

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

Chapter 11
Case No. 09-78152-reg

RIVERHEAD PARK CORP.

Debtor

AMENDED PLAN OF REORGANIZATION

On October 27, 2009, Riverhead Park, Corp. (hereinafter referred to as "Riverhead" or the "Debtor") filed a voluntary petition for relief under and pursuant to Chapter 11 of the United States Bankruptcy Code. The Debtor hereby proposes the following Plan of Reorganization (hereinafter referred to as the "Plan") for the benefit of interested parties of the above-named Debtor.

ARTICLE I

DEFINITIONS

For the purposes of the Plan, the following terms shall have the respective meanings hereinafter set forth, to be equally applicable to the singular and plural forms of the terms defined, unless the context otherwise requires.

"Administrative Claim" shall mean a claim for any cost or expense of administration in connection with this Chapter 11 case as, when and to the extent allowed by the Bankruptcy Court, including, without limitation, the actual, necessary costs and expenses of preserving the Debtor's estate and of operating the business or liquidating the Debtor (other than such claims or portions thereof which, by their express terms, are not due or payable by Confirmation), all allowances of compensation or reimbursement of costs and expenses under Section 330 or Section 503 of the Code or otherwise allowed by the Bankruptcy Court, and all fees and charges assessed against the Debtor's estate pursuant to Chapter 123, Title 28, United States Code.

"Allowed Claim" shall mean a claim (a) which is scheduled pursuant to the Code, other than a claim scheduled as disputed, contingent or unliquidated, (b) proof of which has been filed with the Court pursuant to the Code and with respect to which no objection to the allowance thereof has been interposed within the periods of limitation fixed by the Code or by an Order of the Court or (c) as to which any objection has been determined or which has been otherwise allowed by a final Order.

"Allowed Priority Claim" shall mean the portion of any Allowed Claim entitled to priority under Section 507(a) of the Code.

"Allowed Secured Claim" shall mean any Allowed Claim which is secured by a lien on property of the Debtor or the proceeds thereof, to the extent of the value of the interest of the holder of such Allowed Claim in such property of the Debtor as determined by the Bankruptcy Court pursuant to Section 506(a) of the Code, together with such interest, fees, costs and charges as may be allowed by the Bankruptcy Court under Section 506(b) of the Code.

"Allowed Unsecured Claim" shall mean any Allowed Claim which is not an Administrative Claim, Allowed Priority Claim or Allowed Secured Claim.

"Bankruptcy Code or "Code" shall mean Title 11 of the United States Code, 11 U.S.C. Section 101, *et. seq.*, as heretofore or hereafter amended.

"Bar Date" shall mean June 1, 2010, the last day for filing Proofs of Claim and Proofs of Interest.

"Chapter 11" shall mean Chapter 11 of the Bankruptcy Code.

"Claim" shall mean as follows:

(a) the right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, secured or unsecured; or

(b) the right to an equitable remedy for a breach of performance, if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, secured or unsecured; or

(c) a duly listed or timely filed claim in this Chapter 11 proceeding, which claim is allowed and ordered paid by the Bankruptcy Court in this proceeding.

"Class" shall mean a group of claims or interests consisting of claims or interests which are substantially similar to each other, as classified pursuant to the Plan.

"Confirmation Date" shall mean the date on which the Court signs an Order confirming the Plan in accordance with the provisions of the Bankruptcy Code.

"Consummation of the Plan" shall mean the accomplishment of all things contained or provided for in the Debtor's Plan.

"Court" shall mean the United States Bankruptcy Court for the Eastern District of New York and is sometimes referred to in the Plan as the "Bankruptcy Court."

"Debtor" shall mean Riverhead Park, Corp., the Chapter 11 Debtor and Debtor-in-Possession herein.

"Disallowed Claim" shall mean any claim, or portion thereof which has been disallowed by a Final Order of the Court.

"Disputed Claim" shall mean any Claim (other than an Allowed Claim) which (a) is scheduled pursuant to the Bankruptcy Code as disputed, contingent or unliquidated, or proof of which has been filed with the Court and an objection to the allowance thereof has been or is interposed prior to the final date for the filing of such objections set forth in the Order of the Court confirming the Plan, and (b) as to which such dispute or objection has not been determined by a Final Order.

"Effective Date" shall mean the second business day after the order of confirmation becomes a final order.

"Filing Date" shall mean October 27, 2009, the date on which Riverhead filed its voluntary petition for reorganization under and pursuant to Chapter 11 of the Bankruptcy Code.

"Final Order" shall mean an Order or a judgment which has not been stayed and as to which Order or judgment (or any revision, modification or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing is pending.

"Guarantors" shall mean those individuals who signed a Personal Guaranty in favor of the Mortgagee or other party thereby personally guarantying the Debtor's obligations.

"Interest" shall mean the interest in the Debtor of the shareholders.

"Person" shall mean an individual, corporation, partnership, joint venture, association, joint stock company, trust, estate, unincorporated organization, government (or agency or political subdivision thereof) or other entity, including the Debtor.

"Plan" shall mean this Plan of Reorganization in its present form or as it may be amended or supplemented.

"Priority Creditor" shall mean any creditor with a claim entitled to priority in payment under Section 507(a) of the Bankruptcy Code except Administrative Claims.

"Proof of Claim" means the statement of a claim by its holder in a form that corresponds substantially to the requirements of official form number 10 of the Bankruptcy Rules, which form is to be filed with the Clerk of the Bankruptcy Court.

"Property" shall mean the nearly 13 acres of vacant land owned by the Debtor in Riverhead, New York.

"Riverhead" shall mean the corporation Riverhead Park, Corp., the Debtor and Debtor-in-Possession herein.

"Secured Creditor" shall mean 54 LLC and Partner Investors, LLC ("Mortgagee"), the holder of the mortgage lien against the Debtor's real property and the Suffolk County Treasurer for real estate tax liens against the Debtor's real property, the only creditor(s) who have liens [as defined in Sections 101(28), and 101(37), of the Bankruptcy Code], security interest [as defined in Sections 101(50) and 101(51) of the Bankruptcy Code] or other encumbrance which have been properly perfected as required by law with respect to property owned by the Debtor, and whose claim against the Debtor is not greater than the value of the Debtor's assets on which said creditor's lien, security interest or other encumbrance attached to.

"Shareholders" shall mean Laurence Oxman and Stanley Blumenstein.

"Unsecured Claim" shall mean all claims other than Administration Claims, Priority Claims and Secured Claims.

"Unsecured Creditor" shall mean any claimant that holds an Unsecured Claim.

ARTICLE II

CLASSIFICATION OF CLAIMS AND INTEREST

The Allowed Claims and Interests in the Debtor are divided into the following classes:

Unclassified : All Allowed Administration Claims pursuant to Section 330(a) of the Bankruptcy Code which includes Allowed Claims for professionals retained in this Chapter 11 proceeding pursuant to Section 327(a) of the Bankruptcy Code, plus the Allowed Claims of creditors who hold Claims against the Debtor which were incurred during the pendency of the Chapter 11

proceeding. It is anticipated that said claims will include real estate taxes, the U.S. Trustee for quarterly fees; fees and expenses to Harold M. Somer, PC, the Debtor's attorney; fees and expenses to Debtor's special litigation counsel, Camparelli & Associates, P.C.; and possible commission(s) and expenses of David R. Maltz & Co., Inc. ("Maltz"), the real estate broker.

Class I : All allowed Priority Claims due and owing taxing authorities for taxes incurred prior to the Filing Date, pursuant to Section 507(a)(8) of the Bankruptcy Code.

Class II : The allowed Secured Claim of 54 LLC and Parker Investors, LLC, the mortgagee.

Class III : The allowed Secured Claim of the Suffolk County Treasurer.

Class IV : The Unsecured Claim of Edward Bagley.

Class VI : The Unsecured Claim of the Town of Riverhead.

Class VI : All Allowed Interests of the Shareholders.

ARTICLE III

PROVISIONS FOR SATISFYING CLAIMS AND INTERESTS

Unclassified Administrative Claims : The claims of all administrative creditors, excluding The Suffolk County Treasurer for post-petition real estate taxes, shall be paid by the Debtor in full or as agreed upon with statutory interest where applicable as may be required by state, local or federal law on the later of the effective date, or upon allowance by the Court. Post-petition real estate taxes and closing costs shall be paid subsequent to the sale at the closing upon the Debtor's real property.

Other than David R. Maltz & Co., professionals shall file applications with the bankruptcy court to fix the amount of compensation and expenses due them. The amounts awarded shall be paid

from retainers, any recovery against the Town of Riverhead and/or by any guarantor of the obligation. Pursuant to the retention agreement, Maltz's commission shall be paid by the mortgagee.

Class I : The Allowed Class I Priority Claims of all taxing authorities, except for real estate taxes, shall be paid by the Debtor upon the same terms and conditions as the administrative creditors. All payments to taxing authorities shall first be applied to "trust fund" taxes and, thereafter, to "general" taxes. Any such payment would include statutory interest as may be required by state, local or federal law. There are no known priority taxes.

Class II : This class consists of the Allowed Secured Claim of 54 LLC and Parker Investors, LLC, the mortgagee, which claim is secured by the real property owned by the Debtor. The mortgage shall be deemed satisfied when the creditor receives title from the Debtor post-confirmation as the creditor was the successful bidder with its credit bid at the May 26, 2010 auction sale pursuant to Section 363(k) of the Bankruptcy Code.

Class III : The claim of this secured creditor, the Suffolk County Treasurer, for pre-petition real estate taxes which shall be paid by the mortgagee at closing. An amended claim has been filed in the sum of \$97,348.13.

Class IV : Consists of the Unsecured Claim of Edward Bagley in the sum of \$150,000.00 based upon an unsecured loan to the Debtor guaranteed by the shareholders. It is anticipated that this claim shall be paid no less than ten (10%) percent of its claim by the Debtor. The Class II creditor shall provide additional funds to be paid to the Class IV claimant. The claim of this creditor was not listed in the petition as being unliquidated or disputed.

Class V : Consists of the potential unsecured claim of the Town of Riverhead (the "Town") arising from the possibility of the award of fines against the Debtor arising from numerous citations

issued prior to the filing of the petition and which were pending in court. The Town failed to file a proof of claim by the Bar Date despite its being listed in the petition as unliquidated and disputed. Accordingly, this Class will receive no distribution and is not entitled to vote.

Class VI : Consists of the interests of the Shareholders. They shall only receive payment in the event all other creditors are paid 100% of their allowed claims and then only if there are funds remaining.

ARTICLE IV

CLAIMS IMPAIRED UNDER THE PLAN

Only Class IV is impaired and entitled to vote. Classes I, II and III are unimpaired and thus not entitled to vote. Having failed to file a proof of claim, the Class V creditor is not impaired and not entitled to vote. The Plan further provides for the Class VI creditors to retain their interests and thus these claimants are unimpaired and have no right to vote.

ARTICLE V

ACCEPTANCE OR REJECTION OF THE PLAN

As there is an impaired class, the "Cram-down" provisions set forth in Section 1129(b)(1) of the Code are applicable herein and thus such creditor has the right to vote.

ARTICLE VI

MEANS OF EXECUTION OF THE PLAN

By Court Order dated April 1, 2010, David R. Maltz & Co., Inc. was retained, in accordance with the terms of the broker retention agreement (the "Maltz Agreement", a copy of which is annexed to the Amended Disclosure Statement) as the Debtor's real estate broker in connection with the marketing and sale of the Debtor's main asset, the real property it owns in Riverhead, New York. The mortgagee agreed to pay and did pay \$15,000.00 for the cost of the sale and marketing. Pursuant to the terms of the Maltz Agreement, the property was to be auctioned with the mortgagee retaining the right to credit bid the amount it was due pursuant Section 363(k) of the Bankruptcy Code which would result in it taking title to the property in the event there were no other parties willing to bid an amount sufficiently in excess of the payoff.

If sold to a third party, the remaining net proceeds from the sale would, upon the Effective Date, be paid to creditors as required to confirm the Plan. The Maltz Agreement provides for other contingencies in the event the auction should not take place.

The property was sold at the auction on May 26, 2010 to the Class III creditor, the mortgagee. The taking of title post-confirmation shall constitute the satisfaction of the mortgage lien and the obligation as the value of the property is in excess of the amount of the obligation. The closing shall take place fifteen (15) days after the order confirming the plan becomes final and non-appealable. As the transfer of title shall be post-confirmation pursuant to the confirmed plan, it will be exempt from transfer taxes pursuant to 11 U.S.C. §1146(a).

Prior to the filing, there was litigation pending, criminal and civil, between the Town of Riverhead and the Debtor and its officers as follows:

- a) Town of Riverhead v. Riverhead Park Corp. and Larry Oxman, Supreme Court, Suffolk County, Index No. 25539/2004: An action seeking injunctive relief regarding the clearing and restoration of trees from the real property. A motion to dismiss the action for lack of capacity, brought post-petition, is pending.
- b) People v. Larry Oxman and Riverhead Park Corp.: Criminal proceeding in connection with numerous citations issued in 2004 and 2005 based upon alleged violations of the town code regarding the clearing of trees from the real property.
- c) Riverhead Park, Corp., Stanley Blumenstein and Laurence Oxman v. Phillip Cardinale, Town of Riverhead: Action pending in United States District Court, Eastern District of New York under case No. 07-CV-04133-ADS-ARL for violations of civil rights arising from illegal conduct by the town and town officials in response to permitted activity.

These matters with the Town are still pending. Were the Town to be successful in obtaining any monetary awards against the Debtor, said awards would have constituted unsecured claims but for its failure to file a proof of claim by the Bar Date. Accordingly, the Town will receive no distribution through the plan.

As a further result of the Town's failure to file a claim, the Debtor shall have no liability under the pending state court action which seeks injunctive relief. Upon the effective date, this action shall be deemed discontinued.

It is anticipated that the Debtor will have at least \$15,000.00 in its DIP Account at the time of confirmation. These funds together with an additional contribution from the mortgagee, expected to be no less than \$5,000.00, will go solely to the Class IV creditor.

The federal action shall remain an asset of the estate post-confirmation if not previously fully litigated or resolved. Should the Debtor be successful, then any monetary recovery will be used to fund the plan of reorganization and make additional distributions to the Class IV creditor and to the allowed claims of those creditors who had not yet received a distribution in whole or in part. Any funds remaining after the allowed claims are paid in full will be distributed to the shareholders on account of their interests.

ARTICLE VII

TRANSFER TAXES

As title to the real property is to be transferred subsequent to confirmation of the plan, the transfer shall be exempt from transfer taxes pursuant to 11 U.S.C. §1146(a).

ARTICLE VIII

RECOVERY OF PREFERENCES AND FRAUDULENT CONVEYANCES

There are no known preferences or fraudulent conveyances as defined in Sections 547 and 548 of the Bankruptcy Code.

ARTICLE IX

REJECTION AND AFFIRMANCE OF EXECUTORY CONTRACTS

There are no known pre-petition executory contracts. Any and all pre-petition executory contracts or unexpired leases of the Debtor which may exist and have not been expressly affirmed

or rejected or for which no motion to reject is pending prior to the Confirmation Date shall be rejected.

ARTICLE X

GUARANTEES OF SHAREHOLDER

Any personal guaranty or obligations of the shareholders, officers or directors shall survive confirmation of the Plan. As the mortgagee credit bid at the auction and is taking title to the property which is valued at an amount in excess of the obligation there will be no deficiency and thus it is anticipated that the mortgagee will have no legal basis to pursue the guarantors/shareholders.

ARTICLE XI

DISPUTED CLAIMS, OBJECTIONS TO CLAIMS AND OTHER MISCELLANEOUS MATTERS

As the Town of Riverhead did not file a proof of claim despite having been listed in the petition as unliquidated and disputed, it has no claim in this case.

If agreed to by the mortgagee, the Debtor will assign any rights it has to object to the claim(s) of the Suffolk County Treasurer on account of pre- and post-petition real estate taxes.

Objections to claims, if any, shall be filed with the Bankruptcy Court and served upon each holder of each Claim to which objection is made, no later than sixty (60) days subsequent to the effective date of confirmation.

Unless otherwise ordered by the Bankruptcy Court, the Debtor shall litigate to judgment, settle or withdraw objections to contested claims.

Contested claims that are litigated to judgment, settled or withdrawn shall be satisfied from funds put in a special escrow account comprised of funds generated from the sale of the Debtor's real property or rental income. Distribution to each holder of any ultimately allowed claim shall be made in accordance with the provisions of this Plan with respect to the applicable Class of creditors.

ARTICLE XII

EVENTS OF DEFAULT

If (a) the Debtor defaults in making any payments required by the Plan and unless such default (hereinafter referred to as an "Event of Breach") has been waived in accordance with the terms hereof; (b) the Debtor breaches any of the covenants contained herein; or (c) the Debtor's Chapter 11 proceeding is converted to a liquidation under Chapter 7 of the Bankruptcy Code; and upon the occurrence of an Event of Breach, the creditor(s) alleging such event shall notify the Debtor thereof and the Debtor shall have sixty (60) business days from the date of the receipt of such notice to cure such breach. In the event the Debtor fails to cure such breach within the prescribed sixty (60) day period the Debtor shall be deemed to have defaulted on the terms of the Plan and the full amount of the debt as provided in this Plan shall immediately become due and payable, the creditor(s) will no longer be subject to the stay imposed by the Bankruptcy Code and the creditor(s) shall have all the rights available to it under New York State Law.

The Creditor(s) shall, have the power and right to waive or excuse the Debtor's performance of any of the terms, conditions and covenants hereof, but any such waiver shall not be deemed or constitute a waiver of any other term, provision or covenant of this Plan.

ARTICLE XIII

NOTICE

All notices required hereunder shall be given by certified mail, return receipt requested, addressed as follows:

A. To the Debtor, at 1747 Old Country Road, Riverhead, New York 11901, with a copy to its counsel, Harold M. Somer, PC, Attention: Harold Somer, Esq., 1025 Old Country Road, Suite 404, Westbury, New York 11590;

B. To the Office of the U.S. Trustee, U.S. Courthouse, Attention: Stan Yang, Esq., 560 Federal Plaza, Central Islip, New York 11722; and

C. Bruce Weiner, Esq., Rosenberg, Musso & Werner, 26 Court Street, Suite 2211, Brooklyn, New York 11242.

ARTICLE XIV

EFFECT OF CONFIRMATION

Except for the rights afforded in this Plan, confirmation of this Plan shall be deemed in accordance with Section 1141(d) of the Bankruptcy Code to have discharged the Debtor from any debt or any claim of whatever nature that arose before the Confirmation Date including, without limitation, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured or unsecured, and any claim of a kind specified in Sections 502(g), (h) or (i) of the Code whether or not:

A. A Proof of Claim based on such debt is filed or deemed to be filed under Section 501 of the Code;

- B. Such Claim is allowed under Section 502 of the Code; or
- C. The holder of such Claim has accepted this Plan.

ARTICLE XV

POST-CONFIRMATION AUTOMATIC STAY

The automatic stay shall continue in effect post-confirmation.

ARTICLE XI

JURISDICTION

The Bankruptcy Court shall retain jurisdiction post-confirmation in connection with all matters related to the confirmed plan including, but not limited to consummation; applications of professionals for compensation; claim objections; and the completion of all of the litigation associated with the Town of Riverhead not otherwise provided for in the plan as the Debtor may be entitled to a monetary award which might be needed to fund the plan of reorganization.

Dated: June 23, 2010

Riverhead Park, Corp.

/S/ Laurence Oxman

By: _____

Laurence Oxman
Secretary/Treasurer

Dated: Westbury, New York
June 23, 2010

HAROLD M. SOMER, PC
Attorney for the Debtor

/S/ Harold M. Somer

By: _____

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