

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

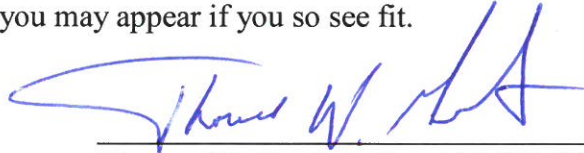
IN RE:)
) Case No. 16-80238
The Oaks of Prairie Point Condominium,) Chapter 11
) Judge Thomas M. Lynch
)
Debtor/Debtor-in-Possession.)

NOTICE OF MOTION

TO: ATTACHED SERVICE LIST:

PLEASE TAKE NOTICE that on the 22nd day of September, 2017 at 11:00 a.m. or as soon thereafter as counsel can be heard, I shall appear before the Honorable Judge Thomas M. Lynch, Bankruptcy Judge, in the room usually occupied by him at U.S. Courthouse, 327 South Church Street, Courtroom 3100, Rockford, IL 61101, or before any other Judge who may be sitting in his place and stead and shall present the **Second Motion for Authority to Use Cash Collateral to Replace Roofs and For Related Relief**, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith.

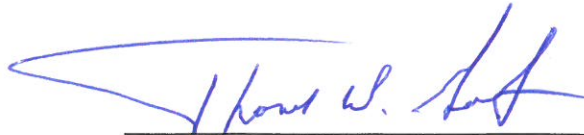
AT WHICH TIME and place you may appear if you so see fit.



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CERTIFICATE OF SERVICE

The undersigned, being first duly sworn on oath deposes and states that he caused a copy of the foregoing Notice and attached **Second Motion for Authority to Use Cash Collateral and For Related Relief**, to be served on all the parties listed on the attached service list first class mail, properly addressed, postage pre-paid, on the 15th day of September, 2017, before the hour of 5:30 p.m.



SERVICE LIST

U.S. Trustee
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IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)
) Case No. 16-80238
The Oaks of Prairie Point Condominium,) Chapter 11
) Judge Thomas M. Lynch
)
Debtor/Debtor-in-Possession.)

**SECOND MOTION FOR AUTHORITY TO USE CASH
COLLATERAL TO REPLACE ROOFS AND FOR RELATED RELIEF**

The Oaks of Prairie Point Condominium, Debtor/Debtor-in-Possession (“Debtor”) herein, by and through its Attorneys, makes its Motion pursuant to Section 363 of the Bankruptcy Code, Rule 4001(b) of the Federal Rules of Bankruptcy Procedure and Rule 4001-2 of the Local Rules of this Court For Authority to Use Cash Collateral and For Related Relief; and in support thereof, states as follows:

Introduction

1. On February 3, 2016, the Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code (“Petition Date”).
2. The Debtor is operating its business and managing its financial affairs as Debtor in Possession. No trustee, examiner or committee of unsecured creditors has been appointed to serve in this reorganization case.
3. By this Motion, the Debtor requests that this Court authorize it to use certain cash and cash equivalents that allegedly serve as collateral for claims asserted against the Debtor and its property by Illinois State Bank (“Lender”).
4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. Sections 157 and 1334.

5. This matter constitutes a “core” proceeding within the meaning of 28 U.S.C. Section 157(b)(2)(A)(M) and (O).

Relevant Factual Background

6. The Debtor, the Oaks of Prairie Point Condominium, is an Illinois corporation, that is the owner and operator of a condominium buildings located in Lake in the Hills, Illinois, known as “The Oaks of Prairie Point Condominium,” (“Property”).

7. The Property is comprised of a eleven buildings, a recreation/fitness center and common areas and landscaping and is located at 1300 Cunat Court, Lake in the Hills, Illinois.

8. The Debtor’s problems are principally due to payments of a loan relating to the fitness center.

9. The Lender asserts a senior position mortgage lien and claim against the Property which purportedly secures a senior mortgage indebtedness of approximately \$1,175,000.00. In addition to its mortgage lien on the Property, the Lender asserts a security interest in and lien upon the assessments being generated at the Property.

10. Based upon the underlying loan documents of the Lender, the cash collateral issues in this Chapter 11 case relate to the assessments generated at the Property.

Use of Cash Collateral

11. In order for the Debtor to continue to operate its business and manage its financial affairs, and effectuate an effective reorganization, it is essential that the Debtor be authorized to use cash collateral for, among other things, the following purposes:

- A) Maintenance and Repairs;
- B) Insurance;
- C) Utilities;

- D) Real estate taxes;
- E) Real estate management fees;
- F) Other miscellaneous items needed in the ordinary course of business.

Attached to this Motion as **Exhibit A** is the summary of the roof replacement estimates as well as the proposal from Hogan Exteriors (“Hogan”) which has previously replaced roofs at the property and has been doing emergency roof repairs for the Debtor over the past few years.

12. The Debtor selected Hogan because of its prior experience at the property and expertise.

13. In May of 2011 the roofs suffered damage from a hail storm. In October of 2011, Roofing Consultants Ltd. performed a roof inspection and determined that all of the buildings had the same shingles which showed significant deterioration and were an inferior roofing product. A copy of the report is attached as **Exhibit B**. The report further concluded that the insured (Debtor) should consider planning for the replacement of the roofs in the near future to avoid any additional damage.

14. Since that time three of the buildings roofs have been replaced in 2014 and three more in 2015 and the remaining buildings’ roofs also must be replaced in order to preserve the property and avoid new claims being filed against the Debtor by unit owners who have suffered damage to their units. See email attached as **Exhibit C**.

15. The Debtor has tried do the minimum repairs but it has become apparent these repairs are both insufficient and a waste of money at this time. As set forth in the photographs attached as **Exhibit D**, the damage to the roofs and need to replace the roofs are obvious.

16. On April 6, 2017 Debtor filed its first motion seeking authority to use cash collateral to replace the roofs. After an evidentiary hearing, this court entered an order on May 10, 2017 denying the motion without prejudice.

17. Since the denial of the first motion Debtor has continued to suffer costly temporary repairs and has now been advised by Hogan that the roofs can no longer be repaired and must be replaced. See emails and photograph attached as **Exhibit E**.

18. The Debtor currently has sufficient cash to pay for the roof replacements.

19. The Use of cash collateral to pay for the roof replacement, will preserve the value of the Debtor's assets and thereby ensure that the interests of creditors that have or may assert an interest in both cash collateral and the Debtor's other assets are adequately protected within the meaning of Sections 361, 362 and 363 of the Bankruptcy Code.

20. Unless the Debtor is authorized to use cash collateral in which the Lender asserts an interest, the Debtor will be unable to continue to operate and manage its property without potential claims brought by unit owners for damage to their property but also against the Debtor for potential claims of a breach of fiduciary duty to maintain the property. The disallowance of the requested use of cash will cause irreparable harm to the Debtor, its creditors and this estate.

Conclusion

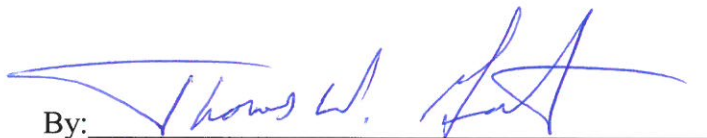
21. The Debtor believes that it is in the best interests of the Debtor, its creditors, and this estate to authorize it to use that portion of its assets herein requested, all or a portion of which may constitute cash collateral, in that, without the limited use of those assets as herein requested, the Debtor will be unable to repair and maintain the property thereby resulting in immediate and irreparable harm and loss to the estate.

22. For the reasons set forth herein, this Court should grant the relief requested in this Motion.

WHEREFORE, The Oaks of Prairie Point Condominium, as Debtor/Debtor-in-Possession herein, prays for the entry of an Order as follows:

- A. Authorizing the Debtor to use cash collateral in which the Lender asserts liens, to replace the roofs upon the terms and conditions set forth in the Hogan Exteriors proposal attached as Exhibit A.
- B. Granting such other relief as this Court deems just and appropriate.

The Oaks of Prairie Point Condominium,
Debtor/Debtor-in-Possession

By: 
One of its Attorneys

DEBTOR'S COUNSEL:

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