

1. The Motion seeks relief from the injunction established by this Court in its Order Appointing Receiver (Doc. 10), dated February 16, 2009, and Amended Order Appointing Receiver (Doc. 157), dated March 12, 2009, which include the following:

Creditors and all other persons are hereby restrained and enjoined from the following actions, except in this Court, unless this Court, consistent with general equitable principles and in accordance with its ancillary equitable jurisdiction in this matter, orders that such actions may be conducted in another forum or jurisdiction:

(a) The commencement or continuation, including the issuance or employment of process, of any judicial, administrative, or other proceeding against the Receiver, any of the defendants, the Receivership Estate, or any agent, officer, or employee related to the Receivership Estate, arising from the subject matter of this civil action; or

(b) The enforcement, against the Receiver, or any of the defendants, of any judgment that would attach to or encumber the Receivership Estate that was obtained before the commencement of this proceeding.

Order Appointing Receiver (Doc. 10) at p. 6, ¶7; Amended Order Appointing Receiver (Doc 157 at p. 7, ¶9). Specifically, the Motion seeks leave of this Court to allow the District to proceed in State of Florida Circuit Court to foreclose its assessments on the subject real property.

Background

2. On April 10, 2009, without notice or knowledge of the injunction, the Order Appointing Receiver, or the Amended Order Appointing Receiver, the

District filed a foreclosure action in the Circuit Court in and for Polk County, Florida. The distressed real property that is the subject of that action includes four (4) parcels (Parcels One, Two, Three, and Nine) that are encumbered by a single Mortgage, Assignment of Leases and Rents and Security Agreement (“Mortgage”) dated February 6, 2008, recorded on June 26, 2008, in Official Record Book 7663, Pages 2 through 27, in the Public Records of Polk County, Florida, on which SIB is the mortgagee.

3. Upon learning of the injunction, the Order Appointing Receiver, or the Amended Order Appointing Receiver, on July 23, 2009, the District joined with the Receiver to file a Joint Motion to Stay the foreclosure action as it pertained to SIB.

4. On July 29, 2009, the Circuit Court entered its order granting the joint motion.

5. The property that is the subject of SIB’s Mortgage, is encumbered with special assessments totaling approximately \$17.4MM.

6. Allowing the District to proceed with the foreclosure action would not impact the Receiver’s right of redemption through the entry of a judgment or the Receiver’s right to any surplus funds remaining after a judicial sale of the property.

The Assessments

7. On or about September 3, 2003, the Board of County Commissioners of Polk County, Florida, adopted Ordinance No. 03-63, which established the District pursuant to the provisions of Chapter 190 of the Florida Statutes. The District is a local unit of special purpose government of the State of Florida governed by its Board of Supervisors. The District has all powers granted by Chapter 190 of the Florida Statutes, including, but not limited to, the authority to impose special assessments.

8. On or about September 22, 2003, the Board of Supervisors of the District ("Board") adopted Resolution 2003-19 which authorized the District to issue Capital Improvement Revenue Bonds to finance District projects and to enter into a Trust Indenture associated with the issuance of such bonds. Resolution 2003-19 is sometimes referred to herein as the Bond Resolution.

9. On October 30, 2003, the Circuit Court for the 10th Judicial Circuit in and for Polk County, Florida, entered its Final Judgment validating in all respects District's Bond Resolution and Trust Indenture that are the subject of this action. No appeal was taken within the time prescribed.

10. Under the provisions of FLA. STAT. § 75.09, the Final Judgment described above is forever conclusive as to all matters adjudicated against the District and all parties affected thereby, including all property owners, taxpayers

and citizens of the District, and all others having or claiming any right, title or interest in property to be affected by the issuance of said bonds, certificates or other obligations, or to be affected in any way thereby. Further, as a result of the said Final Judgment, the validity of the subject bonds, the Assessments, and revenues pledged for their payment, and of the proceedings authorizing the issuance of the bonds and the levy of the Assessments, including any remedies provided for their collection, shall never be called in question in any court by any person or party. Specifically:

A. The District has the power and authority to collect and enforce the Assessments in accordance with the procedures set forth in Chapter 170 of the Florida Statutes.

B. The District acted in accordance with the law in all respects and particulars.

C. The Assessments constitute valid and enforceable first liens on the assessed property within the District, including the property subject to the Mortgage, coequal with all State of Florida, County, school district and municipal taxes, superior in dignity to all other liens, titles, claims on such real property.

11. On or about July 21, 2005, the Board adopted Resolution 2005-12 approving the preliminary assessments and calling for a public hearing on the assessments.

12. On or about November 17, 2005, the Board adopted Resolution 2005-13, which authorized certain capital improvement projects to be constructed by District and which equalized, approved, confirmed and levied special assessments pursuant to Chapter 170, Florida Statutes, for the funding of the construction of water and wastewater facilities, a surface water management system, bridges, roadways and landscaping, entrance walls and signage, park and recreational facilities, fire prevention and control facilities, and utilities to serve lands within the District. These improvements specially benefitted the property located within the District. Resolutions 2005-12 and 2005-13 are sometimes collectively referred to as the "Assessment Resolutions." These assessments, adopted pursuant to Resolutions 2005-12 and 2005-13, are what are referred to herein as the "Assessments." The Assessments secure the Bonds and, pursuant to FLA. STAT. §§ 170.09 and 190.021(9), they represent liens coequal with the lien of all state, county, district and municipal taxes, superior in dignity to all other liens, titles and claims, including that of SIB, until paid.

13. Also on or about November 17, 2005, the Board adopted Resolution 2006-03, authorizing the issuance of \$30,000,000 in Capital Improvement Bonds, Series 2005 ("Bonds") for the purpose of funding the various improvements. The pledged revenue for the repayment of the Bonds was the Assessments imposed pursuant to Resolutions 2005-12 and 2005-13.

14. The Bonds were issued by the District under and pursuant to the Uniform Community Development District Act of 1980, Chapter 190 of the Florida Statutes, as amended (the "Act"), and the Master Trust Indenture dated December 1, 2005, and First Supplemental Trust Indenture also dated December 1, 2005 (collectively, the "Trust Indentures") by and between the District and the Trustee. The proceeds from the sale of the Bonds provided capital improvements within the District, which specially benefitted the property therein.

15. The Bonds were equally and ratably secured under the Trust Indentures by a first lien upon and pledge of the amounts collected by or on behalf of the District from property owners within the District or otherwise collected as a result of the Assessments, including amounts received from the collection of delinquent assessments (collectively, the "Pledged Revenues") and all amounts held in certain funds or accounts created pursuant to the Trust Indentures and the earnings on the amount on deposit in such funds and accounts (the "Pledged Funds").

16. Under the provisions of the Trust Indentures and Chapter 170 of the Florida Statutes, if the owner of any lot or parcel of land shall be delinquent in the payment of any assessment, then the District shall declare the entire unpaid principal amount of the assessment to be in default and foreclose in the manner provided by law.

17. Actual or constructive notice of the Assessments has been recorded in the Public Records of Polk County, Florida by virtue of: Final Judgment recorded in Official Records Book 5565, page 608 on October 30, 2003; Notice of Establishment of Westridge Community Development District recorded in Official Records Book 5524, page 369 on November 25, 2003; Declaration and Consent to Jurisdiction of Community Development District and to Imposition of Assessments recorded in Official Records Book 6572, page 385, and Declaration and Consent to Jurisdiction of Community Development District and to Imposition of Assessments recorded in Official Records Book 6572, page 389 on January 4, 2006.

The Defaults and Amounts Due

18. With respect to Parcel One, for the District's fiscal year beginning 2007-2008, the property owners were obligated to pay \$604,329.10 for the Assessments due as to that parcel to make the debt service payments due on the Bonds as of May 1, 2008 and November 1, 2008. The District billed the property owners on October 1, 2007 for the Assessments, but they failed and refused to pay the full amount of the bill. As of the date hereof, the property owners remain delinquent in the full payment of the Assessments for 2007-2008 and are delinquent in the payment of the Assessments billed for the fiscal year 2008-2009. Pursuant to FLA. STAT. §§170.09 and 170.10, the whole balance of the

Assessments outstanding as to Parcel One has become due and payable in full, together with interest, statutory penalties, the costs of this action, and the District's attorneys' fees. As of the date hereof, the property owner owes the District \$8,569,605.52 with interest from May 1, 2008, at 5.80%, plus specified statutory penalties of 1% per month in connection with the District's issuance in 2005 of \$25,825,000.00 of Capital Improvement Revenue Bonds (the "Series 2005 Bonds"), secured by Special Assessments (and the liens in connection therewith) against the Development, which is secured by real property. In addition, the property owner owes Annual Operation and Maintenance Assessments for the 2008-2009 Fiscal Year, which the District needs to collect to be able to operate.

19. With respect to Parcels Two and Nine, for the District's fiscal year beginning 2007-2008, the property owner was obligated to pay \$539,903.60 for the direct-billed portion of the Assessments due as to those parcels to make the debt service payments due on the Bonds as of May 1, 2008 and November 1, 2008. The District billed the property owner on October 1, 2007 for the Assessments, but the property owner failed and refused to pay the full amount of the bill. As of the date hereof, the property owner remains delinquent in the full payment of the Assessments for 2007-2008 and in the payment of the Assessments billed for the fiscal year 2008-2009. The property owner is also delinquent in the payment of other portions of the Assessments being collected pursuant to FLA. STAT.

§197.3632. Pursuant to FLA. STAT. §§170.09 and 170.10, the whole balance of the Assessments outstanding as to Parcels Two and Nine has become due and payable in full, together with interest, statutory penalties, the costs of this action, and the District's attorneys' fees. As of the date hereof, the property owner owes the District \$7,528,647.68 with interest from May 1, 2008, at 5.80%, plus specified statutory penalties of 1% per month in connection with the District's issuance in 2005 of \$25,825,000.00 of Capital Improvement Revenue Bonds (the "Series 2005 Bonds"), secured by Special Assessments (and the liens in connection therewith) against the Development, which is secured by real property. In addition, the property owner owes Annual Operation and Maintenance Assessments for the 2008-2009 Fiscal Year, which the District needs to collect to be able to operate.

20. With respect to Parcel Three, for the District's fiscal year beginning 2007-2008, the property owner was obligated to pay \$88,965.22 for the Assessments due as to that parcel to make the debt service payments due on the Bonds as of May 1, 2008 and November 1, 2008. The District billed the property owner on October 1, 2007 for the Assessments, but the property owner failed and refused to pay the full amount of the bill. As of the date hereof, the property owner remains delinquent in the full payment of the Assessments for 2007-2008 and is delinquent in the payment of the Assessments billed for the fiscal year 2008-2009. Pursuant to FLA. STAT. §§ 170.09 and 170.10, the whole balance of the

Assessments outstanding as to Parcel Three has become due and payable in full, together with interest, statutory penalties, the costs of this action, and the District's attorneys' fees. As of the date hereof, the property owner owes the District \$1,261,559.02 with interest from May 1, 2008, at 5.80%, plus specified statutory penalties of 1% per month in connection with the District's issuance in 2005 of \$25,825,000.00 of Capital Improvement Revenue Bonds (the "Series 2005 Bonds"), secured by Special Assessments (and the liens in connection therewith) against the Development, which is secured by real property. In addition, the property owner owes Annual Operation and Maintenance Assessments for the 2008-2009 Fiscal Year, which the District needs to collect to be able to operate.

The Foreclosure Action

21. As a result of the foregoing defaults and the failure to cure them, on or about April 13, 2009, the District filed a multi-count foreclosure complaint naming SIB, among others, as a party defendant in an action styled Westridge Community Development District v. West Villas, Inc., et al., Case Number 53-2009-CA-4011, in the Circuit Court of the Tenth Judicial Circuit in and for Polk County, Florida ("Foreclosure Action")

Priority of the District's Claims

22. With respect to the District's secured priority position, the District holds the first lien on the Property, coequal with all State of Florida, County,

school district and municipal taxes, and superior in dignity to all other liens, titles, claims on the Property.

The Security

23. The legal description of the Property that secures the Assessments and is subject to the SIB Mortgage, broken down by parcels and identifying the specific parcel owners, is attached hereto as **Exhibit “A.”**

The District’s Need to Proceed in State Court

24. The District is a local government entity subject to the requirements of FLA. STAT. §218.503. Under the statute, the District faces a financial emergency for failure to make bond debt service payments when due. The bonds are in default because there were insufficient funds to make the interest payment due on November 1, 2009. Moreover, because the District is unable to levy and collect its operation and maintenance fees from the defaulting property owners, District is unable to pay its obligations as they come due and is classified by its accountants as being at risk in its ability to continue as a going concern. Attached hereto as **Exhibit “B”** is an affidavit setting forth these facts. This affidavit was previously attached to the District’s motion for relief from the automatic stay under 11 U.S.C. § 362(a) on the same grounds as set forth herein. That motion has been granted and a copy of the Order is attached hereto as **Exhibit “C.”**

25. The continuation of this Court's injunction will cause real and irreparable harm to the District for the following reasons:

- A. The Property is subject to deterioration;
- B. The Property is depreciating in value;
- C. Interest continues to accrue on the Assessments, without payment since default;
- D. The property owners are not paying the Assessments;
- E. The District is unable to meet its obligations; and
- F. The District is in a state of financial emergency.

Request for Relief

26. As a result of the foregoing, the District is in need of relief from the injunction to proceed with its state court remedies, including its pending foreclosure action with respect to the four (4) parcels which are subject to SIB's Mortgage. Moreover, the District is in need of relief from the injunction to the extent necessary to enable it to levy, collect and enforce the obligations of the property owners to pay operation and maintenance assessments to fund the District's ongoing operations.

WHEREFORE, the District respectfully requests the entry of an order immediately granting it leave to proceed in the Circuit Court of the Tenth Judicial Circuit, in and for Polk County, Florida, to exercise all of its statutory rights and

remedies in and to the real property subject to the SIB Mortgage, including, without limitation, foreclosing on the property, and taking actions necessary to levy and collect special assessments for District operations and maintenance budget purposes, and granting such other and further relief as this Court deems appropriate.

CERTIFICATE OF CONFERENCE

I HEREBY CERTIFY that, in accordance with LR 7.1 and this Court's April 20, 2009 Order appointing an Examiner, on February 4, 2010, I notified: (1) counsel for the Securities and Exchange Commission; (2) counsel for the Receiver; (3) counsel for Stanford International Bank, Ltd.; and (4) the Examiner of the Movant's intention to seek the relief requested in this Motion. Agreement could not be reached among the parties concerning the relief requested. Specifically, on February 4, 2010, attorney Kevin M. Sadler, counsel for the Receiver notified me that the Receiver did not consent to the relief requested herein. On February 8, 2010, attorney David B. Reece, counsel for the SEC, notified me that the SEC did not consent to the relief requested herein. On February 4, 2010, attorney John L. Little notified me that the Examiner takes no position on the Motion. I did not receive a response from counsel for Stanford International Bank, Ltd.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 9, 2010, I electronically filed the foregoing with the Clerk of the United States District Court for the Northern District of Texas (Dallas Division) using the CM/ECF system which electronically sent notification of such filing to all registered users.

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