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

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

DEBTOR'S REPLY IN SUPPORT OF MOTION FOR ENTRY OF AN ORDER (A) APPROVING CERTAIN VOTING PROCEDURES AND THE FORM OF CERTAIN DOCUMENTS TO BE DISTRIBUTED IN CONNECTION WITH SOLICITATION OF THE PLAN; AND (B) APPROVED PROPOSED VOTING AND GENERAL TABULATION PROCEDURES

The above-captioned debtors and debtors-in-possession (the "Debtors") submit the following reply to (the "Reply") in support of their *Motion for Entry of an Order (A) Approving Certain Voting Procedures and the Form of Certain Documents to be Distributed in Connection with Solicitation of the Plan; and (B) Approving Proposed Voting and General Tabulation Procedures* [Docket No. 172] (the "Motion")[2] and in response to *DLP Lending Fund LLC and DLP Capital Lending CH LLC's Objection to the Motion* (the "DLP Objection"). In support of this Reply, the Debtors respectfully state as follows:

INTRODUCTION

1. The Debtors commenced these cases under chapter 11 with a goal to fairly and efficiently resolve the Debtors' liabilities in an orderly fashion that would maximize the value of

[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] Given the continuance of the Motion from its first hearing, the Debtors intend to make conforming edits to the proposed order to account for this passage of time, which they plan to present to the Court by redline at the hearing scheduled on July 8, 2026.

26302152607020000000000005

the Debtors' assets for their creditors and avoid a piecemeal firesale of their assets by foreclosures and collection proceedings by the Debtors' hundreds of creditors.

2. The Debtors operate in the business of entitling and permitting real property. As such, the Debtors' assets are primarily related to their interests in real property. A detailed description of the Debtors and their businesses, and the facts and circumstances supporting the Chapter 11 Cases, are set forth in greater detail in the *Affidavit of William A. Barbee in Support of First Day Relief* [Docket No. 12] (the "First Day Affidavit") incorporated herein by reference.

3. Combined, the Debtors have more than six-hundred potential creditors and notice parties. In anticipation of the burdensome noticing required in these cases, the Debtors sought and received authorization to hire Kurtzman Carson Consultants LLC as an Administrative Agent. To create an efficient, streamlined process for the distribution and solicitation of the *Debtors' Disclosure Statement*[3] [Docket No. 257] (the "Disclosure Statement") and *Joint Amended Plan of Liquidation* [Docket No. 256] (the "Plan"), the Debtors have proposed a comprehensive procedure for solicitation in the Motion.

4. The DLP Objection raises several issues relating to the contents and possible effect of the proposed Solicitation Procedures Order. As described in more detail below, the issues raised by DLP misconstrue the purpose of the proposed Solicitation Procedures Order and its effect on creditors. The Solicitation Procedures proposed by the Motion do not hinder the rights of creditors or reduce the notice each party is entitled to under the Bankruptcy Code.

5. The Debtors believe that the proposed Solicitation Procedures offer the most efficient and affordable process for the distribution, solicitation, and tabulation of ballots for the Disclosure Statement and Plan.

[3] Capitalized terms not otherwise defined herein shall refer to the defined term provided in the Motion.

ARGUMENT

I. The Motion Does Not Affect the Rights of Creditors to Object to the Contents of the Disclosure Statement or Plan, nor does it Require Preapproval of the Disclosure Statement.

6. The DLP Objection argues that the Motion improperly seeks implicit approval of the Plan's classification scheme and requests a reservation of rights regarding the proposed classification. As stated in the DLP Objection, classification of claims is a matter to be handled at the confirmation hearing under sections 1122 and 1129 of the Bankruptcy Code. By the Motion, the Debtors do not seek approval of the proposed classification. Prior to the confirmation hearing taking place, the Debtors are required to distribute the Disclosure Statement and Plan. Therefore, the Plan necessarily contains Debtors' proposed classification of claims.

7. The distribution of the Disclosure Statement and Plan does not alter any creditor's right to object to the Debtors' proposed claim classification under the Bankruptcy Code. The Motion merely seeks to implement procedures for the distribution of the Solicitation Package and tabulation of votes; it does not seek approval of the Plan itself. No reservation of rights regarding claim classification is necessary as no rights are being affected. Any objections to the contents of the Plan are premature at this time but may be timely heard at the confirmation hearing.

8. Likewise, the Motion does not seek approval of the contents of the Disclosure Statement. Rather, the Motion seeks a procedural mechanism in which to distribute the Disclosure Statement and related materials. The sufficiency of the Disclosure Statement may be argued and determined at the disclosure statement hearing.

II. The Proposed Tabulation Procedures Do Not Dilute Creditor Voting Rights.

9. The DLP Objection suggests that, by assigning proofs of claim filed in "unknown or unliquidated" amounts the value of one dollar ($1) in the voting tabulation, the Debtors may

artificially inflate particular creditor classes or dilute secured creditors' rights. This situation, hypothetical at best, is not a legitimate concern. To date, not a single proof of claim filed in these cases is listed as "unknown", and the only unliquidated claims are those based on the real property rights of the bankruptcy estates. The onus to file a complete and accurate proof of claim from which the Debtors may rely on for case administration is on the individual creditor, not the Debtors. The Debtors have provided this provision for the sake of allowing all creditors to have a vote, not to dilute or manipulate the voting classes.

10. The DLP Objection also suggests that the Solicitation Procedures grant the Debtors broad authority to waive defects or irregularities to particular ballots. Though this provision is commonplace in such procedures, to allay any concerns raised by the DLP Objection, the Debtors will agree to seek Court approval prior to waiving any defects or irregularities on ballots.

III. The Solicitation Procedures and Ballots Adequately Notify Recipients of the Release, Exculpation, and Injunction Provisions.

11. The Solicitation Procedures, which shall be provided as part of the Solicitation Package, contains the following:

> **E. Release, Exculpation and Injunction Language in the Plan**
>
> THE RELEASE, EXCULPATION, AND INJUNCTION LANGUAGE IN ARTICLE X OF THE PLAN WILL BE INCLUDED IN THE DISCLOSURE STATEMENT AND FURTHER NOTICE IS PROVIDED WITH RESPECT TO SUCH PROVISIONS IN THE CONFIRMATION HEARING NOTICE.

Based on the DLP Objection and a comment received from the Official Committee of Unsecured Creditors (the "Committee")[4] the Debtors intend to edit this language to reflect the specific language included in the Plan regarding the Permanent Injunction and Exculpation. That language

[4] The Committee also requested that it be provided notice before exercising discretion granted to the Debtors by the procedures to waive defects or reject ballots "not in proper form". The Debtors have agreed to provide this notice.

provides adequate notice to all creditors and parties in interest of the release, exculpation, and injunction provisions. The notice references the specific location of these provisions in the Plan, a copy of which will be provided in the same Solicitation Package. This notice also directs the reader to the Disclosure Statement, which will also be provided as part of the Solicitation Package.

12. The Ballots proposed in the Solicitation Procedures are modeled after Official Form 314 (the "Form Ballot"). The Form Ballot, which is the standard form ballot used by the Court, does not contain any disclosure relating to release, exculpation, and injunction provisions. The Debtors do not believe that an additional disclosure is required on the Ballots themselves when ample notice has been provided throughout the Solicitation Package.

IV. The Debtors Have Not Proposed a Substantive Consolidation

13. The DLP Objection states that the "proposed voting and solicitation procedures assume substantive consolidation of the Debtors". This is simply inaccurate. The Debtors have filed a joint plan of liquidation but have not substantively consolidated the Debtors' estates—as is made clear in the Disclosure Statement. As there is no substantive consolidation, no disclosure of such is required.

CONCLUSION

14. For the foregoing reasons, the DLP Objection lacks merit, and the Debtors respectively request that the Court grant the Motion.

[*Remainder of Page Intentionally Left Blank*]

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 Debtor