

FILED & ENTERED
AUG 11 2010
CLERK U.S. BANKRUPTCY COURT
Central District of California
BY daniels DEPUTY CLERK

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13 **UNITED STATES BANKRUPTCY COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SANTA ANA DIVISION**

16 In re
17 PPA HOLDINGS, LLC, a California limited
18 liability company,
19 Debtor and
20 Debtor-in-Possession.

Case No. 8:09-bk-16353-ES
Chapter 11
(Jointly Administered with Case Nos.
8:09-bk-16355-ES; 8:09-bk-16358-ES;
8:09-bk-16361-ES; 8:09-bk-16363-ES;
8:09-bk-16367-ES; 8:09-bk-16369-ES;
8:09-bk-16371-ES; 8:09-bk-16372-ES;
8:09-bk-16378-ES; 8:09-bk-16380-ES;
8:09-bk-16383-ES; 8:09-bk-16385-ES;
8:09-bk-16386-ES; 8:09-bk-16388-ES;
8:09-bk-16390-ES; 8:09-bk-16393-ES;
8:09-bk-16395-ES; 8:09-bk-16396-ES;
8:09-bk-16399-ES; 8:09-bk-16402-ES; and
8:09-bk-16404-ES)

**STIPULATED ORDER GRANTING
MOTION FOR RELIEF FROM AUTOMATIC
STAY AND RELATED RELIEF (COUNTRY
CLUB PROPERTY)**

Continued Hearing
DATE: August 6, 2010
TIME: 10:00 a.m.
PLACE: Courtroom 5A
411 W. Fourth St.
Santa Ana, CA 92701

- 21 _____ Affects All Debtors
- 22 _____ Affects PPA HOLDINGS, LLC, a
23 California limited liability company
- 24 _____ Affects PACIFIC PROPERTY
25 ASSETS, LLC, a California limited
26 liability company
- 27 _____ Affects PPA RIVERSIDE
28 APARTMENTS, a California limited
liability company
- _____ Affects PACIFIC PROPERTY
ASSETS II, LLC, a California
limited liability company
- _____ Affects BELL COVE, LLC, a
California limited liability company
- _____ Affects COUNTRY CLUB
GREENS, LLC, a California limited
liability company
- _____ Affects SYCAMORE SHADOWS,
LLC, a California limited liability
company

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- 1 _____ Affects PPA ARIZONA I, LLC, a
2 Delaware limited liability company
- 3 X Affects PPA ARIZONA II, LLC, a
4 Delaware limited liability company
- 5 _____ Affects PPA VISTA VILLAGE, LLC,
6 an Arizona limited liability company
- 7 _____ Affects PPA TOWNE CENTER,
8 LLC, a California limited liability
9 company
- 10 _____ Affects SUNDANCER
11 APARTMENTS, LLC, a California
12 limited liability company
- 13 _____ Affects DOBSON SPRINGS, LLC,
14 an Arizona limited liability company
- 15 _____ Affects VILLA ROSE AVENUE,
16 LLC, a California limited liability
17 company
- 18 _____ Affects HARBOR VIEW
19 CONDOMINIUMS, LLC, a
20 California limited liability company
- 21 _____ Affects PPA OPPORTUNITY
22 FUND, LLC, a California limited
23 liability company
- 24 _____ Affects PPA EQUITIES, LLC, a
25 California limited liability company
- 26 _____ Affects PPA DESERT VIEW, LLC,
27 a California limited liability
28 company
- _____ Affects RIDGEMONT
CONDOMINIUMS, LLC, a
California limited liability company
- _____ Affects VILLA LAS BRISAS
CONDOMINIUMS, LLC, a
California limited liability company
- _____ Affects 2130 GROUP
PARTNERSHIP, LLC, an Arizona
limited liability company
- _____ Affects AAA INVESTMENT
PROPERTIES, LLC, an Arizona
limited liability company

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1 This matter came before the Court on August 6, 2010 for a continued hearing on
2 the "Motion For Relief From Automatic Stay" [Docket No. 235] (the "Motion") filed by Wells
3 Fargo Bank, N.A., as trustee for the registered holders of Banc of America Commercial
4 Mortgage Inc., Commercial Mortgage Pass-Through Certificates, Series 2000-1
5 ("Lender"), acting by and through Berkadia Commercial Mortgage, LLC (as successor to
6 Capmark Finance Inc.), as special servicer. In the Motion, Lender asks the Court to enter
7 an Order granting Lender stay relief, so that Lender may exercise all of its rights, liens,
8 and remedies with respect to the Country Club apartment complex located at 1415 N.
9 Country Club Dr., Mesa, AZ 85201, and all rents and other related collateral (collectively,
10 the "Country Club Property"). The Country Club Property is owned by PPA Arizona II,
11 LLC (the "Debtor"). The Motion was opposed by the Debtor and the official committee of
12 unsecured creditors (the "Committee").

13 At the beginning of April 2010, the Court ordered the appointment of a
14 Chapter 11 trustee in the Debtor's case, and approved the appointment of Thomas H.
15 Casey (the "Trustee"). The Trustee also opposed the Motion. As described below, the
16 Trustee and Lender have reached an agreement that resolves the Motion and related
17 matters, and, in accordance with their agreement, have requested that the Court enter this
18 stipulated Order.

19 Based on the Motion and the entire record before the Court in this Chapter
20 11 case, the Court hereby FINDS and CONCLUDES as follows:

21 A. The Court has jurisdiction over the Bankruptcy Case and the Motion
22 pursuant to 28 U.S.C. §§ 157(b) and 1334. The Motion and the related agreement
23 described and approved herein present a core proceeding as defined in 28 U.S.C.
24 § 157(b) over which the Court has the jurisdiction and the power to enter a final order.

25 B. On June 26, 2009 (the "Petition Date"), the Debtor filed its voluntary
26 petition for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code,
27 thereby commencing its above-captioned case (the "Bankruptcy Case").
28

1 C. On October 5, 2009, Lender filed the Motion requesting relief from all
2 stays and injunctions so that Lender could enforce its rights and remedies with respect to
3 the Country Club Property (including, but not limited to, all rents from the Country Club
4 Property). The Motion was opposed by the Debtor and the Committee.

5 D. A preliminary hearing on the Motion was held on November 10, 2009.
6 A final hearing on the Motion was held on January 22, 2010 and February 12, 2010. After
7 the final hearing, the Court took the Motion under advisement. Later, the Court scheduled
8 a continued hearing on the Motion for August 6, 2010 to address, among other things,
9 certain new developments.

10 E. On April 6, 2010, the Court entered an order appointing the Trustee
11 as the Chapter 11 trustee in the Bankruptcy Case [Docket No. 714]. The Trustee has
12 exclusive authority to act on behalf of the Debtor's estate, including with respect to the
13 Country Club Property.

14 F. The Debtor is obligated to Lender on a loan (the "Country Club
15 Loan"). Lender asserts that the balance owing under the Country Club Loan totals more
16 than \$10.5 million, and that the Country Club Loan is secured by a first priority deed of
17 trust lien on the Country Club Property.

18 G. With respect to the Motion and related matters, the Trustee and
19 Lender have stipulated and agreed as follows:

20 1. All applicable stays and injunctions, including the automatic
21 stay of Bankruptcy Code §362, shall be immediately terminated so that Lender may
22 exercise all of its rights and remedies with respect to the Country Club Property (except
23 for the Subject Cash Collateral), including, but not limited to, having a trustee's sale of the
24 Country Club Property conducted under the applicable deed of trust, and/or seeking the
25 appointment of a receiver with respect to the Country Club Property.

26 2. Subject to the terms of this Order, the Trustee agrees that he
27 will take no action to impede or interfere with Lender's efforts to have a trustee's sale
28 conducted with respect to the Country Club Property (except for the Subject Cash

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1 Collateral), or to otherwise enforce Lender's rights and remedies with respect to the
2 Country Club Property (except for the Subject Cash Collateral). The Trustee, on behalf of
3 the Debtor's estate, consents to the appointment of a receiver for the Country Club
4 Property (except for the Subject Cash Collateral), and agrees that Lender may seek the
5 immediate appointment of a receiver without further notice or proceedings in this case.

6 3. Promptly following the entry of this Order, Lender will seek and
7 pursue the appointment of a receiver with respect to the Country Club Property in state
8 court in Arizona. The Trustee, on behalf of the Debtor's estate, agrees that the state court
9 in Arizona may appoint a receiver with respect to the Country Club Property immediately
10 and without notice to the Trustee or the Debtor. The date on which Lender obtains the
11 appointment of a receiver with respect to the Country Club Property is referred to herein
12 as the "Appointment Date".

13 4. Following entry of this Order, Lender agrees that its "Motion to
14 Convert Debtor PPA Arizona II, LLC's Case to Chapter 7 Proceeding" [Docket No. 679]
15 will be deemed withdrawn, without prejudice.

16 5. The Trustee intends to abandon the Country Club Property
17 (except for the Subject Cash Collateral described below) from the Debtor's estate, and
18 has, in conjunction with this stipulated Order, provided notice of intent to abandon, to be
19 effective one (1) business day after the Appointment Date.

20 6. With respect to the asserted cash collateral rents (or other
21 cash proceeds) currently held by the Trustee in relation to the Country Club Property
22 (which are segregated by the Trustee in accordance with existing cash collateral orders),
23 and any other asserted cash collateral rents (or other cash proceeds) collected by or for
24 the Trustee related to the Country Club Property prior to the Appointment Date
25 (collectively, the "Subject Cash Collateral"), the Trustee and Lender stipulate and agree as
26 follows:

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1 (a) Following the entry of this Order, the Trustee's use of
2 the Subject Cash Collateral will be subject to the terms and conditions of this
3 Order.

4 (b) The Trustee will be authorized to use the Subject Cash
5 Collateral to pay normal course post-petition operating expenses for the Country
6 Club Property that accrued prior to the Appointment Date but only with the prior
7 written consent of Lender, which consent will not be unreasonably withheld. From
8 time to time, the Trustee will submit a list of proposed expenses to Lender for
9 approval. The Trustee is authorized to use the Subject Cash Collateral to pay the
10 expenses approved by Lender. If the parties can not reach agreement on the
11 payment of any expense, the Trustee reserves the right to seek Court
12 authorization, and Lender reserves its right to oppose any such request.

13 7. Within three (3) business days after the Appointment Date, the
14 Trustee will transfer \$25,000 of the Subject Cash Collateral, in readily available funds, to
15 the receiver (or as otherwise directed by Lender). Except with respect to the funds
16 transferred to the receiver pursuant to this paragraph, the Subject Cash Collateral will not
17 be subject to the receivership, but rather will be held by the Trustee subject to further
18 agreement between the Trustee and Lender, or further court order, with all claims, liens,
19 rights and interests of each of the parties (if any) being fully reserved.

20 8. With respect to all rents (or other cash proceeds) from the
21 Country Club Property paid or received from and after the Appointment Date (the "Future
22 Rents"): (i) the Trustee agrees that the Future Rents will be collected by the receiver (or
23 otherwise on behalf of Lender), (ii) Lender shall have the full right to exercise its rights and
24 remedies with respect to the Future Rents, and (iii) any Future Rents received by the
25 Trustee will be promptly remitted by the Trustee to the receiver (or as otherwise directed
26 by Lender).

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28 ///

1 Based on the forgoing findings and conclusions, and the entire record before
2 the Court; and good cause appearing,

3 IT IS HEREBY ORDERED as follows:

4 1. The foregoing paragraphs containing the findings of fact and the
5 stipulations of Parties are incorporated herein by reference as an operative part of the
6 Court's decree in this Order.

7 2. The Motion shall be, and hereby is, granted, under the terms and
8 conditions stated in this Order.

9 3. The stipulation and agreement of Lender and the Trustee as stated in
10 this Order shall be, and hereby is, approved. The Trustee is hereby authorized and
11 directed to perform in accordance with this Order.

12 4. Lender shall be, and hereby is, granted presently effective relief from
13 all stays and injunctions, including, but not limited to, the automatic stay of Bankruptcy
14 Code §362(a), so that, subject to the agreed terms and conditions stated in this Order,
15 Lender is entitled to enforce all of its rights and remedies with respect to the Country Club
16 Property, except only for the Subject Cash Collateral. Without limiting the foregoing in any
17 way, Lender shall be entitled to proceed with a foreclosure or trustee's sale of the Country
18 Club Property, and to seek the appointment of a receiver with respect to the Country Club
19 Property, without further relief from, notice to, or order of the Court.

20 5. Effective as of the first business day after the Appointment Date, the
21 Country Club Property, except only for the Subject Cash Collateral, shall be deemed
22 abandoned pursuant to 11 U.S.C. § 554(a) and, following the abandonment of the
23 foregoing property, the Trustee shall have no responsibility with respect to the Country
24 Club Property, except only for the Subject Cash Collateral, and the Trustee and the
25 Debtor's estate shall not incur any liabilities with respect to the Country Club Property.

26 6. Following the entry of this Order, the Trustee will be authorized to use
27 the Subject Cash Collateral only under the terms and conditions stated in this Order.
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1 7. The provisions of this Order shall be binding upon and inure to the
2 benefit of the Parties and their respective successors and assigns, including any trustee
3 or other fiduciary hereafter appointed in any Chapter 7 case in the event of a conversion.

4 8. Notwithstanding the possible applicability of Rules 4001(a)(3), 6004,
5 7062, and/or 9014 of the Federal Rules of Bankruptcy Procedure, this Order shall be
6 immediately enforceable and effective upon its entry by the Court.

7 9. The Court does not by this Order make any determination that the
8 Subject Cash Collateral is in fact the cash collateral of Lender and/or any other
9 determination with respect to the parties' rights to the Subject Cash Collateral.

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DATED: August 11, 2010


Eric A. Smith
United States Bankruptcy Judge

In re: PPA HOLDINGS, LLC.	Debtor(s).	CHAPTER: 11 CASE NUMBER: 8:09-bk-16353-ES
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NOTE: When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on the CM/ECF docket.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

650 Town Center Drive, Suite 950, Costa Mesa, California 92626

A true and correct copy of the foregoing document described **STIPULATED ORDER GRANTING MOTION FOR RELIEF FROM AUTOMATIC STAY AND RELATED RELIEF (COUNTRY CLUB PROPERTY)** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On _____ I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

On **August 6, 2010** I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. *Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.*

United States Trustee, 411 W. 4th St., Santa Ana, CA 92701

Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **August 6, 2010** I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

Honorable Erithe A. Smith, Ctrm. 5A
United States Bankruptcy Court
411 W. 4th St.
Santa Ana, CA 92701

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

8/6/10
Date

Audrey Wilson
Type Name

/s/ Audrey Wilson
Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

In re: PPA HOLDINGS, LLC. Debtor(s).	CHAPTER: 11 CASE NUMBER: 8:09-bk-16353-ES
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BY U.S. MAIL:

Robert P. Harris, Esq.
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Debtor

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In re: PPA HOLDINGS, LLC. Debtor(s).	CHAPTER: 11 CASE NUMBER: 8:09-bk-16353-ES
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NOTE TO USERS OF THIS FORM:

- 1) Attach this form to the last page of a proposed Order or Judgment. Do not file as a separate document.
- 2) The title of the judgment or order and all service information must be filled in by the party lodging the order.
- 3) **Category I.** below: The United States trustee and case trustee (if any) will always be in this category.
- 4) **Category II.** below: List ONLY addresses for debtor (and attorney), movant (or attorney) and person/entity (or attorney) who filed an opposition to the requested relief. DO NOT list an address if person/entity is listed in category I.

NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*) **STIPULATED ORDER GRANTING MOTION FOR RELIEF FROM AUTOMATIC STAY AND RELATED RELIEF (COUNTRY CLUB PROPERTY)** was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner indicated below:

I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s), the foregoing document was served on the following person(s) by the court via NEF and hyperlink to the judgment or order. As of **August 6, 2010**, the following person(s) are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email address(es) indicated below:

Service information continued on attached page

II. SERVED BY THE COURT VIA U.S. MAIL: A copy of this notice and a true copy of this judgment or order was sent by United States Mail, first class, postage prepaid, to the following person(s) and/or entity(ies) at the address(es) indicated below:

PPA Holdings, LLC
3626 E. Pacific Coast Hwy.
Long Beach, CA 90804
Debtor

Service information continued on attached page

III. TO BE SERVED BY THE LODGING PARTY: Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by U.S. Mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following person(s) and/or entity(ies) at the address(es), facsimile transmission number(s) and/or email address(es) indicated below:

Service information continued on attached page

In re: PPA HOLDINGS, LLC. Debtor(s).	CHAPTER: 11 CASE NUMBER: 8:09-bk-16353-ES
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I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING:

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In re: PPA HOLDINGS, LLC. Debtor(s).	CHAPTER: 11 CASE NUMBER: 8:09-bk-16353-ES
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III. TO BE SERVED BY THE LODGING PARTY:

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