

Motion of Supreme Drywall & Metal Framing Company for Relief from Stay Under Section 362 of the Bankruptcy Code (the “SDMF Motion”)

By the SDMF Motion, Supreme Drywall & Metal Framing Company (“SDMF”) seeks relief from the automatic stay to proceed with a construction foreclosure lien action pending in Florida state court (the “Action”) for the purposes of (i) pursuing coverage of the Surety Bonds (as defined below) through the Lexon Insurance Company (the “Surety”) to cover claims asserted against Debtor WCI Communities, Inc. (“WCI”), and (ii) determining liability of WCI and the amount of damages that might be claimed against the Surety Bonds. SDMF is not seeking to proceed directly against the Debtors’ estates.

In the Action, SDMF alleged that WCI, as the general contractor on the construction project at the Westshore Yacht Club located in Tampa, Florida (the “Project”), is liable to SDMF for damages in excess of \$1,498,374.32 for (i) labor, material and services furnished by SDMF, (ii) sums due as a result of mismanagement of the Project and (iii) lost profits. SDMF claims that the Action was noticed for trial prior to August 14, 2008 and extensive litigation has been conducted for over a year by all parties.

SDMF maintains that, prior to commencement of the Action, the Debtors transferred SDMF’s Claim of Lien on the Project to two transfer bonds (the “Surety Bonds”) with total coverage of \$315,520.60. SDMF further maintains that the Surety is liable to SDMF for the sums due and owing to SDMF as subcontractor to WCI, who is the principal on the Surety Bonds.

SDMF asserts that granting the relief sought will not prejudice the Debtors or their creditors since SDMF does not seek to reduce the property of the Debtors’ estates. Additionally, SDMF asserts that the Debtors do not have any interest or equity in the proceeds of the Surety Bonds since such proceeds are not necessary to the Debtors’ reorganization.