

Motion of Arch Insurance Company for an Order Granting Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362 (the “Arch Motion”)

By the Arch Motion, Arch Insurance Company (“Arch”) seeks entry of an order terminating the automatic stay (the “Stay”) solely to permit Arch to exercise and enforce its purported claim of lien (the “Claim of Lien”) on certain of Debtor WCI Communities, Inc’s (“WCI”) property (the “Property”).

Arch alleges that in September, 2005, the Auchter Company (“Auchter”) entered into a construction contract with WCI in the sum of \$31,150,605 (the “Contract”) for the performance of certain work and construction of improvements (the “Performance”) at “LeJardin at Hammock Dunes” in Porto Mar, Florida (the “Project”). As required by the Contract, Auchter and Arch executed, issued, and delivered to WCI a performance bond and a payment bond, each dated February 22, 2006, and each in the penal sum of \$31,150,605.

Auchter contends that WCI has not fully paid Auchter for Auchter’s Performance under the Contract and that Auchter has lien rights against the Property, which is located at the Project and owned WCI. Arch maintains that on March 13, 2008, Auchter recorded the Claim of Lien in the amount of \$1,222,138.58 against the Property in order to assert its rights to payment under the Contract and its rights against WCI. Arch further maintains that the Claim of Lien is valid against the Property under Florida law.

Arch asserts that in October, 2008, Auchter assigned its Claim of Lien to Arch. Furthermore, Arch asserts that, as assignee of the Claim of Lien, it is required by Florida law to file an enforcement action with respect to the Claim of Lien on or before March 13, 2009 (the “Enforcement Action Deadline”) or it will forever lose its rights to the perfected Claim of Lien against the Property.

Arch asserts that the circumstances dictate that the Stay be lifted because Arch’s Claim of Lien will be extinguished if Arch does not file an enforcement action before the Enforcement Action Deadline.