

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

In re:)	
)	Chapter 11
)	
NEWBURY COMMON)	Case No. 15-12507 (LSS)
ASSOCIATES, LLC, <u>et al.</u> ,)	
)	Jointly Administered
Debtors. ¹)	
)	Hearing Date: August 12, 2016 (requested)
)	Objection Deadline: (to be determined)

**PARK SQUARE WEST ASSOCIATES, LLC’S MOTION, PURSUANT TO RULE 9019
OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND SECTION 105 OF
THE BANKRUPTCY CODE, FOR ENTRY OF AN ORDER APPROVING THE
SETTLEMENT BETWEEN PARK SQUARE WEST ASSOCIATES, LLC AND
CONNECTICUT HOUSING FINANCE AUTHORITY**

Debtor Park Square West Associates, LLC (“PSW”), by and through its undersigned counsel, respectfully requests entry of an order, pursuant to Rule 9019(a) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”), approving the settlement agreement dated July 29, 2016 (the “**Settlement Agreement**”), by and between PSW and its lender, the Connecticut Housing Finance Authority (“**CHFA**”) (each a “**Party**” and collectively “**the Parties**”), a copy of which is attached hereto as **Exhibit A**. The settlement memorialized by the Settlement Agreement resolves all disputes between the Parties in these

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s tax identification number, are: Newbury Common Associates, LLC (3783); Seaboard Realty, LLC (6291); 600 Summer Street Stamford Associates, LLC (6739); Seaboard Hotel Member Associates, LLC (8984); Seaboard Hotel LTS Member Associates, LLC (6005); Park Square West Member Associates, LLC (9223); Seaboard Residential, LLC (2990); One Atlantic Member Associates, LLC (4120); 88 Hamilton Avenue Member Associates, LLC (5539); 316 Courtland Avenue Associates, LLC (0290); 300 Main Management, Inc. (6365); 300 Main Street Member Associates, LLC (2334); PSWMA I, LLC (6291); PSWMA II, LLC (6291); Tag Forest, LLC (8974); Newbury Common Member Associates, LLC (3909); Century Plaza Investor Associates, LLC (1480); Seaboard Hotel Associates, LLC (2281); Seaboard Hotel LTS Associates, LLC (8811); Park Square West Associates, LLC (9781); Clocktower Close Associates, LLC (3154); One Atlantic Investor Associates, LLC (7075); 88 Hamilton Avenue Associates, LLC (5749); 220 Elm Street I, LLC (7540); 300 Main Street Associates, LLC (8501); and 220 Elm Street II, LLC (7625). The Debtors’ corporate headquarters is located at, and the mailing address for each Debtor is, 1 Atlantic Street, Stamford, CT 06901.

chapter 11 cases with respect to the proposed sale of the Park Square West Property (as defined below) and the proposed prepayment of the loan from CHFA to PSW. In support of this motion (this “**Motion**”), PSW respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), PSW consents to the entry of a final judgment or order with respect to this Application if it is determined that this Court would lack Article III jurisdiction to enter such final order or judgment absent the consent of the parties.

2. Venue of these chapter 11 cases and this Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicates for the relief requested herein are Bankruptcy Rule 9019(a) and section 105(a) of the Bankruptcy Code.

BACKGROUND

A. General Background

4. On December 13, 2015 (the “**Petition Date**”), the Original Debtors,² with the exception of Tag Forest, LLC (“**Tag**”), each commenced a voluntary case under chapter 11 of

² The Original Debtors are: Newbury Common Associates, LLC; Seaboard Realty, LLC; 600 Summer Street Stamford Associates, LLC; Seaboard Hotel Member Associates, LLC; Seaboard Hotel LTS Member Associates, LLC; Park Square West Member Associates, LLC; Seaboard Residential, LLC; One Atlantic Member Associates, LLC; 88 Hamilton Avenue Member Associates, LLC; 316 Courtland Avenue Associates, LLC; 300 Main Management, Inc.; 300 Main Street Member Associates, LLC; PSWMA I, LLC; PSWMA II, LLC; and Tag Forest, LLC.

the Bankruptcy Code. On December 14, 2015, Tag commenced its voluntary case under chapter 11 of the Bankruptcy Code.

5. On February 3, 2016, the Additional Debtors,³ excluding 88 Hamilton Avenue Associates, LLC (“**88 Hamilton**”), each commenced a voluntary case under chapter 11 of the Bankruptcy Code. On February 4, 2016, 88 Hamilton commenced its voluntary case under chapter 11 of the Bankruptcy Code.

6. On March 17, 2016, 220 Elm Street II, LLC (collectively with the Original Debtors and the Additional Debtors, the “**Debtors**”) commenced a voluntary case under chapter 11 of the Bankruptcy Code.

B. The Parties to the Settlement Agreement

7. CHFA is a political subdivision of the State of Connecticut. The legislature of the State of Connecticut established CHFA for the purpose of alleviating the shortage of housing for low and moderate income families and persons in the State of Connecticut. *See* Conn. Gen. Stat. §§ 8-244 and 8-250 (2013); *see also* Connecticut Housing Finance Authority, <http://www.chfa.org/default.aspx>. In furtherance of that purpose, the State of Connecticut granted CHFA the power to provide financing to developers of affordable housing. *See* Conn. Gen. Stat. § 8-250.

8. On or about November 19, 1998, Park Square West I Limited Partnership (“**PSW I**”), as borrower, executed a promissory note (the “**Note**”) in favor of CHFA in the original principal amount of \$26,000,000.00. The Note was secured by a mortgage deed dated November 19, 1998, and recorded on November 20, 1998 (the “**Mortgage**”). In connection with

³ The Additional Debtors are: Newbury Common Member Associates, LLC; Century Plaza Investor Associates, LLC; Seaboard Hotel Associates, LLC; Seaboard Hotel LTS Associates, LLC; Park Square West Associates, LLC; Clocktower Close Associates, LLC; One Atlantic Investor Associates, LLC; 88 Hamilton Avenue Associates, LLC; 220 Elm Street I, LLC; and 300 Main Street Associates, LLC.

the Note and the Mortgage, CHFA and PSW I entered into a Covenant of Compliance and Regulatory Agreement dated November 19, 1998 (the “**Regulatory Agreement**”). PSW I also executed a Declaration of Restrictive Covenants (the “**Declaration**”). The Regulatory Agreement and Declaration confirmed PSW I’s commitment to maintain certain affordable housing units at the real property known as Park Square West Apartments, 81/131 Summer Street a/k/a 101 Summer Street, Stamford, Connecticut, together with all improvements and personal property located thereon and all rents and profits generated thereby (collectively, the “**Park Square West Property**”).

9. In conjunction with the loan transaction, PSW I and CHFA also entered into a Building Loan Agreement (the “**Building Loan Agreement**”). As additional security for the obligations under the Note, PSW I delivered to CHFA on November 19, 1998, a Collateral Assignment of Leases and Rents (the “**Collateral Assignment**”) and a Security Agreement and UCC-1 Financing Statement (the “**Security Agreement**”) and, together with the Note, the Mortgage, the Regulatory Agreement, the Declaration, the Building Loan Agreement, and the Collateral Assignment, the “**Loan Documents**”). The loan evidenced by the Loan Documents is secured by valid, enforceable, and properly perfected first priority liens on the Park Square West Property.

10. By Warranty Deed dated December 20, 2011, and recorded on January 3, 2012, PSW I assigned all right, title, and interest in and to the Park Square West Collateral to the PSW. In connection with that same transaction and pursuant to an Assumption Agreement, PSW assumed all obligations due and owing to CHFA under the Loan Documents.

C. The Prepetition Payment Agreement

11. Prior to the commencement of these chapter 11 cases, PSW and CHFA commenced negotiations regarding the proposed prepayment of the Note and the Mortgage and discussed a potential settlement agreement. In exchange for CHFA's consent to prepayment of the Note and the Mortgage, PSW had proposed to pay CHFA a Housing Program Maintenance Fee in the amount of \$3.31 million. Additionally, PSW agreed to extend the Affordability Restrictions beyond the affordability period originally provided in the Loan Documents.

12. The Board of Directors of CHFA issued a Resolution Regarding the Prepayment of Mortgage Loan and Preservation of Affordable Housing for Park Square West, Stamford Connecticut CHFA Development No. 98-003M (the "**Prepayment Resolution**") pursuant to which the Board of Directors authorized the Executive Director of CHFA to accept prepayment on the terms referenced above. A copy of the Prepayment Resolution is attached hereto as **Exhibit B**.

D. The Sale of the Park Square West Property

13. On February 4, 2016, the Debtors filed the *Emergency Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Use of Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; and (III) Scheduling a Final Hearing* (the "**Cash Collateral Motion**") [Docket No. 176]. In the Cash Collateral Motion, PSW sought, *inter alia*, authority to use CHFA's cash collateral to fund operation of the Park Square West Property.

14. On April 12, 2016, the Court entered the *Final Order for Park Square West Associates, LLC (A) Authorizing Use of Cash Collateral, (B) Granting Adequate Protection to Connecticut Housing Finance Authority, Including Monthly Debt Service Payments, and*

(C) *Granting Other Relief* (the “**Final Cash Collateral Order**”) [Docket No. 554]. Pursuant to the Final Cash Collateral Order, the Court ordered that “in connection with any sale, restructuring or other disposition of the Park Square West Property, purchaser or post-confirmation owner of the Park Square West Property shall agree to be bound by and to comply with the affordable housing covenants and restrictions contained in the Regulatory Agreement and in the Declaration.” Final Cash Collateral Order ¶G(viii). The Court also ordered the Debtors to pay the Allowed CHFA Claim and any undisputed portion of the Reserved CHFA Claim (as defined therein) from the proceeds of the sale of the Park Square West Property and to establish a reserve equal to the disputed portion of the Reserved CHFA Claim. Final Cash Collateral Order ¶G(ii).

15. On March 21, 2016, the Debtors filed their *Motion for Entry of (A) Order (I) Scheduling a Hearing to Consider Approval of the Sale or Sales of the Debtors’ Assets, and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (II) Approving Certain Bidding Procedures, Assumption and Assignment Procedures, and the Form and Manner of Notice Thereof, and (III) Granting Related Relief; and (B) One or More Orders (I) Approving the Sales or Other Acquisition Transactions for the Properties; (II) Authorizing the Sales Free and Clear of All Encumbrances, (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* (the “**Sale Motion**”) [Docket No. 411]. In the Sale Motion, the Debtors sought authority to undertake a process for the sale of, *inter alia*, the Park Square West Property.

16. On April 29, 2016, the Court entered its *Order (I) Scheduling a Hearing to Consider Approval of the Sale or Sales of the Debtors’ Assets, and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (II) Approving Certain*

Bidding Procedures, Assumption and Assignment Procedures, and the Form and Manner of Notice Thereof, and (III) Granting Related Relief (the “**Sale Procedures Order**”) [Docket No. 688]. Under the Sale Procedures Order, the Court approved bidding and auction sale procedures and a timeline for the auction sale of, *inter alia*, the Park Square West Property.

17. On June 15, 2016, CHFA filed *Connecticut Housing Finance Authority’s Protective Objection and Reservation of Rights to the Debtors’ Proposed Sale Order* (the “**CHFA Sale Objection**”) [Docket No. 841], in which CHFA argued that any sale of the Park Square West Property must be subject to the Regulatory Agreement and the Declaration and that CHFA has statutory and contractual rights of consent to any proposed sale of the Park Square West Property free and clear of the lien memorialized by the Loan Documents. In the CHFA Sale Objection, CHFA argued that any order approving such a sale of the Park Square West Property must include provisions directing that the Seller pay CHFA in full at closing on account of the allowed amount of CHFA’s secured claim and establish a reserve in an amount equal to any disputed portion of CHFA’s secured claim. CHFA also reserved its right to require the Buyer to pay a consent fee to CHFA along with an annual fee to cover CHFA’s costs and expenses associated with housing maintenance and with monitoring compliance with the affordability restrictions on the Park Square West Property

18. On June 20, 2016, the Debtors conducted an auction of certain of their properties, including the Park Square West Property.

19. On June 21, 2016, the Debtors filed the *Notice of Successful Bids in Connection with Sale of Substantially All of the Debtors’ Assets* [Docket No. 878] which designated Annemid, LLC (the “**Buyer**”) as the successful bidder for the Park Square West Property.

20. PSW desires to prepay the Note and the Mortgage in full as part of the sale of the Park Square West Property to the Buyer. CHFA is prepared to consent to the prepayment of the Note and the Mortgage at the closing of the sale of the Park Square West Property pursuant to the terms set forth in the attached Settlement Agreement and in accordance with the Payoff Schedule attached hereto as **Exhibit C**.

E. Background Regarding the Settlement Agreement

21. Following lengthy, good faith, and arm's-length negotiations, the Parties have agreed to a compromise. The material terms of the Settlement Agreement are set forth below:

a. **Reserves**. All funds being held by CHFA in any reserve(s) pursuant to the Loan Documents shall continue to be held by CHFA in a segregated account, and such funds shall be frozen pending further order of the Court as to the disposition of such funds, excluding any such funds held for taxes and insurance which may, at CHFA's discretion, be applied against such expenses upon notice to PSW.

b. **Security Deposits**. In connection with the sale of the Park Square West Property, PSW shall deliver to the Buyer, at closing, all sums due for the residential tenant security deposits along with an accounting thereof of any interest and the identity of the tenant designees. PSW shall simultaneously deliver to CHFA and the Connecticut Commissioner of Banking the accounting and designee disclosure. PSW shall provide notice of the sale of the Park Square West Property to the tenants and shall confirm to CHFA that it has provided such notice.

c. **Prepayment of the Mortgage**. As noted above, prior to the commencement of these chapter 11 cases, PSW agreed to pay to CHFA \$3.31 million as part of a CHFA-approved proposal to prepay the Note and the Mortgage. In light of PSW's agreement that PSW will ensure that the Buyer assumes the Regulatory Agreement and the Declaration and signs, delivers, and records the Amended and Restated Agreement, CHFA has agreed to accept a reduced amount in exchange for prepayment of the Note and the Mortgage. In consideration of the concessions, compromises, and collaboration of and between PSW and CHFA, and after an examination of the facts and documents relating thereto, PSW has agreed to prepay the Mortgage in full, including but not limited to unpaid principal, accrued contract interest, accrued late fees, accrued default interest, and reasonable legal fees and expenses delineated on **Exhibit C**, as due

and owing as of July 29, 2016, along with the sum of \$250,000.00 as a “Housing Program Maintenance Fee”, in lieu of any prepayment fee or penalty. CHFA shall earmark the Housing Program Maintenance Fee for other affordable housing projects in Fairfield County.

RELIEF REQUESTED

22. By this Motion, PSW seeks entry of an order pursuant to Bankruptcy Rule 9019 approving the Settlement Agreement in the form attached hereto as **Exhibit A**. PSW has weighed the costs, risks, and disruption that would arise from litigating the numerous matters identified above against the compromises contained within the Settlement Agreement. In PSW’s reasonable business judgment, the terms and conditions of the Settlement Agreement are fair and equitable and serve the best interests of PSW’s estate and creditors. Accordingly, PSW respectfully requests that the Court grant the relief requested in the Motion and approve the Settlement Agreement.

BASIS FOR RELIEF REQUESTED

23. Bankruptcy Rule 9019(a) provides that, “on motion by the trustee and after a hearing, the court may approve a compromise or settlement.” FED. R. BANKR. P. 9019(a). The Bankruptcy Code further provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions [of the Bankruptcy Code].” 11 U.S.C. § 105(a).

24. The settlement of time-consuming and burdensome litigation is encouraged and generally favored in bankruptcy. *In re Zacharias*, No. 14-933, 2015 WL 849048, at *2 (D. Del. Feb. 23, 2015) (“Pre-confirmation bankruptcy settlements under Fed. R. Bankr. P. 9019 are favored in order to minimize litigation and expedite the administration of the bankruptcy estate.” (citing *In re Martin*, 91 F.3d 389, 393 (3d. Cir. 1996)); *In re Penn Cent. Transp. Co.*, 596 F.2d 1102 (3d Cir. 1979) (““administering reorganization proceedings in an

economical and practical manner, it will often be wise to arrange the settlement of claims”)

(quoting *In re Protective Comm. for Indep. Stockholders of TMT Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968)). Indeed, settlements and compromises are “a normal” part of the bankruptcy process. *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry*, 390 U.S. 414, 424 (1968) (quoting *Case v. Los Angeles Lumber Prods. Co.*, 308 U.S. 106, 130 (1939)).

25. Bankruptcy courts may approve a compromise or settlement pursuant to Rule 9019 when “it is fair and equitable and is above the lowest point in the range of reasonableness.” *In re Zacharias*, 2015 WL 849048, at *2. The decision to approve a settlement is ultimately within the sound discretion of the bankruptcy court. *See In re Martin*, 91 F.3d at 393. The court should not, however, substitute its judgment for that of PSW. *See In re Neshaminy Office Bldg. Assocs.*, 62 B.R. 798, 803 (E.D. Pa. 1986). The court is not to decide the numerous questions of law or fact raised by litigation, but rather should canvas the issues and determine whether “the settlement is within the reasonable range of litigation possibilities.” *In re World Health Alts., Inc.*, 344 B.R. 291, 296 (Bankr. D. Del. 2000) (stating that “the court does not have to be convinced that the settlement is the best possible compromise. Rather, the court must conclude that the settlement is within the reasonable range of litigation possibilities.”).

26. In deciding whether a particular settlement is above the lowest point in the range of reasonableness, bankruptcy courts in the Third Circuit consider the following factors: (1) the probability of success in litigation; (2) the likely difficulties in collection;⁴ (3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (4) the paramount interest of the creditors. *In re Martin*, 91 F.3d at 393.

⁴ This factor is inapplicable to the proposed Settlement Agreement.

27. The terms of the proposed settlement lie well above the lowest point in the range of reasonableness, and the applicable factors weigh in favor of approval.

A. Probability of Success in Litigation

28. The probability of PSW prevailing in an action to compel prepayment of the Mortgage is completely uncertain.

29. Connecticut General Statutes § 8-253a governs the mortgage prepayment process. The Connecticut legislature intended to defer to CHFA to determine whether a mortgagor has met the requirements for CHFA's consent to prepayment. *See Woodrow Wilson*, 986 A.2d at 275 (2010); *see also Renaissance Mgmt. Co. Inc.*, 915 A.2d at 295–97 (Connecticut legislature has granted CHFA a broad delegation of legal authority in order to carry out its legislative mission of making affordable housing available). While CHFA may allow or condition prepayment, the Debtors are unaware of any court (state or federal) that has compelled a prepayment over CHFA's objection or non-compliance with the approval process.

30. One of the factors considered by CHFA in determining whether to grant authority to prepay is the need for low and moderate income housing in the geographic area concerned. *Woodrow Wilson*, 986 A.2d at 275. Based on the October 30, 2013 "Connecticut Affordable Housing Market Inventory Study" commissioned by CHFA, the Stamford area (the location of the Park Square West Property) has a significant need for low to moderate income housing.

31. Under Connecticut General Statutes § 8-253a, consent of CHFA is required in connection with prepayment, which consent is to be provided only under specific circumstances. Thus, CHFA has maintained that it cannot be compelled to accept a monetary satisfaction of its mortgage interest in the Park Square West Property, and that section 363(f)(5)

of the Bankruptcy Code does not provide PSW with a basis to sell the Park Square West Property free and clear of CHFA's liens.

32. While section 363(f)(3) of the Bankruptcy Code provides that a debtor can effectuate a sale of property free and clear of liens, claims, and interests in the event the purchase price is adequate to pay secured creditors the full amount of their secured claims, this provision clashes directly with the prohibition on prepayment set forth in Connecticut General Statutes § 8-253a(1).

33. The Tenth Amendment of the United States Constitution provides: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." U.S. Const., Amend. X.

34. In connection with an analysis under the Tenth Amendment, the United States Supreme Court observed: "While Congress has substantial powers to govern the Nation directly, including in areas of intimate concern to the States, the Constitution has never been understood to confer upon Congress the ability to require the States to govern according to Congress' instructions." *New York v. United States*, 505 U.S. 144, 162 (1992) (citing *Coyle v. Smith*, 221 U.S. 559, 565, 55 L. Ed. 853, 31 S. Ct. 688 (1911)). The Court proceeded to find: "In providing for a stronger central government, therefore, the Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States. As we have seen, the Court has consistently respected this choice. We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to compel the States to require or prohibit those acts." *Id.* at 166 (citing *FERC v. Mississippi*, 456 U.S. at 762-766; *Hodel v. Virginia Surface Mining &*

Reclamation Assn., Inc., 452 U.S. at 288-289; *Lane County v. Oregon*, 74 U.S. (7 Wall.) at 76, 19 L. Ed. 101).

35. As a result, CHFA would argue that the statutory prohibition on prepayment would control over the right of PSW to sell the Park Square West Property free and clear in a transaction that involves the proposed prepayment of the Note and the Mortgage as a matter of bankruptcy law. The Settlement Agreement, on the other hand, provides for the immediate resolution of the Parties' claims and consummation of the proposed sale of the Park Square West Property. The Settlement Agreement provides that CHFA will consent to prepayment of the Note and the Mortgage in exchange for PSW paying \$250,000.00 in the form of a Housing Program Maintenance Fee. PSW has the ability to proceed with the proposed sale of the Park Square West Property, including prepayment of the Note and the Mortgage. CHFA will receive substantial funds to assist with its purpose of increasing affordable housing for low and moderate income families and persons in Connecticut.

B. Complexity, Expense, Inconvenience, and Delay

36. In determining whether to enter into the Settlement Agreement, PSW, in consultation with its counsel, analyzed the nature, difficulties, delay, and cost of litigating the prepayment issue. These costs would likely include, among other things, engaging in further motion practice, discovery, and trial preparation and a trial on the merits, and the potential for protracted appellate practice. The litigation may delay the closing of the Debtors' estates and deplete the value of consideration being received on account of the sale by way of increased administrative costs. In light of the litigation risks, costs, and distraction from the Debtors to effectuate an efficient liquidation and closing of the Debtors' estates, PSW believes that the resolution of these matters under the terms of the Settlement Agreement, without the need for

protracted litigation, represents a favorable outcome that is both cost-effective and efficient for all parties-in-interest. The proposed settlement will save the Parties considerable time and effort and spare the Parties from incurring additional expenses attendant to such litigation. As such, the third factor weighs in favor of approval.

C. The Paramount Interest of Creditors

37. The cost of litigation and appeals, in addition to delaying the closing of the Debtors' estates, would further deplete the value of consideration being received on account of the sale by way of increased administrative costs related to engaging in likely intense trial and appellate practice with CHFA. The savings associated with a prompt closing of the sale and the elimination of protracted litigation with CHFA likely equals or exceeds the proposed payment of \$250,000 to CHFA in connection with the settlement. Accordingly, the interests of creditors are served by PSW's proposed settlement with CHFA.

38. In sum, the resolution of the matters embodied in the Settlement Agreement represent a settlement that rests well above the lowest point in the reasonable range of potential litigation outcomes and obviates the expense, delay, and inconvenience attendant to any litigation. Moreover, the Settlement Agreement advances the policy of CHFA by ensuring that the Park Square West Property continues to provide affordable housing units and that any pre-payment of the Mortgage will result in the payment of \$250,000.00 which will be used to develop additional affordable housing in Fairfield County.

NO PRIOR REQUESTS

39. No previous application for the relief sought herein has been made to this or any other Court.

CONCLUSION

WHEREFORE, PSW respectfully requests that this Court (i) enter the proposed order, attached hereto as **Exhibit D**, approving the Settlement Agreement and (ii) grant such other and further relief as is just and proper.

Dated: July 29, 2016
Wilmington, Delaware

Respectfully submitted,

By: /s/ Sean T. Greecher

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