

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE:	)	
	)	
T-L BRYWOOD LLC,	)	Case No. 13-21804
a Delaware Limited Liability Company	)	Chapter 11
	)	Judge J. Philip Klingeberger
	)	
Debtor/Debtor-in-Possession.	)	
	)	
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T-L CONYERS LLC, a Delaware	)	Case No. 13-20280
Limited Liability Company,	)	Chapter 11
	)	Judge J. Philip Klingeberger
	)	
Debtor/Debtor-in-Possession.	)	
	)	
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T-L SMYRNA LLC, a Delaware	)	Case No. 13-20282
Limited Liability Company,	)	Chapter 11
	)	Judge J. Philip Klingeberger
	)	
Debtor/Debtor-in-Possession.	)	
	)	
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T-L CHEROKEE SOUTH LLC, a Delaware	)	Case No. 13-20283
Limited Liability Company,	)	Chapter 11
	)	Judge J. Philip Klingeberger
	)	
Debtor/Debtor-in-Possession.	)	
	)	
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T-L VILLAGE GREEN LLC, a Delaware	)	Case No. 13-20284
Limited Liability Company,	)	Chapter 11
	)	Judge J. Philip Klingeberger
	)	
Debtor/Debtor-in-Possession.	)	

**DEBTORS' JOINT DISCLOSURE STATEMENT**

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a Delaware Limited Liability Company	)	Judge J. Philip Klingeberger
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Limited Liability Company,	)	Chapter 11
	)	Judge J. Philip Klingeberger
Debtor/Debtor-in-Possession.	)	

**DEBTORS' JOINT DISCLOSURE STATEMENT**

T-L BRYWOOD LLC (“Brywood”), T-L CONYERS LLC (“Conyers”), T-L SMYRNA LLC (“Smyrna”), T-L CHEROKEE SOUTH LLC (“Cherokee South”), and T-L VILLAGE GREEN LLC (“Village Green”), Debtors/Debtors-in-Possession,<sup>1</sup> by and through their Attorneys, submit this Joint Disclosure Statement (“Disclosure Statement”) pursuant to Section 1125 of the

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<sup>1</sup>Brywood, Conyers, Smyrna, Cherokee South and Village Green are collectively referred to in this Plan as the “Debtors.”

Bankruptcy Code and in conjunction with their Joint Plan of Reorganization (“Plan”). A copy of the Plan is attached to this Disclosure Statement as **Exhibit A.**<sup>2</sup>

### INTRODUCTION

On March 12, 2012, Brywood filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code. On May 14, 2013, an Order was entered transferring the venue of Brywood’s Chapter 11 case to this Court. On February 1, 2013, Conyers, Smyrna Cherokee South and Village Green filed their voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.<sup>3</sup> The Debtors are operating their businesses and managing their financial affairs as Debtors-in-Possession pursuant to Sections 1101, 1107 and 1108 of the Bankruptcy Code. No trustee, examiner or committee of unsecured creditors has been appointed to serve in these reorganization cases. Brywood is the owner of a commercial shopping center located in Kansas City, Missouri known as the “Brywood Centre” (“Brywood Shopping Center”). The Other Debtors also own shopping centers.

The Debtors are the proponents of the Plan.<sup>4</sup> The Plan provides for distributions to the holders of Allowed Claims from funds realized by the Debtors from the continued operation of the Debtors’ businesses by the Debtors as well as from existing cash deposits and cash resources of the Debtors. To the extent necessary, the payment of the Allowed Secured Claims, as provided for in the Plan (except for monthly interest payments), may be made from the proceeds of refinancing and/or the sale of the Debtors’ assets (or some portion thereof). The terms of this

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<sup>2</sup>Capitalized terms not defined in this Disclosure Statement shall have the meanings ascribed to them in the Plan.

<sup>3</sup>Conyers, Smyrna, Cherokee South and Village Green are, at times, referred to as the “Other Debtors” in this Plan.

<sup>4</sup>The Plan and the Disclosure Statement, or amended versions thereof, will be filed in the Chapter 11 cases of the Other Debtors on or before June 14, 2013.

Plan are, in part, predicated upon the substantive consolidation of the Debtors solely for the purposes of voting, Confirmation, distributions to creditors and administration as provided in Section 1123(a)(5)(C) of the Bankruptcy Code.

**SUMMARY OF TREATMENT OF CLAIMS  
AND INTERESTS UNDER THE PLAN**

The Plan has one (1) category of Administrative Claims, one (1) category of Tax Claims, 20 Classes of creditors (Classes 1 through 20) and one (1) Class of Interests (Class 21). These Claims and Interests, and the treatment thereof, under the Plan consist of the following:

**Administrative Claims**<sup>5</sup>

Administrative Claims are provided for in Article IV, Section 4.1 of the Plan, are unimpaired under the Plan and primarily consist of Allowed Claims comprised of fees and expenses of professionals retained pursuant to Orders entered by the Bankruptcy Court. These fees and expenses are projected as follows:

<b><u>Professional</u></b>	<b><u>Amount</u></b> <sup>6</sup>
Crane, Heyman, Simon, Welch & Clar, Debtor's Counsel	\$ <u>200,000.00</u>
Burke, Warren, MacKay & Serritella, Debtor's Special Counsel (in all Chapter 11 Cases)	\$ <u>50,000.00</u>
Other Special Counsel Retained in Certain Chapter 11 Cases	\$ <u>20,000.00</u>

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<sup>5</sup>Since the Debtors' Chapter 11 Cases were commenced as voluntary proceedings, no claims under Sections 507(a)(3) and 502(f) of the Bankruptcy Code exist.

<sup>6</sup> These amounts are merely the Debtors' estimates and are, therefore, subject to change. Furthermore, in projecting these amounts, the Debtor does not expect a contested Confirmation hearing. In the event of a contested Confirmation hearing, Administrative Claims of professionals may increase.

The amounts projected to professionals holding Allowed Administrative Claims are in addition to amounts previously paid as pre-petition retainers to such professionals. The retainers previously paid to Debtors' professionals were as follows:

<u>Professional</u>	<u>Aggregate Amount Previously Paid</u>	<u>Basis for Prior Payment</u>
Crane, Heyman, Simon, Welch & Clar Debtor's Counsel	<u>\$255,000.00</u>	Pre-Petition Retainers
Burke, Warren, MacKay & Serritella, Debtor's Special Counsel	<u>\$192,500.00</u>	Pre-Petition Retainers

No professional shall be paid unless and until the Bankruptcy Court has entered appropriate Orders allowing the compensation and reimbursement of expenses requested by such professionals. Under the Plan, the Claims of professionals, after credit for retainers and other payments during the course of the Chapter 11 cases, are payable upon allowance by the Bankruptcy Court.

Also included in this category of Administrative Claims are post-petition trade payables and post-petition real estate taxes. Under the Plan, post-petition trade payables and post-petition real estate taxes will be paid in the ordinary course of business from available existing cash resources of the Debtors.

Other than post-petition trade payables, all Administrative Claims, to the extent allowed and subject to the limitations set forth in the Plan, will be paid in full in cash on the Effective Date or as soon as practicable thereafter (and in the case of professionals, after allowance by the Bankruptcy Court) or as agreed to by the holder of each Allowed Administrative Claim. The source of funds for payment of such Administrative Claims will be the existing cash resources of

the Debtors or such other cash as may be generated by the Debtors from the operation of their businesses in the ordinary course.

### **Tax Claims**

The Plan has a specific provision for the payment of taxes which are of the type entitled to priority under Section 507(a)(8) of the Bankruptcy Code (Article IV, Section 4.2 of the Plan). The Plan provides that to the extent any Tax Claim is allowed, such Tax Claims shall be paid in full, in cash, inclusive of interest at the applicable statutory interest rate, on the Effective Date, unless the holder of a Tax Claim agrees to a different treatment. This treatment of Allowed Tax Claims is intended to comply with the requirements of Section 1129(a)(9)(C) of the Bankruptcy Code. The Debtors believe that there are no Allowed Tax Claims.

### **Class 1 Claim**

RCG is the holder of the Allowed Class 1 Claim. For purposes of this Plan, the allowed amount of the Class 1 Claim is \$8,200,000.00. RCG will retain its pre-petition and post-petition liens on Brywood's assets. Commencing in the month following the Effective Date and continuing monthly thereafter until the Allowed Class 1 Claim is paid in full, the Debtor shall make monthly interest payments to RCG calculated at the annual interest rate of 4%. On the Effective Date, the principal amount of the Allowed Class 1 Claim shall be reduced by the remaining amount of any and all payments made by the Debtor to RCG and its predecessor in interest during the course of this Chapter 11 case pursuant to Section 362(d)(3) of the Bankruptcy Code and/or pursuant to any Order entered by the Bankruptcy Court<sup>7</sup> after application of such Post-Petition Payments made in the Brywood Chapter 11 case as against the

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<sup>7</sup>Any payments made by any of the Debtors in their respective Chapter 11 cases pursuant to Section 362 (d)(3) of the Bankruptcy Code and/or pursuant to any Order entered by the Bankruptcy Court are referred to in this Disclosure Statement as "Post-Petition Payments."

RCG Deficiency Claim as set forth in this Plan. The balance of the principal amount of the Allowed Class 1 Claim shall be paid on or before 7 years following the Effective Date.

The Debtor shall have the right to prepay the Allowed Class 1 Claim in whole, or in part, at any time following Confirmation, without penalty. In the event of such prepayment, any and all unearned interest shall be deemed waived. Upon Confirmation, any and all prepayment premiums and any such other requirements set forth in the underlying loan documents shall also be waived and released. The Debtor shall pay all real estate taxes arising after Confirmation and insurance premiums when such payments are due. The terms of the Plan shall be the exclusive terms relating to the repayment of the Allowed Class 1 Claim. The pre-petition loan documents of RCG shall have no force or effect after Confirmation. Upon completion of the payments to the holder of the Allowed Class 1 Claim as required by the Plan, RCG shall be deemed to have released any and all liens on Brywood's assets. To the extent required by Brywood, upon full payment of its Allowed Class 1 Claim, RCG shall immediately prepare and file any document necessary to effect a release of its liens on Brywood's assets. The source of payment of the Allowed Class 1 Claim will be from funds realized from the continued operation of the Debtors' businesses.

### **Class 2 Claim**

CT Bank is the holder of the Allowed Class 2 Claim. For purposes of this Plan, the allowed amount of the Class 2 Claim is \$1,700,000.00. CT Bank will retain its pre-petition and post-petition liens on Conyers' assets. Commencing in the month following the Effective Date and continuing monthly thereafter until the Allowed Class 2 Claim is paid in full, the Debtor shall make monthly interest payments to CT Bank calculated at the annual interest rate of 4%. On the Effective Date, the principal amount of the Allowed Class 2 Claim shall be reduced by the remaining amount of Post-Petition Payments made in the Conyers Chapter 11 case, if any,

after application of such Post-Petition Payments as against the CT Conyers Deficiency Claim as set forth in this Plan. The balance of the principal amount of the Allowed Class 2 Claim shall be paid on or before 7 years following the Effective Date.

The Debtor shall have the right to prepay the Allowed Class 2 Claim in whole, or in part, at any time following Confirmation without penalty. In the event of such prepayment, any and all unearned interest shall be deemed waived. Upon Confirmation, any and all prepayments premiums and any such other requirements set forth in the underlying loan documents shall also be waived and released. The Debtor shall pay all real estate taxes arising after Confirmation and insurance premiums when such payments are due. The terms of the Plan shall be the exclusive terms relating to the repayment of the Allowed Class 2 Claim. The pre-petition loan documents of CT Bank shall have no force or effect after Confirmation. Upon completion of the payments to the holder of the Allowed Class 2 Claim as required by the Plan, CT Bank shall be deemed to have released any and all liens on Conyers' assets. To the extent required by Conyers, upon full payment of its Allowed Class 2 Claim, CT Bank shall immediately prepare and file any document necessary to effect a release of its liens on Conyers' assets. The source of payment of the Allowed Class 2 Claim will be from funds realized from the continued operation of the Debtors' businesses.

### **Class 3 Claim**

CT Bank is the holder of the Allowed Class 3 Claim. For purposes of this Plan, the allowed amount of the Class 3 Claim is \$6,900,000.00. CT Bank will retain its pre-petition and post-petition liens on Smyrna's assets. Commencing in the month following the Effective Date and continuing monthly thereafter until the Allowed Class 3 Claim is paid in full, the Debtor shall make monthly interest payments to CT Bank calculated at the annual interest rate of 4%. On the Effective Date, the principal amount of the Allowed Class 3 Claim shall be reduced by



the remaining amount of the Post-Petition Payments made in the Smyrna Chapter 11 case, if any, after application of such Post-Petition Payments as against the CT Smyrna Deficiency Claim as set forth in this Plan. The balance of the principal amount of the Allowed Class 3 Claim shall be paid on or before 7 years following the Effective Date.

The Debtor shall have the right to prepay the Allowed Class 2 Claim in whole, or in part, at any time following Confirmation without penalty. In the event of such prepayment, any and all unearned interest shall be deemed waived. Upon Confirmation, any and all prepayments premiums and any such other requirements set forth in the underlying loan documents shall also be waived and released. The Debtor shall pay all real estate taxes arising after Confirmation and insurance premiums when such payments are due. The terms of the Plan shall be the exclusive terms relating to the repayment of the Allowed Class 3 Claim. The pre-petition loan documents of CT Bank shall have no force or effect after Confirmation. Upon completion of the payments to the holder of the Allowed Class 3 Claim as required by the Plan, CT Bank shall be deemed to have released any and all liens on Smyrna's assets. To the extent required by Smyrna, upon full payment of its Allowed Class 3 Claim, CT Bank shall immediately prepare and file any document necessary to effect a release of its liens on Smyrna's assets. The source of payment of the Allowed Class 3 Claim will be from funds realized from the continued operation of the Debtor's businesses.

**Class 4 Claim**

CT Bank is the holder of the Allowed Class 4 Claim. For purposes of this Plan, the allowed amount of the Class 4 Claim is \$10,100,000.00. CT Bank will retain its pre-petition and post-petition liens on Cherokee South's assets. Commencing in the month following the Effective Date and continuing monthly thereafter until the Allowed Class 4 Claim is paid in full, the Debtor shall make monthly interest payments to CT Bank calculated at the annual interest

rate of 4%. On the Effective Date, the principal amount of the Allowed Class 4 Claim shall be reduced by the remaining amount of the Post-Petition Payments made in the Cherokee South Chapter 11 case after application of such Post-Petition Payments as against the CT Cherokee South Deficiency Claim as set forth in this Plan. The balance of the principal amount of the Allowed Class 4 Claim shall be paid on or before 7 years following the Effective Date.

The Debtor shall have the right to prepay the Allowed Class 4 Claim in whole, or in part, at any time following Confirmation without penalty. In the event of such prepayment, any and all unearned interest shall be deemed waived. Upon Confirmation, any and all prepayments premiums and any such other requirements set forth in the underlying loan documents shall also be waived and released. The Debtor shall pay all real estate taxes arising after Confirmation and insurance premiums when such payments are due. The terms of the Plan shall be the exclusive terms relating to the repayment of the Allowed Class 4 Claim. The pre-petition loan documents of CT Bank shall have no force or effect after Confirmation. Upon completion of the payments to the holder of the Allowed Class 4 Claim as required by the Plan, CT Bank shall be deemed to have released any and all liens on Cherokee South's assets. To the extent required by Cherokee South, upon full payment of its Allowed Class 4 Claim, CT Bank shall immediately prepare and file any document necessary to effect a release of its liens on Cherokee South's assets. The source of payment of the Allowed Class 4 Claim will be from funds realized from the continued operation of the Debtors' businesses.

#### **Class 5 Claim**

CT Bank is the holder of the Allowed Class 5 Claim. For purposes of this Plan, the allowed amount of the Class 5 Claim is \$6,300,000.00. CT Bank will retain its pre-petition and post-petition liens on Village Green's assets. Commencing in the month following the Effective Date and continuing monthly thereafter until the Allowed Class 5 Claim is paid in full, the

Debtor shall make monthly interest payments to CT Bank calculated at the annual interest rate of 4%. On the Effective Date, the principal amount of the Allowed Class 5 Claim shall be reduced by the remaining, amount of the Post-Petition Payments made in Village Green's Chapter 11 case, after application of such Post-Petition Payments as against the CT Village Green Deficiency Claim as set forth in this Plan. The balance of the principal amount of the Allowed Class 5 Claim shall be paid on or before 7 years following the Effective Date.

The Debtor shall have the right to prepay the Allowed Class 5 Claim in whole, or in part, at any time following Confirmation without penalty. In the event of such prepayment, any and all unearned interest shall be deemed waived. Upon Confirmation, any and all prepayments premiums and any such other requirements set forth in the underlying loan documents shall also be waived and released. The Debtor shall pay all real estate taxes arising after Confirmation and insurance premiums when such payments are due. The terms of the Plan shall be the exclusive terms relating to the repayment of the Allowed Class 5 Claim. The pre-petition loan documents of CT Bank shall have no force or effect after Confirmation. Upon completion of the payments to the holder of the Allowed Class 4 Claim as required by the Plan, CT Bank shall be deemed to have released any and all liens on Village Green's assets. To the extent required by Village Green, upon full payment of its Allowed Class 5 Claim, CT Bank shall immediately prepare and file any document necessary to effect a release of its liens on Village Green's assets. The source of payment of the Allowed Class 5 Claim will be from funds realized from the continued operation of the Debtors' businesses.

**Class 6 Claim**

The JC Collector, the holder of the Allowed Class 6 Claim, will retain its lien on property of Brywood and will be paid in full in cash on the Effective Date or as soon as practicable

thereafter. The source of payment of the Allowed Claim 6 Claim will be from funds realized from the continued operation of the Debtors' businesses.

**Class 7 Claim**

The Conyers Tax Collectors, the holders of the Allowed Class 7 Claims, will retain their liens on property of Conyers, and will be paid in full in cash on the Effective Date or as soon as practicable thereafter. The source of payment of the Allowed Class 7 Claim will be from funds realized from the continued operation of the Debtors' businesses.

**Class 8 Claim**

The Smyrna Tax Collectors, the holders of the Allowed Class 8 Claims, will retain their liens on property of Smyrna, and will be paid in full in cash on the Effective Date or as soon as practicable thereafter. The source of payment of the Allowed Class 8 Claim will be from funds realized from the continued operation of the Debtors' businesses.

**Class 9 Claim**

The Johnson Treasurer, the holder of the Allowed Class 9 Claim, will retain its lien on property of Cherokee South, and will be paid in full in cash on the Effective Date or as soon as practicable thereafter. The source of payment of the Allowed Class 9 Claim will be from funds realized from the continued operation of the Debtors' businesses.

**Class 10 Claim**

The CC Treasurer, the holder of the Allowed Class 10 Claim, will retain its lien on property of Village Green, and will be paid in full in cash on the Effective Date or as soon as practicable thereafter. The source of payment of the Allowed Class 10 Claim will be from funds realized from the continued operation of the Debtors' businesses.

**Class 11 Claim**

Valley View State Bank, the holder of the Allowed Class 11 Claim, will retain its lien on “TIF” revenues and will be paid in full in cash from “TIF” revenues payable from the respective governmental agency as required by the underlying documents relating to the Allowed Class 11 Claim.

**Class 12 Claim**

RCG is the holder of the Allowed Class 12 Claim. The Debtor estimates that the Class 12 Claim may be allowed in the amount of \$3,583,961.00. In full satisfaction, settlement, release and discharge of each and every Allowed Class 12 Claim, the holder thereof shall be paid the sum of \$500,000.00 on the Effective Date payable from the application of the Post-Petition Payments made in the Brywood Chapter 11 case.

**Class 13 Claim**

CT Bank is the holder of the Allowed Class 13 Claim. The Debtor estimates that the Class 13 Claim may be allowed in the amount of \$5,802,333.00. In full satisfaction, settlement, release and discharge of each and every Allowed Class 13 Claim, the holder thereof shall be paid the sum of \$62,000.00 on the Effective Date payable from the application of the Post-Petition Payments made in the Conyers Chapter 11 case. In the event that such Post-Petition Payments are insufficient to pay the sum of \$62,000.00, then such sum shall be paid from available cash resources in equal in quarterly installments over a 12 month period commencing 60 days after the Effective Date.

**Class 14 Claim**

CT Bank is the holder of the Allowed Class 14 Claim. The Debtor estimates that the Class 14 Claim may be allowed in the amount of \$4,307,065.00. In full satisfaction, settlement, release and discharge of each and every Allowed Class 14 Claim, the holder thereof shall be

paid the sum of \$49,000.00 on the Effective Date payable from the application of such Post-Petition Payments made in the Smyrna Chapter 11 case. In the event that the Post-Petition Payments are insufficient to pay the sum of \$49,000.00, then such sum shall be paid from available cash resources in equal quarterly installments over a 12 month period commencing 60 days after the Effective Date.

**Class 15 Claim**

CT Bank is the holder of the Allowed Class 15 Claim. The Debtor estimates that the Class 15 Claim may be allowed in the amount of \$4,378,264.00. In full satisfaction, settlement, release and discharge of each and every Allowed Class 15 Claim, the holder thereof shall be paid the sum of \$131,000.00 payable on the Effective Date from the application of the Post-Petition Payments made in the Cherokee South Chapter 11 case.

**Class 16 Claim**

CT Bank is the holder of the Allowed Class 16 Claim. The Debtor estimates that the Class 16 Claim may be allowed in the amount of \$3,022,932.00. In full satisfaction, settlement, release and discharge of each and every Allowed Class 16 Claim, the holder thereof shall be paid the sum of \$24,000.00 payable on the Effective Date from the application of the Post-Petition Payments made in the Village Green Chapter 11 case.

**Tenant Claims**

Tenants at the Debtors' properties may have provided security deposits to the Debtors in conjunction with their leases with the Debtors. The Plan has a specific provision relating to these Tenant Claims for security deposits (Article V, Section 5.7 of the Plan). These Class 17 Claims are unimpaired under the Plan.

In full satisfaction, settlement, release, and discharge of and in exchange for each and

every Allowed Claim in Class 17, each holder of an Allowed Tenant Claim shall be paid in full in cash as required by the underlying lease between the Debtors and the Class 17 Claim holder. The Debtors shall timely perform all obligations due from it under the terms of the underlying leases.

**Unsecured Creditors Exclusive of Insider Claims,  
Deficiency Claims of Secured Creditors and Noteholder Claims**

Unsecured Creditors exclusive of Insider Claims, the holders of Allowed Claims in Classes 11 through 16, and Noteholder Claims in Class 19 are the holders of Allowed Class 18 Claims and are impaired under the Plan (“Unsecured Claims”). The Debtor estimates that the aggregate amount of Allowed Class 18 Claims is approximately \$591,000.00. The treatment of the Allowed Class 18 Claims is set forth in Article VI, Section 6.11 of the Plan. Under the Plan, the holders of Allowed Class 18 Claims, in full satisfaction, settlement, release, and discharge of and in exchange for each and every Allowed Class 18 Claim, shall be paid 100% of the allowed amount of such Class 18 Claims in cash within 120 days of the Effective Date or as soon as practicable thereafter from available existing cash resources of the Debtors.

**Noteholder Claims**

Noteholder Claims are the Allowed Class 19 Claims, are provided for in Article VI, Section 6.12 of the Plan and are estimated to be in the aggregate amount of \$998,904.11. The Allowed Class 19 Claims are impaired and shall receive \$500,000.00 payable from the proceeds of refinancing or sale of the Brywood Shopping Center. Such payments shall be in full satisfaction, settlement, release and discharge of all Class 19 Claims.

**Insider Claims**

Insiders<sup>8</sup> are the holders of Allowed Class 20 Claims and are impaired under the Plan. The Debtor estimates that the aggregate amount of Insider Claims is approximately \$5,957,879.00. Insider Claims are provided for in Article VI, Section 6.13 of the Plan. Pursuant to Article VII, Section 7.1 of the Plan, all Claims of Insiders are voluntarily subordinated to Allowed Claims in Classes 1 through 5, 12 through 16 and 18, shall not share in any distributions to the holders of Allowed Unsecured Claims as required by the Plan and shall receive no distributions under the Plan unless and until the Allowed Claims in Classes 1 through 5, 12 through 16 and 18 are paid in full or until the holders of Allowed Claims Classes 1 through 5 agree otherwise, whichever occurs sooner.

**Interests**

The members of the Debtors (“Members”) are the holders of Allowed Class 21 Interests. Class 5 Interests are unimpaired under the Plan. Under Article V, Section 5.8 of Plan, the Members of the Debtors shall retain their Interests in the respective Debtors after Confirmation of the Plan. No distributions shall be made to the Member on account of its Interests in the Debtor unless and until the payments to the holders of Allowed Claims in Classes 1 through 5 under the Plan have been completed or until such Secured Creditors agree otherwise, whichever occurs sooner.

**Claims Objections**

Except as otherwise ordered by the Bankruptcy Court or as otherwise provided in the Plan, the Debtors shall file any and all objections to the allowance of Claims or Interests on or

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<sup>8</sup>The term “Insiders” shall have the meaning set forth in Section 101(31) of the Bankruptcy Code.



within one hundred and twenty (120) days of Confirmation unless extended by Order of the Bankruptcy Court. Cause shall not be a requirement for an extension of this deadline.

### **PURPOSE OF DISCLOSURE STATEMENT**

This Disclosure Statement is provided to all of the known holders of Claims against and Interests in the Debtors who are entitled to vote their acceptance or rejection of the Plan. This Disclosure Statement is disseminated in connection with the solicitation of acceptances of the Plan filed by the Debtors. The purpose of this Disclosure Statement is to provide such information as would enable a hypothetical, reasonable investor, typical of the holder of Claims and Interests which are impaired under the Plan, to make an informed judgment about the Plan.

The information contained in this Disclosure Statement has been submitted by the Debtors unless specifically stated to be from other sources. No representations concerning the Debtors or the Plan, other than those set forth in this Disclosure Statement, have been authorized by the Debtors. The Debtors believe that all of the information contained in this Disclosure Statement is accurate. However, the Debtors are unable to warrant that there are no inaccuracies.

**Under the Bankruptcy Code, a Class of Claims is considered to have accepted the Plan if both a majority in number and two-thirds (2/3) of the dollar amount of those actually voting vote to accept the Plan. The Claims of those who do not vote are not counted in determining whether the requisite statutory majority in number and dollar amount have voted for acceptance. Acceptance by the statutory majority will bind the minority who dissent and those who fail to vote.**

**The Plan requires that the holders of Allowed Claims in Classes 1 through 5, 12 through 16 and 18 through 20 vote on Confirmation of the Plan.**

## **HISTORY AND BACKGROUND**

Brywood is a Delaware limited liability company that is the owner of the Brywood Shopping Center. Brywood's manager is Tri-Land Properties, Inc. ("Tri-Land"). Brywood has entered into a Management and Development Agreement with Tri-Land pursuant to which Tri-Land will act as property manager, exclusive leasing agent, developer with respect to the addition of new tenant space or the redevelopment of the Brywood Shopping Center including any existing tenant space, and exclusive agent to offer the Brywood Shopping Center for sale (when so directed by Brywood). Brywood's Member is Tri-Land Kansas City Investors, LLC ("TKC"). TKC is a Delaware limited liability company formed on July 17, 2006, for the purpose of being the sole Member of Brywood. Tri-Land has filed its own separate Chapter 11 case in this Court, case number 12-22623.

Brywood was formed for the purpose of acquiring, owning, operating, and redeveloping the Brywood Shopping Center. The Debtor acquired the Brywood Shopping Center in 2006. The Brywood Shopping Center is located at the northeast corner of Missouri Highway 350 and 63<sup>rd</sup> Street on the border of Kansas City and Raytown, Missouri, approximately 10 miles southeast of downtown Kansas City, Missouri. The Brywood Shopping Center is built on 25.65 acres of land and is currently improved with 3 buildings totaling 182,914 square feet. As of the filing of Brywood's Chapter 11 case, the Brywood Shopping Center had an occupancy rate of approximately 80%.

Tri-Land is the Manager of TKC and the Debtor. Tri-Land's principal office is located at One Westbrook Corporate Center, in Westchester, Illinois, a near-western suburb of Chicago. Tri-Land was founded in 1978 and is a full-service commercial real estate development company specializing in the strategic redevelopment of underutilized, under-performing retail properties. Tri-Land also develops new retail properties and has been involved in the development and

management of over 7 million square feet of property. Tri-Land has completed nearly \$325 million of redevelopment projects at over 40 shopping center locations throughout the Midwest and Mid-Atlantic states. Tri-Land currently manages a portfolio of fifteen (15) properties comprising over 2.5 million square feet, most of which are undergoing redevelopment in one fashion or another. The properties owned by Tri-Land affiliates are located in Georgia, Illinois, Indiana, Kansas, Minnesota, Missouri, New York and Wisconsin.

Brywood's operational and profitability problems are principally due to the general economic problems facing this country over the last several years (particularly in real estate). Additionally, the Private Bank & Trust Company ("Private Bank"), the predecessor secured lender to RCG, imposed unreasonable terms for the extension of the maturity date of the underlying mortgage loan thereby triggering the necessity to file this Chapter 11 case. Despite these issues, Brywood generates substantial rental income at the Brywood Shopping Center that will enable it to comply with the financial requirements of the Plan (especially in conjunction with the substantive consolidation aspect of the Plan).

### **POST-PETITION ACTIVITIES**

The continued administration of Brywood's Chapter 11 case has been primarily predicated upon the entry of a series of Cash Collateral Orders by the Bankruptcy Court. These Cash Collateral Orders established the framework for the continued operation of Brywood's business and the terms under which Brywood could use the cash and cash equivalents that serve as collateral to RCG and its predecessor, Private Bank. These Cash Collateral Orders were entered by the Bankruptcy Court on a consensual basis between the Debtor and the secured party.

Brywood's Chapter 11 case was designated as a "single asset real estate case" within the meaning of Sections 101(51)(B) and 362(d)(3) of the Bankruptcy Code. As a result of this

designation, Brywood has been making monthly payments of \$54,009.82 to the secured lender since June 1, 2012.

Brywood maintained the exclusive periods set forth in Section 1121 of the Bankruptcy Code throughout this Chapter 11 case despite the objections of Private Bank and RCG. The Plan and Disclosure Statement were filed within the exclusive periods (as extended by Orders of the Bankruptcy Court).

The Debtor made several attempts to resolve the various issues with Private Bank during the pendency of Brywood's Chapter 11 case. However, despite these efforts, Private Bank was unwilling to negotiate over the terms of a mortgage restructuring. As a result, no settlement was ever achieved with Private Bank.

Thereafter, on or about December 10, 2012, Private Bank transferred its mortgage on the Brywood Shopping Center and its Claim against Brywood to RCG. RCG acknowledged this transfer by filing a Notice of Assignment of Claim with the Bankruptcy Court. As a result of this transfer, RCG replaced Private Bank as the holder of the Class 1 Claim.

On February 26, 2013, Brywood filed its Motion to Transfer Venue of its Chapter 11 case from the Bankruptcy Court in Chicago, Illinois to this Court. RCG opposed this requested venue transfer. The grounds for the transfer of Brywood's Chapter 11 case centered on the proposed global exit strategy for Brywood and the Other Debtors in the context of the Plan. Specifically, Brywood and the Other Debtors intend to implement a coordinated exit strategy from these Chapter 11 cases under a joint plan of reorganization that was premised, in part, upon the substantive consolidation provided for in the Plan. After briefing and a hearing, the Bankruptcy Court in Chicago, Illinois overruled RCG's objections and granted the venue transfer of Brywood's Chapter 11 case to this Court.

**OTHER ASPECTS OF THE PLAN**

The Plan is premised upon the “deemed” substantive consolidation of the Debtors solely for purposes of implementing the Plan, including for purposes of voting, Confirmation, distributions to creditors and administration. This substantive consolidation provision is permitted under and provided for in Section 1123(a)(5)(C) of the Bankruptcy Code. On the Effective Date, and for Plan implementation purposes only:

- (A) The assets and liabilities of each of the Debtors shall be treated as though such assets and liabilities were assets and liabilities of a single entity;
- (B) The collective cash flow of all of the Debtors maybe utilized to pay for the operating expenses and the payments required under the Plan for all Debtors; and
- (C) Inter-Debtor Claims as of the filing of the Chapter 11 cases, if any, are extinguished.

Notwithstanding the above, such “deemed” substantive consolidation shall not (other than for purposes of implementing the Plan) affect:

- (A) The existing legal and corporate structures of the Debtors, subject to the right of the Debtors to effect the transactions provided in the Plan; and
- (B) The ownership interests in any of the Debtors.

Furthermore, no creditor shall obtain any lien or security interest in any property of the Debtors as a result of the “deemed” substantive consolidation provided in the Plan unless such lien or security interest existed prior to Confirmation or were expressly obtained under the Plan.

The Debtors shall be the disbursing agents charged with making the payments required under the Plan to the holders of Allowed Claims. Management of the Debtors will remain unchanged after Confirmation. Furthermore, Tri-Land, or its successor, shall continue to serve as

the Debtors' agent for management, development and leasing of the properties and shall be paid by the Debtors for such services in the same manner that Tri-Land has been historically paid by the Debtors.

Insiders will voluntarily subordinate any and all Claims that they have to the payment of Allowed Claims in Classes 1 through 5, 12 through 16 and 18. Insiders' Claims (in the approximate aggregate amount of \$5,957,879.00) will only be paid after all Allowed Claims in Classes 1 through 5 are paid pursuant to the Plan. The Insiders' willingness to voluntarily subordinate their Allowed Claims is limited to the context of the Plan.

Upon Confirmation of the Plan, the Debtors shall be revested with their assets, subject only to the terms and conditions of the Plan. The Debtors shall be entitled to continue to operate and manage their businesses and financial affairs without further Order of the Bankruptcy Court, except as set forth in the Plan. Payments to creditors pursuant to the Plan will be made from existing cash deposits and from funds realized from continued business operations. If necessary, the Debtor will pay the Allowed Secured Claims from the proceeds of refinancing and/or the sale of the Debtors' properties (or some portion thereof).

Upon Confirmation, an injunction under Section 524 of the Bankruptcy Code shall arise to prevent any party from foreclosing its lien or security interest or otherwise enforcing its Claims against the Debtors and their assets in this bankruptcy case except as authorized in the Plan. Such injunction shall not affect any secured creditor's right to foreclose upon any security interest provided in the Plan in the event of any post-Confirmation default under the Plan. This injunction will remain in effect until all distributions under the Plan have been made.

The Plan is self-executing. The Debtors shall not be required to execute any newly created documents to effectuate the terms of the Plan. Upon payment as required by the Plan, any liens supporting such Claims shall be deemed released and discharged.

All executory contracts and unexpired leases which exist between the Debtors and any other party, whether such executory contract be in writing or oral, which has not been previously assumed, assigned, rejected or otherwise terminated by the Debtors shall be assumed upon Confirmation of the Plan pursuant to Sections 365 and 1123(b)(2) of the Bankruptcy Code. Any and all Claims asserted by any party arising from the rejection of executory contracts and unexpired leases pursuant to the Plan must be filed on or within thirty (30) days following the rejection. Further, with respect to Claims for default relating to any unexpired lease or executory contract that is assumed pursuant to the Plan, any and all such Claims must also be filed on or within thirty (30) days following Confirmation. Allowed Claims emanating from the rejection of unexpired leases and executory contracts will be treated as Class 18 Claims. Allowed Claims for default emanating from the assumption of unexpired leases and executory contracts will be treated as Administrative Claims. Any person failing to file such a Claim within the time provided in the Plan shall be forever barred from asserting such Claim and shall not receive any distribution under the Plan. The provisions for assumption, assignment and rejection shall be equally applicable to executory contracts and unexpired leases of real and personal property.

The Bankruptcy Court shall retain jurisdiction for certain specified purposes. Any distribution under the Plan that remains unclaimed sixty (60) days after the distribution is made will become property of the Debtors, and will not be recouped in subsequent distributions. The Debtors will have the right to make any distribution to creditors earlier than required by the Plan. The Debtors shall have the right, power and authority after Confirmation to commence any preference, fraudulent conveyance or other litigation they deem appropriate. The Bankruptcy Court shall retain jurisdiction for such litigation.

The provisions of the Plan shall bind all creditors, Interest holders and parties in interest. Except as expressly provided in the Plan or the Bankruptcy Code, no interest or penalties accruing

on or after March 12, 2012, shall be paid on any Claim nor shall any creditor claiming any such interest or penalty be entitled to have its Claim for interest or penalty allowed for payment.

To the extent necessary, pursuant to Section 1129(b) of the Bankruptcy Code, the Debtors intend to request that the Bankruptcy Court confirm the Plan if all applicable requirements of Section 1129(a) of the Bankruptcy Code, other than Section 1129(a)(8), are met.

### **LIQUIDATION ANALYSIS**

Failure of the Debtors to obtain Confirmation of the Plan could result in a forced liquidation or a conversion to cases under Chapter 7 of the Bankruptcy Code and immediate termination of the Debtors' business operations. Under the Plan, all creditors are being paid more than such creditors would receive in such liquidation. With respect to the Allowed Secured Claims, Secured Creditors are being paid the value of their collateral plus interest as set forth in the Plan.

The Debtor estimates the value of the Debtors' properties as follows:

<b><u>Debtor/Shopping Center</u></b>	<b><u>Value</u></b>	<b><u>Mortgage Debt</u></b>
Brywood/ Brywood Shopping Center	\$8,200,000.00	\$11,783,961.00
Conyers/ Conyers Shopping Center	\$1,700,000.00	\$7,502,333.00
Smyrna/ Smyrna Shopping Center	\$6,900,000.00	\$11,207,065.00
Cherokee South/ Cherokee South Shopping Center	\$10,100,000.00	\$14,478,264.00
Village Green/ Village Green Shopping Center	\$6,300,000.00	\$9,322,932.00



Notably, as of April 30, 2013, Brywood and the Other Debtors had approximately \$595,000.00 in cash on deposit in their Debtor in Possession operating accounts. Other than the properties (which the Debtors have estimated as having an aggregate value as of Confirmation of not more than \$33,200,000.00), cash and various accounts receivable and personal property with an aggregate value of less than \$825,000.00, the Debtors have no other assets. All such assets serve as collateral to the Secured Creditors. Existing cash and further cash generated after Confirmation are to be used by the Debtors for payment of creditors' Claims under the Plan and for costs of operation of the Debtors' businesses after Confirmation of the Plan.

In the event of a forced liquidation, such as foreclosure by Secured Creditors on their liens and security interests, any proceeds realized from the liquidation of the Debtors' assets would first be used to pay the costs of collection, which for purposes of this discussion, the Debtors have estimated to be an amount equal to 10% of the gross collection proceeds. Once the costs of collection have been paid, Secured, Administrative and Priority Claims would be paid. Only after making the above disbursements of liquidation proceeds could any distribution be made to general Unsecured Creditors. Typically, in the event of a foreclosure, no creditor other than the mortgage lender (and perhaps real estate tax claimants) would receive funds from the foreclosure. The Debtors assert that such a result should be expected in foreclosures of the properties owned by the Debtors.

Clearly, the dividend being paid to all Unsecured Creditors under the Plan represents substantially more than such Unsecured Creditors would ever receive in a liquidation (which according to the above analysis is nothing). The same is also true for Secured Creditors with respect to their Allowed Secured Claims. Furthermore, the existing trade debt to be paid according to ordinary business terms would also be included in the pool of Administrative Claims thereby substantially increasing the total dollar amount due Administrative Claimants in a liquidation and

further reducing the likelihood of any funds being available for Unsecured Creditors. Also, the projected amount allowable for Administrative Claims, in the event of conversion, would further increase to account for the fees and costs attributable to a Chapter 7 Trustee and his administration or Secured Creditors and the liquidation of their collateral. Finally, the voluntary subordination of Insiders' Claims can only be realized under the Plan.

Upon forced liquidation, Unsecured Creditors would get nothing. In fact, Secured Creditors would also likely receive substantially less than that being paid then under the Plan. Accordingly, the Plan offers all creditors, including Secured Creditors, substantially more than such creditors would receive in a liquidation.

#### **IMPLEMENTATION OF THE PLAN**

As discussed throughout this Disclosure Statement, distributions under the Plan shall be made from cash deposits existing at the time of Confirmation, from proceeds realized from the continued operation of the Debtors' businesses by the Debtors and, if necessary, from the proceeds of refinancing and/or sale of the properties.

#### **FEASIBILITY AND FAIRNESS OF PLAN**

Attached to this Disclosure Statement as **Exhibits B through D** are financial statements pertaining to Brywood's business activity for the periods ending December 31, 2010, December 31, 2011, and December 31, 2012. The purpose of these Exhibits is to provide creditors with historical financial information concerning Brywood's ability to make the payments required under the Plan. These financial statements were prepared by Brywood and are based upon an analysis of actual business activity during the stated periods.

Attached to this Disclosure Statement as **Exhibit E** are financial projections pertaining to Brywood's projected business activity for the three (3) years following Confirmation of the Plan.

Also, attached to this Disclosure Statement as **Exhibit F** are financial projections pertaining to the consolidated cash flow of Brywood and the Other Debtors for the three (3) years following Confirmation. The purpose of these Exhibits is to provide creditors with projected financial information concerning the Debtors' ability to make the payments required under the Plan. These projections were prepared by Tri-Land and the Debtors and are based upon an analysis of past business results and projected future business activity. These projections, coupled with the Debtors' available cash, establish that the Plan is feasible.

The projections represent reasonable calculations based upon historical progressions of the Debtors' business. These projections clearly reflect the Debtors' ability to perform under the proposed Plan. Furthermore, the Debtors' achievements and performance during the course of these reorganization cases further indicate that the Plan is feasible.

After Confirmation of the Plan, the Debtors will operate their businesses in the ordinary course. Payments to creditors pursuant to the Plan will be made from funds realized from continued business operations, from existing cash deposits and cash resources of the Debtors and/or the sale and/or refinancing of the properties. The Debtors have been utilizing the efforts of Silver Portal Capital (who was contractually engaged by Tri-Land) to procure sources of refinancing and/or equity capital that would be utilized to fund the balloon payments to Secured Creditors, potentially fund payments to other creditors required under the Plan and to provide capital for capital improvements and leasing costs at the Debtors' various properties. The Debtors and Tri-Land expect that such a refinancing and capital investment transaction will likely occur within the next twelve (12) months thereby providing the necessary funds described above well before the balloon payment dates to Secured Creditors set forth in the Plan.

**RECOMMENDATION**

The Debtors believe that the Plan represents an opportunity for the holders of Allowed Claims, including Secured Creditors, to receive substantially more than such claimants would receive in forced liquidations. Given the conservative financial projections and the Debtors' past performance, the Plan is also fair. The Debtors strongly recommend that those persons entitled to vote, vote to accept the Plan.

Respectfully Submitted,

T-L BRYWOOD LLC, T-CONYERS LLC, T-L  
SMYRNA LLC, T-L CHEROKEE SOUTH LLC,  
AND T-L VILLAGE GREEN LLC,  
Debtors/Debtors-in-Possession

By: /s/ David K. Welch  
One of Their Attorneys

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