



ORDERED in the Southern District of Florida on May 28, 2013.

A handwritten signature in black ink, appearing to read "Erik P. Kimball".

Erik P. Kimball, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION
www.flsb.uscourts.gov

In re:

Chapter 11

PGA FLYOVER CORPORATE PARK
LLC,¹

Case No. 13-18701-EPK

Debtor.

**INTERIM ORDER GRANTING DEBTOR-IN-POSSESSION'S EMERGENCY MOTION
FOR AUTHORITY TO USE CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363
AND TO PROVIDE ADEQUATE PROTECTION AND SCHEDULE HEARING**

THIS MATTER came before the Court for emergency hearing on April 25, 2013 at 2:30 p.m. upon PGA Flyover Corporate Park LLC's ("**PGA Flyover**") *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Use of Cash Collateral, (II) Granting Adequate Protection Pursuant to 11 U.S.C. §§ 361,362, 363 and 507 and (III) Scheduling a Final Hearing*

¹ The last four digits of PGA Flyover's taxpayer identification number is 9316 and its address is 3701 Catalfumo Way South, Palm Beach Gardens, FL 33410.

Pursuant to Bankruptcy Rule 4001(b) (the “**Motion**”) [ECF No. 6], seeking authority to use cash collateral of BBX Capital Asset Management, LLC (“**BBX**”). Having reviewed the Motion, hearing argument of counsel, and the Court being otherwise fully advised in the premises, it is hereby

ORDERED as follows:

1. PGA Flyover’s Motion is **GRANTED** on an interim basis, as specifically set forth herein.

2. Use of Cash Collateral. PGA Flyover is prohibited from using cash collateral, including amounts funded by BBX from the Rents Account, except as set forth immediately below.

PGA Flyover is authorized to use cash collateral as defined in Section 363(a) of the Bankruptcy Code solely to pay those actual operating expenses (along with United States Trustee Fees) that are

specifically listed in the budget attached hereto as **Exhibit “A”** (the “**Budget**”) (the “**Budgeted Expense Items**”) in the amounts set forth therein through and including May 31, 2013 (the

“**Expiration Date**”), and PGA Flyover shall pay the Budgeted Expense Items when it receives funding from the Rents Account pursuant to this Order. PGA Flyover is also authorized, to the

extent used to pay the items set forth on the Budget: (i) to exceed any line item on the Budget by an amount equal to no more than ten (10) percent of each such line item; or (ii) to exceed any line item

on the Budget by more than ten (10) percent so long as the total of all amounts in excess of all line items on the Budget do not exceed ten (10) percent in the aggregate of the total Budget. In the

event that the Debtor believes that there is a need to incur an expense relating to the ongoing maintenance or operation of the Property that does not appear on the Budget (an “Unanticipated

Expense”), the Debtor shall make a written request to BBX for its approval for the payment of the Unanticipated Expense and BBX shall respond to the request in writing within five (5) business

days of its receipt of the Debtor’s request. If BBX, in its sole discretion, agrees to the payment of

the Unanticipated Expense, BBX shall be permitted to remit to the debtor-in-possession account from the Rents Account, funds in an amount equal to the Unanticipated Expense, which funds the Debtor shall use to promptly pay for the Unanticipated Expense. At the Final Hearing (as defined below), the Court shall consider PGA Flyover's request to use Cash Collateral² subsequent to the Expiration Date.

3. Adequate Protection to BBX.

(i) Replacement Liens: Notwithstanding the provisions of Section 552(a) of the Bankruptcy Code, and in addition to the security interests preserved by Section 552(b) of the Bankruptcy Code, BBX is granted a perfected post-petition replacement lien against Cash Collateral to the same extent, validity and priority as the security interests BBX held as of the Petition Date (solely to the extent of the diminution of BBX's interest in the Cash Collateral), without the need to file or execute any documents as may otherwise be required to be filed or executed under applicable non-bankruptcy law.

(ii) Access to Rents Account: BBX shall be authorized to and shall continue to receive and deposit tenant rents into the Rents Account post-petition. BBX shall fund from rents received and deposited into the Rents Account to PGA Flyover's debtor-in-possession account the amount equal to the expenses listed in the Budget. The funds remitted to the debtor-in-possession account from the Rents Account shall not be used except to pay the expenses set forth in the Budget in accordance with this Order.

4. No Novation. This Order shall not cause a novation or modification of BBX's loan documents.

²All capitalized terms shall have the meaning ascribed to them in the Motion unless otherwise indicated herein.

5. Non-Waiver of Rights and Remedies. This Order is not intended to and shall not prejudice, alter, affect or waive any rights and/or remedies of PGA Flyover or BBX under the Bankruptcy Code or applicable non-bankruptcy law not relating to the use and restrictions on the use of Cash Collateral provided for in this Order. The entry of this Order shall not affect the right of any subsequently appointed trustee or committee to challenge the validity of the replacement liens granted to BBX pursuant to Section 3(i) of this Interim Cash Collateral Order.

6. Duration. The provisions of this Order shall remain in effect through and including May 31, 2013.

7. Final Hearing. A final hearing to consider use of Cash Collateral on a final basis is scheduled for May 30, 2013 at 1:30 p.m. at the United States Bankruptcy Courthouse, Flagler Waterview Building, 1515 North Flagler Drive, 8th Floor, Courtroom B, West Palm Beach, Florida 33401.

SUBMITTED BY:

Bradley S. Shraiberg, Esq.
Shraiberg, Ferrara & Landau, P.A.
Counsel for PGA Flyover
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Copy to: Bradley S. Shraiberg, Esq., 2385 NW Executive Center Dr., Suite 300, Boca Raton, FL 33431.
[Attorney Shraiberg is directed to serve a copy of this Order upon all interested parties.]

EXHIBIT A

PGA Flyover Corporate Park, LLC

	<u>April</u>	<u>May</u>
Income		
April Tenant Receipts in April (in BBX cash balance)	\$ 24,666.24	
Anticipated Receipts	22,719.72	47,385.96
Total Anticipated Receipts	<u>\$ 47,385.96</u>	<u>\$ 47,385.96</u>

Expenses

Catalfumo Management & Investment		1,250.00
Catalfumo Management & Investment	500.00	500.00
Parcel 5B POA Dues, Inc.		3,880.00
Florida Department of Revenue		3,500.00
a) AGCS Marine Insurance Co.	3,135.23	3,135.23
b) First Insurance Funding	1,919.60	1,919.60
Florida Power & Light	704.21	750.00
Seacoast Utilities	342.51	375.00
PAETEC	125.00	125.00
United States Trustee Fee	216.66	216.66
Waste Management	150.00	150.00
Waste Management	260.00	260.00
Total Anticipated Disbursements	<u>\$ 7,353.21</u>	<u>\$ 16,061.49</u>

- a) Invoice Dated 24th of Month due on 10th of following month.
b) Per financing agreement due on 28th of Month.