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ATTORNEYS FOR THE DEBTORS  
AND DEBTORS IN POSSESSION

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>In re:</b>	§	<b>CASE NO. 09-37010 (SGJ)</b>
	§	
<b>ERICKSON RETIREMENT COMMUNITIES, LLC, et al.</b> <sup>1</sup>	§	<b>CHAPTER 11</b>
	§	<b>Jointly Administered</b>
	§	
<b>Debtors.</b>		

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**RESPONSE TO STATEMENT OF THE UNITED STATES REGARDING  
CONFIRMATION HEARING NOTICE**

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<sup>1</sup> The Debtors in these chapter 11 cases are Erickson Retirement Communities, LLC, Ashburn Campus, LLC, Columbus Campus, LLC, Concord Campus GP, LLC, Concord Campus, LP, Dallas Campus GP, LLC, Dallas Campus, LP, Erickson Construction, LLC, Erickson Group, LLC, Houston Campus, LP, Kansas Campus, LLC, Littleton Campus, LLC, Novi Campus, LLC, Senior Campus Services, LLC, Warminster Campus GP, LLC, Warminster Campus, LP.

The Debtors and Debtors in Possession herein (collectively, the “Debtors”), by their undersigned counsel, hereby file this response (the “Response”) to the Statement of the United States Regarding Confirmation Hearing Notice [Doc. No. 1323] (the “Objection”). In support of the Response, the Debtors rely on the Affidavit of Paul B. Rundell in Support of First Day Motions (the “Rundell Affidavit”), which is incorporated herein by reference, and respectfully state as follows:

### **Jurisdiction and Venue**

1. This Court has jurisdiction over this Response under 28 USC §§157 and 1334. This matter is a core proceeding within the meaning of 28 USC §157.
2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for the relief requested herein are Rule 16 of the Federal Rules of Civil Procedure and § 105 of title 11 of the United States Code (the “Bankruptcy Code”).

### **Background**

4. On October 19, 2009 (the “Petition Date”), the Debtors commenced these cases by each filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code.
5. The Debtors remain in possession of their assets and continue to operate and manage their businesses as debtors in possession pursuant to Bankruptcy Code §§ 1107 and 1108.
6. On November 2, 2009, the Office of the United States Trustee appointed a committee of unsecured creditors in these cases. No trustee or examiner has been appointed.

7. A hearing on confirmation of the Debtors' Fourth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the "Plan") is scheduled to commence on April 15, 2010 at 9:30 am.

8. The factual background regarding each of the Debtors, including their current and historical business operations and the events precipitating these chapter 11 filings, is set forth in detail in the Rundell Affidavit, and is incorporated herein by reference.

### **Confirmation Plan Hearing Notice**

9. On March 15, 2010, BMC filed a certificate of service indicating it have given the required notice of the April 15, 2010 hearing (the "Hearing") regarding the confirmation of the Debtors' Fourth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the "Plan"). At the time such notice was given, the hearing was set for 2:30 pm.

10. On April 14, the Debtors, via BMC, gave notice that the Hearing would be moved from 2:30 pm to 9:30 am on April 15, 2010. The United States Trustee (the "Trustee") then filed the Objection, requesting that the Court reconsider the 9:30 am setting, and instead reset the Hearing for 2:30 pm. Prior to changing the time of the Hearing, the Debtors, through their counsel, contacted every party that had an objection to the Plan (the "Objecting Parties"). None of the Objecting Parties objected to moving the Hearing time from 2:30 pm to 9:30 am. Additionally, the Debtors, through their counsel, contacted the various other major constituencies with an interest in the outcome of the Hearing. None of these parties objected to moving the Hearing from 2:30 pm to 9:30 am. In fact, the only opposition to such change has been from the Trustee.

11. The concern regarding notice and due process expressed by the Trustee is unique, as no other party in interest has expressed opposition to the new time of the Hearing. The

Debtors understand the gravity of the Hearing, and thus took extreme measures to notify those parties interested in the Hearing prior to changing the time of the Hearing. Moreover, the concerns expressed by the Trustee regarding “the nature of the case and the vast number of creditors” are addressed by the earlier hearing time. Because the Hearing has been moved to an earlier hour, the Debtors and the Court will have more time to address the concerns that the “vast number of creditors” in this complex case may have.

WHEREFORE, PREMISES CONSIDERED, the Debtors request that this Court (i) exercise its authority to control its docket to permit the Hearing to proceed on April 15, 2010 at 9:30 and (ii) grant the Debtors such other and further relief, both at law and in equity, which is just and proper.

Date: April 14, 2010

Respectfully submitted,

Dallas, Texas

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