

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

IN RE:

APEX PROPERTIES, LLC,  
  
Debtor(s).

Chapter 11  
Case No. 17-70501

**MOTION FOR ENTRY OF AN INTERIM ORDER AUTHORIZING THE DEBTOR'S  
USE OF CASH COLLATERAL**

The above-captioned debtor and debtor-in-possession (the "Debtor"), by counsel, hereby moves this Court for entry of an interim order authorizing the Debtor to use cash collateral of Carolina Lily Portfolio IV, LLC ("Carolina Lily") (the "Motion"). In support of this Motion, the Debtor respectfully states as follows:

**Jurisdiction**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are §§ and 105(a) and 363 of title 11 of the United States Code (the "Bankruptcy Code") and Rule 4001 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

**Background and Relief Requested**

3. The Debtor commenced this case on April 14, 2017 (the "Petition Date") by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

4. The Debtor has continued in possession of its property and continues to operate and manage its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

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5. No request has been made for the appointment of a trustee or an examiner in this case, and no official committee has been appointed by the Office of the United States Trustee.

6. The Debtor is in the business of owning and operating commercial real estate such as mobile home parks, single family homes, and duplexes.

7. Carolina Lily is the holder of notes and deeds of trust creating liens against the Debtor's mobile home park properties and several of its single family homes and other commercial real estate properties. The deeds of trust also contain assignments of rent provisions and agreements that create liens on the rents that the Debtor generates from these properties.

8. Carolina Lily's assignment of rent provisions contained in the deeds of trust constitute a lien on the Debtor's cash collateral, as defined in 11 USC § 363. The Debtor needs the use of rents in order to run its business, pay its wages and business operating expenses, and in order to have a successful reorganization.

9. Carolina Lily has consented to the post-petition use of the rents that constitute its cash collateral in consideration of the Debtor making adequate protection payments in the amount of \$32,500.00 per month, commencing in May, 2017, and on the other terms and conditions set for in the Order attached hereto as Exhibit 2. Payments will be due on or before the twentieth (20<sup>th</sup>) day of each month.

10. Carolina Lily's consent to the use of its cash collateral is interim in nature; it consents to the Debtor's use of cash collateral pursuant to this motion and an order approving it for a period of four (4) months, commencing May 1, 2017.

11. The Debtor is authorized to use the rents contemplated herein accordance with the budget attached to this motion as **Exhibit A**.

12. The Debtor proposes to provide Carolina Lily with a replacement lien on the Debtor's post-petition rents that arise from Carolina Lily's collateral. The replacement lien will be deemed perfected and enforceable without the requirement that Carolina Lily or the Debtor will file any perfection documents.

WHEREFORE, the Debtor respectfully requests entry of an Order in the form attached as Exhibit 2 granting the relief requested in this Motion and such other and further relief as the Court deems necessary and prudent.

Date: July 3, 2017

Respectfully submitted,

APEX PROPERTIES, LLC

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