

1 **LAW OFFICE OF CHRISTINE E. BAUR**
Christine E. Baur, State Bar No. 207811
2 christine@baurbklaw.com
4563 Carmel Mountain Road, Suite 308 #332
3 San Diego, California 92130
Telephone: (858) 350-3757
4 Facsimile: (858) 876-9480

5 **WEILAND, GOLDEN,**
SMILEY, WANG EKVALL & STROK, LLP
6 Beth E. Gaschen, State Bar No. 245894
bgaschen@wglp.com
7 650 Town Center Drive, Suite 950
Costa Mesa, California 92626
8 Telephone: (714) 966-1000
Facsimile: (714) 966-1002

9 Attorneys for Debtor and Debtor-in-Possession
10 NNN Parkway 400 26, LLC

11 **UNITED STATES BANKRUPTCY COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **SANTA ANA DIVISION**

14 In re
15 NNN PARKWAY 400 26, LLC,
16 Debtor and
17 Debtor-in-
Possession.

Case No. 8:12-bk-24593-TA

Chapter 11

**EVIDENTIARY OBJECTIONS TO
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTIONS OF WBCMT
2007-C31 AMBERPARK OFFICE LIMITED
PARTNERSHIP (1) TO DISMISS THE
CASE AND (2) FOR RELIEF FROM THE
AUTOMATIC STAY**

DATE: August 7, 2013

TIME: 10:00 a.m.

PLACE: Courtroom 5B

**Weiland, Golden,
Smiley, Wang Ekvall & Strok, LLP**
650 Town Center Drive, Suite 950
Costa Mesa, California 92626
Tel 714-966-1000 Fax 714-966-1002

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Smiley, Wang Ekvall & Strok, LLP
650 Town Center Drive, Suite 950
Costa Mesa, California 92626
Tel 714-966-1000 Fax 714-966-1002

1 **TO THE HONORABLE THEODOR C. ALBERT, UNITED STATES BANKRUPTCY**
2 **JUDGE, AND ALL OTHER INTERESTED PARTIES:**

3 Pursuant to Federal Rule of Evidence 401, NNN Parkway 400 26, LLC, the debtor
4 and debtor-in-possession in the above-captioned case (the "Debtor"), respectfully submits
5 this evidentiary objection to the entirety of the *Request for Judicial Notice in Support of*
6 *Motions of WBCMT 2007-31 Amberpark Office Limited Partnership (1) to Dismiss the*
7 *Case and (2) for Relief from the Automatic Stay* filed by WBCMT 2007-31 Amberpark
8 Office Limited Partnership (the "Lender") on June 20, 2013, as Document No. 176 (the
9 "Request for Judicial Notice"). All of the documents referenced in the Request for Judicial
10 Notice are pleadings and documents filed in other bankruptcy cases and are not relevant
11 to the matters pending before this Court as they would not tend to make any fact of
12 consequence more or less probable. See Federal Rule of Evidence 401.

13 For example, three of the cases cited by the Lender do not involve tenant-in-
14 common debtors and have no relevance to the Lender's arguments in either the motion to
15 dismiss or the motion seeking relief from the automatic stay. See *In re BHG El Paso Joe*
16 *Battle, LP* (Case No. 8:11-22501); *In re S. Loop 2600, LLC* (Case No. 11-25111); *In re S.*
17 *Loop 2656 LLC* (Case No. 12-20466). There are also several cases listed by the Lender
18 wherein the Lender mischaracterizes the outcome of the case. While a plan may not have
19 been confirmed and the case dismissed, this was because the debtor and the lender in
20 those cases reached a settlement which resolved the case. No other adverse rulings
21 were made against these debtors. See *In re NNN 2400 W. Marshall Dr. 19, LLC* (Case
22 No. 11-01454); *In re NNN Met Center 10 25, LLC* (Case No. 11-30356). These cases
23 cannot support and are, therefore, irrelevant to the arguments of the Lender. In addition,
24 a few of the cases cited by the Lender involve debtors which are moving forward in their
25 cases towards plan confirmation. As such, these cases are not relevant and are contrary
26 to the Lender's arguments. See *In re NNN Lenox Park 9, LLC* (Case No. 13-21936); *In re*
27 *NNN 1 & 2 Met Center 10, LLC* (Case No. 12-169819). Finally, Breakwater was not
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1 involved in one of the bankruptcy cases listed by the Lender by the time of the filing. See
2 *In re ARI-DFW East & West 9, L.P.* (Case No. 12-42788).

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DATED: July 24, 2013

Respectfully submitted,

WEILAND, GOLDEN,
SMILEY, WANG EKVALL & STROK, LLP

By: /s/ Beth E. Gaschen
BETH E. GASCHEN
Attorneys for Debtor and Debtor-in-
Possession NNN Parkway 400 26, LLC

**Weiland, Golden,
Smiley, Wang Ekvall & Strok, LLP**
650 Town Center Drive, Suite 950
Costa Mesa, California 92626
Tel 714-966-1000 Fax 714-966-1002

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

650 Town Center Drive, Suite 950, Costa Mesa, California 92626

A true and correct copy of the foregoing document entitled (*specify*): **EVIDENTIARY OBJECTIONS TO REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTIONS OF WBCMT 2007-C31 AMBERPARK OFFICE LIMITED PARTNERSHIP (1) TO DISMISS THE CASE AND (2) FOR RELIEF FROM THE AUTOMATIC STAY** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **July 24, 2013**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Christine E Baur christine@baurbklaw.com, rayla@baurbklaw.com
- Beth Gaschen bgaschen@wgllp.com, msciesinski@wgllp.com
- Beth Gaschen bgaschen@wgllp.com, msciesinski@wgllp.com
- Nancy S Goldenberg nancy.goldenberg@usdoj.gov
- Mary D Lane mal@msk.com, mec@msk.com
- David A Lee dlee@wgllp.com
- Christina M Padien cpadien@akingump.com, tsouthwell@akingump.com
- Evan D Smiley esmiley@wgllp.com, msciesinski@wgllp.com
- United States Trustee (SA) ustpregion16.sa.ecf@usdoj.gov
- Arnold H Wuhrman Wuhrman@serenitylls.com

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) **July 24, 2013**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

The Honorable Theodor Albert, United States Bankruptcy Court, 411 W. 4th Street, Santa Ana, CA 92701

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

7/24/2013	Margaret Sciesinski	/s/ Margaret Sciesinski
<i>Date</i>	<i>Printed Name</i>	<i>Signature</i>

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.