

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)	Chapter 11
)	
HARTFORD COURT DEVELOPMENT, INC.)	Case No. 17 B 01356
)	
)	Hon. Judge Jack B. Schmetterer
)	
Debtor.)	

**TENTH INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL
PURSUANT TO 11 U.S.C. § 363 AND GRANTING ADEQUATE PROTECTION
AND OTHER RELIEF TO HINSDALE BANK & TRUST COMPANY**

Upon the Motion ("Motion") of Hartford Court Development, Inc. ("Debtor") seeking this Court's authorization pursuant to § 363 of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (as amended, the "Bankruptcy Code") and Rule 4001(b) of the Federal Rules of Bankruptcy Procedure and Rule 4001-2 of the Local Rules of this Court (as amended, the "Bankruptcy Rules"), to use Cash Collateral (as defined below); a preliminary hearing having been held before this Court; Hinsdale Bank & Trust Company, as successor-in-interest to Suburban Bank and Trust ("Lender") having objected to the Debtor's use of cash collateral other than pursuant to the terms of this Order and upon the entire record made at the preliminary hearing on the Motion, and this Court having found good and sufficient cause appearing therefor,

THE DEBTOR STIPULATES THAT:

Debtor's Bankruptcy Case

A. On January 17, 2017 (the "Petition Date"), the Debtor filed its voluntary petition for relief with this Court under Chapter 11 of the Bankruptcy Code (this "Chapter 11 Case"). The Debtor is continuing in possession of its property, and operating and

managing its business as a debtor in possession pursuant to Bankruptcy Code §§ 1107 and 1108.

B. The Debtor is an Illinois corporation that owns and manages 14 residential condominiums and their related parking spaces, all located in the 5300 block of North Cumberland Avenue in Chicago, Illinois.

C. Lender holds a secured interest in those units commonly known as (i) 5306 N. Cumberland Ave., Units 310-3, 321-3, 323-3, 412-3, 504-3, 510-3, and 520-3 Chicago, Illinois 60656, (ii) 5348 N. Cumberland Ave., Units 304-2, 308-2, 404-2 and 408-2 Chicago, Illinois 60656 and (iii) 5358 N. Cumberland Ave., Units 405-2, 409-2 and Parking Spots Nos. P-113, P-108, P-107, P-75, P-106, P-76, P-88, P-23, P-363, P-24, P-364, P-43, P-37, P-38, P-41, P-365, P-39 and P-366 Chicago, Illinois 60656 (collectively, the "Properties").

D. This Court has jurisdiction over this Chapter 11 Case and the Motion pursuant to 28 U.S.C. §§ 157(b) and 1334. Consideration of the Motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2).

E. All objections to the entry of this Order are resolved hereby.

Lender Loan

F. Lender holds a valid first priority security interest in and lien on the Pre-Petition Collateral (as defined below) pursuant to (i) that certain Mortgage dated February 3, 2009 by the Debtor in favor of Lender with respect to the Properties recorded with the Cook County Recorder of Deeds on February 17, 2009 as Document Number 0904847116, (the "Mortgage"); and (ii) that certain Assignment of Leases and Rents dated February 3, 2009 by the Debtor in favor of Lender with respect to the Properties

recorded with the Cook County Recorder of Deeds on February 17, 2009 as Document Number 090487117 (as the same may be further amended, restated, supplemented, or otherwise modified from time to time, the “AOR”).

G. The Mortgage, AOR, and all other documents evidencing or delivered in connection therewith are referred to as the “Loan Documents”.

H. In accordance with the terms of the Loan Documents, as of the Petition Date, Lender alleges that the aggregate amount of approximately \$822,847.81, without defenses, counterclaim or offset of any kind, is owed to Lender as of the Petition Date and shall be referred to as the “Pre-Petition Indebtedness”. The Pre-Petition Indebtedness is fully matured and outstanding since October 31, 2016. This stipulation does not affect the Debtor’s rights to contest the amount of the Lender’s proof of claim to be filed in this case.

I. The Debtor granted to Lender security interests in, but not limited to, (i) the Properties; and (ii) any and all rents, revenues, income, profits, and proceeds generated from the Properties, as more fully described in the Loan Documents, which are incorporated herein by reference (collectively, including Cash Collateral (as defined below), the “Pre-Petition Collateral”).

J. The Lender’s security interests in and liens on the Pre-Petition Collateral (“Prepetition Liens”) were properly perfected and are valid and enforceable first priority liens on and security interests in the Pre-Petition Collateral. The Debtor’s cash constitutes proceeds of the Pre-Petition Collateral and, therefore, is cash collateral of Lender within the meaning of Bankruptcy Code § 363(a) (collectively, “Cash Collateral”).

K. Lender is entitled, pursuant to Bankruptcy Code §§ 361 and 363(e), to adequate protection of its interest in the Pre-Petition Collateral, including Cash Collateral.

Background Facts

L. The Debtor represents that in the absence of the use of Cash Collateral, the Debtor does not have sufficient available sources of working capital and financing to operate the Properties in the ordinary course of business or operate its business and maintain its property in accordance with state and federal law.

M. Notice of the preliminary hearing on this Motion (the “Interim Hearing”) and the relief requested in the Motion has been given to (i) the Office of the United States Trustee, (ii) counsel to the Lender, (iii) the creditors holding the 20 largest unsecured claims against the Debtor; and (iv) all other creditors of the Debtor. Under the circumstances, the relief requested in the Motion constitutes adequate and sufficient notice under Bankruptcy Code §§ 102(1), 364(c) and 364(d) and Bankruptcy Rules 2002 and 4001(c), and no other or further notice need be given.

N. The Debtor has requested entry of this Order pursuant to Bankruptcy Rule 4001(b)(2), and the permission granted herein to use Cash Collateral necessary to avoid immediate and irreparable harm to the Debtor. The Court therefore finds and concludes that entry of this Order is in the best interest of the Debtor’s estate and creditors as its implementation will, among other things, provide the Debtor with the necessary funds to conduct the Debtor’s business as a going concern to the extent possible and maximize the value of the Debtor’s assets for the benefit of its creditors and estate.

IT IS HEREBY ORDERED THAT THE MOTION IS GRANTED AS SET FORTH HEREIN, AND THAT:

1. Authorization to Use Cash Collateral. The Debtor is hereby authorized to use Cash Collateral pursuant to the terms and conditions of this Order. The Debtor's use of Cash Collateral is limited to the expenses outlined in the attached Budget (attached hereto as Exhibit 1) (the "Budget") for operations of the Debtor's business and the administration of this Chapter 11 Case, plus no more than ten (10%) percent of any proposed expense payment.

2. DIP Account. The Debtor shall deposit all post-petition rents in its possession or control into the debtor-in-possession account ("DIP Account"). This provision shall not apply to security deposits received by Debtor which shall be separately held.

3. Adequate Protection. As adequate protection for the interests of Lender in the Cash Collateral, the Lender shall have and is hereby granted (effective upon the date of this Order and without the necessity of the recordation of mortgages, security agreements, pledge agreements, financing statements or otherwise) valid and perfected security interests in, and liens on (collectively, the "Replacement Liens") (to the same extent, validity and priority as existed on the Petition Date), all assets of the Debtor of any nature whatsoever and wherever located, tangible or intangible, whether now or hereafter acquired, including without limitation, rents and proceeds of the foregoing, wherever located, including insurance and other proceeds, excluding proceeds of any avoidable transfer actions instituted through this case (collectively, with all proceeds and products of any or all of the foregoing and including the Prepetition Collateral, the

“Collateral”). Under the circumstances, the adequate protection provided herein is reasonable and sufficient to protect the interests of the Lender; provided, however, that nothing herein contained shall affect or impair the Lender’s right to seek additional adequate protection of its interests.

4. Postpetition Real Estate Taxes. Debtor shall remain current on all post-petition property tax obligations for the Properties, including the obligation to escrow funds in equal monthly amounts sufficient to enable Debtor to timely pay all post-petition property taxes. The escrow account shall be held in a separate account from Debtor’s general bank account and monthly account statements shall be attached to Debtor’s monthly financial reports filed with the Court.

5. AP Payments. As additional adequate protection for the Debtor’s use of the Properties and the Cash Collateral, the Debtor shall make monthly payments to the Lender, provided however, that such payments are provisional, in the amount of \$4,865.63 per month having commenced on February 10, 2017 and thereafter on the 10th day of each month going forward (the “AP Payments”). The AP payments shall be provisional and shall not be applied to default interest. The AP payments should be tendered to Chuhak & Tecson, P.C., co/ Kevin R. Purtill, 30 S. Wacker Dr., St. 2600, Chicago, IL 60606.

6. Insurance. Debtor shall maintain insurance coverage for the Properties at all times during this Chapter 11 Case.

7. Financial Reporting. The Debtor shall deliver to the Lender such reasonable financial and other information concerning the business and affairs of the Debtor as the Lender shall reasonably request from time to time, including, without

limitation, (i) monthly rent rolls; (ii) monthly operating reports filed with the Court on a monthly basis on or before the 15th day of each month after the entry of this order; and (iii) the financial reports and information provided to the Lender under the Loan Documents. The Debtor shall cooperate with and permit the Lender to perform inspection and valuation of the Properties at any reasonable times requested by the Lender.

8. Termination Date. Debtor's use of Cash Collateral is authorized only through _____, 2018 (the "Term") unless terminated prior to this date upon an occurrence of the Termination Date defined below, and may not be extended other than on the express written consent of the Lender or order of the Court. If the Term expires or if an Event of Default (as defined in this Order) occurs (whichever sooner), the Debtor's authority to use of Cash Collateral shall immediately terminate (the "Termination Date") and Lender shall have the right to seek relief from the automatic stay.

9. Event of Default. An event of default under this Order ("Event of Default") shall include: (i) the entry of an order dismissing this Chapter 11 Case or converting this Chapter 11 Case to Chapter 7 case, (ii) the entry of an order appointing a Chapter 11 trustee in this Chapter 11 Case, (iii) the entry of an order granting any other claim superpriority status or a lien equal or superior to the respective liens granted to the Lender (except pursuant to an order under Bankruptcy Code § 506(c)), (iv) improper use of Cash Collateral not pursuant to the terms of this Order, (v) the entry of an order in this Chapter 11 Case appointing an examiner having enlarged powers beyond those set forth under Bankruptcy Code § 1106(a)(3) and (4), (vi) the entry of any order granting any relief from the automatic stay so as to allow a third party to proceed against any material

asset or assets of the Debtor (vi) failure of the Debtor to maintain proper insurance for the Properties (vii) failure to timely pay real estate taxes for the Properties or maintain the tax escrow pursuant to the terms of this Order (viii) failure to timely file the Debtor's monthly operating statements or timely provide Lender other information pursuant to this Order and/or (ix) failure to timely make an AP Payment. If Debtor fails to timely make a real estate escrow payment or AP payment when due, Lender may terminate its consent to the use of Cash Collateral upon Lender providing written notice of the payment default to the Debtor, the Office of the United States Trustee, and any statutory committees appointed in this Chapter 11 Case ("Default Notice") and the Debtor having failed to cure said payment default within two (2) business days of said Default Notice.

10. Binding Effect; Survival. Any stay, modification, reversal or vacation of this Order shall not affect the validity of any obligation of the Debtor to the Lender incurred pursuant to this Order. Notwithstanding any such stay, modification, reversal or vacation, all use of Cash Collateral incurred by the Debtor pursuant hereto prior to the effective date of any such stay, modification, reversal or vacation, shall be governed in all respects by the provisions hereof and the Lender shall be entitled to all the rights, privileges and benefits of this Order, including without limitation, the Liens and Replacement Liens granted herein.

11. Authority. The Debtor is authorized to perform all acts, and execute and comply with the terms of such other documents, instruments and agreements as the Lender may reasonably require, as evidence of and for the protection of the use of Cash Collateral, or which otherwise may be deemed reasonably necessary by the Lender to effectuate the terms and conditions of this Order.

12. No Waiver. The Lender shall not be deemed to have suspended or waived any of its rights or remedies under this Order, the Loan Documents, the Bankruptcy Code or applicable nonbankruptcy law unless such suspension or waiver is in writing, signed by a duly authorized officer of the Lender and directed to the Debtor. No failure of the Lender to require strict performance by the Debtor (or by any Trustee) of any provisions of this Order shall waive, affect or diminish any right of the Lender thereafter to demand strict compliance and performance therewith, and no delay on the part of the Lender in the exercise of any right or remedy under this Order, the Loan Documents, the Bankruptcy Code or applicable nonbankruptcy law shall preclude the exercise of any right or remedy. Further, this Order shall not constitute a waiver by the Lender of any of its rights under the Loan Documents, the Bankruptcy Code or applicable nonbankruptcy law, including without limitation its right to assert: (1) that its interests in the Collateral lack adequate protection within the meaning of Sections 362(d) or 363(e) of the Bankruptcy Code or any other provision thereof; or (2) a claim under Section 507(b) of the Bankruptcy Code. To the extent there exists any conflict between either the Loan Documents and the terms of this Order, this Order shall govern.

13. Next Hearing Date. A status hearing on Debtor's use of Cash Collateral shall be held on February 6, 2018 at 10:30 A.M.

Dated: Jan 9, 2018

- 9 JAN 2018


UNITED STATES BANKRUPTCY JUDGE

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Hartford Court Development, Inc.
Jan 2018 Budget Projection

Income

Income From Rents	\$ 11,498.00	
Income From Laundry Lease	\$ 1,040.00	
Total Income		\$ 12,538.00

Operating Expenses

Mortgage to Hinsdale B&T (P+I)	-\$ 4,865.63	
Interest Payment-Private Mtge	-\$ 475.00	
First Insurance Funding	-\$ 222.37	
Catherine Courts Condo Assoc-Monthly Assessment (all 14 units)	-\$ 3,087.30	
Catherine Courts Condo Assoc-Special Assessment (all 14 units)	-\$ 923.92	
Property Taxes	-\$ 1,500.00	
Repairs	-\$ 125.00	
Catherine Courts Condo Assoc-Laundry Royalties	-\$ 150.00	
Total Operating Expenses		-\$ 11,349.22

Owners' Draw

Paula Walega	-\$ 1,000.00	
Total Owners' Draw		-\$ 1,000.00
 Remaining Balance after payments		 \$ 188.78