

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re: )  
 ) Chapter 11  
 )  
ESPLANADE HL, LLC, *et al.* )  
 ) Case No. 16-33008  
 ) (Jointly Administered)  
 )  
Debtors.<sup>1</sup> )  
 ) Honorable Carol A. Doyle  
 )  
\_\_\_\_\_ )

**SECOND INTERIM ORDER (I) AUTHORIZING USE OF CASH COLLATERAL;  
(II) GRANTING ADEQUATE PROTECTION; (III) SCHEDULING  
FINAL HEARING; AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “*Motion*”) of Esplanade HL, LLC (“*EHL*”); 2380 Esplanade Drive, LLC (“*Esplanade*”); 171 W. Belvidere Road, LLC (“*Belvidere*”); and 9501 W. 144th Place, LLC (“*9501*,” and collectively with EHL, Esplanade and Belvidere, the “*Debtors*”), pursuant to sections 105, 361, and 363 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “*Bankruptcy Code*”); Rules 2002, 4001, and 9014 of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”); and Rule 4001-2 of the Local Rules of the United States Bankruptcy Court for the Northern District of Illinois (the “*Local Rules*”), requesting entry of interim and final orders (i) authorizing use of Cash Collateral by the Debtors,<sup>2</sup> (ii) granting adequate protection to First Midwest Bank (“*FMB*”), (iii) scheduling a final hearing, and (iv) granting other related relief as necessary, and upon all of the pleadings filed with the Court, due notice having been provided and after due deliberation and consideration and good and sufficient cause appearing therefor, and the Objection to the Motion filed by FMB,

<sup>1</sup> The debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal taxpayer-identification number, are: (i) Esplanade HL, LLC (6804); (ii) 2380 Esplanade Drive, LLC (0331); (iii) 171 W. Belvidere Road, LLC (2032); (iv) 9501 W. 144th Place, LLC (7104); (v) Big Rock Ranch, LLC (7248).

<sup>2</sup> Unless otherwise indicated, capitalized terms used herein have the meanings ascribed to them in the Motion.

**THE DEBTORS EACH RESPECTIVELY AND FMB STIPULATE AS FOLLOWS:**

A. Petition Date. On October 17, 2016 (the "*Petition Date*"), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are continuing in the management and possession of their business and properties as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

B. Committee. As of the date hereof, no request has been made for the appointment of a trustee or examiner, and no statutory committee of unsecured creditors has been appointed in the Chapter 11 Cases.

C. Jurisdiction; Core Proceeding; Venue. This Court has jurisdiction over the Chapter 11 Cases, this proceeding, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A) and (M). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

D. Cash Collateral. FMB's "cash collateral," as that term is used in this Order shall mean such collateral as included in section 363(a) of the Bankruptcy Code, and shall include, without limitation, any and all prepetition cash and rights to payments in which FMB has a valid security interest or lien, and subject to section 552 of the Bankruptcy Code, all cash proceeds of the prepetition property of the estates of the respective Debtors subject to a security interest or lien held by FMB (collectively, the "*Cash Collateral*").

E. Receivers. Prior to the Petition Date:

1. On August 24, 2016, the Circuit Court of the Nineteenth Judicial Circuit in Lake County, Illinois appointed Matthew Brash (the "*Belvidere Receiver*") as receiver over Belvidere's property. The Receiver is in control of the Belvidere property. Belvidere turned over the keys, and believes it has turned over all of its books and records, to the Receiver prior to the Petition Date.

2. On September 20, 2016, the Circuit Court for the 16th Judicial District in Kane County, Illinois (the "*Kane County Court*") appointed Matthew Brash (the "*EHL Receiver*") as receiver over EHL's property. The Receiver is in control of the EHL property. EHL turned over the keys, and believes it has turned over all of its books and records, to the Receiver prior to the Petition Date.

3. On October 3, 2016, the Kane County Court appointed Matthew Brash (the "*Esplanade Receiver*") as receiver over Esplanade's property. Esplanade turned over its keys to Esplanade's property to the Esplanade Receiver prior to the Petition Date, but filed its chapter 11 bankruptcy case prior to turning over its books and records to the Esplanade Receiver.

4. On October 4, 2016, the Circuit Court of Cook County, Chancery Division appointed Matthew Brash (the "*9501 Receiver*") as receiver over 9501's property. 9501 turned over its keys to 9501's property to the 9501 Receiver prior to the Petition Date, but filed its chapter 11 bankruptcy case prior to turning over its books and records to the 9501 Receiver.

5. Pursuant to an Agreed Order of even date hereof resolving that certain (i) Emergency Motion of EHL, Esplanade and Belvidere and 9501 (collectively, the "*Non-Ranch Debtors*") to Compel Matthew Brash, Receiver to Comply with Section 543 of the Bankruptcy Code (Docket No. 11) ("*Debtors' Motion*"); and (ii) Motion of FMB to Excuse Compliance With Turnover Provisions of Section 543 of the Bankruptcy Code [Docket No. 13], the Receiver has agreed to turn over all of the property of the Non-Ranch Debtors to the respective Non-Ranch Debtors.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

1. Authorization to Use Cash Collateral.

A. Belvidere is hereby authorized to use the Cash Collateral for the period of time provided for in the cash collateral budget attached hereto as Exhibit A (collectively, as such budget may be extended, varied, supplemented, or otherwise modified in accordance with the terms of this Second Interim Order, the "*Belvidere Budget*"). FMB has reviewed, and approved, the Belvidere Budget. Belvidere shall (i) provide an accounting to FMB of all funds received and disbursed during the preceding week each Tuesday before 4:00 p.m. and (ii) not to make any expenditures in excess of those amounts set forth in the Belvidere Budget without the prior written consent (can be by email) of FMB.

B. EHL is hereby authorized to use the Cash Collateral for the period of time provided for in the cash collateral budget attached hereto as Exhibit B (collectively, as such budget may be extended, varied, supplemented, or otherwise modified in accordance with the terms of this Second Interim Order, the "*EHL Budget*"). FMB has reviewed, and approved, the EHL Budget. EHL shall (i) provide an accounting to FMB of all funds received and disbursed during the preceding week each Tuesday before 4:00 p.m. and (ii) not to make any expenditures in excess of those amounts set forth in the EHL Budget without the prior written consent (can be by email) of FMB.

C. Esplanade is hereby authorized to use the Cash Collateral for the period of time provided for in the cash collateral budget attached hereto as Exhibit C (collectively, as such budget may be extended, varied, supplemented, or otherwise modified in accordance with the terms of this Second Interim Order, the "*Esplanade Budget*"). FMB have reviewed, and approved, the Esplanade Budget. Esplanade shall (i) provide an accounting to FMB of all funds received and disbursed during the preceding week each Tuesday before 4:00 p.m. and (ii) not to make any

expenditures in excess of those amounts set forth in the Esplanade Budget without the prior written consent (can be by email) of FMB.

D. 9501 is hereby authorized to use the Cash Collateral for the period of time provided for in the cash collateral budget attached hereto as Exhibit D (collectively, as such budget may be extended, varied, supplemented, or otherwise modified in accordance with the terms of this Second Interim Order, the “9501 Budget”). FMB has reviewed, and approved, the 9501 Budget. 9501 shall (i) provide an accounting to FMB of all funds received and disbursed during the preceding week each Tuesday before 4:00 p.m. and (ii) not to make any expenditures in excess of those amounts set forth in the 9501 Budget without the prior written consent (can be by email) of FMB.

E. No Debtor may use the Cash Collateral of another Debtor.

F. Any payment of interest represents an interim agreement between the parties and is not an acknowledgement by (i) FMB that it is adequately protected nor a waiver of any basis to seek adequate protection and (ii) the respective Debtor that FMB is entitled to adequate protection or payment of postpetition interest. Each of the Debtors and FMB reserve all of their respective rights with respect to the payment of such interest.

G. Big Rock Ranch, LLC is not authorized to use Cash Collateral.

2. Adequate Protection.

(a) Proceeds of Prepetition Collateral. To the extent provided by section 552 of the Bankruptcy Code, all proceeds of the Prepetition Collateral (as further defined herein) that would be subject to FMB’s security interests or liens shall also be subject to the Adequate Protection Liens.

(b) Replacement Liens. In addition to all existing security interests and liens granted to and held by FMB in and to the Prepetition Collateral, as further adequate protection for the Debtors' use of the Cash Collateral on the terms and conditions of this Second Interim Order, but only to secure an amount equal to the Collateral Diminution (as hereinafter defined), the Borrowers hereby grant to FMB: pursuant to sections 361(2) and 363(e) of the Code, automatically and retroactively effective as of the Petition Date, valid, binding, and properly perfected postpetition security interests and replacement liens on the Prepetition Collateral (the "*Adequate Protection Liens*"). As used in this Second Interim Order, the following terms shall have the following meanings:

(i) "Collateral Diminution" shall mean an amount equal to the aggregate diminution of the value of FMB's interest in the Prepetition Collateral from and after the Petition Date, for any reason including, without limitation, depreciation, sale, loss, or use of the Prepetition Collateral, including the Cash Collateral, whether in accordance with the terms and conditions of this Second Interim Order or otherwise;

(ii) "Prepetition Collateral" shall mean the property of the estates of the respective Debtors that are subject to security interests or liens held by FMB as of the Petition Date and shall include all proceeds thereof.

3. Perfection of Liens. The Adequate Protection Liens shall be, and hereby are, deemed duly perfected and recorded under all applicable federal or state or other laws as of the date hereof, and no notice or other act, shall be required to effect such perfection.

4. Rents. Until further order of this Court, tenants of each of the Debtors' respective properties shall pay rent including, but not limited to, the rents due November 1, 2016, as follows:

- (a) Belvidere. Belvidere tenants shall pay rents to Belvidere.
- (b) EHL. The EHL tenants shall pay rents to EHL.
- (c) Esplanade. Esplanade tenants shall pay rents to Esplanade.

(d) 9501. 9501 tenants shall pay rents to 9501.

5. Carve-Out. Subject to the remaining provisions of this Second Interim Order, FMB's liens on and security interests in the Collateral, shall be subordinate and subject only to any unpaid fees payable pursuant to 28 U.S.C. § 1930 and any unpaid fees payable to the Clerk of this Court or the U.S. Trustee.

6. No Waiver. The rights and obligations of the Debtors and the rights, claims, liens, security interests and priorities of FMB arising under this Second Interim Order are in addition to, and not intended as a waiver or substitution for, the rights, obligations, claims, liens, security interests and priorities granted by the Debtors, as prepetition debtors, under any prepetition financing documents.

7. Effect of Modification of Order. The Debtors, respectively, may each seek to modify, vacate, or amend the relevant respective Budget with the advance written consent of FMB. If any of the provisions of this Second Interim Order are hereafter modified, vacated, or stayed by subsequent order of this or any other Court, such stay, modification, or vacatur shall not affect the validity of any prepetition obligations outstanding immediately prior to the effective time of such stay, modification or vacation, or the validity and enforceability of any lien, priority, right, privilege or benefit authorized hereby with respect to any such prepetition obligations.

8. No Third Party Rights. Except as explicitly provided for herein, this Second Interim Order does not create any rights for the benefit of any third party, creditor, equity holder, or any other direct, indirect or incidental beneficiary.

9. Jurisdiction. The Court has and will retain jurisdiction to enforce this Second Interim Order according to its terms.

10. Order Effective. This Second Interim Order shall be effective as of the date of signature by the Court.

11. Notice of Continued Interim Hearing. The interim hearing on the use of Cash Collateral is hereby continued until November 30, 2016 at 10:30 a.m. in Courtroom 742, 219 S. Dearborn Street, Chicago, Illinois.  
IT IS SO ORDERED.

Dated: November 8, 2016

ENTER:

  
United States Bankruptcy Judge

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## **EXHIBIT A**

<b>171 W. Belvidere Road LLC Cash Collateral Budget</b>			
November 7, 2016 - November 27, 2016			
	11/7-11/13	11/14-11/19	11/20-11/27
Beginning Cash Balance*	*	*	*
<b>INCOME</b>			
Operating Income (Gross Receipts)**	\$ 17,312.00	\$ -	
Other Income	\$ -	\$ -	\$ -
<b>Total Income</b>	\$ 17,312.00	\$ -	\$ -
<b>EXPENSES***</b>			
<b>Commissions</b>			
Bank Charges /First Midwest	\$ (15.00)	\$ -	
Village of Round Lake	\$ (340.00)	\$ -	
Discretionary Repairs & Maintenance	\$ (1,500.00)	\$ -	\$ -
Legal Fees	\$ -	\$ -	\$ (5,000.00)
United States Trustee Fees	\$ -	\$ -	\$ -
Real Estate Tax Escrow	\$ (5,262.02)	\$ -	\$ -
Interest-Only Payments to FMB	\$ (2,650.00)	\$ -	\$ -
Property Taxes / appeal	\$ -	\$ -	\$ -
Fire / Security	\$ -	\$ -	
Equipment Maintenance	\$ -	\$ -	\$ -
Snow Removal/Pavement Solutions	\$ (1,900.00)	\$ -	
Landscaping/Martins Landscaping	\$ (440.00)	\$ -	\$ -
Landscaping/TruGreen	\$ (200.00)	\$ -	\$ -
Management Fees/Rotterdam Private Equities	\$ (2,500.00)	\$ -	
Pest Control	\$ -	\$ -	\$ -
Storm Water/Drainage Maintenance	\$ -	\$ -	
Annual Backflow	\$ -	\$ -	\$ -
Asset Management Fee	\$ -	\$ -	\$ -
Annual Roof	\$ -	\$ -	\$ -
Utilities/ComEd	\$ (350.00)	\$ -	\$ -
Utilities/Nicor	\$ (250.00)	\$ -	\$ -
Building Supplies	\$ -	\$ -	\$ -
Trash Removal/Groot	\$ (200.00)	\$ -	\$ -
Insurance	\$ -	\$ -	\$ -
<b>TOTAL EXPENSES</b>	\$ (15,607.02)	\$ -	\$ (5,000.00)
<b>NET INCOME/LOSS</b>	\$ 1,704.98	\$ -	\$ (5,000.00)
Ending Cash Balance	*	*	*

\* 171 W. Belvidere Road, LLC ("*Belvidere* ") does not have sufficient information to perform a cash reconciliation as the Belvidere Receiver is not required to turnover Belvidere's books and records until November 14, 2016.

\*\* Represents estimated revenue as Belvidere does not have sufficient information to know November collections as the Belvidere Receiver is not required to turnover Belvidere's books and records until November 14, 2016. To the extent that the Receiver collected November rents, Belvidere assumes that the Receiver will be turning over such rent on or before November 9.

\*\*\* Belvidere assumes that the Belvidere Receiver has paid the expenses set forth on the Budget attached to the first Interim Cash Collateral Order

## **EXHIBIT B**

<b>Esplanade HL, LLC Cash Collateral Budget</b>			
November 7, 2016 thru - November 25, 2016			
	11/7 - 11/13	11/13/2020	11/20-11/27
Beginning Cash Balance*	*	*	*
<b>INCOME</b>			
Operating Income (Gross Receipts)**	\$ 34,475.00	\$ -	
Other Income	\$ -		
<b>Total Income</b>	<b>\$ 34,475.00</b>	<b>\$ -</b>	<b>\$ -</b>
<b>EXPENSES***</b>			
Commissions	\$ -	\$ -	\$ -
Bank Charges	\$ -	\$ -	\$ -
Licenses & Permits	\$ -	\$ -	\$ -
Discretionary Repairs & Maintenance	\$ (1,500.00)	\$ -	\$ -
Professional Fees	\$ -	\$ -	\$ -
Legal Fees	\$ -	\$ -	\$ (10,000.00)
United States Trustee Fees	\$ -	\$ -	\$ -
Interest-Only Payments to FMB	\$ (8,000.00)	\$ -	\$ -
Property Taxes / appeal	\$ -	\$ -	\$ -
Fire / Security	\$ -	\$ -	\$ -
Equipment Maintenance	\$ -	\$ -	\$ -
Landscaping / Snow Removal	\$ -	\$ -	\$ -
Mechanic Lien Escrow	\$ (2,750.00)		
Management Fees/Rotterdam Private Equities	\$ (2,750.00)	\$ -	
Insurance	\$ -	\$ -	
<b>TOTAL EXPENSES</b>	<b>\$ (15,000.00)</b>	<b>\$ -</b>	<b>\$ (10,000.00)</b>
<b>NET INCOME/LOSS</b>	<b>\$ 19,475.00</b>	<b>\$ -</b>	<b>\$ (10,000.00)</b>
Ending Cash Balance	*	*	*

\* Esplanade HL, LLC ("EHL ") does not have sufficient information to perform a cash reconciliation as the EHL Receiver is not required to turnover EHL's books and records until November 14, 2016.

\*\* Represents estimated revenue as EHL does not have sufficient information to know November collections as the EHL Receiver is not required to turnover EHL's books and records until November 14, 2016. To the extent that the Receiver collected November rents, EHL assumes that the Receiver will be turning over such rent on or before November 9.

\*\*\* EHL assumes that the EHL Receiver has paid the expenses set forth on the Budget attached to the first Interim Cash Collateral Order

## **EXHIBIT C**

<b>2380 Esplanade Drive LLC Cash Collateral Budget</b>			
November 7, 2016 - November 27, 2016			
	11/7-11/13	11/14-11/19	11/20-11/27
Beginning Cash Balance	\$11,196.31	\$ 11,592.31	\$ 11,592.31
<b>INCOME</b>			
Operating Income (Gross Receipts)	\$ 28,036.00	\$ -	
Other Income	\$ -	\$ -	\$ -
Total Income	\$ 28,036.00	\$ -	\$ -
<b>EXPENSES</b>			
Commissions - Premier Realty (New Lease)	\$ (6,900.00)	\$ -	\$ -
Bank Charges - First Midwest	\$ (15.00)	\$ -	\$ -
Village of Algonquin	\$ (50.00)	\$ -	\$ -
Discretionary Repairs & Maintenance	\$ (1,500.00)	\$ -	\$ -
Legal Fees	\$ -	\$ -	\$ (5,000.00)
Real Estate Tax Escrow	\$ (11,000.00)	\$ -	\$ -
United States Trustee Fees	\$ -	\$ -	\$ -
Interest-Only Payments to FMB	\$ (2,600.00)	\$ -	\$ -
Fire / Security Alarm Detection Systems	\$ (210.00)	\$ -	\$ -
HVAC/P&M Mercury Mechanical	\$ (320.00)		
Janitorial/ABM Janitorial	\$ (370.00)	\$ -	\$ -
Landscaping/ Martins Landscaping	\$ (450.00)		
Landscaping / TruGreen	\$ (400.00)	\$ -	\$ -
Snow Removal/Pavement Solutions	\$ (1,900.00)		
Management Fees/Rotterdam Private Equities	\$ (2,500.00)	\$ -	\$ -
Pest Control/Presto-X	\$ (150.00)	\$ -	\$ -
Paint/Village Vintner	\$ (550.00)		\$ -
Security/Sentury Security	\$ (190.00)		
Elevator Maintenance/Schindler Elevator	\$ (320.00)	\$ -	\$ -
Annual Backflow	\$ -	\$ -	\$ -
Phone/AT&T	\$ (240.00)	\$ -	\$ -
Annual Roof	\$ -	\$ -	\$ -
Utilities/ComEd	\$ (1,000.00)	\$ -	\$ -
Utilities/Homefield Energy	\$ (1,800.00)		
Utilities/Nicor	\$ (1,300.00)		
Building Supplies	\$ -	\$ -	\$ -
Trash Removal/Groot Disposal	\$ (200.00)	\$ -	\$ -
Insurance/Erie Insurance	\$ (575.00)	\$ -	\$ -
TOTAL EXPENSES	\$ (27,640.00)	\$ -	\$ (5,000.00)
NET INCOME/LOSS	\$ 396.00	\$ -	\$ (5,000.00)
Ending Cash Balance	\$ 11,592.31	\$ 11,592.31	\$ 6,592.31

## **EXHIBIT D**



<b>9501 W. 144th Place LLC Cash Collateral Budget</b>			
November 7, 2016 - November 27, 2016			
	11/7-11/13	11/14-11/20	11/21-11/27
Beginning Cash Balance	\$ 29,963.98	\$ 35,947.08	\$ 32,647.08
<b>INCOME</b>			
Operating Income (Gross Receipts)	\$ 44,500.00	\$ -	
Other Income	\$ -	\$ -	
Total Income	\$ 44,500.00	\$ -	\$ -
<b>EXPENSES</b>			
Olivieri Real Estate, LLC - Commissions	\$ (4,100.00)	\$ -	\$ -
Bank Charges	\$ (40.00)	\$ -	\$ -
Licenses & Permits	\$ (50.00)	\$ -	\$ -
Discretionary Repairs & Maintenance	\$ -	\$ (1,500.00)	\$ (1,500.00)
Legal Fees	\$ -	\$ -	\$ (5,000.00)
United States Trustee Fees	\$ -	\$ -	\$ -
Real Estate Tax Escrow	\$ (18,000.00)		
Interest-Only Payment to FMB	\$ (4,300.00)	\$ -	\$ -
Fire / Security	\$ (250.00)	\$ -	\$ -
Equipment Maintenance	\$ (430.00)	\$ -	\$ -
GR Stob	\$ (565.25)	\$ (750.00)	\$ -
Klee Landscaping	\$ -	\$ -	\$ (825.00)
Otis Elevator	\$ (180.03)	\$ -	\$ -
Seneca Management Fees	\$ (2,208.83)	\$ -	\$ -
Riteway Pest Control	\$ -	\$ (150.00)	\$ -
Armor Security Master Locksmith	\$ (146.50)		\$ -
The Millard Group	\$ (3,267.45)	\$ -	\$ -
ComCast Cable	\$ (146.50)	\$ -	\$ -
P&M/Mercury Mechanical Corp.	\$ (699.00)	\$ -	\$ (750.00)
Asset Management Fee	\$ (4,500.00)	\$ -	\$ -
AT&T Telephone	\$ -	\$ (100.00)	\$ -
ComEd	\$ (2,880.67)	\$ -	\$ -
Nicor Gas	\$ (132.67)	\$ -	\$ -
John Stanley	\$ (500.00)	\$ -	\$ -
Anzy's supplies	\$ -	\$ (600.00)	\$ -
Nuway Disposal	\$ -	\$ (200.00)	\$ -
Village of Orland Park	\$ (220.00)	\$ -	\$ -
TOTAL EXPENSES	\$ (38,516.90)	\$ (3,300.00)	\$ (8,075.00)
NET INCOME/LOSS	\$ 5,983.10	\$ (3,300.00)	\$ (8,075.00)
Ending Cash Balance	\$ 35,947.08	\$ 32,647.08	\$ 24,572.08