

ENTERED

TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET



The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed June 10, 2010

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

In re:

ERICKSON RETIREMENT
COMMUNITIES, LLC, *et al.*¹

Debtors.

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CASE NO. 09-37010 (SGJ)

CHAPTER 11
(Jointly Administered)

**STIPULATION AND ORDER PROVIDING LIMITED RELIEF FROM THE
INJUNCTION PROVISIONS OF THE DEBTORS' FOURTH AMENDED JOINT PLAN
OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

WHEREAS, on October 19, 2009 (the "Petition Date"), the above captioned debtors and debtors in possession (the "Debtors") each filed voluntary petitions for relief under

¹ 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.

chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) and have continued in the management and operation of their businesses and properties as debtors in possession pursuant to Bankruptcy Code sections 1107 and 1108 of the Bankruptcy Code; and

WHEREAS, prior to the Petition Date, Erickson Construction, LLC (“Erickson Construction”) acted as original contractor to Lincolnshire Campus, LLC (“Lincolnshire”) a non-debtor affiliate of the Debtors for purpose of providing general contracting services in connection with the construction and improvement for and upon the premises owned by Lincolnshire known as Sedgebrook Renaissance Gardens 1.0 and certain time and material work (the “Sedgebrook Contracts”), located at 800 Audubon Way, and other addresses, Lincolnshire, Illinois (the “Sedgebrook Premises”); and

WHEREAS, prior to the Petition Date, Erickson Construction, LLC (“Erickson Construction”) acted as original contractor to Naperville Campus, LLC (“Naperville”) a nondebtor affiliate of the Debtors for purpose of providing general contracting services in connection with the construction and improvement for and upon the premises owned by Naperville generally referred to as Monarch Landing and certain time and material work (the “Monarch Contracts”), located at 1919 Ferry Road, and other addresses, Naperville, Illinois (the “Monarch Premises”); and

WHEREAS, a number of subcontractors that allege that they supplied labor and/or materials to the Sedgebrook Premises and the Monarch Premises have filed mechanics’ liens against the Sedgebrook Premises and the Monarch Premises and the improvements thereon under the Illinois mechanic’s lien statute, 770 ILCS 60/1, *et seq.* (the “Lien Statute”); and

WHEREAS, some of the subcontractors that have filed liens against the

Sedgebrook Premises and Monarch Premises have not filed complaints to foreclosure on such liens under the Lien Statute; and

WHEREAS, in order to permit the timely and efficient resolution of liens filed under the Lien Statute, 770 ILCS 60/34 permits the owner of real property against which liens have been recorded to send a notice/demand to any party that has recorded a lien, but has not filed a complaint to foreclose such lien, requiring the party to file a complaint to foreclose upon the lien within thirty (30) days; and

WHEREAS, under the Lien Statute, a general contractor, such as Erickson Construction, is a necessary party to any action to foreclose upon a lien filed under the Lien Statute;

WHEREAS, on March 8, 2010, the Debtors' filed their Fourth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code [D.I. No. 1005] (the "Plan"); and

WHEREAS, on April 16, 2010, the United States Bankruptcy Court for the Northern District of Texas – Dallas Division (the "Bankruptcy Court") entered an Order Confirming the Plan [D.I. No. 1355] (the "Confirmation Order"); and

WHEREAS, Section 12 of the Plan and the Confirmation Order provide for an injunction (the "Injunction") against parties initiating legal proceedings against the Debtors (including Erickson Construction, LLC).

NOW, THEREFORE, it is hereby **STIPULATED** and **AGREED**, by and between the Debtors and Lincolnshire and Naperville, by and through their respective attorneys, DLA Piper (US) LLP and Sonnenschien Nath & Rosenthal LLP, as follows:

1. The Injunction against parties initiating legal proceedings against Debtor Erickson Construction is hereby modified solely to the extent necessary to permit Lincolnshire and Naperville, at their option, to issue notices/demands pursuant to 770 ILCS 60/34 to any parties that have filed or may file liens under the Lien Statute against the Sedgebrook Premises and/or the Monarch Premises and, to the extent Lincolnshire and/or Naperville exercise their right to issue a notice/demand to any party pursuant to 770 ILCS 60/34, to permit such party to (a) include Erickson Construction as a party-defendant in any complaint to foreclose on a lien recorded under the Lien Statute, (b) initiate and obtain discovery from Erickson Construction, and (c) do everything reasonably necessary to attempt to establish its lien claim against the Sedgebrook Premises and/or Monarch Premises and to attempt to obtain a judgment foreclosing its lien and sale of the Property, including obtaining the necessary factual findings and legal determinations on its claim against Erickson Construction, except to the extent limited by Paragraph 2 below. . Notwithstanding the forgoing, the Injunction shall not be modified as to any party that does not consent to and agree in writing to adhere to the limitations on right of action against Erickson Construction set forth in Paragraph 2 of this Stipulation and any such party not agreeing to those limitations shall remain subject to the Injunction.

2. Any party that is served with a notice/demand by Lincolnshire and/or Naperville pursuant to 770 ILCS 60/34 and in accordance with Paragraph 1 of this Stipulation shall not seek any recovery from Erickson Construction and shall not seek entry of any in personam judgment against Erickson Construction

3. Except as stated in Paragraph 1 hereinabove, nothing contained in this Order shall operate as waiver or modification of the Injunction so as to permit prosecution against

Debtors of any claim or claims by any entity.

4. Each party hereto warrants and represents that in executing this Stipulation such party is not relying upon (a) any oral representation, promise or statement or (b) any representation or statement contained in any other written instrument.

5. This Order shall be binding upon and inure to the benefit of the Parties and each of their respective predecessors, estates, tenants, successors and assigns.

6. Each individual signing this Stipulation on behalf of any party acknowledges and, with respect to his/her own signature below, warrants and represents, that he/she is authorized to execute this Stipulation in the representative capacities indicated below and on behalf of the party there indicated.

7. This Court shall retain jurisdiction over the parties hereto with respect to any matter related to or arising from this Stipulation.

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Dated: May 18, 2010

Dated: May 18, 2010

**SONNENSCHN NATH & ROSENTHAL
LLP**

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/s/Barry B. Nekritz

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Attorneys for the Debtors and Debtors in
Possession

CERTIFICATE OF NOTICE

District/off: 0539-3
Case: 09-37010

User: dmoroles
Form ID: pdf012

Page 1 of 1
Total Noticed: 1

Date Rcvd: Jun 16, 2010

The following entities were noticed by first class mail on Jun 17, 2010.
12748841 +Abington Bank, CO Strandley, Ronon, Stevens and Young, 2600 One Commerce Square,
Philadelphia, PA 19103-7018

The following entities were noticed by electronic transmission.
NONE.

TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jun 17, 2010

Signature: _____

