Docket #0319 Date Filed: 07/02/2026

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Charlotte Division

IN RE: BRD LAND & INVESTMENT, et al.[1] Debtors.	Chapter 11 Case No. 26-30215 (Jointly Administered)

DEBTORS' OMNIBUS REPLY IN SUPPORT OF DISCLOSURE STATEMENT FOR JOINT AMENDED PLAN OF LIQUIDATION OF BRD LAND & INVESTMENT, BRDL WARDEN STATION, LLC, AND BRDL WARDEN STATION HOLDING CO, LLC

BRD Land & Investment, BRDL Warden Station Holding Co, LLC, and BRDL Warden Station, LLC (the "Debtors"), as debtors and debtors in possession file this reply (the "Reply") in response to: (i) *DLP Lending Fund LLC and DLP Capital Lending CH LLC's Objection to Disclosure Statement for Joint Amended Plan of Liquidation* [Docket No. 298] (the "DLP Objection"); (ii) *Objection to Disclosure Statement and Joint Amended Plan of Liquidation* filed by HCT Pender, LLC, River Rock Farm, LLC and Springfield Plantation II, Inc. [Docket No. 287] (the "Pender Objection"); (iii) *Wilmington River Club, LLC's Objection to Approval of Disclosure Statement for Joint Amended Plan of Liquidation of BRD Land & Investment, BRDL Warden Station, LLC and BRDL Warden Station Holding Co, LLC and Confirmation of Joint Amended Plan of Liquidation of BRD Land & Investment, BRDL Warden Station, LLC and BRDL Warden Station Holding Co, LLC* [Docket No. 299][2] (the "WRC Objection"); and (iv) *T&TG9, LLC's Objection to Approval of Disclosure Statement for Joint Amended Plan of Liquidation of BRD*

[1] The Debtors in these jointly administered cases are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): BRD Land & Investment, a South Carolina partnership (6940), BRDL Warden Station Holding Co LLC (0184), and BRDL Warden Station, LLC (4687). The Debtors' address is 6433 Bannington Road, Charlotte, NC 28226.
[2] The Debtors believe the WRC Objection was filed in duplicate and will refer to the pleading filed at Docket No. 299 throughout this Reply.

26302152607020000000000004

Land & Investment, BRDL Warden Station, LLC and BRDL Warden Station Holding Co, LLC and Confirmation of Joint Amended Plan of Liquidation of BRD Land & Investment, BRDL Warden Station, LLC and BRDL Warden Station Holding Co, LLC [Docket No. 301] (the "T&TG9 Objection", and collectively with the Pender Objection, and WRC Objection, the "Seller Party Objections"), and in further support of the *Disclosure Statement for Joint Plan of Liquidation of BRD Land & Investment, BRDL Warden Station, LLC, and BRDL Warden Station Holding Co, LLC* [Docket No. 257] (the "Disclosure Statement"). In support of this Reply, the Debtors respectfully state as follows:

PRELIMINARY STATEMENT

1. The question before the Court is whether to approve the Debtors' Disclosure Statement, allowing the Debtors to solicit their *Joint Amended Plan of Liquidation* [Docket No. 256] (the "Plan"). At this stage, addressing whether the Plan should be confirmed is premature. Despite this procedural posture, both the DLP Objection and Seller Party Objections (collectively, the "Objections") are largely devoted to confirmation issues, contract disputes, and factual matters that are either premature, dependent upon future events, or more appropriately resolved at confirmation.

2. The Objections fail to show that the Disclosure Statement does not contain adequate information for the Debtors' creditors to make an informed decision on the Plan, nor that the Plan is patently unconfirmable. Notably, only four of the hundreds of creditors in this case filed the Objections to the Disclosure Statement. The Objections do not establish cause to deny approval of the Disclosure Statement.

REPLY

I. The Disclosure Statement provides Adequate Information, Satisfying the Requirements of Section 1125

3. Pursuant to 11 U.S.C. § 1125(b), prior to soliciting the acceptance or rejection of a plan, a debtor must transmit to each holder of a claim or interest "the plan or a summary of the plan, and a written disclosure statement approved, after notice and a hearing, by the court as containing adequate information." The Bankruptcy Code defines "adequate information" as "information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records [. . .] that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan." 11 U.S.C. § 1125(a)(1).

4. The standard for determining whether a plan proponent has provided the adequate information to creditors and parties in interest required under § 1125 is "whether hypothetical reasonable investors receive such information as will enable them to evaluate for themselves what impact the information might have on their claims and the outcome of the case, and to decide for themselves what course of action to take." In re Foxwood Hills Prop. Owners Ass'n, 2021 Bankr. LEXIS 1626, at *14 (Bankr. D.S.C. June 1, 2021) (citations and internal quotations omitted); see also In re Skin Sense, 2017 Bankr. LEXIS 1763, at *10 (approving disclosure statement where it, combined with the plan, "provided creditors with more than adequate information on the full financial history of [the debtor] to vote for or against the plan"). "It espouses a flexible standard that takes into account the complexity, facts and circumstances of a particular case." In re Skin Sense, 2017 Bankr. LEXIS 1763, at *10; see also In re RADCO Props., 402 B.R. 666, 682 (Bankr. E.D.N.C. 2009) ("In determining the adequacy of information under Section 1125(a)(1), the bankruptcy court reviews the information on a case-by-case basis.") (citing In re A.H. Robins, Co.,

880 F.2d 694 (4th Cir. 1989). Simply put, "[a] disclosure statement should provide the average unsecured creditor what it is going to get, when it is going to get it, and what contingencies there are to getting its distribution." Id., at 683 (cleaned up).

5. Finally, in evaluating an objection to adequate information, the Court can consider "the access by impaired creditors to relevant information from other sources." In re Monroe Well Serv., 80 B.R. 324, 330 (Bankr. E.D. Pa. 1987). Courts can also consider the individual circumstances of each objecting creditor. See, e.g., In re Skin Sense, Inc., 2017 Bankr. LEXIS 1763, at *12-13 (noting that objecting creditor was controlled by the estranged husband of the debtor's owner who was very knowledgeable about the debtor's financial and operating history and who was unlikely to vote for any plan that left control of the debtor in the hands of his wife no matter how much detailed information the debtor might provide); In re Bumgardner, 2013 Bankr. LEXIS 747 at *10 (Bankr. E.D.N.C. Feb. 28, 2013) (approving disclosure statement over bank's objection because (a) at the hearing, the debtor addressed the issues raised; and (b) the bank was "a sophisticated entity capable of making informed decisions about the debtor's assets").

A. The DLP Objection

6. The DLP Objection argues that the Disclosure Statements fails to satisfy the requirements of § 1125 because it: (i) does not provide a Debtor-by-Debtor liquidation analysis; (ii) does not provide adequate information regarding avoidance actions; and (iii) does not adequately disclose the basis for the hypothetical liquidation analysis. However, § 1125 does not require any of this information to be included in the Disclosure Statement.

7. The Disclosure Statement clearly identifies the assets and liabilities of each Debtor (Disclosure Statement, § 2.A), which are subsequently reflected in the liquidation analysis provided (Disclosure Statement, Ex. B). Creditors are able to adequately discern the recovery for

each Debtor from the information provided, and the effect it has on their corresponding class. Furthermore, the DLP Objection focuses primarily on the treatment of creditors of each Debtor, not the actual information disclosed—an issue reserved for confirmation.

8. The Disclosure statement also provides that the Liquidating Agent will have the authority to commence avoidance actions. Such avoidance actions, to be pursued per the business judgment of the Liquidating Agent, are intended to increase recovery for creditors. As the feasibility, outcome, and timeline of each potential action is dependent upon future events, the Debtors have provided as much information as possible at this time. Creditors are not prejudiced by the exclusion of information the Debtors do not have, which would increase recovery rather than reduce it.

9. The Debtors' liquidation analysis has been provided using the information available to the Debtors and formulated with the assistance of the Debtors' retained professionals. Section 1125 does not require that the means and methodology of a liquidation analysis be explicitly stated. The Disclosure Statement provides a description of the liquidation analysis, and a disclaimer relating to the hypothetical nature of that analysis (Disclosure Statement, ¶ 2).

10. Lastly, in weighing the DLP Objection, the Court may consider DLP's access to the relevant information from other sources. DLP has a lengthy business relationship with the Debtors, and through the lending process and/or the plethora of information voluntarily shared by the Debtors, DLP has an abundance of information about the Debtors, their operations, financial background, and other categories of information for which it now accuses the Debtors of failing to disclose. DLP has drawn on its information about the Debtors throughout this case to propound discovery in the form of more than two dozen proposed depositions and in the form of a one-hundred-plus document request. Finally, DLP has drawn on its information about the Debtors to

drive its litigation strategy of objecting to and opposing efforts by the Debtors to advance their respective bankruptcy cases. Like In re Bumgardner, DLP is a sophisticated entity capable of making informed decisions about the Debtors' assets, some of which are subject to the exhaustive loan process and documents reflected in DLP's asserted claims.

B. The Seller Party Objections

11. Like the DLP Objection, the Seller Party Objections also demand information neither contemplated nor required under § 1125. The Seller Party Objections primarily dispute the lack of inclusion of: (i) a concrete timeline for the sale of the Debtors' assets and the recovery therefrom; (ii) details relating to events of default under executory contracts; and (iii) valuation of the Debtors' properties in the liquidation analysis provided.

12. As with the avoidance actions, it is unreasonable to expect the Debtors to provide a concrete timeline for the liquidation of the Debtors' estates. The liquidation of the estates is dependent upon the marketing of the properties and contractual rights for a purchase price advantageous to the estates, and the execution of purchase agreements with purchasers. Each marketing and sale process is dependent upon third parties and future events. The purpose of the Plan is to wind-up the Debtors' estates in an organized, efficient, and financially beneficial manner. To establish a defined timeline for all sales would be akin to a "fire sale" liquidation, which would significantly reduce creditor recovery and undermine the purpose of the Plan. To the extent possible, the Plan provides timelines for contract assumptions and rejections and provides a detailed Liquidation Budget in Exhibit B, providing the Debtors' estimates related to property sales, settlements and contract assignments as well as estimates related to expenses through December 2026.

13. The Debtors have provided sufficient information relating to the status of the land purchase contracts and any alleged default, in the Disclosure Statement (Disclosure Statement, § 2.A). The Disclosure Statement provides a clear description of the land purchase agreements and the challenges faced by the Debtors relating thereto. Though the Debtors believe this information satisfies the requirements of § 1125, the Debtors are not opposed to including additional information should the Court deem it necessary.

14. As stated above, § 1125 does not require disclosure of the means and methodology of a liquidation analysis. The Debtors' liquidation analysis has been provided in good faith, using reasonable methods, and is reflective of the Debtors' estimation of timing and proceeds resulting therefrom. The assets at issue are valuable contract rights or parcels of real property, which have publicly available appraised values from a variety of sources. Should a creditor dispute the Debtors' valuation of any parcel, the issue should be raised during confirmation.

II. The Plan is Confirmable, and Objections Relating to the Plan's Contents are Premature

15. Objections to the disclosure statement should be directed at the adequacy of the information in the disclosure statement, not plan treatment. In re Foxwood Hills Prop. Owners Ass'n, 2021 Bankr. LEXIS 1626, at *15 (Bankr. D.S.C. June 1, 2021) ("At disclosure statement hearings, courts should refuse to hear issues that are confirmation rather than disclosure issues, such as classification of claims, feasibility, whether the plan has been proposed in good faith, or whether a plan is fair and equitable."); In re Skin Sense, Inc., 2017 Bankr. LEXIS 1763, at *15 (Bankr. E.D.N.C. June 26, 2017) (overruling objection which was directed at plan treatment rather than adequacy of information).

16. Courts will deny approval of a disclosure statement if a plan is patently unconfirmable. In re Foxwood Hills, 2021 Bankr. LEXIS 1626, at *15-16. A plan is "patently

unconfirmable where (1) confirmation 'defects [cannot] be overcome by creditor voting results' and (2) those defects concern matters upon which all material facts are not in dispute or have been fully developed at the disclosure statement hearing.'" In re Foxwood Hills, 2021 Bankr. LEXIS 1626, at *16 (quoting In re Am. Cap. Equip., LLC, 688 F.3d 145, 154-55 (3d Cir. 2012)). While a debtor "may not be required at the hearing on the disclosure statement to show that the plan conforms to all the requirements mandated by § 1129", a court may decline approval of a disclosure statement if the contents of the plan or disclosure statement "reflect an inability to comply with those requirements". In re Pecht, 57 B.R. 137, 139 (Bankr. E.D. Va. 1986).

17. The patently unconfirmable arguments made in the Objections are all matters to be taken up by the Court at a confirmation hearing, making them premature to be raised here and inappropriate to be wielded to defeat approval of the Disclosure Statement absent some showing of a "fatal flaw." See, e.g., In re Foxwood Hills, 2021 Bankr. LEXIS 1626, at *15 ("At disclosure statement hearings, courts should refuse to hear issues that are confirmation rather than disclosure issues, such as classification of claims, feasibility, whether the plan has been proposed in good faith, or whether a plan is fair and equitable.") (collecting cases). While these objections argue that the plan does not conform with § 1129, they do not show that the Plan reflects an "inability" to comply with all requirements of § 1129.[3] In other words, the DLP Objection and Seller Party Objections conflate the "adequate information" standard for approval of the Disclosure Statement with confirmation issues attacking the Plan components themselves.

18. Additionally, the arguments contained in the DLP Objection and Seller Party Objections do not concern matters upon which all material facts are undisputed or have been fully

[3] For the purposes of this Response, the Debtors will not address individual arguments relating to the contents of the Plan, which the Debtors believe fully complies with the requirements of § 1129. The Debtors reserve all rights and arguments relating to the contents of the Plan at the appropriate time, which is the confirmation stage of this case.

developed. In fact, the contract disputes cited by the Seller Party Objections will be before the Court during the Court's July 22, 2026, chapter 11 day. Issues of the Debtors' good faith, for example, have not yet been raised by pleading or otherwise, and the Debtors posit that the record of this Chapter 11 Case itself belies any argument that the Debtors have not proposed the Plan in good faith. Importantly, the caselaw does not require a fully developed factual record at the disclosure statement stage to evaluate a patently unconfirmable objection but instead asks whether the record has been fully developed, properly reserving evidentiary issues for the confirmation stage.

CONCLUSION

For the reasons argued herein, the Debtors respectfully request that the Court overrule the DLP Objection and the Seller Party Objections and approve the Disclosure Statement.

Dated: July 2, 2026.
Charlotte, North Carolina

RAYBURN COOPER & DURHAM, P.A.

By: /s/ Matthew L. Tomsic
Matthew L. Tomsic
N.C. State Bar No. 52431
Natalie E. Kutcher
N.C. State Bar No. 54888
Suite 1200, The Carillon
227 West Trade Street
Charlotte, NC 28202
(704) 334-0891

Counsel to the Debtors