

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	
RC SOONER HOLDINGS, LLC, <u>et al.</u> , <sup>1</sup>	)	Case No. 10-10528 (BLS)
	)	
Debtors.	)	(Jointly Administered)

**THIRD INTERIM AGREED ORDER (A) AUTHORIZING DEBTORS IN POSSESSION  
TO USE CASH COLLATERAL, (B) GRANTING REPLACEMENT LIENS  
TO LENDER, (C) GRANTING ADEQUATE  
PROTECTION, AND (D) SCHEDULING A FINAL HEARING THEREON**

Upon consideration of the Motion (the "Motion") filed on February 22, 2010, by RC Sooner Holdings, LLC, and all of its debtor affiliates and subsidiaries listed in footnote 1 (collectively, the "Debtors"), for the entry of an interim order (the "Interim Order") and final order (the "Final Order") in their chapter 11 cases (the "Cases") (a) authorizing them to use cash collateral ("Cash Collateral") as that term is defined in section 363 of chapter 11 of title 11 of the United States Code (the "Code"), (b) granting additional security interests and liens to Federal National Mortgage Association (the "Lender") pursuant to section 363(e) of the Code, (c) granting adequate protection, and (d) setting a final hearing on the Motion; and the Lender and Debtors having agreed and stipulated as follows, which stipulations this Court hereby approves and adopts:

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<sup>1</sup> The Debtors and the last four digits of their taxpayer identification numbers are: RC Sooner Holdings, LLC (7904); RC Brixton Square Owner, LLC (8002); RC Cedar Crest Owner, LLC (7914); RC Fulton Plaza Owner, LLC (8011); RC Magnolia Owner, LLC (7998); RC Pomeroy Park Owner, LLC (7939); RC Salida Owner, LLC (7947); RC Savannah South Owner, LLC (7983); RC Southern Hills Owner, LLC (7958); Brixton Square Apartments, LLC (1844); CC Apartments, LLC (1798); Fulton Plaza Apartments, LLC (4344); Magnolia Manor Apartments, LLC (4486); Pomeroy Park Apartments, LLC (1649); Salida Apartments, LLC (1915); Savannah South Apartments, LLC (8586); and Southern Hills Villa Apartments, (continued...)

A. Filing of Petition. On February 22, 2010 (the "Petition Date"), the Debtors filed voluntary chapter 11 petitions under the Code. By order of this Court, the Cases are jointly administered for procedural purposes only. Pursuant to sections 1107 and 1108 of the Code, the Debtors are authorized to operate their business as debtors in possession. To date, no official committee of unsecured creditors has been appointed in these cases.

B. Jurisdiction: Core Proceeding. Consideration of the Motion constitutes a "core proceeding" as defined in 28 U.S.C. § 157. This Court has jurisdiction over this proceeding and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this District.

C. The First Interim Order. On February 24, 2010, after conducting a preliminary hearing on the Motion, this Court entered an Interim Agreed Order (A) Authorizing Debtors in Possession to Use Cash Collateral; (B) Granting Replacement Liens to Lender; (C) Granting Adequate Protection; and (D) Scheduling a Final Hearing Thereon (the "First Interim Order") whereby, *inter alia*, this Court authorized the Debtors to use cash collateral through and including March 11, 2010, set a deadline to object to the Motion of March 8, 2010, and set a final hearing on the Motion for March 11, 2010.

D. Notice of the First Interim Order. On February 24, 2010, the Debtors served Notice of the entry of the First Interim Order to (i) the Lender, (ii) counsel to the Lender, (iii) the District Counsel for the Internal Revenue Service, (iv) all known secured creditors of the Debtors, (v) all of the Debtors' landlords, (vi) the Office of the United States Trustee; and (vi)

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(...continued)

LLC (1721). The business address for each of the Debtors where notices should be sent is 1515 Broadway, 11th Floor, New York, New York 10036-8901.

any other party which theretofore had filed in these Cases a request for special notice with this Court and served such request upon Debtors' counsel.

E. The Second Interim Order. On March 11, 2010, this Court entered a Second Interim Agreed Order (A) Authorizing Debtors in Possession to Use Cash Collateral; (B) Granting Replacement Liens to Lender; (C) Granting Adequate Protection; and (D) Scheduling a Final Hearing Thereon (the "First Interim Order") whereby, *inter alia*, this Court authorized the Debtors to use cash collateral through and including March 18, 2010, extended the deadline for Fannie Mae to object to the Motion of March 15, 2010, and set a final hearing on the Motion for March 18, 2010.

F. Notice of the Second Interim Order. On March 11, 2010, the Debtors served Notice of the entry of the Second Interim Order to (i) the Lender, (ii) counsel to the Lender, and (iii) the Office of the United States Trustee.

G. Lender's Limited Objection to the Motion. On March 15, 2010, Lender filed a Limited Objection to the Motion, in which the Lender stated that it did not object to the use of Cash Collateral for ordinary and necessary operations or for the payment of fees to the Debtors' claims agent but objected solely to the use of Cash Collateral for the payment of other administrative expenses, including, without limitation, the payment of the fees of Debtors' attorneys. No other creditors or parties-in-interest objected to the Motion or the entry of a Final Order and no other or further Notice is required under the circumstances.

H. The March 18, 2010 Hearing. On March 18, 2010, this Court conducted a further preliminary hearing on the Motion and the Lender's Limited Objection.

I. Lender's Continued Consent. Without waiving its Limited Objection, Lender has consented to the Debtors' continued use of cash collateral through and including

March 30, 2010, on the terms set forth herein. No other creditors or parties-in-interest objected to the Motion or the entry of a Final Order and no other or further Notice is required under the circumstances.

J. Need for Funding. The Debtors have requested immediate entry of this Third Interim Order pursuant to Bankruptcy Rule 4001(b)(2) and Local Rule 4001-2(b). The interim relief sought in the Motion is necessary and in the best interests of the Debtors' estates in order to prevent immediate and irreparable harm to the Debtors' estates which would otherwise result if the Debtors were prevented from using Cash Collateral on an interim basis in order to maintain their operations, maintain the Debtors' real estate, preserve and maximize the value of the assets of their estates, and provide an opportunity to reorganize the Debtors' affairs.

K. Good Cause. Good and sufficient cause has been shown for the entry of this Third Interim Order. Among other things, entry of this Third Interim Order will minimize disruption of the Debtors' business, will preserve and maintain the assets of their estates, including the Debtors' real estate, will increase the possibility of the reorganization of the Debtors, will avoid immediate and irreparable harm to, and is in the best interests of, the Debtors, their creditors and their estates, as well as the Debtors' residential tenants. The terms of the Debtors' proposed use of cash collateral are (i) fair and reasonable; (ii) reflect prudent exercise of business judgment consistent with the Debtors' fiduciary duties; (iii) constitute reasonably equivalent value and fair consideration; and (iv) are essential and appropriate for the continued operation and management of the Debtors' business and the preservation of their assets and properties. Lender reserves and does not waive its Limited Objection to the entry of a Final Order.

L. Negotiations. The agreements and arrangements authorized in this Third Interim Order have been negotiated at arms-length, are fair and equitable under the circumstances, and are enforceable pursuant to their terms. The Lender and the Debtors have been represented by counsel and intend to be and are bound by the terms of this Third Interim Order; provided, further that Lender reserves all rights it has or may have regarding the filing of the Debtors' bankruptcy cases and all objections contained in its Limited Objection.

M. Adequate Protection. The adequate protection provided for under this Third Interim Order is sufficient to protect the Lender from any diminution in the value of its interest in the Cash Collateral, and is fair, reasonable and sufficient to satisfy the requirements of the Bankruptcy Code.

N. Factual Findings/Legal Conclusions. Each of the foregoing findings by the Court will be deemed a finding of fact if and to the full extent that it makes and contains factual findings and a conclusion of law if and to the full extent that it makes and contains legal conclusions.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Authorization to Use Cash Collateral. The Motion is GRANTED in accordance with the terms of this Third Interim Order, and the Debtors are hereby AUTHORIZED to use the Cash Collateral on an interim basis to pay expenses incurred by the Debtors in the ordinary course of their business and in the manner set forth in the Budget attached to the Motion through and including March 30, 2010 (the "Third Interim Period"); provided, however, that during the Third Interim Period, the Debtors will continue to accrue but shall not pay any amounts to Debtors' proposed bankruptcy counsel. Nothing in this Interim

Order shall be construed as Lender's consent or this Court's approval of the use of Cash Collateral for Debtors' bankruptcy counsel fees or a waiver of the Lender's Limited Objection.

2. Variance Allowed. Debtors' total cash disbursements at the end of each month shall not exceed one hundred ten percent (110%) of each Debtors' budgeted cash disbursements as set forth in the Administrative Budget for such period (the "Monthly Budget Cap"); provided, however, that in the event that the Debtors' total cash disbursements for the month immediately prior to the current month were less than the budgeted cash disbursements for such prior month (the "Prior Month Budget Surplus"), the Debtors may exceed the Monthly Budget Cap for the current month by the amount of the Prior Month Budget Surplus.

3. Adequate Protection. As adequate protection for, and to secure against, any diminution in the Lender's collateral resulting from the Debtors' use of Cash Collateral, the Apartment LLCs (as defined in the Motion) hereby grant to the Lender additional and replacement liens in and upon all of their properties which constituted the Lender's Pre-Petition Collateral (as defined in the Motion) to the extent the value of the same is diminished as a result of the Debtors' use of Cash Collateral, which shall be first priority liens with respect to collateral that was not subject to valid and perfected liens as of the Petition Date and shall be junior priority liens with respect to collateral that was subject to valid and perfected liens as of the Petition Date. Notwithstanding anything to the contrary, any lien granted herein shall be deemed valid, perfected, and enforceable to the extent, and only to the extent that any prepetition lien in the Pre-Petition Collateral or the Cash Collateral is found to be valid, perfected, and enforceable, and then only to the extent of the Debtors' use of Cash Collateral.

4. Reporting. The Debtors shall provide to Lender, within twenty (20) days following the end of each prior month, a report summarizing all income received by the Debtors and all expenses paid by the Debtors during the prior month.

5. Order Binding on Successors. The provisions of this Third Interim Order shall be binding upon and inure to the benefit of the Lender, the Debtors, and their respective successors and assigns (including any trustee or other estate representative appointed as a representative of the Debtors' estates or of any estate in any Successor Case). Except as otherwise explicitly set forth in this Third Interim Order, no third parties are intended to be or shall be deemed to be third party beneficiaries of this Interim Order or the Pre-Petition Loan Documents.

6. Subsequent Hearing. The Motion is set for a final hearing before this Court at 8:30 a.m. ET on March 30, 2010 (the "Final Hearing"), at which time the Debtors and Lender will litigate the Motion and Lender's Limited Objection. The Debtors shall serve a copy of this Third Interim Order, by regular mail, no later than March 19, 2010, upon (i) the Lender; (ii) counsel to the Lender; and (iii) the United States Trustee. The Lender and Debtors shall file affidavits containing the direct testimony of all witness by 4:00 p.m. ET on Friday, March 26, 2010.

7. Order Effective. This Third Interim Order shall be effective as of the date of signature by the Court. This Court has and will retain jurisdiction to enforce this Third Interim Order according to its terms.

IT IS SO ORDERED.

Dated: March 19, 2010



United States Bankruptcy Judge