Cottage Camp, Michigan City, IN	200,000.00	Sold	First Bank
113 Cottage Camp, Michigan City, IN	200,000.00	Sold	First Bank
1133 Lakeshore, Michigan City, IN	525,000.00	Sold	Fifth Third
1201 Lakeshore, Michigan City, IN	525,000.00	\$386,000.00	Fifth Third
Moss Total:	\$6,520,000.00	\$4,141,163.00	

Beachwalk L.P.

Description of Real Estate	Scheduled Value	Plan Value	Secured Creditors
Ridge Lots 85-101, Michigan City, IN	\$1,100,000.00	\$1,020,000.00	LaPorte Savings
Undeveloped Land - Dunetop	1,800,000.00	\$1,275,000.00	1-Alexander & Claire Gaydasch, 2-Richard Childers, 3-John & Susan Turner and 4- Thomas Moss

Description of Real Estate	Scheduled Value	Plan Value	Secured Creditors
Undeveloped Land - Lake Kai - Parcel A	700,000.00	\$720,000.00	
Undeveloped Land - Tennis Court Land - Parcel B1	800,000.00	\$175,000.00	LaPorte Savings
Parcel C	\$700,000.00	\$680,000.00	
Undeveloped Land - East of Lake Kai - Parcel D	\$700,000.00	\$1,020,000.00	
Undeveloped Land-East of Cason Park-6.9 acres	\$700,000.00	\$300,000.00	Fifth Third Bank
Undeveloped Land - South of Cason Park - Parcel F	\$300,000.00	\$530,000.00	
East Parcel consisting of			
Undeveloped Land - Moon Valley 55 acres	\$1,500,000.00	\$1,385,294.00	LaPorte Savings
Undeveloped Land - LB 9.4 acres	\$150,000.00		
Undeveloped Land - Moon Valley Stop 16	\$150,000.00		
Lot 12B, Michigan City, IN	\$100,000.00	\$55,000.00	LaPorte Savings
Lake Kai Lakeshore, Michigan City, IN	\$800,000.00	\$400,000.00	
1721 Lakeshore, Michigan City, IN	\$290,000.00	\$250,000.00	Metropolitan Capital
202 Beachwalk, Michigan City, IN	\$375,000.00	\$265,000.00	Horizon Bank
208 Beachwalk, Michigan City, IN	\$240,000.00	\$247,000.00	Fifth Third Bank
210 Beachwalk, Michigan City, IN	\$165,000.00	\$75,000.00	LaPorte Savings
Undeveloped Land - Hillside Land Upland/Power	\$220,000.00	\$200,000.00	
Undeveloped Land-Hillside Land Prospect Road	\$120,000.00	\$150,000.00	
Lots 1 and 2, Loran Road, Michigan City, IN	\$125,000.00	\$100,000.00	Fifth Third Bank
30 Finished Beachwalk Lots	\$1,800,000.00	\$580,000.00	LaPorte Savings
29 - IN Phase 3B			
1 - IN Phase 3A (74B)			
Undeveloped Land-Whisper Dunes-10.12 acres	\$1,800,000.00	\$1,147,000.00	Horizon Bank
Beachwalk LP Total:	\$14,635,000.00	\$10,574,294.00	

All of the properties of either Debtor listed above that have not yet been sold, are subject to the judgment liens of LaPorte Bank.

2. **Personal property:** The amounts listed on Schedule "B" of the Schedules were accurate to the best of Debtors' knowledge. Accordingly the value of the Debtors' personal property as of the Petition Date and presently are as follows: :

Moss Family Limited Partnership

	Schedule B	Current Value to Estate
Bank Account - Chase	\$ 114,341.00	\$10,334.35
Bank Account - Horizon	7,035.03	\$0.00
Rental Furnishings	48,200.00	\$50,000.00
Property Damage Claim against Philip Dres	Unknown	Unknown ¹
Total:	\$169,576.03	\$60,334.35

Beachwalk L.P.

	Schedule B	Current Value to Estate
Bank Account	\$ 7,305.94	\$7,970.87
Beachwalk Trademark	100,000.00	\$100,000
Rightious Declarant under Beachwalk POA-declaration of covenants	Unknown	Unknown
2009 Volkswagon Passat	14,000.00	\$11,000.00
Beachwalk infrastructure - sewer and left station	Unknown	Unknown
Total:	\$121,305.94	\$118,970.87

B. Debts. The following information is a summary of the Debtors' debt obligations pursuant to the information set forth in the Schedules and/or the proofs of claims filed in the case.

¹50% of the Philip Dres claim has been pledged to Horizon Bank as part of its collateral.

These amounts are presented as an indication of the Debtors' financial status as of the commencement of the case.

1. **Secured Creditors:** At the time the bankruptcy was filed, the Debtors had ten (10) secured creditors, all of whom were claiming a secured position with regards to some or all of the Debtors' assets. The following are the creditors scheduled by the Debtors claiming security interests and the estimated amount of their claims as of the Petition Date and currently:

Moss Family Limited Partnership		
	Scheduled Balance as of Petition	Current Balance*
Bank of America	\$ 377,930.00	\$376,000.00
Bank of America	336,733.00	\$334,284.00
Fifth Third Bank	Under Beachwalk	Under Beachwalk
First Bank	\$1,655,162.00	\$878,202.00
Horizon Bank	819,903.00	\$837,000.00
LaPorte Savings Bank ²	61,281.00	\$71,652.00
LaPorte Savings Bank	233,826.00	\$269,239.00
LaPorte Savings Bank	212,668.00	\$246,971.00
LaPorte Savings Bank	132,814.00	\$151,932.00
Mary Dean Moss	275,000.00	\$288,750.00
Robert & Virginia Burnstine	100,000.00 ³	\$63,000.00
LaPorte County Treasurer ⁴		\$109,589.00
Total:	\$4,205,317.00	\$3,626,619.00

²The balances owed on the LaPorte Savings Bank claim(s) are based upon the payoff figures recently provided to the Debtors by LaPorte Savings Bank.

³The Burnstine debt was a \$100,000 line of credit that the Debtor had drawn \$60,000 against as of the petition date.

⁴The LaPorte County Treasurer is owed property taxes on various properties of both Debtors, not just Beachwalk. See also Section D below.

Beachwalk L.P.

	Scheduled Balance as of Petition	Current Balance*
Alexander & Claire Gaydasch - Dune Top	\$ 160,000.00	\$160,000.00
Fifth Third Bank	2,087,674.00	\$1,726,698.00
Horizon Bank	269,263.00	\$286,000.00
J. Richard Childers -Dune Top	160,000.00	\$160,000.00
John & Suzanne Turner - Dune Top	160,000.00	\$160,000.00
Thomas Moss - Dune Top	786,614.00	\$786,614.00
LaPorte Savings Bank	121,989.00	\$152,411.00
LaPorte Savings Bank	1,219,822.00	\$1,314,489.00
LaPorte Savings Bank	371,172.00	\$419,022.00
LaPorte Savings Bank	1,047,437.00	\$1,237,446.00
Metropolitan Capital Bank	281,124.00	\$275,822.00
VW Credit ⁵	13,221.00	\$7,547.00
Total:	\$6,678,271.00	\$6,686,049.00

*This is the Debtors' best estimate of the amounts owed. Amounts are subject to dispute if the Debtors discover their records do not match those of the secured creditors.

2. **Priority Creditors:** The following are the creditors either having filed a claim with priority with the Court, or if no claim was filed, creditors who were scheduled by the Debtors as undisputed:

Moss Family Limited Partnership:

None

Beachwalk L.P.

None

⁵VW Credit is a secured creditor with a lien against the Debtor, Beachwalk's, 2009 Volkswagen Passat. Beachwalk Vacation Rentals, LLC pays the note on this vehicle monthly and will continue to do so post confirmation.

3. **Unsecured Creditors:** All creditors of the Debtors not listed above are considered unsecured.

4. **Summary and Liquidation Analysis:** The following is a summary of the Debtors' current assets based upon the Plan Values and the Debtors' current estimated liabilities owed to creditors:

Assets		Plan Values	
	Beachwalk Real Estate	\$10,574,294.00	
	Moss Real Estate	\$4,141,163.00	
	Moss Personal Property	\$60,334.00	
	Beachwalk Personal Property	\$118,971.00	
	Total Assets		\$14,894,762.00
Liabilities			
	Moss Secured Claims	\$3,626,619.00	
	Beachwalk Secured Claims (Excludes Dune Top Lender Claims)	\$6,686,049.00	
	LaPorte County Treasurer Secured Tax Claims (\$109,589 included in Beachwalk Secured Claims)	\$0.00	
	Moss Unsecured Claims	\$19,729.00	
	Beachwalk Unsecured Claims (Includes Dune Top Lenders Claims)	\$1,509,843.00	
	Beachwalk Unsecured Insider Claims (subordinated)	\$648,329.00	
	Total Liabilities		\$12,490,569.00

:

C. **Projections.** The management has in accordance with their experience and expertise, formulated projections of income and expenses for the continued operation of the Debtors. These projections, attached hereto as Exhibit "A", provide information on the continued operation of the Debtors based upon the experience and current information and opinion regarding anticipated sales and expenses from the operation of the business. It is cautioned that no representation can be made with respect to the accuracy of these projections or the ability to achieve the projected results. Certain of the business assumptions used in the preparation of the projections may not materialize.

The conclusions described herein are subject to numerous assumptions regarding future sales, rentals, inventory and expenses associated with the operation of the business. Moreover, unanticipated and uncontrollable events and circumstances may occur after the date of the forecast which would affect the business and operation of the enterprise. Accordingly, although the Debtors believe that these projected results are achievable, actual results achieved during the period covered by the projections will undoubtedly vary from the projections and such variations may be material.

D. **LaPorte County Treasurer Claim** Since 2007, LaPorte County has had difficulty in assessing and collect its property taxes. As a result, the Debtors have only been provided incomplete and untimely data as the status of taxes owed by the Debtors. As the posted amounts posted by the County are changing daily and are expected to change significantly with the issuance of 11/12 tax bills in the next few weeks, the Debtors, in consultation with the County Auditor, has established the following estimated values for each of the Secured Creditors, reflecting the Debtors' obligations. They are:

(1) LaPorte	\$50,000
(2) Horizon	\$ 8,000
(3) Fifth Third	\$17,224 ⁶
(4) First Bank	\$ 0
(5) Bank of America	\$ 7,000
(5) Mary Dean	\$ 4,000
(6) Met Cap	<u>\$ 5,100</u>
TOTAL	\$91,324

The Debtors believes that these estimates are higher than the actual amounts owed; therefore the Debtors have added a cushion of 20% to each obligation to provide comfort to the Secured Creditors. The resulting values for each of the Secured Creditors, after cushion is added, are:

(1) LaPorte	\$60,000
(2) Horizon	\$ 9,600
(3) Fifth Third	\$20,669
(4) First Bank	\$ 0
(5) Bank of America	\$ 8,400
(5) Mary Moss	\$ 4,800
(6) Met Cap	<u>\$ 6,120</u>
TOTAL	\$109,589

These obligations will be added to the respective debt obligations of the Debtors to meet tax bills as they are finalized. After the reconciliation is complete at or near year end, Debtors will pay any unpaid taxes pursuant to the terms of this Plan.

E. **City of Michigan City**. The Debtors are currently working with the City of Michigan

⁶Potentially less as a result of the sale of 1133 Lake Shore Drive.

City regarding various issues surrounding a lift station and access and control of common areas in the Beachwalk Development. Both pre-petition and post petition, the Debtors have been working with Michigan City regarding the transfer of the Beachwalk sanitary sewer and pump station (along with easements) to the Michigan City Sanitation District. There is a general agreement between the parties as to the transfer; however, the parties are still finalizing the details of the agreement that pertains to repairs of the sewer system and the costs thereto and judgment lien(s) of LaPorte Savings Bank on the real estate upon which the sewer system sits. Likewise, the Debtors and Michigan City are in continued discussions regarding the Debtor providing amenities, such as street lights on the Cason Park property and the upkeep and relocation of ingress and egress roads. Until these issues are resolved, the Michigan City has indicated it will not grant any future permits to the Debtor. It is anticipated that there will be a change in the location of access to certain portions of the property owned by the Debtors after the filing of this Plan or Confirmation. The Debtors have retained the law firm of Faeger Baker Daniels to help it negotiate an effectuate any changes necessary.

III. SUMMARY OF PLAN

THIS IS ONLY A BRIEF SUMMARY OF THE PROVISIONS OF THE PLAN OF REORGANIZATION AND SHOULD NOT BE RELIED UPON FOR VOTING PURPOSES. YOU SHOULD READ THE PLAN IN FULL. YOU ARE STRONGLY URGED TO CONSULT WITH OTHER CREDITORS, YOUR FINANCIAL ADVISORS, AND YOUR COUNSEL IN EVALUATING THE PLAN.

The Classes created by the Plan and their respective treatment are summarized below.

1. **Class 1: Administration Claims.** The claims of all Class 1 creditors shall be paid in full in cash at the Effective Date of the Plan if the same are due, with the exception of any creditor who would agree to an extension. All administrative claims incurred by the Debtors in the operation of business during this preceding that are not due, shall be paid in accordance with the terms of said debts.

Further, the Debtors shall pay all quarterly trustee fees accruing to the date of confirmation within 15 days of the Confirmation Order being entered. After confirmation, so long as the case remains open, the Debtors shall serve upon the United States Trustee a financial report, in a format prescribed by the United States Trustee, by the 15th of the month following each calendar quarter, for the preceding quarter, or any portion thereof and pay the quarterly fee no later than the last day of the month following each calendar quarter. The actual fee is calculated based on the total of all disbursements or payments for each quarter, including post confirmation payments and operating expenses.

2. **Class 2: Priority Claims entitled to priority under 11 U.S.C. §507(a)(8).**

The Debtors shall sign and file all tax returns relating to Class 2 Claims on a timely basis, if not previously filed. The Debtors will object to the Class 2 Priority Claims on a timely basis. All Allowed Claims of Class 2 priority creditors shall be paid in full in cash within 30 days of the

Effective Date of the Plan.

3. **Class 3: Fifth Third.** The Allowed Claim of Fifth Third shall be satisfied as follows:

(a) Fifth Third's Claim, which is an Allowed Claim, is allowed in the amount of \$1,726,698.00, which does not include default interest or attorney fees accruing after June 30, 2013, which default interest and attorneys' fees accruing after June 30, 2013 to and including the Effective Date of the Plan shall be added and included in the Confirmation Order.

(b) (i) The Debtors are the owners of the following real estate that has undisputed first priority and properly perfected mortgage liens by Fifth Third against it⁷:

Owner	Address	Loan	Agreed Value	Debt
MFLP	1201 LSD	#34, #18		
MFLP	205 Childers	#34, #18		
MFLP	323 Childers	#34, #18		
MFLP	Lot 113C	#34, #18		
MFLP	Lots 141B-146B	#34, #18		
MFLP	101 Moorman	#34, #18		
MFLP	511 Washington	#34, #18		
BWLP	6.9 acres	#34, #18		
BWLP	208 Beachwalk	#34, #18		
BWLP	Loran Road 1 + 2	#34, #18		
Total:			\$2,438,999	\$1,726,698.00

(ii) The Debtors shall dispose of the following real estate by sale pursuant to the terms set forth below (collectively, "Marketed Real Estate"):

Owner	Property	Loan	Agreed Value	Agreed Cost of Sale 10%	Agreed Deed in Lieu Value
MFLP	Lots 141B-146B	#34, #18			
MFLP	511 Washington	#34, #18			
BWLP	208 Beachwalk	#34, #18			
BWLP	Loran Road 1 + 2	#34, #18			

⁷These values are subject to adjustment based upon annual appraisals to be conducted for Fifth Third Bank in September 2013. Regardless of the new appraised values of the Marketed Real Estate, the Debtors shall not receive a credit for less than the Agreed Deed in Lieu values agreed upon by the parties

Owner	Property	Loan	Agreed Value	Agreed Cost of Sale 10%	Agreed Deed in Lieu Value
BWLP	205 Childers	#34, #18			
MFLP	323 Childers	#34, 18			
MFLP	101 Moorman	#34, #18			
Totals:			\$1,711,571	(\$171,157)	\$1,540,414

The Debtors shall sell each parcel of the Marketed Real Estate no later than one hundred twenty (120) days after the Effective Date of the Plan, or such extension of this time frame to which the Debtors and Fifth Third mutually agree, by private sale or by auction (whichever the Debtors and Fifth Third Bank mutually agree), pursuant to 11 U.S.C. § 363 and the subsequent approval by this Court, if required, and subject to the terms set forth below. If the Marketed Real Estate does not sell within the one hundred twenty (120) days after the Effective Date of the Plan, then the Debtors may conduct the auction on behalf of Fifth Third Bank pursuant to the terms of this Plan within forty five (45) days thereafter, unless the parties mutually agree to something different. After the Date of Confirmation, there shall be no payments by the Debtors to Fifth Third Bank and no interest shall accrue to Fifth Third Bank on the debt related to the Marketed Real Estate and the Deed in Lieu Values.

If the Debtors and Fifth Third Bank agree to sell any or all parcels of the Marketed Real Estate via auction, the Debtors or, in the alternative, at the mutual discretion of the Debtors and Fifth Third, an auctioneer or a broker mutually acceptable to the Debtor and Fifth Third to be approved by the Bankruptcy Court ("Auction Seller"), shall sell by auction ("Auction") any and all designated parcels of the Marketed Real Estate ("Auction Real Estate") to the highest and best offer made by any entity, pursuant to the following sales procedures:

- A. The Auction Seller shall serve a copy of this Plan, and any order approving this Plan, upon any and all persons known to the Debtors and/or Fifth Third as having expressed an interest in any parcel of the Auction Real Estate, or having asserted a lien or other interest in any parcel of the Auction Real Estate, in addition to those creditors and interested parties who are entitled thereto pursuant to the applicable notice and service requirements set forth in the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules;
- B. The Auction Seller shall advertise and publish notice of the Auction in the local newspapers which serve the area in which the Auction Real Estate is located and will advise of the name, address and telephone and facsimile numbers of a representative of the Auction Seller to contact for inquiries regarding the Auction Real Estate;
- C. The Auction Seller shall provide reasonable information (including property tax information) and access to each parcel of the Auctioned Real Estate;

- D. No breakup fee or expense reimbursement claim will be paid to any party bidding at the Auction;
- E. With the sole exception of Fifth Third (which has the right to credit bid), all parties seeking to bid at the Auction shall (i) submit a deposit of not less than \$10,000, to be treated as a down payment as detailed below, on or before 5:00 p.m. EDT five (5) days in advance of the Auction, to Debtors' counsel, Daniel L. Freeland, FREELAND & ASSOCIATES, 9105 Indianapolis Boulevard, Highland, Indiana 46311, and (ii) shall demonstrate, in Auction Seller's reasonable judgment by bank letter, their most recent financial statements or other evidence reasonably satisfactory to Auction Seller their creditworthiness and ability to close on any successful bid;
- F. The deposit submitted by any bidder must be made by wire transfer or by bank or certified check and the deposit will be (i) applied, without interest accruals, to the purchase price if the bidder is a Successful Bidder (as defined below), (ii) returned to the bidder after the closing of the sale of the Auction Real Estate to the Successful Bidder (as defined below), (iii) forfeited to the Debtors' estate in the event the bidder is deemed and approved as a Successful Bidder (as defined below) but refuses to close the purchase without cause or otherwise breaches its obligations under its offer, or (iv) returned, within three (3) days following the Auction, to any bidder deemed not to be a Successful Bidder (as defined below);
- G. The Auction Seller shall offer for sale, together or separately, the Auction Real Estate to one (1) or more bidders, subject to competitive bidding, and shall consider bids for all or any parcel of the Auction Real Estate;
- H. All bids at the Auction shall be unconditional and shall identify (i) which parcel of the Auction Real Estate the bidder is seeking to purchase, (ii) whether such bid is contingent on purchasing all of the identified Auction Real Estate, and (iii) a purchase price attributable to each parcel of the Auction Real Estate covered by such bid;
- I. Each sale of each parcel of the Auction Real Estate at the Auction shall be on an "as is, where is" basis and without representations or warranties of any kind, nature or description by the Auction Seller, Debtors or Debtors' counsel or agents. All of the Debtors' rights, title and interest in each parcel of the Auctioned Real Estate ultimately sold shall be sold free and clear of all pledges, liens, security interests, encumbrances, claims, changes, options and interests thereon (collectively, "Interests"), with such Interests to attached to the net proceeds of sale of the respective parcel of the Auction Real Estate, with the same validity and priority as existed immediately prior to the Auction;

- J. At the Auction, each Qualified Bidder will need to confirm that it has not engaged in any collusion with respect to the bidding at the Auction;
- K. Each Qualified Bidder shall be deemed to acknowledge and represent that it has had an opportunity to inspect and examine the Auction Real Estate prior to making its offer, that it has relied solely upon its own independent review, investigation and/or inspection of any documents in making its bid, and that it did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Auction Real Estate or the completeness of any information provided in connection with the bidding process;
- L. All bidders shall be ready, able and willing to consummate and close on the sale of any parcel of the Auction Real Estate no later than two (2) days following the Auction, which closing will occur at the offices of Debtors, 202 Beachwalk Lane, Michigan City, Indiana 46601;
- M. Parties that remit \$10,000 deposits timely to the Debtors pursuant to paragraph 3(b)(iii)(E), and Fifth Third, shall be deemed a "Qualified Bidder;"
- N. Provided the Debtors have received deposits from Qualified Bidders, the Auction Seller shall conduct an auction for each parcel of the Auction Real Estate at the Debtors' offices at 202 Beachwalk Lane, Michigan City, Indiana 46601, in the presence of Debtors' counsel, within one hundred twenty (120) days of the Date of Confirmation. Bidding at the Auction on each parcel of the Auction Real Estate will commence with an initial bid from a Qualified Bidder and all subsequent bidding shall continue in increments of not less than \$2,000 each, until all Qualified Bidders have made their final offers for sale of each subject parcel of Auction Real Estate;
- O. For each parcel of the Auction Real Estate, the Debtors and Fifth Third have established an estimated minimum amount at which each parcel should sell at auction (as agreed between the Debtors and Fifth Third in a separate agreement, the "Minimum Value"). At the Auction, Fifth Third agrees either (i) to credit bid the Minimum Value for each respective parcel of the Auction Real Estate, or (ii) in the alternative, in the event a Successful Bid (as defined below) for any parcel of the Auction Real Estate is less than the Minimum Value for such parcel, and upon Fifth Third's acceptance of such lower bid, to provide the Debtors with a credit against their remaining obligations to Fifth Third in the amount of the Minimum Value for each such subject parcel. Accordingly, for each parcel of the Auction Real Estate, the Debtors shall receive from the Auction a credit for their remaining obligations to Fifth Third in the greater amount of either (i) the Successful Bid, or (ii) the predetermined Minimum Value for such parcel;

- P. At the conclusion of the Auction, the Auction Seller shall announce the determination as to the highest or otherwise best bid for each parcel of the Auction Real Estate ("Successful Bid"), and the Qualified Bidder with the Successful Bid for each parcel of the subject Auction Real Estate will become a "Successful Bidder." The Debtors and Debtors' counsel shall have the right to determine which bid, if any, is the highest or otherwise best bid at the Auction, subject to the right of any party to be heard on this issue at a hearing to confirm the results of the Auction ("Sale Hearing"). Formal acceptance of a Successful Bid, however, shall not occur unless and until the Court enters an order ("Sale Order") approving the Successful Bid and authorizing the Auction Seller and the Debtors to consummate the sale to the Successful Bidder in accordance with its offer following the conclusion of such Sale Hearing; and
- Q. Upon the failure to consummate the sale of a respective parcel of Auction Real Estate to the Successful Bidder in accordance with the respective offer, because of a breach or failure to consummate the sale on the part of the Successful Bidder, the Auction Seller shall offer to sell that subject parcel of the Auction Real Estate to the bidder having the next highest or otherwise best Qualified Bid. The Auction Seller shall continue to offer to sell that subject parcel of the Auction Real Estate to the Qualified Bidder having the next highest or otherwise best Qualified Bid upon the failure of any Qualified Bidder to consummate the sale of that subject parcel of the Auction Real Estate because of a breach or failure to consummate the sale on the part of such Qualified Bidder, until a Qualified Bidder has accepted such offer and consummated the sale of each parcel of the Auction Real Estate. In all cases, a Qualified Bidder who has been offered any parcel of the Auction Real Estate for sale in accordance with this paragraph shall automatically become the Successful Bidder with respect to such parcel, and its Qualified Bid shall automatically become the Successful Bid, without further order of the Court.
- R. In the event they mutually agree, the Debtors and Fifth Third may, at any time before the Auction, tender a proposed purchase offer for any or all of the parcels of the Auction Real Estate and subsequently sell such parcel or parcels pursuant to the terms of such purchase offer, by private sale, all subject to approval by the Bankruptcy Court.
- S. Upon approval of each Successful Bid at the Sale Hearing, the Debtors have authority to distribute the proceeds of such sales to Fifth Third to satisfy Fifth Third's first priority, properly perfected security interest(s) and mortgage lien(s) on the Auction Real Estate sold. Real estate taxes on the Auction Real Estate shall be pro-rated as of the date of the Auction, and the Debtors shall be responsible for all real estate taxes, fines, penalties, other assessments and interest, if any, owing or assessed on the Auction Real Estate through and including the date of the Auction. The same shall be paid pursuant to the terms of the Plan.

See Article V, Execution and Implementation of the Plan for additional terms.

(iii) If the Debtors and Fifth Third Bank agree to sell any or all parcels of the Marketed Real Estate via private sale, then the Debtors shall sell any or all designated parcels of the Marketed Real Estate ("Private Sale Real Estate") pursuant to the terms (including price) of purchase agreements mutually acceptable to the Debtors and Fifth Third Bank, as subsequently approved by the Bankruptcy Court. For each parcel of the Private Sale Real Estate, the Debtors shall receive from its sale a credit for their remaining obligations to Fifth Third Bank in the greater amount of (i) the net purchase price, or (ii) the predetermined Minimum Value for such parcel. Upon approval of each sale of a parcel of Private Sale Real Estate, the Debtors have authority to distribute the proceeds of such sales to Fifth Third to satisfy Fifth Third's first priority, properly perfected security interest(s) and mortgage lien(s) on the Private Sale Real Estate sold. Real estate taxes on the Private Sale Real Estate shall be pro-rated as of the date of the closing, and the Debtors shall be responsible for all real estate tax payments, fines, expenses and interest, if any, on the Private Sale Real Estate. The same shall be paid pursuant to the terms of the Plan. See Article V, Execution and Implementation of the Plan for additional terms.

(iv) The Debtors shall retain the following real estate with the Remaining Debt owed (the "Remaining Real Estate"):

Owner	Remaining Real Estate	Loan	Agreed Settlement Value of Remaining Real Estate	Remaining Debt
MFLP	1201 LSD	#34, #18	\$386,000	
MFLP	Lot 113C	#34, #18	\$41,428	
BWLP	6.9 acres	#34, #18	300,000	
Total:			\$727,428.00	\$186,249.00
Fifth Third Release Percentage:				60%

(c) The Debtors' Principal, Thomas J. Moss, shall execute in favor of Fifth Third an "Agreed Judgment," in a form acceptable to the parties ("Agreed Judgment"), for filing in the action pending in the LaPorte Circuit Court for the State of Indiana, captioned *Fifth Third Bank, et al. v. Moss Family Limited Partnership, et al.*, Cause No. 46C01-1204-MF-041, for the total amount of Fifth Third's claim, less application of the proceeds from the sale of 1133 LSD and the aggregate proceeds and/or credits generated by the Auction, plus interest accruing at the Default Rate (as defined below) of interest (as designated under the loan documents evidencing Fifth Third's claim); provided, however, in the event the Debtors fully satisfy all of their obligations under this Plan (as confirmed) and a post-confirmation default does not occur under this Plan (as confirmed) with respect to Fifth Third Bank, (or any other post-confirmation default that affects the debtors' ability to comply with their obligations to Fifth Third Bank) the amount of default interest included in the Agreed Judgment will be removed and only non-default interest will remain.

(d) Expressly conditioned upon Debtors' compliance with the requirement of the obligation under the Plan through the date of the Auction, and the execution and delivery of the Agreed Judgment by Thomas J. Moss, Fifth Third will agree to waive conditionally and temporarily Fifth Third's right to collect interest on its claim at the "Default Rate," as defined by those loan documents evidencing Fifth Third's claim, and instead assess interest on its claims at the non-"Default Rate," for any and all periods during which the Debtors remain in compliance with their obligations to Fifth Third under this Plan, as confirmed (and avoid any other post-confirmation default that affects the debtors' ability to comply with their obligations to Fifth Third Bank). In the event either or both of the Debtors default on any of their obligations under this Plan to Fifth Third, as confirmed, Fifth Third's conditional and temporary waiver shall be deemed, without further action or notice, terminated and nullified retroactively, such that Fifth Third shall immediately be entitled to assess interest at the "Default Rate," for all periods for which any portion of the Debtors' obligations to Fifth Third remain unpaid and said amount shall be added to Fifth Third Bank's Allowed Claim.

(e) The Debtors shall amortize the Remaining Debt owed on the Fifth Third Allowed Claim over twenty (20) years from the Effective Date ("Repayment Term") and shall repay the balance owed, with interest calculated based on 350 basis points over the 30-day LIBOR rate, to be adjusted annually. The Debtor shall make 59 monthly payments of principal and interest and a 60th payment of the remaining balance due on the Remaining Debt, if any. Due to the variable nature of the interest rate, the principal portion of the payment will be calculated as normal amortization over sixty (60) months divided by sixty (60), as more fully set forth in the loan documents to be entered into herewith. Debtors shall have the right to pre pay the Remaining Debt in full without penalty.

(f) Upon the sale of any of the Remaining Real Estate during the Repayment Term, which secures Fifth Third's loans, an amount of not less than the Release Price shall be turned over to Fifth Third at closing to be applied against the Remaining Debt balance, ("Fifth Third Curtailment Payments") with the remaining net proceeds being retained by Debtor for use in its operations. The Fifth Third Release Percentage is sixty (60%) percent of the Agreed Settlement Value of Remaining Real Estate as set forth in section 3(b)(iv) above.

(g) The non avoidable first priority, properly perfected pre-petition security interests and mortgage liens of Fifth Third as the only party in this Class shall continue in effect.

(h) The above terms and the terms of the Plan shall be incorporated into a new Term Note in the form previously and customarily utilized by Fifth Third, which new Note may not alter the terms of the Plan, and other necessary loan document(s) required by Fifth Third.

(i) Until the earlier of December 31, 2013 and the sale of 205 Childers or 323 Childers, Beach Vacation Rentals, LLC ("BVR") shall remain on as vacation rental manager for said properties, pursuant to the terms and conditions that exist as of the Date of Confirmation, unless altered by Fifth Third and BVR. Additionally, the Debtors will use their best efforts to relocate the entrance way, on or off the parcel where it is currently located, as required by Michigan City that is

adversely impacting upon the value of Fifth Third's collateral. The Debtors are in the process of negotiating with Michigan City to resolve the issues surrounding the relocation and the costs thereof. While any of Lots 141B-146B remain in Fifth Third's inventory, the Debtor may repurchase any of said lots from Fifth Third for the Agreed Deed in Lieu Value, plus the reimbursement of any real estate taxes and any other expenses related to the repurchased lots Fifth Third has paid on the repurchased property. Any repurchase by the Debtor shall include the assumption of all real estate tax liabilities after closing. The Agreed Deed in Lieu Value for each individual lot is set forth between the parties in a separate agreement.

(j) Upon the entering of the Confirmation Order, the Debtors expressly waive, surrender, release and discharge any and all liability, actions, causes of action, claims and demands, direct or indirect, of any kind against Fifth Third Bank, including but not limited to any and all of the Fifth Third Bank's actions taken with respect to certain loans extended to the Debtors.

4. **Class 4: Horizon.** The Allowed Claim of Horizon shall be satisfied as follows:

(a) Horizon's secured claim shall be allowed in the amount of **\$1,122,743.00**

(b) (i) The Debtors are the owners of the following real estate that has undisputed mortgage liens by Horizon against it:

Owner	Address	Loan	Preliminary Appraised Value	Debt
MFLP	Lots 81, 82, Lakeside	#997530000295	\$120,000	\$837,000
	Lot 84 - Lakeside		\$60,000	
BWLP	Whispering Dunes (10.12 acres in total with LSD access)		\$1,147,500	
BWLP	202 Beachwalk	#995515	\$265,000	\$286,000
Total:			\$1,592,500	\$1,123,000

(ii) The Debtors shall surrender the following real estate to Horizon by way of Deeds in Lieu:

None

(ii) The Debtors shall retain the following real estate with the Remaining Debt owed:

Owner	Address	Loan	Preliminary Appraised Value	Debt
MFLP	Lots 81, 82, Lakeside	#997530000295	\$120,000 (\$60,000 each)	\$837,000
BWLP	Lot 84 - Lakeside		\$60,000	
	Whispering Dunes (10.12 acres in total with LSD access)		\$1,147,500	
BWLP	202 Beachwalk	#995515	\$265,000	\$286,000
Total:			\$1,592,500	\$1,123,000

(c) The Debtors shall amortize the Remaining Debt owed on the Horizon Allowed Claim over twenty (20) years from the Effective Date ("Repayment Term") and shall repay the balance owed, With Interest. The Debtors anticipate making 71 monthly payments of \$6,335.48 and a 72nd payment of the remaining balance do on the Remaining Debt.

(d) Upon the sale of any of the Remaining Real Estate during the Repayment Term which secures Horizon's loans, an amount of not less than ninety (90%) percent of the Preliminary Appraised Value set forth in Paragraph 4(b) above shall be turned over to Horizon at closing to be applied against the Remaining Debt balance, ("Horizon Curtailment Payments") with the remaining net proceeds being retained by Debtor for use in its operations; except, however, if the Remaining Real Estate is sold for 120% or more of the Preliminary Appraised Value set forth in Paragraph 4(b), then Horizon would receive 100% of the Preliminary Appraised Value with the remaining net proceeds being retained by the Debtor. After every \$100,000 in Horizon Curtailment Payments received by Horizon Bank, either as a result of one or more sales, the current Remaining Balance after the application of the Horizon Curtailment Payments shall be re-amortized over the remaining Repayment Term, With Interest, and the monthly payments shall be adjusted to reflect the same.

(e) Lots 81 and 82 Lakeside Addition are currently the subject of litigation involving the Debtors. In the event of a settlement or favorable judgment, one half of the proceeds collected of such settlement or judgment shall be paid to Horizon Bank to be applied against the Remaining Balance, if any.

(f) The pre-petition security interests of this Class shall continue in effect.

(g) The above terms and the terms of the Plan may, at the option of this Class, be incorporated into a new Term Note in the form previously and customarily utilized by Horizon, which new Note may not alter the terms of the Plan.

5. **Class 5: LaPorte Bank.** The Allowed Claim of LaPorte Bank shall be satisfied as follows:

(a) If the Debtors have any objection to the LaPorte Claim, it will object to said Claim on a timely basis.

(b) (i) The Debtors are the owners of the following real estate that has undisputed mortgage liens by LaPorte against it ("LaPorte Mortgaged Properties"):

Owner	Address	Loan	Value ⁸	Debt
BWLP	Cason Park Inventory - 30 Lots	5013234	\$580,000 (\$19,330 per lot)	\$1,237,446
BWLP	Ridge lots 85-101		\$1,020,000	
BWLP	Parcel B1	5013852	\$175,000	\$419,022
BWLP	East Parcel LB .94 acre Lot 12B, Ph3	5013237	\$1,350,000 \$35,294 \$55,000	\$1,314,489
BWLP	210 BW Lane	6011566	\$75,000	\$152,411
MFLP	303 Childers	100255191	\$223,633	\$246,971
MFLP	305 Childers	5013572	\$245,452	\$269,239
MFLP	311 Childers	5013571	\$62,242	\$71,652
MFLP	1602 Tennessee	6011561	\$108,000	\$151,932
Total:			\$3,929,621	\$3,863,162

(ii) Likewise, the Debtors are the Owners of the following real estate that have judgment liens by LaPorte against them ("Judgment Lien Properties"):

Owner	Address	Loan	Value	Debt	Lender
BWLP	Parcel A		\$720,000		

⁸The values placed on the LaPorte properties in this Plan, with the exception of the Ridge Lots (higher Debtors' appraised value used), East Parcel (lower Debtors' appraised value used) and Judgment Lien Properties, are the values placed on the properties by LaPorte as provided to the Debtors. The Debtors believe the values of the LaPorte properties to be significantly greater but have agreed to use the LaPorte values for the purpose of this Plan.

BWLP	Parcel C		\$680,000		
BWLP	Parcel D		\$1,020,000		
BWLP	Parcel F		\$530,000		
BWLP	Lake Kai		\$400,000		
BWLP	Prospect Road		\$150,000		
BWLP	Upland/Power		\$200,000		
BWLP	Dune Top	Voidable Mortgage Liens	\$0.00 ⁹		Childers, Gaydaschs, Turners and Moss ¹⁰
		Total	\$3,700,000		

(iii) The Debtors shall surrender the following real estate to LaPorte by way of Deeds in Lieu:

None

See Article V, Execution and Implementation of the Plan for additional terms.

(iv) The Debtors shall retain the following real estate with the Remaining Debt owed:

Owner	Property	Loan	Value	Remaining Debt
BWLP	Cason Park Inventory - 30 Lots	5013234	\$580,000 (\$19,330 per lot)	\$1,237,446
BWLP	Ridge lots 85-101		\$1,020,000	
BWLP	Parcel B1	5013852	\$175,000	\$419,022

⁹The value to LaPorte Bank of the Dune Top property is zero, as there are unrecorded mortgage liens that supersede LaPorte's judgment lien.

¹⁰See treatment of Class 11 claims entitled "Dune Top Lenders"

Owner	Property	Loan	Value	Remaining Debt
BWLP	East Parcel LB .94 acre Lot 12B, Ph3	5013237	\$1,350,000 \$35,294 \$55,000	\$1,314,489
BWLP	210 BW Lane	6011566	\$75,000	\$152,411
MFLP	303 Childers	100255191	\$223,633	\$246,971
MFLP	305 Childers	5013572	\$245,452	\$269,239
MFLP	311 Childers	5013571	\$62,242	\$71,652
MFLP	1602 Tennessee	6011561	\$108,000	\$151,932
Total:			\$3,929,621	\$3,863,162

(c) The Debtors shall amortize the Remaining Debt owed on the LaPorte Claim over twenty (20) years from the Effective Date (“Repayment Term”) and shall repay the balance owed, With Interest. The Debtors anticipate making 71 monthly payments of approximately \$21,794.30 and a 72nd payment of the remaining balance do on the Remaining Debt.

(d) Upon the sale of any of the Remaining Real Estate during the Repayment Term, which secures LaPorte’s loans, an amount of not less than the value placed on the sold property in this Plan shall be turned over to LaPorte at closing to be applied against the Remaining Debt balance, (“LaPorte Curtailment Payments”) with the remaining net proceeds being retained by Debtor for use in its operations. After every \$100,000 in Fifth Third Curtailment Payments received by Fifth Third, either as a result of one or more sales, the current Remaining Balance after the application of the Curtailment Payments shall be re-amortized over the remaining Repayment Term, With Interest, and the monthly payments shall be adjusted to reflect the same.

Further, upon the sale of any real properties by the Debtors, other than the LaPorte Mortgaged Properties, LaPorte shall receive from the sale of said properties the sum of \$500 as a result of LaPorte’s judgment lien (collectively all payments received by LaPorte from sale of LaPorte Mortgage Properties, Judgment Lien Properties and/or other Mortgaged Properties are hereinafter referred to as “LaPorte Curtailment Payments”).

(e) The pre-petition security interests of this Class shall continue in effect.

(f) The above terms and the terms of the Plan may, at the option of this Class, be incorporated into a new Term Note in the form previously and customarily utilized by LaPorte, which new Note may not alter the terms of the Plan.

6. **Class 6: Bank of America.** The Allowed Claim of BoA shall be satisfied as follows:

(a) If the Debtors have any objection to the BoA Claim, it will object to said Claim

on a timely basis. Debtors have received notice that BoA has transferred, sold or assigned the servicing rights of the BoA Claim related to the property located at 325 Childers Lane to Nationstar Mortgage. Thus, payments shall be made through the plan on loan 113398780 directly to Nationstar. Likewise, Debtors have received notice that BoA has transferred, sold or assigned the servicing rights of the BoA Claim related to the property located at 221 Childers Lane to Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc. Thus, payments shall be made through the plan on loan 22881257 directly to Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc.

(b) (i) The Debtors are the owners of the following real estate that has undisputed mortgage liens by BoA against it:

Owner	Address	Loan	Value	Debt
MFLP	221 Childers	113398852	\$540,000	\$336,733
MFLP	325 Childers	113398780	\$550,000	\$377,930
		Total	\$1,090,000	\$714,663

(c) The Debtors shall amortize the Remaining Debt owed on the BoA Allowed Claim over twenty (20) years from the Effective Date ("Repayment Term") and shall repay the balance owed, With Interest. The Debtor shall make 240 monthly payments of \$4,031.82. In the event Debtors sell any of the BoA mortgaged properties, the current Debt balance, after the application of the sale proceeds, shall be re-amortized over the remaining Repayment Term, With Interest, and the monthly payments shall be adjusted to reflect the same.

(d) The pre-petition security interests of this Class shall continue in effect.

(e) The above terms and the terms of the Plan may, at the option of this Class, be incorporated into a new Term Note in the form previously and customarily utilized by BoA, which new Note may not alter the terms of the Plan.

7. **Class 7: First Bank.** The Allowed Claim of First Bank shall be satisfied as follows:

(a) If the Debtors have any objection to the First Bank Claim, it will object to said Claim on a timely basis.

(b) (i) The Debtors are the owners of the following real estate that has undisputed mortgage liens by First Bank against it:

Owner	Address	Loan	Value	Debt
MFLP	Lot 132B	Note #2	\$30,000	
MFLP	Lot 135B	Note #2	\$30,000	

MFLP	Lot 168B	Note #2	\$30,000	
MFLP	Lot 128B	Note #2	\$30,000	
Total:			\$120,000	\$878,202.00

(ii) The Debtors shall sell the following real estate and turn over all of the net proceeds from the sale to First Bank in complete satisfaction of the Allowed Secured Claim of First Bank:

Owner	Property	Loan	Value	Cost of Sale 8.5%	Deed in Lieu Value
MFLP	Lot 132B	Note #2	\$30,000	\$2,550.00	\$27,450.00
MFLP	Lot 135B	Note #2	\$30,000	\$2,550.00	\$27,450.00
MFLP	Lot 168B	Note #2	\$30,000	\$2,550.00	\$27,450.00
MFLP	Lot 128B	Note #2	\$30,000	\$2,550.00	\$27,450.00
Total:			\$120,000	\$10,200.00	\$109,800

8. **Class 8: Metropolitan Capital Bank.** The Allowed Claim of Metropolitan Bank shall be satisfied as follows:

(a) If the Debtors have any objection to the Metropolitan Bank Claim, it will object to said Claim on a timely basis.

(b) (i) The Debtors are the owners of the following real estate that has mortgage liens by Metropolitan Bank against it:

Owner	Address	Loan	Value	Debt
BWLP	1721 LSD	100032010	\$250,000	\$277,000
	Rt 35/US12		\$225,000	

(c) The Debtors shall amortize the Debt owed on the Metropolitan Bank Claim over twenty (20) years from the Effective Date ("Repayment Term") and shall repay the balance owed, With Interest. The Debtors anticipate making 71 monthly payments of \$1,562.72 and a 72nd payment of the remaining balance do on the Remaining Debt.

9. **Class 9: Robert and Virginia Burnstine.** The Allowed Claim of Burnstines shall be satisfied as follows:

(a) If the Debtors have any objection to the Burnstine Claim, it will object to said Claim on a timely basis.

(b) (i) The Debtors are the owners of the following real estate that has mortgage lien by Burnstines against it:

Owner	Address	Loan	Value	Debt
MFLP	Lot 83 Lakeside		\$150,000	\$60,000

(c) The Debtors shall amortize the Debt owed on the Burnstine Claim over twenty (20) years from the Effective Date ("Repayment Term") and shall repay the balance owed, With Interest. The Debtors anticipate making 71 monthly payments in the estimated amount \$338.49 and a 72nd payment of the remaining balance do on the Remaining Debt.

10. **Class 10: Mary Dean Moss.** The Allowed Claim of Mary Dean Moss shall be satisfied as follows:

(a) If the Debtors have any objection to the Mary Dean Moss Claim, it will object to said Claim on a timely basis.

(b) (i) The Debtors are the owners of the following real estate that has mortgage lien by Mary Dean Moss against it:

Owner	Address	Value	Debt
MFLP	1622 Tennessee	\$175,000	\$288,750.00

The Debtors shall surrender 1622 Tennessee to Mary Dean Moss in return for a complete satisfaction of the Allowed Secured Claim of Mary Dean.

11. **Class 11: Dune Top Lenders.** The Allowed Claim of the Dune Top Lenders shall be satisfied as follows:

(a) Debtor, BWLP, filed an Adversary Complaint on April 1, 2013 (Adversary No. 13-03019) against the Dune Top Lenders seeking to avoid the unrecorded mortgage liens of the Dune Top Lenders. Once the Court avoids said unrecorded mortgage liens, the Dune Top Lenders shall be treated as having allowed general unsecured claims and paid in accordance with the other Class 14 creditors.

12. **Class 12: LaPorte County Treasurer.** The Allowed Claim of the LaPorte County Treasurer shall be satisfied as follows:

(a) The Debt of the LaPorte County Treasurer includes Pre-Petition real estate taxes incurred and assessed on all of the Debtors' properties, whether being retained or transferred to a secured creditor by way of a Deed in Lieu. The Debtors shall amortize and pay monthly the Debt owed on the LaPorte County Treasurer's Claim over five (5) years from the Effective Date ("Repayment Term") and shall repay the balance owed, With Interest. The Debtors believe once the real estate taxes are reconciled with LaPorte County, the amount owed will be no more than \$109,589. The Debtors anticipate making 72 monthly payments of \$1,674.89 to the LaPorte County Treasurer.

13. **Class 13: Beachwalk Property Owners Association, Inc.** The Beachwalk Property Owners Association, Inc. ("POA") filed a proof of claim (No. 5) for specific performance against the Debtor, Beachwalk ("POA Claim"). The POA Claim is for the transfer by the Debtors to the POA of common areas used in the Beachwalk Development ("Common Areas") and transfer of the licensed rights to other areas in the development ("Licensed Areas"). On October 18, 2013, the POA filed an adversary proceeding under Adversary Proceeding No. 13-03065 against the Debtors and LaPorte Bank seeking the quiet title and specific performance of an un-executed settlement agreement of the Common Areas and Licensed Areas ("Adversary").

The Debtors shall satisfy the POA Claim as follows:

(a) Unless a resolution or settlement is reached or entered into between the Debtors and the POA before Confirmation, and the same is approved by the Court, the POA Claim shall be paid/satisfied in accordance with any order that is entered in the Adversary.

14. **Class 14: Unsecured Claims.** It is anticipated that Unsecured Creditors with whose Allowed Claims shall be fully paid and satisfied by use of the proceeds from the sales of LaPorte Judgement Lien Property. From the sale of every LaPorte Judgment Lien Property, twenty percent (20%) of the net proceeds shall be paid into an escrow account to be held and disbursed to unsecured creditors annually on a pro rata basis of unsecured creditors claims until such time as the claims are paid in full, without interest. Further, once any secured lender is paid and releases its mortgage lien against any of the Mortgaged Properties, unsecured creditors shall receive twenty percent (20%) of the net proceeds of the sale of any such released Mortgaged Properties, which shall be paid into an escrow account to be held and disbursed to unsecured creditors annually on a pro rata basis of unsecured creditors claims until such time as the unsecured claims are paid in full, without interest.

15. **Class 15: Unsecured Insider Claimants.** All allowed claims of all Insider Claimants shall be subordinated to the repayment of the Class 13 general unsecured creditors and shall only be repaid back once Class 13 general unsecured creditors are paid in full.

16. **Class 16: Interest.** The pre-petition interest in the Debtors shall be retained by the holders of the same subject to the provisions of this Plan. Each interest holder of both Debtors shall receive ½ of the percentage they held in the pre-petition Debtor(s) in the new reorganized consolidated Debtor.

IV. BANKRUPTCY CODE REQUIREMENTS FOR CONFIRMATION

A. Bankruptcy Code Requirements for Confirmation

The Bankruptcy Court will confirm the Plan only if it finds that all of the requirements of § 1129 of the Bankruptcy Code are met. Among the requirements for confirmation of a Plan are that the Plan: (i) is acceptable by all impaired classes of claims and equity interests, or if rejected or deemed rejected by an impaired Class, satisfies the “cramdown” standard; (ii) is feasible; and (iii) is in the “best interests” of creditors and stockholders (interest holders) impaired under the Plan.

Section 1129 of the Bankruptcy Code which sets forth the requirements that must be satisfied in order for the Plan to be confirmed, lists the following requirements for the approval of any plan of reorganization:

1. A plan must comply with the applicable provisions of the Bankruptcy Code.
2. The proponent of a plan must comply with the applicable provisions of the Bankruptcy Code.
3. A plan must be proposed in good faith and not by any means forbidden by law.
4. Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under a plan, for services or for costs and expenses in or in connection with the case, or in connection with such plan and incident to the case, must be approved by, or be subject to the approval of, the court as reasonable.
5. (A)(i) The proponent of a plan must disclose the identity and affiliations of any individual proposed to serve, after confirmation of such plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan and the debtor, or a successor to the debtor under such plan; and

(ii) The appointment to, or continuance in, such office of such individual, must be consistent with the interests of creditors and equity security holders and with public policy; and

(B) The proponent of a plan must disclose the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation for each insider.
6. Any governmental, regulatory commission with jurisdiction, after confirmation of a plan, over the rates of the debtor must approve any rate change provided for in such plan, or such rate change is expressly conditioned on such approval.
7. Each holder of a claim or interest in an impaired class of claims or interests must have accepted the plan or must receive or retain under the plan on account of such claim or interest

property of a value, as of the effective date of the plan, that is not less than the amount such holder would so receive or retain if the debtor were liquidated under chapter 7 of the Bankruptcy code on such date, or, if the class is a class of secured claims that elects non-recourse treatment of the claims under § 1111(b) of the Bankruptcy Code, each holder of a claim in such class will receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims. This is the so-called "best interests" test.

8. With respect to each class of claims or interests, such class must accept the plan or not be impaired under the plan (subject to the "cramdown" provisions discussed herein.)

9. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, a plan must provide that:

(A) with respect to an administrative claim and certain claims arising in an involuntary case, on the effective date of the plan, the holder of the claim will receive on account of such claim cash equal to the allowed amount of the claim;

(B) with respect to a class of priority wage, employee benefit, consumer deposit and certain other claims described in § 507(a)(3)-(6) of the Bankruptcy Code, each holder of a claim of such class will receive:

(i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) if such class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claim;

(C) with respect to a priority tax claim of a kind specified in § 507(a)(8) of the Bankruptcy Code, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding five (5) years after the date of the order for relief, of a value, as of the date of assessment of such claim of a value, as of the effective date of the plan equal to the allowed amount of such claim, and such treatment must be in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the Plan (other than cash payments made to a class of creditors under § 1122(b)); and

(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).

10. If a class of claims is impaired under a plan, at least one class of claims that is impaired under such plan must have accepted the plan, determined without including any acceptance of the plan by any insider.

11. Confirmation of a plan must not be likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan unless such liquidation or reorganization is proposed in the plan. This is the so-called “feasibility” requirement.

12. All fees payable under § 1930 of the Bankruptcy Code, as determined by the court at the hearing on confirmation of the plan, must have been paid or the plan must provide for the payment of all such fees on the effective date of the plan.

13. A plan must provide for the continuation after their effective date of payment of all retiree benefits, as that term is defined in § 1114 of the Bankruptcy Code, at the level established pursuant to either subsection (e)(1)(B) or (g) of § 1114 of the Bankruptcy Code, at any time prior to confirmation of such plan, for the duration of the period the debtor has obligated itself to provide such benefits.

14. An individual debtor may not obtain confirmation unless post-petition domestic support obligations are paid in full.

15. In those chapter 11 cases in which the debtor is an individual, and in which the holder of an allowed unsecured claim objects to the confirmation of the Plan, the court will confirm the Plan only if the value, as of the effective date of the Plan, of the property to be distributed under the Plan on account of such claim is not less than the amount of such claim; or the value of the property to be distributed under the Plan is not less than the projected disposable income of the debtor (as defined in 11 U.S.C. § 1325(b)(2) to be received during the five (5) year period beginning on the date that the first payment is due under the Plan, or during the period for which the Plan provides payments, whichever is longer.

This Disclosure Statement discusses three of these requirements: (a) the feasibility of the Plan; (b) acceptance by impaired classes; and (c) the “best interests” standard. The Debtors believe that the Plan meets all the requirements of § 1129(a) of the Bankruptcy Code (other than as to voting, which has not taken place) and will seek a ruling of the Court to this effect at the hearing on confirmation of the Plan. You are urged to consult your own attorneys to evaluate each of the standards for confirmation of the Plan under the Bankruptcy Code.

B. Vote Required for Acceptance; Confirmation

The Bankruptcy Code defines acceptance of a plan by an impaired class of claims as acceptance by holders of at least two-thirds in dollar amount, and more than one-half in number, of the claims of that class which actually cast ballots (other than any holders who are found by the Bankruptcy Court to have cast their ballots in bad faith). The Bankruptcy Code defines acceptance of a plan by an impaired class of equity interests as acceptance by holders of at least two-thirds in number of the equity interests of that class that actually cast ballots other than any holders who are found by the Bankruptcy court to have cast their ballots in bad faith.

In addition to this voting requirement, § 1129 of the Bankruptcy Code requires that a plan be

accepted by each holder of a claim or interest in an impaired class or that the plan otherwise be found by the Court to be in the best interests of each holder of a claim or interest in an impaired class. See “Best Interests Test” below.

If one Class of impaired Claims or Interests accepts the Plan, the Court may confirm the Plan under the “cramdown” provisions of § 1129(b) of the Bankruptcy Code, which permits the confirmation of a plan over the dissenting votes of creditors or equity interest holders that have voted, as a Class, to reject the plan, provided that certain standards are met. See “Cramdown” below.

In the event any Voting Class votes against the Plan, and the Plan is not withdrawn, the terms of the Plan may be modified by the Debtor, as necessary to effect a “cramdown” on such dissenting Class or Classes by reallocating value from all Classes Junior to the objecting Class or Classes to any impaired senior classes until such impaired senior Classes are paid in accordance with the absolute priority rule of § 1129(b) of the Bankruptcy Code. Any such modifications or amendments shall be filed with the Bankruptcy Court and served on all parties in interest entitled to receive notice of the hearing on the confirmation of the affected Plan. Subject to the conditions set forth in the Plan, a determination by the Bankruptcy Court that the Plan is not confirmable pursuant to § 1129 of the Bankruptcy Code will not limit or affect the Debtors’ ability to modify the Plan to satisfy the provisions of § 1129 of the Bankruptcy Code.

C. Best Interests Test

Notwithstanding acceptance of the Plan by each impaired Class, in order to confirm the Plan the Bankruptcy Court must determine that the Plan is in the best interests of each Holder of a Claim or Interest that has not accepted the Plan. Accordingly, if an impaired Class does not unanimously accept the Plan, the “best interests” test of § 1129(a)(7) of the Bankruptcy Code requires that the Court find that the Plan provides to each Holder of a Claim or Interest in such impaired Class a recovery on account of the Holder’s Claim or Interest that has a value of at least equal to the value of the Distribution that each such Holder would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

To estimate what members of each impaired class of Claims or Interests would receive if the Debtors were liquidated in a chapter 7 case, the Bankruptcy Court must first determine the aggregate dollar amount that would be available if the Debtors’ case were converted to a chapter 7 liquidation by a chapter 7 trustee (the “Liquidation Value”). The Liquidation Value would consist of the net proceeds from the disposition of the assets of the Debtor, augmented by the cash held by the Debtors and reduced by certain increased costs and claims that arise in a chapter 7 liquidation case that do not arise in a chapter 11 reorganization case including sale costs. Debtors believe that a chapter 7 liquidation would have a material and adverse effect upon the values which would be received by their creditors when measured against such values assuming consummation of the Plan.

The Liquidation Value available to general creditors would be reduced by: (a) the claims of secured creditors to the extent of the value of their collateral; and (b) the costs and expenses of the liquidation under chapter 7, which would include: (i) the compensation of a trustee and their counsel and other professionals retained; (ii) disposition expenses; (iii) all unpaid expenses incurred by the Debtors during their Reorganization Case (such as compensation for attorneys, auctioneers and

accountants) which are allowed in the chapter 7 case; (iv) litigation costs; and (v) claims arising from the operation of the Debtors during the pendency of the chapter 11 and chapter 7 liquidation cases. The liquidation itself would cause the realization of additional priority claims and would accelerate other priority payments which would otherwise be payable in the ordinary course. These priority claims would be paid in full out of the liquidation proceeds before the balance would be made available to pay most other claims or to make any distribution in respect of interests. A discussion concerning liquidation of the Debtors' assets is set forth above, See II.C. Liquidation Analysis.

Once the percentage liquidation recoveries for each Class are ascertained, the value of the distribution available out of the liquidation value is compared with the value of the property offered to such class under the Plan to determine if it is in the best interests of holders of allowed claims or allowed interests, as the case may be, in such class.

After considering the effect that a chapter 7 liquidation would have on the value of the Debtor, including the costs of any Claims resulting from a chapter 7 liquidation, the adverse effect of a forced sale on the prices of the Debtors' assets, the potentially adverse impact on the Debtors' businesses and the delay in the distribution of liquidation proceeds, the Debtors have determined estimated Liquidation Values for their Reorganization Case, which are set forth above. Based on the analysis set forth therein, and subject to the assumptions and qualifications therein expressed, the Debtors believe that the Plan as proposed herein satisfies the requirements of the "best interests" test of § 1129(a)(7) of the Bankruptcy Code.

D. Fair and Equitable Test; Cramdown

Any Voting Class that fails to accept the Plan will be deemed to have rejected the Plan. Notwithstanding such rejections, the Bankruptcy Court may confirm the Plan and the Plan will be binding upon all Classes, including the Classes rejecting the Plan, if the Debtors demonstrate to the Bankruptcy Court that at least one impaired class of claims has accepted the Plan and that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to each non-accepting class. A plan does not discriminate unfairly if the legal rights of a dissenting class are treated in a manner consistent with the treatment of other classes whose legal rights are similar to those of the dissenting class and if no class receives more than it is entitled to for their claims or interests.

The Bankruptcy Court establishes different "fair and equitable" tests of the secured and unsecured creditors as follows:

1. Secured Creditors. Either (i) each secured creditor in a non-accepting impaired class retains the liens securing their secured claim and receives on account of their secured claim deferred cash payments having a present value equal to the amount of their allowed secured claim, (ii) each secured creditor in a non-accepting impaired class realizes the indubitable equivalent of their allowed secured claim or (iii) the property securing the claim is sold free and clear of liens with such liens to attach to the proceeds and the treatment of such liens on proceeds as provided in clause (i) or (ii) of this subparagraph.
2. Unsecured Creditors. Either (i) each unsecured creditor in a non-accepting impaired

class receives or retains under the plan property having a present value equal to the amount of their allowed claim or (ii) the holders of claims and interests that are junior to the claims of the dissenting class will not receive or retain any property under the Plan, unless new value is given by and through the operation of the Chapter 11 Plan; additionally, with respect to those cases in which the Debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the Plan, the court will confirm the Plan only if the value, as of the effective date of the Plan, of the property to be distributed under the Plan on account of such claim is not less than the amount of such claim; or the value of the property to be distributed under the Plan is not less than the projected disposable income of the Debtors (as defined in 11 U.S.C. § 1325(b)(2) to be received during the five (5) year period beginning on the date that the first payment is due under the Plan, or during the period for which the Plan provides payments, whichever is longer.

THE DEBTORS BELIEVE THAT THE PLAN DOES NOT DISCRIMINATE UNFAIRLY WITH RESPECT TO ANY CLASS AND IS FAIR AND EQUITABLE WITH RESPECT TO EACH IMPAIRED CLASS, THEREFORE, THE DEBTORS INTEND TO SEEK CONFIRMATION OF THE PLAN EVEN IF LESS THAN THE REQUISITE NUMBER OF FAVORABLE VOTES ARE OBTAINED FROM ANY VOTING CLASS.

E. Feasibility Test

The Bankruptcy Code requires that the Bankruptcy Court, in order to confirm the Plan must find that confirmation of the Plan is not likely to be followed by liquidation or the need for further financial reorganization of the Debtors (the "Feasibility Test"). For the Plan to meet the Feasibility Test, the Bankruptcy Court must find that reorganized Debtor, subsequent to the Effective Date, will have a reasonable expectation of generating, through their own operations or access to sources of debt and/or equity capital, funds sufficient to satisfy their obligations under the Plan and otherwise.

Assuming consummation of the Plan substantially as described herein, the Debtors believe that the Plan meets the requirements of the Feasibility Test. The Debtor has prepared projections of the expected operating and financial results of reorganized Debtors for five (5) years. Based on those projections, Debtors believe that the Plan complies with the financial feasibility standard for confirmation. The Debtors believe the results set forth in these projections are attainable and that it will have sufficient funds to meet their obligations under the Plan and otherwise.

The Debtors caution that no representations can be made with respect to the accuracy of these projections or the ability to achieve the projected results. Certain of the business assumptions used in the preparation of the projections may not materialize. The conclusions described herein are subject to numerous assumptions regarding continuing operations, many of which are the subject of continuing review and modification. Moreover, unanticipated and uncontrollable events and circumstances may occur after the date of the forecasts which could affect the business and property. Accordingly, although the Debtors believe that these projected results are achievable, actual results achieved during the period covered by the projections will undoubtedly vary from the projections, and such variations may be material.

V. LEGAL EFFECT OF PLAN CONFIRMATION

A. As to Cases Other Than Individual Debtors. In cases in which the Debtors are not individuals, except as otherwise provided in the Plan or Confirmation Order, in accordance with § 1141(d)(1) of the Bankruptcy Code, entry of the Confirmation Order acts as a discharge effective as of the effective date of all debts of, claims against, liens on, and interest in the Debtors, their assets or properties which debts, claims, liens and interest arose at any time before the entry of the Confirmation Order.

B. As to Cases in Which Debtors are Individuals. Unless after notice and hearing the Court orders otherwise for cause, confirmation of an individual Debtors' Chapter 11 Plan does not discharge any debt provided for in the Plan until the court grants a discharge on completion of all payments under the Plan under 11 U.S.C. § 1141(d)(5)(A) except that the Court may grant a discharge prior to Plan completion under sub-part (b) of that Section if there exists a lack of practical ability to modify the confirmed Plan and the distribution of all property under the Plan is no less than unsecured creditors would have received in a chapter 7 liquidation.

C. Scope of Discharge. The discharge of the Debtors shall be effective as to each claim, regardless of whether a Proof of Claim therefor was filed, whether the claim is an allowed claim or whether the holder thereof votes to accept the Plan. On the effective date as to every discharged claim and interest any holder of such claim or interest shall be precluded from asserting against the reorganized Debtors or against their respective assets or properties any other or further claim or interest based upon any document, instrument, act, omission, transaction, or other activity of any kind or nature that occurred before the Confirmation date. Further, any holder of a claim or interest shall be precluded from asserting the same against the Debtors or the reorganized Debtors, except as specifically provided for in the Plan.

D. Injunction. In accordance with § 524 of the Bankruptcy Code, the discharge provided by the Plan and § 1141 of the Bankruptcy Code, *inter alia* acts as an injunction against the commencement or continuation of any action, employment of process or act to collect, offset or recover the claims discharged hereby. Likewise, a Temporary Injunction shall be imposed in accordance with the provisions in paragraph I below.

E. Applicability. Except as otherwise may be set forth in the Plan, the discharge provisions of the Plan do not apply to rights, claims or causes of action whether asserted or yet to be asserted against a non-Debtor except that no rights, claims or causes of action can be asserted against the Debtors or reorganized Debtors.

F. Retention of Claims. Except as otherwise provided in the Plan including without limitation any contract, instrument, release or other agreement entered into in connection with the Plan or by Order of the Bankruptcy Court in accordance with § 1123(b) of the Bankruptcy Code, the reorganized Debtors shall retain and may enforce any claims, rights and causes of action that the Debtors or their estate may hold including without limitation any claims, rights or causes of action under § 544 through § 550 inclusive of the Bankruptcy Code or any other applicable law. This specifically includes the claims of the Debtors against 1-Alexander & Claire Gaydish, 2-Richard Childers, 3-John & Susan Turner, 4. Thomas Moss, 5. Philip Dres, and 6. Beachwalk POA.

After the effective date, reorganized Debtors may pursue any such other claims, rights and causes of action in accordance with what is in their best interest.

G. Revesting and Vesting. Except as otherwise provided expressly in the Plan, on the effective date, all property comprising the estate of the Debtors shall revest in reorganized Debtors and shall become property of the reorganized Debtors free and clear of all claims, liens, charges, encumbrances and interests of creditors and equity security holders (other than as expressly provided in the Plan). As of the effective date reorganized Debtors shall operate their businesses and use, acquire and dispose of property including any post-petition cash collateral and settle or compromise claims or interests without supervision of the Court free of any restrictions of the Bankruptcy Code or Bankruptcy Rules other than those restrictions expressly imposed by the Plan and Confirmation Order.

H. Retention of Jurisdiction by the Bankruptcy Court. Notwithstanding Confirmation of the Plan or occurrence of the effective date, the Court shall retain jurisdiction over the reorganization case. Prior to the entry of a Final Order pursuant to Bankruptcy Rule 3022, the Bankruptcy Court shall retain jurisdiction:

- a. Over all claims against or interests in the Debtors;
- b. To determine the allocability of claims and interests upon objection to such claims by the Debtors or Reorganized Debtors of the Creditors' Committee;
- c. To determine any tax liability pursuant to § 505 of the Bankruptcy Code;
- d. To adjudicate any dispute under any executory lease or contract assumed during the reorganization case pursuant to § 365 of the Bankruptcy Code;
- e. To resolve all matters related to the assumption, assumption and assignment, or rejection of any executory contract or unexpired lease of the Debtors;
- f. To determine requests for payment of administrative claims;
- g. To resolve controversies and disputes regarding the interpretation of the Plan including the determination of the priorities of distribution required by the Articles of the Plan;
- h. To implement the provisions of the Plan and enter orders in aid of confirmation in consummation of the Plan including without limitation, appropriate orders to enforce the right, title and powers of reorganized Debtors from actions by holders of claims against or interests in the Debtors;
- i. To determine classification voting treatment allowance estimation withdrawal disallowance or reconsideration of claims and interests and any objections relating thereto;

- j. To fix, liquidate or estimate claims or interest;
 - k. To modify the Plan pursuant to § 1127 of the Bankruptcy Code;
 - l. To correct any defect, to cure any mistake or omission or reconcile any inconsistency in the Plan or the Confirmation Order as may be necessary or appropriate to carry out the purposes and intent of the Plan;
 - m. To adjudicate any causes of action that arose prior to the Confirmation date or in connection with the implementation of the Plan including avoidance actions brought by the Debtors or reorganized Debtors as the representation of Debtors' estates or party in interest (as a representative of the Debtors' estates);
 - n. To resolve any disputes concerning any release of the Debtors under the Plan or the injunction against acts of employment of process, or actions against the Debtors arising under the Plan;
 - o. To resolve any disputes concerning any release of the Debtors under the Plan or the injunction against acts of employment of process, or actions against the Debtors arising under the Plan;
 - p. To resolve any disputes concerning whether a personal entity had sufficient notice of the reorganization case, the applicable claims bar date, the hearing on the approval of the disclosure statement as containing adequate information, the hearing on the Confirmation of the Plan for the purpose of determining whether a claim of interest is discharged under the Plan or for any other purpose;
 - q. To order the removal pursuant to § 1452 of Title 28 of the United States Code of any suit instituted against the Debtors, the estates, the reorganized Debtors or any person released pursuant to the Plan and to hear and determine any action so removed;
 - r. To enter a final order closing the reorganization case; and
 - s. To hear and determine such other matters as may be provided for under Title 28 or any other title of the United States Code and any reference to the Bankruptcy Code, the Bankruptcy Code, other applicable law, the Plan or the Confirmation Order.
- I. Temporary Injunction. The confirmation of the Plan will additionally impose a Temporary Injunction, except to the extent otherwise agreeable terms have been reached with any secured creditor, as well as any creditors of the Debtors who hold guarantees by Thomas Moss, his officers, agents, employees, successors and attorneys, and all those in active concert or participation with them. Upon Confirmation of the Plan, all creditors shall be enjoined and prohibited from proceeding against Thomas Moss, his officers, agents, employees, successors and attorneys, and all those in active concert or participation with them to take any actions to obtain a judgment, either in personam or in rem, execute, foreclose, appoint a receiver, or to

exercise any control over any of the Debtors' assets. Said injunction is to remain in effect only until the earliest of the following events:

- (i) The Debtors comply with the terms of the Plan. Any violation of the Plan that remains uncured for sixty (60) days after receipt by the Debtors of written notice from any party affected by such violation, shall automatically and without order of the Court, result in the dissolution of the injunction granted hereunder as to said affected party.
- (ii) The satisfaction by the Debtors of all Allowed Claims;
- (iii) Five years from the Effective Date of Plan

VI. MEANS FOR EXECUTION OF THE PLAN

A. **Substantive Consolidation.** Substantive consolidation ususally results, inter alia, in pooling of assets of, and claims against, the two entities, satisfaction of liabilities from the resultant common fund, elimination of inter-company claims, and combining the creditors of the two companies for purposes of voting on reorganization plan. *In re Augie/Restivo Baking Co*, 860 F.2d 515, 518 (2nd Cir. 1988). This is exactly what the Debtors' Plan does. The Plan contemplates and is predicated upon substantive consolidation of the Cases of MFLP and BWLP solely for purposes of all actions associated with confirmation and consummation of the Plan. Unless substantive consolidation has been approved by a prior order of the Bankruptcy Court, the Plan shall serve as a joint motion by the Debtors seeking entry of an order of the Bankruptcy Court substantively consolidating the Estates of each of the Debtors in the MFLP Estate. The Confirmation Order shall constitute an order of the Bankruptcy Court approving the substantive consolidation of each of the Debtors and their respective Estates into MFLP and its Estate. On the Confirmation Date, and effective retroactively to the Petition Date, the Estates of the Debtors will be substantively consolidated into the Estate of MFLP for all purposes related to the Plan, including, without limitation, for purposes of confirmation, voting distributions, avoidance actions under Chapter 5 of the Bankruptcy Code and Claim allowance. The substantive consolidation of the Estates of the Debtors shall have the following effects:

- a. all assets and liabilities of the Estates of the Debtors shall be treated as though they were assets and liabilities of the MFLP Estate;
- b. no distributions shall be made under the Plan on account of any inter-company claims among the Debtors (whether arising pre-Petition Date or post-Petition Date) and upon the Effective Date of the Plan, all such Claims shall be deemed disallowed;
- c. for all purposes related to confirmation, the Debtors' Estates shall be deemed to be one consolidated Estate for MFLP, including, without limitation, for purposes of tallying acceptances and rejection of the Plan, distributions, and Claim allowance;

- d. all Claims based upon guarantees of collection, payment, or performance made by one Debtor as to the obligations of the other of the Debtor or of any other Person shall be discharged, released, and of no further force and effect;
- e. any obligation of either Debtor and all guarantees thereof executed by the other Debtor shall be deemed to be an obligation of the consolidated MFLP;
- f. any Claims filed or to be filed in connection with any such obligation and such guarantees shall be deemed one Claim against the consolidated MFLP Estate;
- g. each and every Claim filed or to be filed in the Cases against either of the Debtors shall be deemed filed against the consolidated MFLP Estate, and shall be deemed to be one Claim against an obligation of the MFLP Estate; provided, however, that in the event that any creditor filed a Claim in both of the Cases for separate, independent and unrelated obligations to such creditor, then such Claim shall be deemed to be a separate obligation of the BWLP Estate for Plan distribution purposes; and
- h. each secured claim against any of the respective parcels of either Debtors' real estate shall be preserved their pre-consolidation priority and nothing in the consolidation shall do anything to rearrange the priority of any liens existing against either Debtors' real estate.

Such substantive consolidation shall not (other than for purposes related to the Plan and the distributions to be made thereunder) affect the corporate structure of BWLP and shall not be deemed to have an effect adverse to the recovery of the Estates in any litigation involving the Debtors. For all purposes, MFLP shall be considered the surviving entity and the attributes and characteristics of MFLP shall remain unaffected by the substantive consolidation of the Estate of BWLP into the MFLP Estate.

As of the Effective Date, such substantive consolidation shall be effective retroactively as of the Petition Dates to ensure the equitable treatment of all creditors. The ongoing administration of the Estates has taken place in a single location and the post-Effective Date administration of the Debtors' Estates will occur through one newly formed company that will hold all of the Real Estate and property of the Debtors and will deal with all of the Claims of the creditors.

The Debtors have maintained several credit facilities with Fifth Third Bank, Horizon Bank, and LaPorte Bank, the three largest creditors in both cases, for the benefit of *both* Debtors, and the loans are secured by collateral that include substantially all of both Debtors' property, either by way of consensual mortgages or through judgment liens of LaPorte Bank against both Debtors' property. The majority of the remainder of the Debtors' real estate that does not have first mortgage or judgment liens of LaPorte Bank, Horizon Bank and Fifth Third Bank, have consensual mortgage liens against said properties by other secured creditors (i.e. Bank of America, First Bank Robert and Virginia Burnstine, Mary Moss, Richard Childers, John and Susan Turner, Alexander and Claire Glaydash, Thomas Moss and Metropolitan Bank).


The cost of treating the claims of the secured creditors separately depending on which Debtor owns the real estate will far exceed any corresponding benefit that may be realized by separately

administering the Debtors' Estates. The treatment of the secured creditors by the Plan that have Claims and collateral in each of the Estates is the same, regardless of which Debtor owns the collateral or which Debtor is the primary obligor on any such obligation. Likewise, the Debtor projects that, through the sale of both Debtors' real estate during the Plan term, it is anticipated that the claims of general unsecured creditors will be satisfied as well. Thus, the Debtor believes no creditor class will be prejudiced by the consolidation. Rather, it is the Debtors belief that the consolidation of the cases for the purposes of effectuating a joint plan will make the resolution of issues with all creditors easier and more cost effective as there will be one single forum, procedure and case to resolve all plan and claim issues, the majority of which will be present in both cases.


ANY CREDITOR DESIRING INFORMATION REGARDING THE DEBTORS THAT SUCH CREDITOR BELIEVES IS NOT SUPPLIED BY THE DISCLOSURE STATEMENT IS REQUESTED TO CONTACT THE ATTORNEYS FOR THE DEBTORS.

Respectfully submitted,

MOSS FAMILY LIMITED PARTNERSHIP

By: 
Tom Moss, LLC, general partner
by Thomas Moss

BEACHWALK, L.P.

By: 
Tom. Moss Land Development Co.,
General Partner, by Thomas Moss

DANIEL L. FREELAND & ASSOCIATES, P.C.

/s/ Daniel L. Freeland

Daniel L. Freeland
Attorney for Debtor
9105 Indianapolis Blvd.
Highland, IN 46322
PH: (219) 922-0800
dlf9601b@aol.com


CERTIFICATE OF SERVICE

I, Sheila A. Ramacci, certify that I served a copy of the attached ~~Disclosure Statement~~ ^{Amended Disclosure Statement} by First Class Mail or through the Court's Electronic mailing service on December 3, 2013, pursuant to Fed.R.Bankr.P. 4001(b)(1) upon:

Via electronic mail
United States Trustee
Rebecca Hoyte Fischer
Lisa D. Updike

Mark J. Adey
Jeffery Johnson
David E. Woodward

David Blaskovich
Mark R. Owens
Bernard E. Edwards


Sheila A. Ramacci