

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

In re:)	
)	Chapter 11
WOODBRIIDGE GROUP OF)	Case No. 17-12560-KJC
COMPANIES, LLC, <i>et al.</i> , ¹)	
)	
Debtors.)	
)	
)	

**HOMEOWNER’S ASSOCIATION AT ASPEN GLEN, INC.’S STATEMENT AND
RESERVATION OF RIGHTS WITH RESPECT TO DEBTOR IN POSSESSION
FINANCING**

Homeowner’s Association at Aspen Glen, Inc. (“Aspen Glen HOA”), by and through its attorneys Holland & Hart LLP, hereby submits this Statement and Reservation of Rights with Respect to the Debtors’ Motion to Approve Debtor in Possession Financing (the “DIP Motion,” Dkt. No. 22) and the Declaration of Lawrence R. Perkins in Support of the Debtors’ Chapter 11 Petitions and Requests for First Day Relief (the “Perkins Declaration,” Dkt. No. 12) and in support thereof states as follows:

1. Aspen Glen HOA does not object to the DIP financing proposed in the DIP Motion. However, Aspen Glen HOA submits this Statement and Reservation of Rights because page 157 of the Perkins Declaration supporting the DIP Motion is a 13-week budget which is on its face substantially deficient with respect to the homeowners’ association dues that will be due within that time frame.

2. On December 5, 2017, the Debtors filed their Motion for Entry of an Order Authorizing Payment of Obligations to Homeowner Associations, Condominium Associations, and Other Community Organizations (Dkt. No. 9) wherein the Debtors sought authority to pay obligations owing to homeowner associations and other community associations. In that Motion, the Debtors explained that if they failed to pay these obligations, the homeowners associations would be able to attach liens to their properties and that assessments in affected developments

¹ The Debtor in these proceedings is Woodbridge Group of Companies, LLC, and the last four digits of the Debtors federal tax identification number, are (3603). The Debtors’ corporate headquarters and the service address is 14225 Ventura Boulevard, #100, Sherman Oaks, CA 91423.

could increase significantly, thus adversely affecting the Debtors' ability to market and sell homes.

3. The Debtors' Motion was granted, and an Order Authorizing Payment of Obligations to Homeowner Associations, Condominium Associations, and Other Community Organizations was entered on December 5, 2017 (Dkt. No. 51) granting the Debtors authority to pay pre-petition homeowners' association dues, including approximately \$107,000 of association dues owed on the date of the Debtors' bankruptcy filing.

4. With respect to post-petition homeowners' association dues, the Debtors have proposed to pay those dues pursuant to a budget submitted in support of its DIP Motion. Specifically, page 157 of the Perkins Declaration is a 13-week budget which contains a line item for "Total HOA Dues." However, the budget projects only \$5,000 per week in disbursements for HOA dues, which Aspen Glen HOA submits is substantially deficient.

5. Aspen Glen HOA estimates that the total homeowners dues for the 77 lots in Aspen Glen and another 55 lots in River Valley Ranch will approach \$150,000, due on January 31, 2018. Yet, the total budgeted amount for HOA dues through the week of 3/2/18 is only \$65,000.

6. Under Colorado law, homeowners associations are granted a superpriority lien for unpaid dues.² Therefore, to the extent such dues are not covered by the Debtors' DIP financing

² More specifically, CO Rev Stat § 38-33.3-316 (2016) states:

1) The association, if such association is incorporated or organized as a limited liability company, has a statutory lien on a unit for any assessment levied against that unit or fines imposed against its unit owner. Unless the declaration otherwise provides, fees, charges, late charges, attorney fees, fines, and interest charged pursuant to section 38-33.3-302 (1) (j), (1) (k), and (1) (l), section 38-33.3-313 (6), and section 38-33.3-315 (2) are enforceable as assessments under this article. The amount of the lien shall include all those items set forth in this section from the time such items become due. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid association's acceleration of installment obligations.

(2) (a) A lien under this section is prior to all other liens and encumbrances on a unit except:

(I) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes, or takes subject to;

(II) A security interest on the unit which has priority over all other security interests on the unit and which was recorded before the date on which the assessment sought to be enforced became delinquent, or, in a cooperative, a security interest encumbering only the unit owner's interest

and budget, Aspen Glen HOA reserves the right to assert its superpriority liens for any unpaid assessments under Colorado law.

7. Aspen Glen HOA has communicated its concerns to the Debtors' management and has been assured that the HOA dues will be paid. However, Aspen Glen files this Statement and Reservation of Rights to go on record regarding what appears to be a deficiency in the Debtors' budget.

Dated December 19, 2017.

HOLLAND & HART LLP

/s/Risa Lynn Wolf-Smith

Risa Lynn Wolf-Smith, #15835

555 17th Street, Suite 3200

Denver, Colorado 80202

Telephone: 303-295-8011

Facsimile: 303-295-8261

rwolf@hollandhart.com

***ATTORNEYS FOR HOMEOWNERS ASSOCIATION AT
ASPEN GLEN, INC.***

which has priority over all other security interests on the unit and which was perfected before the date on which the assessment sought to be enforced became delinquent; and

(III) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

(b) Subject to paragraph (d) of this subsection (2), a lien under this section is also prior to the security interests described in subparagraph (II) of paragraph (a) of this subsection (2) to the extent of:

(I) An amount equal to the common expense assessments based on a periodic budget adopted by the association under section 38-33.3-315 (1) which would have become due, in the absence of any acceleration, during the six months immediately preceding institution by either the association or any party holding a lien senior to any part of the association lien created under this section of an action or a nonjudicial foreclosure either to enforce or to extinguish the lien.

CERTIFICATE OF SERVICE

I certify that on December 19, 2017, I served a copy of the foregoing document to the following by

U.S. Mail, postage prepaid

Ian J Bambrick
Young Conaway Stargatt & Taylor, LLP
1000 North King Street
Wilmington, DE 19801

Sean Matthew Beach
Young, Conaway, Stargatt & Taylor
1000 North King Street
Wilmington, DE 19801

Jennifer L. Conn
Gibson Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193

Daniel B. Denny
Gibson Dunn & Crutcher LLP
333 South Grand Avenue
47th Floor
Los Angeles, CA 90071

Oscar Garza
Gibson Dunn & Crutcher LLP
3161 Michelson Drive
Irvine, CA 92612

Matthew K. Kelsey
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166

Samuel A. Newman
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, CA 90071

Matthew P. Porcelli
Gibson Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193

J. Eric Wise
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193

Timothy Jay Fox, Jr.
Office of the United States Trustee
U. S. Department of Justice
844 King Street, Suite 2207
Lockbox #35
Wilmington, DE 19801

/s/Lela Lopez Velasquez

Lela Lopez Velasquez
Holland & Hart LLP