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In re

CARL WEBER GREEN PROPERTIES,  
LLC,  
Debtor.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY,  
NEWARK VICINAGE**

Chapter 11

Case No. **17-29110-JKS**

Judge: Hon. John K. Sherwood, U.S.B.J.

Hearing Date: February 6, 2018 @ 10:00am

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**APPLICATION IN SUPPORT OF DEBTOR'S MOTION FOR AN ORDER  
EXTENDING THE EXCLUSIVE TIME PERIOD DURING WHICH THE  
DEBTOR MAY FILE A CHAPTER 11 PLAN PURSUANT TO 11 U.S.C. §1121(d)**

TO: HONORABLE JOHN K. SHERWOOD, U.S.B.J.  
United States Bankruptcy Court  
District of New Jersey  
50 Walnut Street, 3<sup>rd</sup> Floor, Courtroom 3D  
Newark, New Jersey 07102

Office of the United States Trustee  
One Newark Center  
Newark, New Jersey 07102

All Parties via CM/ECF and Parties Requesting Notice

**THIS APPLICATION** filed on behalf of Carl Weber Green Properties, LLC, Chapter 11 debtor and debtor-in-possession (“CWG” or the “Debtor”), by and through its counsel, Giordano, Halleran & Ciesla, respectfully submits this Motion for an Order, pursuant to 11 U.S.C. § 1121(d), extending the exclusive time period during which the Debtor may file a Chapter 11 Plan until March 19, 2018 (sixty (60) days from the January 18, 2018 deadline). In support of the Motion, the Debtor respectfully states as follows:

### **PRELIMINARY STATEMENT**

As of the Petition Date, pursuant to section 1121(d) of the Bankruptcy Code, the Debtor’s Exclusive Filing Period (as defined below) to file its Chapter 11 Plan of Reorganization is set to expire on January 18, 2018. By this Motion, the Debtor seeks the entry of an Order under 11 U.S.C. § 1121(d) further extending the Exclusive Filing Period through and including March 19, 2018. This is the Debtor’s first request for an extension of the Exclusive Filing Period (as defined below).

### **JURISDICTION**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates upon which the relief herein is sought is 11 U.S.C. § 1121(e) and 1129(e).

**BACKGROUND**

4. On September 20, 2017 (“Petition Date”), CWG filed a voluntary petition under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”).

5. CWG is currently preparing its Chapter 11 Plan of Reorganization and Disclosure Statement for its reorganization.

6. There has been no appointment of a creditor’s committee in this case.

7. The professionals are still in the process of being retained. And the Debtor is pursuing potential resolutions with various parties and creditors.

**EXCLUSIVE PERIOD AND CONFIRMATION DEADLINE**

8. As set forth above, pursuant to § 1121(b) of the Bankruptcy Code, the Debtor’s current Exclusive Filing Period provides the Debtor until January 18, 2018 to file a Chapter 11 Plan.

9. The Bankruptcy Code authorizes the Court to extend the Exclusive Filing Period “on request of a party in interest made within the respective periods specified in subsections (b) and (c) of this section and after notice and a hearing, the court may for cause reduce or increase the 120-day period . . . .” 11 U.S.C. § 1121(d)(1).

10. The Debtor submits that cause exists to grant an extension of the Exclusive Filing Period as requested in this Motion. *See* 11 U.S.C. § 1121(d)(1). The extension of the Exclusive

Filing Period is warranted because the Debtor is in the process of preparing a Chapter 11 Plan of Liquidation (the “Plan”).

11. A delay in preparing and filing the plan has been caused by the delay in approval of the Debtor’s application to retain counsel. The debtor fully expects this issue to be rectified this week. Once counsel is approved, the debtor’s counsel will assist in preparing and filing the proposed plan.

**RELIEF REQUESTED**

12. By this Motion, and pursuant to § 1121(d) of the Bankruptcy Code, the Debtor seeks the entry of an Order extending the Exclusive Filing Period under § 1121(b) of the Bankruptcy Code during which the Debtor may file its Plan until March 19, 2018.

**BASIS FOR RELIEF**

13. As mentioned above, the Bankruptcy Code authorizes the Court to extend the Exclusive Filing Period “on request of a party in interest made within the respective periods specified in subsections (b) and (c) of this section and after notice and a hearing, the court may for cause reduce or increase the 120-day period . . . .” 11 U.S.C. § 1121(d)(1).

14. The determination of whether sufficient “cause” exists to grant an extension of the Exclusive Filing Period is committed to the sound discretion of the Court. *In re All Seasons Indus., Inc.*, 121 B.R. 1004, 1004 (Bankr. N.D. Ind. 1990).

15. The “cause” standard referred to in § 1121 of the Bankruptcy Code has been referred to as a general standard that allows the Bankruptcy Court “maximum flexibility to suit

various types of reorganization proceedings.” *In re Gibson & Cushman Dredging Corp.*, 101 B.R. 405, 409 (E.D.N.Y. 1989) (quoting *In re Pub. Serv. Co. of N.H.*, 88 B.R. 521, 534 (Bankr. D.N.H. 1988)).

16. In determining whether “cause” exists to justify the extension, Bankruptcy courts have considered the following nine factors:

(1) the size and complexity of the case, (2) the necessity of sufficient time to negotiate and prepare adequate information, (3) the existence of good faith progress, (4) whether the debtor is paying its debts as it becomes due, (5) whether the debtor has demonstrated reasonable prospects for filing a viable plan, (6) whether the debtor has made progress negotiating with creditors, (7) the length of time a case has been pending, (8) whether the debtor is seeking an extension to pressure creditors, and (9) whether or not unresolved contingencies exist.

*In re Central Jersey Airport Servs., LLC*, 282 B.R. 176, 184 (Bankr. D.N.J. 2002). Weighing these factors, the Bankruptcy Court for the District of New Jersey granted the debtor an extension because “the debtor asserted that a plan is not only viable . . . but is almost completed.” *Id.* Similarly, here, the Debtor has finalized a Purchase and Sale Agreement for its only asset of significance. Therefore, the Revised Purchase and Agreement evidences “(3) the existence of good faith progress . . . .” *Id.* The purchasers simply required more time to perform due diligence, which satisfies the second factor, “the necessity of sufficient time to negotiate and prepare adequate information.” *Id.* Based on these circumstances, sufficient “cause” exists for the Court to grant this first request to extend the Exclusive Period to file a plan until March 19, 2018.

17. Ultimately, the Bankruptcy Code does not penalize a debtor for failure to file a plan within the given window of time. Instead, failure to do so merely opens the door such that “Any party in interest, including the debtor, the trustee, a creditors’ committee, an equity security

holders' committee, a creditor, an equity security holder, or any indenture trustee, may file a plan . . . “ 11 U.S.C. § 1121(c). The Debtor submits, therefore, that the Court should construe the “for cause” basis for granting a motion to extend the time to file a plan liberally as contemplated by the Eastern District of New York. *See In re Gibson & Cushman Dredging Corp.*, 101 B.R. at 409.

18. Once retention of counsel has been finalized, the plan should be filed within 45 days of same.

### CONCLUSION

Based on the forgoing, the Debtor has demonstrated that cause exists for this Court to grant an extension of the Exclusive Filing Period under § 1121(d) of the Bankruptcy Code. And the Debtor respectfully requests this Court extend the Exclusive Filing Period to conclude on March 19, 2018.

### NOTICE

Notice of this Motion has been provided to the Office of the United States Trustee, the Debtor's twenty largest unsecured creditors and all parties requesting notice pursuant to FED. R. BANKR. P. 2002. The Debtor submits that no other or further notice need be provided.

Dated: January 16, 2017

Respectfully submitted,

GIORDANO, HALLERAN & CIESLA, PC  
Attorneys for Carl Weber Green Properties,  
LLC

/s/ Donald F. Campbell, Jr.  
DONALD F. CAMPBELL, Jr.