

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:)	
)	CHAPTER 11
The Cliffs Club & Hospitality Group, Inc.,)	
et al., d/b/a The Cliffs Golf & Country)	Case No. 12-1220
Club,)	
)	Jointly Administered
Debtors.)	
_____)	

**KEOWEE INVESTMENT PROPERTIES, LLC’S
LIMITED OBJECTION TO CONFIRMATION OF PLAN**

Keowee Investment Properties, LLC (“KIP”) files this Limited Objection to Confirmation of Plan (the “Objection”) and, in support thereof, states as follows:

Background

1. The Debtors filed their chapter 11 cases on February 28, 2012.
2. KIP is a creditor and party in interest in these chapter 11 cases.
3. Specifically, KIP is party to a recorded easement agreement (the “Easement”) with The Cliffs at Keowee Springs Golf & Country Club, LLC (“Keowee Springs”).
4. KIP filed a Proof of Claim setting forth a description of KIP’s claims against Keowee Springs. The Proof of Claim was filed on May 31, 2012.

Prior Objection to Adequacy of Disclosure Statement

5. On June 28, 2012, KIP filed its objection to the adequacy of the Debtor’s disclosure statement on the basis that the Plan simply did not provide adequate information regarding KIP’s claims stemming from the Easement. Specifically, the Disclosure Statement Objection, which is restated below, is relevant to the facts underpinning this Objection:

- a. Section 1125 of the Bankruptcy Code requires that a debtor provide a disclosure statement containing “adequate information of a kind and in sufficient detail as

far as is reasonably practical in light of the nature of the history of the debtor and the condition of the debtor's books and records . . . that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan”

b. The purpose of the disclosure statement requirement is to provide creditors with essential information that would enable them to make an informed judgment as to whether to vote for or against a plan.

c. KIP submits that the Debtors' disclosure statement contains insufficient information with respect to KIP's claim so as to provide KIP a meaningful opportunity to evaluate whether voting for or against the Debtors' plan is appropriate.

d. Specifically, the plan and disclosure statement are silent as to KIP's Easement. KIP is unable to determine whether the plan contains any specific provisions regarding the treatment of KIP's Easement, and, if so, what that treatment may be.

e. The Debtors' schedules and statement (as amended as recently as June 27, 2012) list KIP as a counterparty to an executory contract as set forth on amended Schedule G. Specifically, KIP is listed as being a counterparty to a “agreement” with no other descriptive reference.¹

f. KIP submits that it is not a counterparty to any executory contract nor is it aware of any executory contract to which it may be a party. As set forth in the Proof of Claim, KIP is a party to a recorded Easement Agreement containing real property rights – and not any executory contract within the meaning of Section 365 of the Bankruptcy Code.

¹ Specifically, there is no date or description of the “agreement” that would enable KIP to determine to which specific agreement the debtors may be referring.

g. To sum up, KIP's issues with the Debtors' plan are two fold: (a) the plan and disclosure statement describe an executory contract to which KIP is allegedly a party and to which KIP has no knowledge (and, therefore, is unable to determine how to vote on the plan with respect to this alleged categorization) and (b) the plan is silent as to KIP's Easement rights, which Easement is the only known source of claim against Keowee Springs.

h. KIP respectfully requests that the disclosure statement be amended to provide greater description regarding KIP's claim and the treatment of KIP's claim so as to comply with Section 1125 of the Bankruptcy Code.

Debtors' Response to Disclosure Statement Objection

6. In response to KIP's Disclosure Statement Objection, the Debtors filed certain amendments to the disclosure Statement regarding the treatment of easements. Those amendments provided that the Debtors were analyzing "(i) the validity of any such easements under state law; (ii) the avoidability of any such easements under bankruptcy law; and (iii) whether the property proposed to be conveyed pursuant to the Plan can be conveyed free and clear of such easements." (Doc. 469, First Am. & Restated Disclosure Statement at § IX, E).

7. At the actual hearing on the adequacy of the Debtors' disclosure statement, the Debtors stated that they would provide information to each holder of an easement regarding the Debtors' intent with such easements that they were reviewing. Again, the amendment to the disclosure statement indicated that the Debtors were in the process of reviewing and evaluating their easements.

Review of KIP's Easement and Subsequent Events Since Hearing on Disclosure Statement

8. Following the hearing on the disclosure statement, the Debtors and KIP began negotiations to resolve their respective positions. The Debtors and KIP have reached an agreement in principle relating to KIP's Easement and are in the process of reviewing a formal agreement to resolve such matters.

9. The Debtors and KIP expect this matter to be resolved prior to the confirmation hearing and the written agreement evidencing the resolution of the negotiated settlement executed.

Preservation of Confirmation Objection Rights

10. While fully believing KIP will resolve its dispute with the Debtors, KIP reserves its confirmation objections as follows:

a. The Debtors have not indicated that they believe KIP's Easement is invalid and KIP's Easement is, in fact, a valid easement and interest in real property under South Carolina law;

b. The Easement is not avoidable under any theory of avoidance under the Bankruptcy Code or other applicable non-bankruptcy law; and

c. The Debtors may not sell the real property subject to KIP's Easement without KIP's consent and KIP consents only to the extent that the agreement in principle is resolved and approved by this Court.

WHEREFORE, KIP respectfully requests that the Court deny confirmation of the Debtors' Plan and grant KIP such other and further relief as the Court deems just and proper.

DATED: August 1, 2012
Greenville, SC

Respectfully Submitted:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of **KEOWEE INVESTMENT PROPERTIES, LLC'S LIMITED OBJECTION TO CONFIRMATION OF PLAN** was filed electronically and was therefore served electronically on those entities that have properly registered for such electronic service and by United States Mail, first class, proper postage affixed to the following parties on August 1, 2012:

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