

Furthermore, upon closer scrutiny, the baseless nature of the objections and the lenders' own words reveal that their ultimate goals here are to delay property sales for which there is an exigent need and to supplant the role of the Court's Receiver. Many of those properties are underperforming and efforts have been made for months to sell them so that no further expenses are incurred and avoid depleting the cash available in the Receivership Estate. The need to sell them remains urgent, and for which the Receiver has been making efforts now for months to complete their disposition. For the Court's work and that of the Receiver to be accomplished, and equity to be served, the objections must be overruled and the property sales allowed to proceed without further delays.

RELEVANT BACKGROUND

Back in February 2019, after a series of motions and hearings, Judge Kim determined that net rent was to be segregated by property, with rental income from each property to be used solely for that property. (*See* Docket No. 223) Following that ruling, the Receiver further prioritized and accelerated the efforts to sell certain properties that were not generating enough income and/or were otherwise challenged. The Receiver filed three successive motions for approval of the process for the sale of certain properties. (Docket Nos. 325, 327, and 329) These motions closely followed previous motions in February for the approval of the process and sale of certain other properties (Docket Nos. 228, 230), and all in the effort to have all such properties sold as quickly as possible. Many of those properties are the ones that are now subject to the sale process that is currently ongoing and to which the pending motions and objections (*i.e.*, Docket No. 502, 504, and 505) have been filed.

This leads to the issue of credit bids raised in the objections at bar. Judge Kim, in approving the process for sale of the properties, ruled that credit bids were to be permitted. (Docket No. 352,

May 2, 2019 Order) While allowing credit bidding and conditions associated with such bids was within the Court's discretion. The Receiver accepted the result in the effort to move forward with the sale of the properties (although, in many respects, the record that has developed since bears out why credit bidding should not have been allowed).

Subsequently, the Receiver made significant efforts to develop a protocol for implementing credit bids. Contrary to the disingenuous characterizations and positioning of Liberty in its objection that the protocol on credit bids that was negotiated and agreed upon was just "interim" and not final (Liberty Brief at 2), the record reflects quite the opposite. An agreement was reached on the protocol. (Docket No. 415) The other lenders did not agree, and made their own proposal for credit bidding. (Docket No. 430) Neither the procedures Liberty agreed to, nor the alternative procedures the other lenders proposed, provided for the Receiver to provide any of the information Liberty now demands.

In any event, the lenders' primary goal throughout much of the entire life of Receivership, which threads its way into the credit bidding objection, has been to stop the Receiver from selling properties, as counsel for lenders stated:

So then we would ask that the sales not go forward until we determine priority and amounts owed.

(Ex. 1, Transcript of July 2, 2019 Hearing, at 14:22-23) On July 9, 2019, Judge Kim rejected the lenders' alternative credit bid proposal and their repeated invitation to stop all sales, and the procedures to which Liberty agreed were adopted and used in connection with the sale of the properties at issue.

While the lenders feign ignorance on a host of issues, there was and is no surprise about the credit bid procedures. Demonstrating that they were aware of the credit bid procedures from the outset, almost immediately after Judge Kim's July 9, 2019 ruling – and consistent with the

procedures to which Liberty had agreed and Judge Kim had approved – *each of the lenders* who are now objecting and professing ignorance as to the applicability credit bid procedures advised the broker that they wanted to be advised of the highest bid that was received so that they could consider whether or not to credit bid, as set forth in the protocol. (Group Ex. 2, email correspondence from counsel for Liberty and other lenders) Their request for notice of the highest bid was not mere happenstance; the first step of the credit bid procedures required any lender interested in credit bidding to make clear its intention by providing notice to the broker of its request to receive notice of the highest bid received for each property with respect to which it may wish to credit bid. (Docket No. 415, at 12 (“A Credit Bid Lender must provide its request to be informed of the highest bid and to participate as a Credit Bid Lender to Broker....”))

Thereafter, and before offers on the properties were due, the lenders inspected and toured the properties between the end of July and mid-August 2019.¹ The call for offers date of August 14, 2019 also was clearly indicated in the Offering Memoranda for the properties.² (*See e.g.*, Ex.

¹ There were no issues regarding scheduling property tours except for Liberty, which occurred because Liberty and its counsel both missed the broker’s email about the inspection dates, after which the Receiver and the broker made special arrangements to accommodate Liberty.

² Liberty’s so-called “24-Hour Deadline” is wrong and misleading. It suggests that the Receiver caught the lenders off-guard and gave them no time to make a credit bid. This is wrong in many substantive respects. The lenders knew these properties would be sold for months. They had been told by the Court and the Receiver that they would have a credit bid opportunity and the procedures – which were vetted by the Court – were in the record for weeks before the properties were even listed for sale. They knew of the call-for-offers date for four weeks, and acknowledged their awareness by requesting to be given notice of the highest bids from purchasers. (*See* Ex. 2) Then, when the Receiver provided notice of the highest bid, the Receiver “requested” credit bids by the close of the next business day. Moreover, in the experience of the Receiver and the broker, the sale of previous properties had demonstrated that ready and willing purchasers would be virtually waiting by their phones and ready to respond to communications about the sale of the property within minutes or hours. Instead, Liberty and some other lenders requested more time to submit their credit bids. The Receiver offered more time and expressed a willingness to provide reasonable extensions. Liberty was offered an extension to submit its credit bid. (Liberty Brief, Ex. B, 8/18/2019 Rachlis email to Welford (bottom of pages 2-3 (offering extension)))

3, a copy of which was sent to representatives) These same lenders have reams of records in regards to each of the properties for which they made loans, have appraisals, inspections, and other information in their possession, custody, or control to use in determining whether and at what price to make a credit bid.

Each of the objectors were notified of highest bids and received good faith estimates associated with the costs of closing for the properties at issue.³ Before their credit bids were due, each was also provided the same purchase and sales agreement used by all bidders for the property at issue for purposes of conveying an offer to the Receiver. Despite having that information, they claim that they need more information to make a credit bid. They want the following:

1. A copy of the winning bidder's Asset Purchase Agreement, as to each of the August 14 Properties. Liberty, if it places a credit bid, needs to know what it is bidding against and it needs to know the terms and conditions of the selected highest offer, in order to evaluate it as a stand-alone bid.
2. The "additional details governing the terms and conditions of credit bids, including a good faith estimate of the Seller's expenses at closing" which, per the bidding procedures "will be made available by the Receiver upon request."
3. When and where was the sale of each of the August 14 Properties published?
4. When and how were each of the August 14 Properties marketed—through what means and portals; were direct contacts made and if so, to who and in what way; were any targeted solicitations made, etc.?
5. When did each of the means and portals for marketing go live or otherwise communicated?
6. How many people visited the due diligence room as to each of the August 14 Properties? How many bidders conducted site visits as to each of the August

³ None was required to submit a credit bid prior to receiving a good faith estimate of costs. Not all of the lenders had requested such an estimate of costs (as described in the credit bid procedures). But the Receiver offered to provide estimated costs to the lenders, and to allow them more time thereafter to submit credit bids, and Judge Kim entered a consistent order, requiring estimated costs to be provided and a further extension of time for the lenders to submit their credit bids. (Docket Nos. 483 and 489)

14 Properties?

7. What offers were received on each of the August 14 Properties—who were the bidders and in what dollar amounts?
8. How was the highest and best offer determined for each of the August 14 Properties? Did any of the August 14 Properties have a bid in dollar amount higher than the bid accepted? If so, what were the disqualifying terms of the higher offer?
9. What efforts were made, if any, to circle back with other bidders, to top the selected bid? How did that process occur and when? Were all lower bidders given the chance to better their offers, after submission? If not, why not?
10. What relationship, if any, do each of the proposed successful bidders have, if any, to a Receivership Defendant or one of the property management companies.

(See Liberty Brief at 6)

As to numbers 1 and 2 that information was largely provided to the lenders⁴ – each received the form purchase and sales agreement for the property and the good faith estimate of costs. As to the remaining items (Nos. 3-10), that information was not provided by Receiver. Liberty filed a motion before Judge Kim to obtain this additional information (Docket No. 481), and the Court rejected that request for numerous reasons, not the least of which is that this information was not called for in the credit bid procedures that Liberty had agreed to and is irrelevant to the credit bid. (See Liberty Brief, Ex. A, Transcript; Docket No. 483, 8/19/19 Ruling)

It should be noted that just a few days before the filing of the motion at bar, this Court denied a motion filed by largely these same objecting parties in which they sought to expedite the smorgasbord of motions and objections they had previously filed (and currently set to be heard on 9/25/2019). (Docket No. 496) At the hearing on that motion, this Court raised concerns as to why

⁴ Liberty admits that item no. 2 is not being challenged. (Liberty Brief at 8) And as to number 1, Liberty makes a claim it needs the entire purchase and sale agreement from the highest bidder, which was not provided.

the current schedule could not be maintained, noting that the Receiver would present any proposed sale for approval. The Receiver stated that while he believed the Judge Kim's opinions can and should be affirmed and having such affirmance quickly was certainly welcome, that there was on going sales process that Judge Kim had already weighed in on, and that with those processes and approvals in place the Receiver would be proceeding as quickly as possible towards completing those sales and presenting a motion for approval before the Court. With that process in place, the Court denied the lender request.

The response to the Court was to file yet another motion (the motion at bar) despite not even mentioning to the Court at the hearing on the motion to expedite that such issue or motion was to be filed – which then rather than expediting the process lays the groundwork for Liberty and other lenders' abdication from participation in the sale process, because they purportedly and suddenly did not have enough information to make such bids. Specifically, Liberty has not submitted credit bids on certain properties because it claims not to have the information it needs to do so. And the joining lenders, after having filed an emergency motion to get more time to credit bid (a motion in which they made no mention of the need for the additional information that is the subject of their current joining objections) and having been given even more time to credit bid than they even initially requested, then waited until the last day that credit bids were due to join in Liberty's August 29 objection rather than submit a credit bid.

ARGUMENT

The objections should be summarily overruled. The lenders here should be found to have waived and/or otherwise be estopped from making the arguments that are the subject of their objections and joinders. Separately, the nature of the issue goes directly to both the discretion of

Judge Kim and the business judgment of the Receiver, all of which are owed significant and appropriate deference here.

Judge Kim's determination on this issue was proper for many reasons. First, as Judge Kim properly noted, there is nothing in the credit bid procedures that Liberty agreed to and the Receiver has implemented that required the Receiver to provide the additional information that Liberty now seeks. (*See* Ex. A, attached to Liberty Brief, at 24-25) Credit bidding, as Judge Kim also noted, is an opportunity for the lender to determine, for itself, "whether it is going to accept the market risk of credit bidding." (*Id.* at 23)

Second, as a complement to the earlier point, and as has been noted by both the SEC and Receiver in its opposition related to various credit bid issues, the objectors have waived or are otherwise estopped from pursuing this additional information for purposes of submitting their credit bids. Despite the mass of filings they piled into the docket including before Judge Kim approved the credit bid procedures (*e.g.*, Docket Nos. 232, 235, 240, 359, 362, 398, 404, 415, 415, 418, and 430), none of these sundry filings includes any requests for the additional information.

That is not a surprise. The lenders have everything they need. They were lenders, who presumably undertook due diligence, on these properties before the Receivership was established before they issued their loans. Since the Receivership was established, these lenders have done property inspections, in some instances appraisals, hawkishly reviewed monthly financial reports from the Receiver and property managers, and toured the properties in connection with these sales. Put differently, if anyone is in a position to present a bid, it is these lenders. And that is also confirmed by the fact that, in the context of the sale of these seventeen properties, there are lenders who provided credit bids without having the additional information. To wit, the Receiver has received credit bids on three properties, and other lenders have simply indicated that they are not

going to credit bid on another five properties. This proves the obvious – the reason for the belated requests for additional information and corresponding objections is *not* for the credit bid, but for something else. Whatever the reasons, when lenders can make a determination about whether to credit bid on 8 out of 17 properties without this additional information. And, as had been noted above, if the additional information were essential, such issues would have (and/or should have) been brought up long ago and insisted it be included within the agreed credit bid procedures.

A further look at the requests themselves demonstrates that the information either has been provided or is unnecessary. For example, as to item no. 1, Liberty jumbles a host of misstatements and fallacies to argue that it must have the all of the terms and conditions of the highest offer to make a credit bid, making a claim that “[r]equiring Liberty to bid under a Purchase and Sale Agreement different from that of the successful bidder was not contemplated.” (Liberty Brief, at 7) None of this is accurate.

As an initial matter, and consistent with the credit bid protocol, the Receiver did provide to those who requested (including Liberty) a form Purchase and Sales Agreement for the properties in which they expressed an interest in bidding, which was the same agreement that was provided to all parties who made an offer on those specific properties. So, the idea that they had a “different” form – or did not know the terms of the Purchase and Sales Agreement – is just false. Further, the actual dollar amount of the highest bid was also provided to each objector.

What Liberty really wants to have is the complete purchase and sale agreement of the highest bidder(s), effectively forcing the Receiver to shop those offers around. Beyond the fact that the credit bid procedures do not call for it, this request represents an assault on the approved upon *sealed* bid process (approved both by this Court as it approved the sales subject to the first properties that were sold, but repeatedly approved by Magistrate Judge Kim). *See, e.g.*, Docket

No. 346; Docket No. 352 (“On November 21, 2018, this court granted the Receiver’s motion for court approval of the sealed-bid process for the public sale of those properties, finding that the process comports with the requirements of 28 U.S.C. §§ 2001 and 2002. (R. 164.)”). There is no support for the lenders up-ending the process in this fashion, which would improperly and without justification undermine the decision and business judgment of the Receiver to conduct to the sale process in this manner.

The objectors’ request is contrary to the manner in which the Receiver, in his discretion, and upon the advice of his professionals has designed a process to maximize sales prices for the properties. A sealed-bid auction is a type of auction process in which all bidders simultaneously submit sealed bids so that no bidder knows how much the other participants have bid. That process works because prospective purchasers who make bids during the process have the confidence that they are not going to be simply shopped around, making their bids meaningless. If the market understands and/or learns their offers will be disclosed and shopped around, prospective purchasers will no longer be encouraged to come forward with their best offer, but instead will hold back with lower offers or will fail to make an offer altogether. In the Receiver’s business judgment (and that of those professionals he is working with), that will undermine and chill not only bidders for these sales, but also bidders on properties listed for sale in the future. The Receiver has relied on the advice of his professionals, in this regard, to follow the sealed bid auction procedures in order to maximize the sales price for properties. Liberty’s proposal would uproot and undermine that process, by forcing the Receiver to shop around sealed bids in order to provide these lenders with advantage over other bidders. The objectors’ desire to second guess every activity of the Receiver in the sales process is not grounds to ignore the Receiver’s reasoned

business judgment and disassemble the sealed bid process which the Court has previously approved. In fact, they are undermining the Receiver's efforts to achieve maximum sales prices.⁵

Third, and separately, there is no reason why the credit bidders like Liberty need the additional information in order to make a credit bid from the Receiver. They have the form purchase and sale agreement providing it with proposed terms and conditions from the Receiver for sale of the property. They have the highest bid number. They have their own due diligence based on their review of the property (not from the Receiver or others) on which to determine market conditions and the like. That is what all bidders do. While Liberty claims that there is a grand unknown relative to terms and conditions, as shown above, there is no basis for the argument.

As to the substance of Liberty's items 3-10, there is none. It is based on nothing but speculation and a failure to recognize that Judge Kim and the Receiver are due substantial deference in implementing sales procedures. Witness the following statement: "Liberty believes that a not more than four week marketing process for distressed commercial real estate properties could not have maximized the properties' exposure to the marketplace." (Liberty Brief at 8-9)⁶

⁵ And as to Liberty's glib hypothetical, "that if a competing investor creditor made the same request of the Receiver, there would have been no hesitation in providing the information, there would have been no hesitation in providing the requested information" (Liberty Brief at 12), there is no basis for the statement or its false premise. It is simply not true, but the fact that these objectors offer up such baseless, unsupported statements is not only evidence of the meritless nature of the objection, but also further lays bare that its ultimate purpose is simply delay.

⁶ Most of the reasons that are submitted for requesting the information is that Liberty and the other lenders wish to be mini-Receiver, micro-managing the process and further delaying it to skew the process solely for their own interests. Witness what Liberty really is looking to do: "Liberty had requested the opportunity to review [all] bids and meet and confer with the Receiver **prior** to the winning bid having been selected." (Liberty Brief at 10) It casts deference aside. Rather than maximizing the sales price of the properties, it is only maximizing the lenders' claims for attorneys' fees and interest. It is multiplying costs, delaying exigent sales, and is improperly and inefficiently over-zealous.

What Liberty “believes” is irrelevant. There is no support for the statement. It is also wrong. The Receiver and his professionals who have familiarity the particular real estate market at issue have implemented a plan that in the reasonable business judgment of the Receiver will lead to the maximum sales prices for such properties. As part of that process (which has already been approved and led to sales for certain properties), the four weeks of marketing that occurs is not only consistent with the governing statute regarding public sales (28 U.S.C. §§ 2001, 2002), but the professionals note that such timetables promote urgency and certainty of execution that are also favorable to obtaining the highest prices. The Receiver and his professionals are entitled to deference in the exercise of that judgment.

Liberty also argues that items 3-10 fit within the catch-all, “terms and conditions.” They do not. This disingenuous argument is directly contradicted by the same party advancing it, who actually explained to Judge Kim that the credit bid procedures do not call for this information. (Liberty Brief, Ex. A, Transcript at 24-25)

Liberty’s brief also resorts to the false narrative that there is a lack of openness here. That dog won’t hunt. This is the same false and pernicious argument raised on August 27th when these lenders professed a worry to this Court that the properties that are subject to sale would be sold by the Receiver without Court approval, which this Court and the Receiver quickly rejected. More generally, the Receiver has and continues to make significant efforts to report information about the Receivership. There have been numerous status reports and lengthy hearings regarding the same, which have provided significant public information. There is a receivership website that includes the Court’s orders, pleadings, and other information on the Receivership. And, as to the

issue at bar, there is a well-publicized process for the approval of the sale.⁷ In short, it is a false narrative the lenders spin when they do not get their way.

Finally, and relatedly, Liberty wraps up its brief by suggesting a “realization” needs to occur. (Liberty Brief at 12) But the “realization” that is actually needed is that the lenders need to defer to the Court and the Receiver to sell the properties expeditiously, in the manner the Receiver determines in his reasonable judgment is in the best interests of the Receivership Estate, as approved by the Court; and that the lenders need to refrain from their incessant and repetitive filings, made with the admitted purpose of stopping all sales until they have their way. They are delaying the process and harming the Receivership and all its victims and creditors.

Significantly, all of this is in the context of the exigent need to sell the properties at issue as soon as possible. The Receiver has repeatedly made clear that these properties must be sold because these are among the worst performing properties in the portfolio. And, as the Receiver also has made clear, their costs ramp up substantially as heating costs and the risks associated with continuing to carry these properties rise. Time remains of the essence – language that is expressly included in the credit bid procedures themselves (*see* Docket No. 415, at 12) and a reality that heightens with each passing day.

Notably, the market for EquityBuild properties, which the Receiver and the broker have worked hard to create in order to sell the properties for their maximum price is being undermined by the lenders and their tactics, now weaving through the credit bidding issue. While they came to the Court initially suggesting the need to credit bid was to protect their collateral and ensure that a maximum sales price is achieved, that is transparently not what they are doing now. Instead,

⁷ Liberty’s sole citation from approximately 100 years ago is of no moment. The Court here has an express process associated with approvals of sales of property, which is at best what the cited authority attempts to address.

they are using the credit bid procedures (and the waves of other disputes over other issues) to grind the process down. This is not maximizing offers and sales prices. It is increasing costs exponentially, and particularly to the extent that – by delay and unbridled litigation – it increases in the attorneys’ fees and interest that these lenders will attempt to recover in connection with the same properties they are seeking to stop the Receiver from selling. Further delay occasioned from their failure to credit bid should not be countenanced by the Court and the sales of properties according the procedures approved by Judge Kim and implemented by the Receiver regarding the properties here should proceed to approval and sale as soon as practicable, with the recognition that the sales process has been pent-up for more than five months as a result of the lenders’ objections.

CONCLUSION

The pending objections/motion of the lenders should be overruled and/or otherwise denied.

Dated: September 11, 2019

Kevin B. Duff, Receiver

By: /s/ Michael Rachlis

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CERTIFICATE OF SERVICE

I hereby certify that I provided service of the foregoing via ECF filing, to all counsel of record on September 11, 2019.

I further certify I caused to be served the Defendant Jerome Cohen via e-mail:

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Exhibit 1

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1 (Proceedings heard in open court:)

2 THE CLERK: 18 CV 5587, United States Securities and
3 Exchange Commission versus Equitybuild, Inc., et al.

4 THE COURT: Good morning.

5 MR. RACHLIS: Good morning, your Honor. Michael
6 Rachlis on behalf of the receiver. With me is Kevin Duff.

7 MR. DUFF: Good morning, your Honor.

8 MR. HANAUER: Good morning, your Honor. Ben Hanauer
9 for the SEC.

10 MR. McCLAIN: Good morning, your Honor. Andrew
11 McClain on behalf of six different lenders. US Bank as Trustee
12 for the registered holders of certificate series ending
13 2017-SB30, 2017-SB41 and 2018-SB50. Citibank, as trustee for
14 the series ending 2018-SB48. Wilmington Trust as trustee for
15 the series ending 2014-LC16, and Fannie Mae.

16 THE COURT: I'm sorry, your name again?

17 (Laughter.)

18 MR. McCLAIN: That was a mouthful. Andrew McClain.

19 THE COURT: Give me one second. I see you here.

20 MR. WELFORD: Good morning. Jay Welford appearing on
21 behalf of Liberty EBCP LLC.

22 MR. PILGRIM: Jeff Pilgrim on behalf of Freddie Mac.

23 MR. FULLERTON: Good morning, your Honor. Tom
24 Fullerton on behalf of Midland Loan Services.

25 MR. KITEI: Good morning, your Honor. Scott Kitei on

1 behalf of BC57.

2 MS. WALKER: And good morning, your Honor. Jennifer
3 Walker for UBS AG.

4 THE COURT: Okay. I did read over the consolidated
5 motion to amend May 2, 2019, memorandum of opinion and order.
6 Although the movants are not seeking this particular relief, if
7 the court were to accept all these restrictions or amendments,
8 essentially what has to happen is for the entire process to be
9 adjudicated. In other words, the court would have to say who
10 is owed what before any property can be sold. Would that be
11 fair to say?

12 MR. McCLAIN: That's correct, your Honor.

13 THE COURT: But this is the first time that the
14 movants are bringing up this issue. Would that be fair also?

15 MR. McCLAIN: No, that's not fair, your Honor.

16 THE COURT: Why is that?

17 MR. McCLAIN: Because we've been discussing this
18 issue since the onset of the case, that we need a priority
19 determination for each property. We filed several months ago a
20 motion for expedited hearing and priority determination to kind
21 of catch this at the head to avoid where we are right now. But
22 we do think that this is very ripe at this point because
23 yesterday was the claims-barred date. So all claims should
24 have been submitted for all these properties. So the receiver
25 should have in his possession all information related to these

1 properties and should be able to determine who has priority and
2 the amounts of each claim.

3 THE COURT: And just so we're clear, the movants, the
4 creditors, do not have to exercise their right to submit a
5 credit bid; correct?

6 MR. McCLAIN: We do not. We're not formally required
7 to do it, your Honor. But as part of our security interest, we
8 have the right to do it and we have the right --

9 THE COURT: I understand that you have a right. But
10 no one is forcing the creditors to do so.

11 MR. McCLAIN: No one is forcing the creditors, your
12 Honor. But the May 2nd order grants us the right, or security
13 interests grants us the right, Illinois law grants us the
14 right. And to be able to fully protect our security interests,
15 we should be entitled to credit bid.

16 THE COURT: I understand all that. But you don't
17 have to do so; right?

18 MR. McCLAIN: We do not have to do so, but, to
19 protect our interests, if the process plays out as it's
20 required, we would exercise our right to credit bid.

21 THE COURT: And do you think that the courts should
22 only be sensitive to the creditors' rights?

23 MR. McCLAIN: No, your Honor. And I'm glad you
24 brought that up because the creditors are on the same footing
25 as all these Equitybuild investors. And the reason being is

1 that we were duped just like the Equitybuild investors. For
2 some reason, at the onset of this case, the receiver is taking
3 the position that the creditors are the bad guys. But we've
4 been just as much impaired and injured by the clients'
5 actions --

6 THE COURT: Well, let me stop you there. Let me stop
7 you. When the creditors were asking to modify the sealed bid
8 process in order for the creditors to exercise credit bid, and
9 you also say that you guys -- the creditors are on the same
10 footing as the Equitybuild investors. But if I had allowed the
11 credit bid to move forward, as if this was a foreclosure action
12 and if the credit bid was accepted as the highest bid, the
13 creditor would actually take that asset.

14 MR. McCLAIN: Well --

15 THE COURT: Without any challenge whatsoever.

16 MR. McCLAIN: No, your Honor, because --

17 THE COURT: Why is that?

18 MR. McCLAIN: Because if --

19 THE COURT: What would happen? How would the other
20 investors get any piece of that property if the credit bid was,
21 in fact, the highest bid?

22 MR. McCLAIN: Because it's based on your right to
23 credit it. So let's assume that one property has a creditor's
24 mortgage on it and an Equitybuild investor's mortgage on it.
25 The court would determine which of those mortgagees is first in

1 priority and which is second in priority.

2 So let's just assume a lender has a \$2 million
3 mortgage and an Equitybuild investor has a \$1 million mortgage.
4 If we are determined to be senior lienholder above the
5 Equitybuild investor, then, yes, we have the right to credit it
6 up to \$2 million of our debt. But if it was reversed, the
7 Equitybuild investor was determined to be senior, we were
8 determined to be junior, then the Equitybuild investor would be
9 entitled to credit bid their \$1 million debt. If we wanted to
10 also bid, what we would have to do is buy out the Equitybuild
11 investor, so they would be paid in full, and then we would step
12 into the senior position, and then we could credit bid the
13 remaining part of our debt.

14 So the Equitybuild investors have just as much right
15 if they have a valid lien and debt owed to credit bid as much
16 as we do. And that's why we're asking that priority be
17 determined at this point.

18 THE COURT: I see. And this brings me back to my
19 other question, why this wasn't brought up before.

20 MR. McCLAIN: It was brought up before, your Honor.
21 We did file a motion for expedited discovery and priority
22 determination.

23 THE COURT: In the context of trying to approve the
24 sealed bid process this was brought up?

25 MR. McCLAIN: Yes, it was, your Honor. It was -- it

1 was in our objection, and then we filed a motion for expedited
2 discovery and evidentiary hearing. And we -- we made the exact
3 same arguments, stating that this is not -- we're not trying to
4 jump ahead anyone else here. All we're trying do is lay out
5 the facts to show who has priority, what the priority status
6 is, who is owed what, and then we can figure out who is
7 entitled to bid, how much they're entitled to bid. We've never
8 been trying to jump ahead any Equitybuild investors here to the
9 detriment of anyone other -- any other parties because we're
10 all on the same footing here.

11 THE COURT: So the court missed the argument of the
12 creditors, that no sale should take place before adjudication
13 of all issues regarding priority and what amount is owed to
14 each investor.

15 MR. McCLAIN: We -- we did ask for that relief, your
16 Honor, and it was denied. And then the sealed bid process was
17 approved, and then the claims process was also approved.

18 THE COURT: So that particular argument was made in
19 response to a motion to approve a sealed bid process?

20 MR. McCLAIN: I believe -- was it a sealed bid
21 process, or was it the -- or was it the claims procedures?

22 THE COURT: You don't know?

23 MR. McCLAIN: Actually, your Honor, if you just give
24 me a second, I do have the filing date.

25 So, your Honor, I misspoke. On March 13th, we filed

1 a response for the motion for entry of order establishing
2 claims-barred date. And then we also filed a cross motion to
3 discovery --

4 THE COURT: I'm sorry, March 13, 2019?

5 MR. McCLAIN: Correct.

6 THE COURT: Okay.

7 MR. McCLAIN: And it's Docket 285.

8 THE COURT: Okay. This is something filed with Judge
9 Lee or myself?

10 MR. McCLAIN: This appears to be before Judge Lee.

11 THE COURT: Okay. Go on.

12 MR. McCLAIN: And as part of that filing, we filed a
13 cross motion to set discovery schedule and hearing on lead
14 priority on an expedited basis and for related relief. And,
15 yes, your Honor, in that filing we made a similar request as
16 we're doing now, that priority be determined at that point.

17 THE COURT: And what was the ruling on your request
18 for priority determination?

19 MR. HANAUER: I can assist, your Honor.

20 THE COURT: Please, let me --

21 MR. McCLAIN: The court entered a minute order on
22 May 1st, indicating that it will not address our request in
23 Motion 285 because it approved the claims process and set the
24 deadlines for the claim process schedule.

25 THE COURT: Meaning the request was denied.

1 MR. McCLAIN: Effectively, yes.

2 THE COURT: Why do you bring it up again?

3 MR. McCLAIN: Because, your Honor, they're trying --

4 THE COURT: Why are you bringing it up again? I
5 don't understand this. It sounds to me like you made a request
6 in a timely fashion and Judge Lee denied the request.

7 MR. McCLAIN: Your Honor, we're bringing it up now
8 because the May 2nd order grants us the right to credit bid.
9 That order is effectively elusory because we do not have the
10 right to credit bid right now. Because Illinois law requires,
11 to effectively make a credit bid, you need two main facts:
12 One, you need a judicially determined amount of debt. And,
13 two, you need to know priority on the property. You need to
14 know the amount of your debt because that sets the amount that
15 you can credit bid. So let's take an example. If one --

16 THE COURT: No, I don't -- we don't need to take an
17 example. This is not an ideal situation. This is not a
18 foreclosure situation. Creditor is not controlling the
19 process. We are doing what we can to balance the interest of
20 everyone involved. Like you said, creditors are on the same
21 footing as the other Equitybuild investors. When we have that
22 situation, we can't do something that is going to give all the
23 rights to one party over the other. And, in my opinion, when I
24 looked at the argument that the creditor should be allowed to
25 submit a credit bid, I had to then balance the interests of the

1 investors. And in a situation where we don't have priority
2 determination, what are you to do at this point? If there is
3 no priority determination and the court has already -- already
4 ruled that we're not going to do at this point, what do you do
5 in order to protect the interests of all investors?

6 MR. McCLAIN: Then you have a determination of
7 priority, your Honor, because the reason --

8 THE COURT: We're going in circles here. That
9 request has been denied.

10 MR. McCLAIN: It has been denied in a different
11 scenario. The reason we brought it right now is because
12 Illinois law mandates this. I'm not talking about in a
13 foreclosure action solely. To credit bid you must --

14 THE COURT: So let me stop you. Illinois law
15 mandates such a judgment and finding in this context?

16 MR. McCLAIN: To credit bid, you need to know the --

17 THE COURT: No, no, please.

18 MR. McCLAIN: -- amount of your judicial --

19 THE COURT: That was a simple question. Illinois
20 law, you said, mandates such finding in this scenario, in this
21 context?

22 MR. McCLAIN: Your Honor, I was not --

23 THE COURT: Yes or no?

24 MR. McCLAIN: No, there is not a case directly on
25 point.

1 THE COURT: Why are you arguing it, then?

2 MR. McCLAIN: Because to have a credit bid -- your
3 Honor, if --

4 THE COURT: Again, you're repeating yourself.

5 MR. McCLAIN: -- we credit bid, we are --

6 THE COURT: You are repeating yourself.

7 MR. McCLAIN: We are not -- we are assuming the risk
8 by credit bidding because we don't know how much --

9 THE COURT: Exactly. You are assuming the risk.

10 MR. McCLAIN: But that's --

11 THE COURT: You want to exercise the right, you do
12 assume the risk because there are other investors' interests at
13 play. We are in a situation where the court has already denied
14 a request that we're not going to do priority determination.
15 It's not up to me to decide that. That's law of the case;
16 right? Would you agree with me that that's the law of the
17 case?

18 MR. McCLAIN: In relation to the claims process, yes.
19 In relation to the May 2nd order, no, I would say that it is
20 not. And the reason being is this court has held several times
21 in various instances that neither it --

22 THE COURT: Stop. Please, stop. The only reason why
23 that that is because it wasn't going to trump anyone else's
24 interests, you know? For instance -- and the part -- the
25 creditors like to point out that I entered an order or ruling

1 segregating the funds for each property. But that wasn't
2 inconsistent with the interests of the Equitybuild investors.
3 Would you agree with me on that point?

4 MR. McCLAIN: I -- I do agree with you on that point.
5 And I don't think that we're asking for any relief that is
6 inconsistent with any Equitybuild investors' rights. In fact,
7 the credit bid process, the way it's set up right now, is
8 actually hindering the lender's pre-existing state law security
9 interest. And this court has held, and there is Illinois case
10 law on that point, that we cannot -- the court, neither the
11 receiver, can modify or effect the pre-existing state law
12 interest of the lender. And by not determining our debt amount
13 and by not determining priority, you're shifting the risk to
14 the lenders to assume the risk that we might get into an
15 overbid situation, or we might be a junior lienholder that then
16 has to satisfy a senior lienholder. So you are affecting our
17 pre-existing security interests in these properties.

18 And what we're trying to do is lay it all out on the
19 table, make sure everyone is aware, the claims-barred date has
20 passed. So anyone who has a security interest in these
21 properties has already filed a claim. And we are just asking
22 that the court first figure out each property's debt and
23 priority before there is a sale process. Before each one of
24 these properties is sold. That's all we're asking for at this
25 point, your Honor. We're not trying to --

1 THE COURT: So if I agree with your position and I
2 said, oh, we need to have priority determination, how is that
3 not inconsistent with Judge Lee's prior ruling that there isn't
4 going to be a priority determination?

5 MR. McCLAIN: Because that was in relation to the
6 claims process. This is solely in relation to the credit bid
7 May 2nd order.

8 THE COURT: Do you think -- do you think that
9 priority determination that this court orders isn't going to be
10 the same priority determination that's going to be required in
11 this particular case in a claims process? It's going to be the
12 same thing. Would you agree with me?

13 MR. McCLAIN: The priority determination that --

14 THE COURT: It doesn't matter which context --

15 MR. McCLAIN: -- we're requesting now versus --

16 THE COURT: -- it's in.

17 MR. McCLAIN: -- versus what, I guess, falls out in
18 the claims process?

19 THE COURT: Yes.

20 MR. McCLAIN: Yes, it will be the exact thing.

21 THE COURT: It's going to be the same thing.

22 MR. McCLAIN: So then we would ask that the sales not
23 go forward until we determine priority and amounts owed.

24 THE COURT: Again, why wasn't this raised before in
25 responding to the motions for approval of the sealed bid

1 process?

2 MR. McCLAIN: This May 2nd order is in response to
3 our objection to the receiver's second sealed bid process
4 motion. So it was raised again in that instance, and that's
5 why the court granted our objection. Our
6 objection contained --

7 THE COURT: So -- so I missed the argument of the
8 creditors that the sealed bid process should not continue
9 because we need to have priority determination.

10 MR. McCLAIN: Yes, that's what we're asking.

11 THE COURT: No, no, no. I missed your argument, the
12 creditors' argument, that the sealed bid process should not go
13 forward because we need priority determination. You argued
14 that point; did you not?

15 MR. McCLAIN: I believe that point was argued, your
16 Honor.

17 THE COURT: Okay. Where?

18 MR. McCLAIN: It was most likely argued at the
19 hearing for that objection.

20 THE COURT: Hearing in this courtroom?

21 MR. McCLAIN: I believe so.

22 THE COURT: You believe that based on what?

23 MR. McCLAIN: Based on the -- the position that we're
24 taking right now, is that this needs to occur.

25 THE COURT: So this was the second request for

1 approval of a sealed bid process; right?

2 MR. McCLAIN: The May 2nd order was in response to
3 the receiver's second motion.

4 THE COURT: No, no, no. I'm just trying to follow
5 your argument. You said this argument was made in response to
6 the motion for second approval of sealed bid process; right?

7 MR. McCLAIN: I'm actually just reviewing the
8 objection right now, your Honor.

9 THE COURT: Objection to?

10 MR. McCLAIN: The -- the second motion for sealed bid
11 process.

12 THE COURT: Objection filed with this court?

13 MR. McCLAIN: It's Docket 235, your Honor. I don't
14 know which court it was --

15 THE COURT: 235? That seems to be pretty old; right?

16 MR. McCLAIN: It was February 19th.

17 THE COURT: February 19th. Was I even on the case in
18 February?

19 MR. HANAUER: Yes, your Honor.

20 THE COURT: Okay. And this 235 is the objection to
21 the receiver's motion for approval of a sealed bid process.

22 MR. McCLAIN: Correct. It's objections to receiver's
23 second motion for court approval of the process for public sale
24 of real property by sealed bid.

25 THE COURT: Okay. I will review it.

1 Let me turn to the receiver, Mr. Rachlis. What is so
2 wrong with getting everyone's rights determined before any
3 assets are sold? In other words, why is this so necessary now
4 to sell these assets? Why can't we wait? Why can't the
5 receiver simply operate the buildings and generate income while
6 we work through these issues?

7 MR. RACHLIS: I think, as your Honor probably heard
8 from some of the other hearings that we've had before you,
9 there are many properties involved here that don't have high
10 tenancy rates, that have other physical problems and issues
11 with them, that are not making enough money. And, of course,
12 your Honor knows from the rent segregation ruling, that has
13 impacted the ability to even deal further with those issues.

14 So the idea -- the fact is is that, many of those
15 properties need to be sold so that they can -- so that the --
16 any losses of the inability to have income from them can be --
17 can be capped. That, in essence -- there are other issues, of
18 course, too. I mean, a liquidation, going back sort of in
19 looking to this point, your Honor, of course, knows that the
20 job of the receiver is to have a liquidation plan and an
21 orderly process for the disposition of these assets.

22 THE COURT: But sometimes the receiver's job is also
23 to generate income, or at least continue the operation.

24 MR. RACHLIS: And that is, indeed, what has been
25 going on to this point. And we've been very much -- it has

1 been a struggle at times, as I think this court knows, and as
2 Judge Lee knows, too, in trying to address many of the issues
3 at 113 different properties. So the balance and the business
4 judgment that has been placed in the receiver by the court to
5 both monitor -- to monitor the business, operate the business,
6 and part of that includes disposition of assets for an orderly
7 process liquidation plan, set that forth. And we've been
8 trying to do that since that point in time and unfortunately
9 have run into delay after delay, which, unfortunately, is being
10 exhibited further here through this hearing today.

11 THE COURT: But why isn't it possible to sell those
12 properties that are not encumbered and continue to operate the
13 properties that are, in fact, encumbered?

14 MR. RACHLIS: Well, some of the ones we -- we have
15 been in the process of selling the unencumbered properties.

16 THE COURT: I'm sorry?

17 MR. RACHLIS: We have been selling the properties
18 that are unencumbered. We have been trying to -- also, we've
19 sold properties that have encumbrances on them too and have put
20 those monies in escrow. The problem, of course, relates to
21 what type -- what is the condition of the property; right? I
22 mean, at a certain point, is it generating enough income? What
23 is time of vacancies? What is the physical condition? How
24 much money is necessary in order to have that property be
25 something that can be used? Or is it better off sold and let

1 others go ahead and deal with those -- with those questions.
2 Of course, there other operational issues: Property taxes,
3 water -- water, utility bills. All of those types of things
4 that we have -- essentially have to take over. And some of
5 these things went back to 2017, when the Cohens were still
6 operating. There were debts and obligations that were being
7 incurred and remained on the books associated with some
8 properties with that.

9 The bottom line is, is that, many of these properties
10 have operational issues. And we are making every effort. And
11 the batches of properties here that are part of this sale, not
12 every single one, but most of them are precisely those type of
13 properties. And it is to the benefit of all of the victims of
14 the fraud to have those properties sold. And as the court is
15 aware, have the proceeds put in escrow. There is no harm in
16 that. There is no harm whatsoever because those properties are
17 placed in escrow pursuant to this court's order.

18 THE COURT: But what Mr. McClain is arguing, though,
19 Mr. McClain argues that the right to credit bid is elusory
20 because it's taking on way too much burden and risk. It does
21 not have to. But in order for the creditors to not have that
22 burden and the risk, it needs to know exactly what it is
23 entitled to.

24 So let me ask you to address Mr. McClain's argument
25 that, even though Motion No. 285, where the creditors are

1 asking for lien priority, Judge Lee denied that request, why it
2 can't be raised in this context. And Mr. McClain says, that's
3 not law of the case because the context is different.

4 MR. RACHLIS: It's not different. Look, at the
5 end -- we do have to look back in history here. I think your
6 Honor had it absolutely correct in terms of looking at the
7 record here. The record is is that these issues have been
8 raised both before your Honor and before Judge Lee in terms of
9 priority hearings, and things of that nature, and had been
10 rejected. Your Honor is correct that any such hearing would be
11 the same, no matter when it's held. Your Honor is further
12 correct, and the record will reflect, if you look at the --
13 your Honor didn't miss any -- any point of argument when
14 raised -- when those were raised in response to the second
15 motion for approval of the process for public sale of real
16 property by sealed bid, which is Document No. 228. There were
17 three filed objections. Not a single one of them raised any of
18 these issues, which your Honor correctly notes would
19 essentially upend and overturn all the other rulings that have
20 occurred to date.

21 And whether that is law of the case that requires it
22 or whether it's just good, old-fashioned estoppel, which it
23 should be in this point in time. They come into this
24 courtroom, they don't make any of those arguments. They say,
25 we just want a simple process where we can credit it. We want

1 to be able to bid, just like anybody else. They never advised
2 the receiver, they never advised the court of any of these
3 issues. And, now, having lost on all of those other arguments
4 before this court and Judge Lee on priority, and things of
5 that, they come again to take a second swipe. They don't come
6 really -- I mean, when you look at why we're here, we're here
7 to try to establish the rules under on the credit bid process;
8 right? That's what we're trying to do. And Liberty, to its
9 credit, despite, I think it's fair to say, that we have been
10 certainly not on the same footing. On a variety of issues,
11 they have been as a vociferous an objector as anybody here, we
12 were able to reach agreement on what those credit bid rules
13 could look like. That is not what they are arguing here. What
14 they're arguing about, again, is priority. That's the same
15 issue never raised on these motions and already previously
16 rejected. The court is absolutely right, there is no reason to
17 do that now.

18 MR. McCLAIN: Your Honor, if I may just correct
19 something for the record?

20 THE COURT: Hold on. Mr. Rachlis, are you done?

21 MR. RACHLIS: Yes, if I -- hopefully I've responded
22 to your question. I do want to do that.

23 THE COURT: Yes. Mr. Hanauer, do you have anything
24 to add?

25 MR. HANAUER: Just to directly respond to your

1 question, your Honor, about why is it necessary now that the
2 properties be sold. It's the SEC's understanding, after
3 conferring with the receiver, that the very properties he is
4 trying to sell right now are the money-losing properties. This
5 stems from the original -- the very first request of the
6 creditors that the rents need to be segregated. They got what
7 they want on that. That's created some issues that each of the
8 properties now needs to be siloed. And there are a decent
9 amount of properties that are just flat out losing money that
10 the receiver can't use any of the other properties to help.
11 Those are the properties that the receiver chose to sell now to
12 get those money-losing properties off his books now. He has
13 been trying to sell them, I think, since early this year. By
14 pushing this process back even further, which Judge Lee has
15 rejected, just means that those properties continue to lose
16 money ultimately to the detriment of the creditor pool as a
17 whole.

18 THE COURT: Why isn't it possible to simply shut it
19 down? If it's money-losing operation, shut it down until you
20 have its determination as to who should be taking over that
21 particular building.

22 MR. HANAUER: Because there are -- there are tenants
23 that live in these buildings. There are operations. As you've
24 heard, the city came in when we had another hearing saying, you
25 just can't leave it like this. Something has to be done.

1 There are crumbling porches, there are other things that are
2 going on. You cannot not pay attention to things. Shutting it
3 down is --

4 THE COURT: I'm just trying to get an understanding.

5 MR. HANAUER: Yeah.

6 THE COURT: When you shut it down, tenants have to
7 move out.

8 MR. HANAUER: Yes.

9 THE COURT: So why can't we do that? I'm just -- I'm
10 just curious.

11 MR. HANAUER: That will actually, then, get
12 potentially -- could devalue whatever property -- the value of
13 the property could be devalued. If you're going to kick
14 tenants out at that point in time, you then are going to hinder
15 potentially the ability and pricing of that property. There is
16 a balance here. And this does go directly to the business
17 judgment that has been lodged with the receiver in terms of
18 operating the Equitybuild receivership estate at this point in
19 time. And we have made every effort, including third-party
20 advisors, and things of that nature, to try and operate within
21 this context.

22 Your Honor, there is a legal justification here, too.
23 It's not just sort of a factual discussion. While it is
24 absolutely accurate that no Illinois law supports anything that
25 the creditors are advancing here --

1 MR. McCLAIN: That's not true.

2 MR. HANAUER: -- is actually -- if I could finish.

3 If you look at some of the law, including your Honor cited the
4 *Octagon* case in the May 2nd order and other orders like that,
5 other opinions like that, they go back to a Section 363(f) of
6 the bankruptcy code. And many plans refer to that point. And
7 courts, bankruptcy courts, have at least noted some of the
8 following, which I will set forth for your Honor, as further
9 evidence as to why the process today has been appropriate and
10 what the process here -- why the process here is appropriate.

11 It talks about the fact that 363(f) of the bankruptcy
12 code is a powerful tool, permitting, in that context, the
13 bankruptcy trustee to maximize the recovery from an asset
14 without being duly entangled in an early stage of the
15 proceeding and controversies concerning the existence, validity
16 and priority of liens and other interests in properties sought
17 to be sold. Instead, Section 363(f) allows a trustee to
18 quickly cut through the potential morass of such controversies,
19 promptly sell the property for the best price available and
20 hears all those controversies a later date.

21 That's precisely the process -- while it is
22 instructive here, the bankruptcy practice, that's precisely
23 what the courts have done to this point, and that's exactly
24 what we are trying to do. Sell those properties, segregate
25 them, as your Honor has ordered be done, and then we can limit

1 any -- any issues associated with those properties. And then
2 we can have the priority hearings down the road, as both your
3 court and Judge Lee has indicated would occur at a later point
4 in time.

5 MR. McCLAIN: Your Honor, may I respond?

6 THE COURT: Yes.

7 MR. McCLAIN: First, I just want to set the record
8 straight that the Motion 285 was actually filed before your
9 Honor, and your Honor entered a minute order on May 1st, that's
10 Docket 349, in which you indicated that you will not address
11 the issues in that motion.

12 Secondly, going back to what both the SEC and the
13 receiver have brought up is that they're trying to sell
14 properties that are losing money. Well, your Honor, if they
15 are losing money, they should be abandoned by the receiver
16 because the -- that is just a drain on the receivership estate.
17 So if one of these properties is underwater and it is fully
18 secured by one of the lender's liens, there is no benefit
19 that's going to go back to the estate. All the -- all the
20 benefit is going to the receiver by keeping those properties in
21 the receivership and racking up additional fees. No money will
22 go to the receivership estate after the sale. The only money
23 that will transfer is money to pay the closing costs. And then
24 the rest of the money will be segregated and held in escrow
25 pursuant to our security interest. So that just highlights the

1 fact of why we need to expedite this process.

2 And, additionally, when he talked about -- when the
3 receiver talked about that we're trying to upend the process,
4 your Honor, we are not trying to upend the process. This court
5 has already made it clear that we are entitled to credit bid.
6 All we are asking is that that credit bid procedure be
7 consistent and conform to Illinois law. And to do that, we
8 need two facts resolved: Amount owed and priority.

9 THE COURT: I get that. Let me ask you, you said
10 that the three -- March 13, 2019, Motion 285, was addressed to
11 me, and I entered the order on May 1.

12 MR. McCLAIN: Correct.

13 THE COURT: So I'm the only judge who addressed the
14 issue of lien priority?

15 MR. McCLAIN: I -- I don't recall if we raised it
16 before Judge Lee or not, your Honor.

17 THE COURT: Mr. Hanauer, you're shaking your head.

18 MR. HANAUER: Yes, that was absolutely raised in
19 front of Judge Lee when he heard the appeal of your orders
20 allowing the claims process to proceed. And he rejected the
21 arguments that a priority determination should come first, and
22 he ordered that the priority information should be part of a
23 claims process.

24 THE COURT: All right. So --

25 MR. McCLAIN: Again, your Honor, that's a separate

1 issue. What is before the court --

2 THE COURT: I understand. We don't have to cover
3 that ground again. I do want to give the others an opportunity
4 to say something in supplementing Mr. McClain's arguments.
5 Anyone?

6 MR. WELFORD: Your Honor, Jay Welford on behalf of
7 Liberty. I think, to put it in the clearest of terms, we have
8 two procedures, motions, that were filed. The first motion had
9 to do with the claims process. And the lender group said
10 before -- we don't want to wait until the claims are all in, we
11 should adjudicate priority now and set a schedule to do that.
12 That is what was denied. Then what occurred --

13 THE COURT: When?

14 MR. WELFORD: As part of -- I don't have all those
15 dates, but I'm just giving you the general overview of this.
16 As part of that motion, the ruling was made, we're not going to
17 adjudicate priority, and we're going to allow the claims
18 process to go forward. That was the first ruling.

19 The second thing that occurred is that we had the
20 sale procedures. When we got to the sale procedures, the
21 concept of the ability to credit bid came into the fold. And
22 as part of that, the determination was made that the -- both
23 the lenders, the traditional lenders, and even an Equitybuild
24 investor, should have the right to credit bid. They could be
25 first, we could be first, we don't know. But what occurred,

1 then, is, when you get to the concept of credit bid, under
2 Illinois law, when you determine how much to credit bid, you
3 first need to know the dollar amount. And, second, you need to
4 know the priority. And so that's where the conflict is. I
5 don't think these lenders are trying to re-tread. I think that
6 we now have a conceptual problem because we have a new ruling
7 that was not before the parties at the time --

8 THE COURT: So you agree with the argument
9 Mr. McClain made that if a property is losing money, it should
10 be abandoned. In other words, the tenants should be moved out
11 and close out the property and operation.

12 MR. McCLAIN: Your Honor, if I may just clarify, I
13 was not indicating that the tenants should be evicted or moved
14 out.

15 THE COURT: Well, how do you abandon a property
16 without taking the tenants out?

17 MR. McCLAIN: It is removed from the auspice of the
18 receivership estate. So the stay is lifted, and the lender,
19 who has a mortgage on the property, can then foreclose on the
20 property.

21 THE COURT: You mean take it out of the receiver's --
22 receivership assets?

23 MR. McCLAIN: Correct, your Honor. And the stay be
24 lifted until the property is no longer subject to the
25 receivership's jurisdiction. And then the lender can proceed

1 with foreclosure as it wishes, and then they enforce their
2 security interests through that.

3 THE COURT: And the other creditors are in agreement.

4 MR. HANAUER: And, your Honor, just --

5 THE COURT: Hold on. Just, for the record, it
6 appears that all creditors represented in court are in
7 agreement.

8 Yes?

9 MR. HANAUER: Your Honor, when we were in front of
10 Judge Lee, the creditors explicitly raised this abandon
11 argument and Judge Lee explicitly rejected it. And it's --
12 it's not -- and one of the reasons he did is because it's
13 just -- just because the property is not making money or is
14 underwater doesn't mean that there is -- there is not value in
15 it to either the investors or the secured lenders. Just
16 because the property is underwater, when the property is sold,
17 money is going to come back into the receivership. It may not
18 be at the full purchase price, or what have you, but a
19 significant amount of money will come in. It's that pot of
20 money that the investors and the creditors are going to fight
21 over. But as we explained to Judge Lee, and he agreed with,
22 simply because abandoning the properties would mean the
23 creditors are going to rush into Cook County court and the
24 investors won't be able to do anything.

25 THE COURT: Let me ask Mr. -- hold on. I do have

1 another hearing, so I want to ask Mr. McClain, was the
2 abandonment argument raised before?

3 MR. McCLAIN: Your Honor, yes, it has been raised
4 before, but in an entirely different context, as Mr. Welford
5 has pointed out. And --

6 THE COURT: Okay. Fine. Fine. I -- hold on. Hold
7 on. See, in terms of telling the creditors that the court will
8 not get involved in adjudicating priority, see, I -- I would
9 not have done that because that would not be within the scope
10 of my referral.

11 MR. McCLAIN: Your Honor, the minute order actually
12 states that the court will not address in this order the issues
13 not properly before the court and arguments having nothing to
14 do with the instant motion, namely assertions raised by certain
15 creditors in their response/cross motion 285.

16 So you did not outright deny it, you just indicated
17 that you were not going to assess it.

18 THE COURT: So Mr. Hanauer takes the position that
19 this issue was raised with Judge Lee and Judge Lee denied
20 that --

21 MR. McCLAIN: As Mr. Welford pointed out, it was in a
22 different context.

23 THE COURT: Okay.

24 MR. McCLAIN: What we're trying to sort out now is
25 the May 2nd order.

1 THE COURT: All right.

2 MR. McCLAIN: And, your Honor, if I may address one
3 thing that the SEC just brought up? It's an underwater
4 property. By definition, that means that there is more owed on
5 the property than the property is worth. So if, for instance,
6 the property is only worth a million dollars but you have a
7 \$2.5 million mortgage on the property, no money is going back
8 to the receivership estate. All the money is going to go
9 towards the secured interests in that property. There is no
10 money going back. That's why we're asking --

11 THE COURT: No, but that assumes that the creditor
12 has 100 percent interest and not the investors.

13 MR. McCLAIN: And that's precisely what we're trying
14 to sort out right now, your Honor, so that we can figure that
15 out. Because, at this point, no money is going back to the
16 estate. The receivership -- or the receiver has already
17 indicated he is willing to escrow the funds. This court has
18 ordered him to escrow the funds. So no money is effectively
19 going back to the receivership estate. So we're trying to just
20 catch this at a head before the receiver continues to rack up
21 additional fees.

22 MR. RACHLIS: Your Honor, may I make one other point?

23 THE COURT: Last point. Go ahead.

24 MR. RACHLIS: Your Honor, this argument has also been
25 raised before your Honor as well. That is precisely why the

1 question about who gets the keys; right? We were talking about
2 when something is, quote, abandoned, or things of that nature,
3 there is no -- there is a host of victims that would have the
4 same rights that the folks standing before you have. This --
5 in this context by escrowing the money, their rights are
6 protected. It is essentially the receiver's actions here are
7 designed, as I believe the courts are, and as stated in various
8 words today, to protect the interests of all of those possible
9 folks with a claim to those -- those proceeds from those
10 properties. That's why they're being segregated. That's why
11 they've been siloed, if you will. And that's precisely why the
12 orders have been as they've been. This argument has come up
13 from last November, when we first talked about sales -- when we
14 first talked about sales of properties, all the way to today.
15 It's the same issue that continues to be raised, and I believe
16 the same result is -- is warranted --

17 THE COURT: Thank you.

18 MR. RACHLIS: -- as both you and Judge Lee have
19 indicated.

20 THE COURT: I would like the receiver's office to
21 help us -- you don't have to file anything, just a phone call.
22 Just point me to the record where the request for adjudicating
23 priority was denied, where the abandonment argument was
24 addressed by Judge Lee. Those two things. That's all I want.
25 I just need some assistance with that so that we can quickly

1 get to this particular motion as -- motion.

2 All right. Thank you. Yes?

3 MR. HANAUER: Your Honor, one very important point on
4 an unrelated matter. This is for the evidentiary hearing next
5 week. I just thought, while we're in open court, defendant
6 Jerome Cohen filed another motion to continue the hearing. The
7 SEC objects to that motion. I'm about to be gone for the
8 holiday in an area where I can't work on the response, but it's
9 very critical for the court to know that for some time Jerome
10 Cohen and his wife have been out of the country in Israel. In
11 their many requests to continue the hearing --

12 THE COURT: I'm sorry, Mr. Hanauer, we're getting
13 into the merits of the motion.

14 MR. HANAUER: No. No, your Honor. Just -- a
15 response will not -- I will not be able to file.

16 THE COURT: Well, you filed one already.

17 MR. HANAUER: Right, but Jerome Cohen just filed
18 another.

19 THE COURT: I understand, but it's the same motion;
20 right?

21 MR. HANAUER: Well, Judge Lee denied his motion in
22 order that it be --

23 THE COURT: So I'll read your response to that
24 previous motion.

25 MR. HANAUER: But, your Honor, just a point, because

1 Jerome Cohen has never raised it. He is not in the country
2 right now, and neither is his wife. His wife did not show up
3 for her deposition last week. And in all the filings Jerome
4 Cohen has made to continue the hearing, I just want to make the
5 court aware that he has not apprised the court that he has
6 never been in the United States during all these times he has
7 attended or moved the hearing.

8 THE COURT: I see. I see.

9 MR. HANAUER: Thank you, your Honor.

10 THE COURT: Thank you.

11 MR. McCLAIN: Your Honor, may I just request that
12 whatever the receiver tenders to the court, that he provides a
13 copy to everyone, either it be filed on the docket or he just
14 give us a copy?

15 THE COURT: Well, you can call together, or at least
16 let them know what's been said.

17 MR. RACHLIS: We will do that your Honor, yes.

18 THE COURT: Okay. Thank you.

19 MR. McCLAIN: Thank you, your Honor.

20 MR. HANAUER: Thank you, your Honor.

21 (Which were all the proceedings heard.)
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CERTIFICATE

I certify that the foregoing is a correct transcript from the digital recording of proceedings in the above-entitled matter to the best of my ability, given the limitations of using a digital-recording system.

/s/Sandra M. Mullin

August 8, 2019

Sandra M. Mullin
Official Court Reporter

Date

Group Exhibit 2



July 23, 2019

Mr. Jeffrey Baasch
SVN Commercial Real Estate
940 W. Adams Street, Suite 200
Chicago, IL 60607
jeffrey.baasch@svn.com

RE: United States Securities and Exchange Commission
v. EquityBuild, Inc., et al.
Case No. 1:18-cv-5587
Property: 2220-2226 E. 75th/7450 S. Luella Avenue,
Chicago, Illinois 60649

Dear Mr. Baasch:

Please be advised that my office represents UBS AG ("UBS"). UBS claims a secured interest in the referenced Property and in accordance with the provisions of the Sealed Bid Public Sale of Real Estate Terms and Conditions ("Terms and Conditions") approved by the Kevin Duff, as Receiver and Magistrate Kim in the referenced lawsuit, please allow this letter to serve as UBS's request to be informed of the highest bid and to participate as a Credit Bid Lender as provided under paragraph 11 (Special Rules Regarding Credit Bids) of the Terms and Conditions.

Please note that in accordance with the provisions of paragraph 11, by requesting this information, UBS is not obligated to make a Credit Bid.

The Receiver and/or your office can provide UBS with the amount and terms of the highest bid offer it receives for the referenced Property by forwarding that material to my attention in care of the address below, or by email at jcrowley@plunkettcooney.com.

If you have any further questions or require any further information from my client, please do not hesitate to contact the undersigned.

Very truly yours,

PLUNKETT COONEY P.C.

A handwritten signature in black ink, appearing to read "James M. Crowley".

James M. Crowley

JMC:mmm

cc: Michael Rachlis (by email only)
Kevin B. Duff (by email only)
UBS AG

ATTORNEYS & COUNSELORS AT LAW



From: Jay Welford jwelford@jaffelaw.com

Subject: Sale of Liberty Properties

Date: July 15, 2019 at 7:56 AM

To: Michael Rachlis mrachlis@rdaplawn.net, eduff@rdaplawn.net, kduff@rdaplawn.net

Cc: Jay Welford jwelford@jaffelaw.com, Eric Novetsky enovetsky@jaffelaw.com, Alicia Schehr aschehr@jaffelaw.com

Please advise as to when the first of Liberty's properties will be listed for sale. Also, notice is hereby given that Liberty may want to credit bid. Therefore, in accordance with the bid procedures, please provide notification to Liberty once the sealed bids have been received.

Jay Welford

Partner

jwelford@jaffelaw.com

248.727.1466

JAFFE RAITT HEUER & WEISS, P.C.

27777 Franklin Rd., Suite 2500

Southfield, MI 48034

www.jaffelaw.com



Signature: Nothing in this communication is intended to constitute an electronic signature. This email does not establish a contract or engagement.

Confidentiality: This communication may contain confidential privileged information intended for the named recipient(s) only.

If you received this by mistake, please destroy it and notify us of the error.

From: amclain@foley.com
To: jeffrey.baasch@svn.com
Cc: jnicholson@foley.com; jmolinaro@foley.com; Michael Rachlis; Ellen Duff
Subject: Equitybuild-Property located at 7110-16 S. Cornell Ave., Chicago, IL 60649
Date: Friday, July 19, 2019 4:38:49 PM

Dear Mr. Baasch,

Pursuant to the "Sealed Bid Public Sale of Real Estate Terms and Conditions" (hereinafter "Terms and Conditions") approved by the court in SEC v. Equitybuild, 18-cv-5587, this notice is to advise you that U.S. Bank National Association, as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Multifamily Mortgage Pass-Through Certificates, Series 2018-SB50 ("Lender") intends to participate as a Credit Bid Lender with respect to the property located at 7110-16 S. Cornell Ave., Chicago, IL 60649. Therefore, please advise us of the highest offer and all other required information for this property as set forth in the Terms and Conditions and as required by the court.

Please be further advised that Lender reserves the right to not credit bid at the sale of this property. This notice of intent to credit bid in no way obligates Lender to credit bid and shall not constitute a waiver of any rights or remedies under the loan documents or at law or in equity and shall not constitute an admission in any form.

At your convenience, please acknowledge receipt of this notice. Many thanks!

Andrew

Andrew T. McClain
Foley & Lardner LLP
321 North Clark Street | Suite 2800
Chicago, IL 60654-5313
P 312.832.5397

The information contained in this message, including but not limited to any attachments, may be confidential or protected by the attorney-client or work-product privileges. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please (i) do not read it, (ii) reply to the sender that you received the message in error, and (iii) erase or destroy the message and any attachments or copies. Any disclosure, copying, distribution or reliance on the contents of this message or its attachments is strictly prohibited, and may be unlawful. Unintended transmission does not constitute waiver of the attorney-client privilege or any other privilege. Legal advice contained in the preceding message is solely for the benefit of the Foley & Lardner LLP client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party. Unless expressly stated otherwise, nothing contained in this message should be construed as a digital or electronic signature, nor is it intended to reflect an intention to make an agreement by electronic means.

From: amcclain@foley.com
To: jeffrey.baasch@svn.com
Cc: jnicholson@foley.com; jmolinaro@foley.com; Michael Rachlis; Ellen Duff
Subject: Equitybuild-Property located at 6751-57 S. Merrill Ave., Chicago, IL 60649
Date: Friday, July 19, 2019 4:40:27 PM

Dear Mr. Baasch,

Pursuant to the "Sealed Bid Public Sale of Real Estate Terms and Conditions" (hereinafter "Terms and Conditions") approved by the court in SEC v. Equitybuild, 18-cv-5587, this notice is to advise you that U.S. Bank National Association, as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Multifamily Mortgage Pass-Through Certificates, Series 2018-SB50 ("Lender") intends to participate as a Credit Bid Lender with respect to the property located at 6751-57 S. Merrill Ave., Chicago, IL 60649. Therefore, please advise us of the highest offer and all other required information for this property as set forth in the Terms and Conditions and as required by the court.

Please be further advised that Lender reserves the right to not credit bid at the sale of this property. This notice of intent to credit bid in no way obligates Lender to credit bid and shall not constitute a waiver of any rights or remedies under the loan documents or at law or in equity and shall not constitute an admission in any form.

At your convenience, please acknowledge receipt of this notice. Many thanks!

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From: amcclain@foley.com
To: [Jeffrey Baasch](mailto:Jeffrey.Baasch)
Cc: jnicholson@foley.com; jmolinaro@foley.com; Michael Rachlis; Ellen Duff; DeMuth, Peggy; Angles, Mike
Subject: Equitybuild-Property 4520-26 S. Drexel Blvd, Chicago, IL 60653
Date: Wednesday, July 24, 2019 11:14:32 AM

Dear Mr. Baasch,

Pursuant to the "Sealed Bid Public Sale of Real Estate Terms and Conditions" (hereinafter "Terms and Conditions") approved by the court in SEC v. Equitybuild, 18-cv-5587, this notice is to advise you that U.S. Bank National Association, as Trustee for the registered Holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Multifamily Mortgage Pass-Through Certificates, Series 2017-SB41 ("Lender") intends to participate as a Credit Bid Lender with respect to the property located at 4520-26 S. Drexel Blvd, Chicago, IL 60653. Therefore, please advise us of the highest offer and all other required information for this property as set forth in the Terms and Conditions and as required by the court.

I have also copied Peggy DeMuth and Mike Angles here of Newmark Knight Frank, the special servicer of the loan. Please include them on all correspondences related to the marketing and sale of this property.

Please be further advised that Lender reserves the right to not credit bid at the sale of this property. This notice of intent to credit bid in no way obligates Lender to credit bid and shall not constitute a waiver of any rights or remedies under the loan documents or at law or in equity and shall not constitute an admission in any form.

At your convenience, please acknowledge receipt of this notice. Many thanks!

Andrew

Andrew T. McClain
Foley & Lardner LLP
321 North Clark Street | Suite 2800
Chicago, IL 60654-5313
P 312.832.5397

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From: amcclain@foley.com
To: [Jeffrey Baasch](mailto:Jeffrey.Baasch)
Cc: jnicholson@foley.com; jmolinaro@foley.com; Michael Rachlis; Ellen Duff; DeMuth, Peggy; Angles, Mike
Subject: Equitybuild-Property 7109 S. Calumet Ave., Chicago, IL 60619
Date: Wednesday, July 24, 2019 11:18:13 AM

Dear Mr. Baasch,

Pursuant to the "Sealed Bid Public Sale of Real Estate Terms and Conditions" (hereinafter "Terms and Conditions") approved by the court in SEC v. Equitybuild, 18-cv-5587, this notice is to advise you that U.S. Bank National Association, as Trustee for the registered Holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Multifamily Mortgage Pass-Through Certificates, Series 2017-SB30 ("Lender") intends to participate as a Credit Bid Lender with respect to the property located at 7109 S. Calumet Ave., Chicago, IL 60619. Therefore, please advise us of the highest offer and all other required information for this property as set forth in the Terms and Conditions and as required by the court.

I have also copied Peggy DeMuth and Mike Angles here of Newmark Knight Frank, the special servicer of the loan. Please include them on all correspondences related to the marketing and sale of this property.

Please be further advised that Lender reserves the right to not credit bid at the sale of this property. This notice of intent to credit bid in no way obligates Lender to credit bid and shall not constitute a waiver of any rights or remedies under the loan documents or at law or in equity and shall not constitute an admission in any form.

At your convenience, please acknowledge receipt of this notice. Many thanks!

Andrew

Andrew T. McClain
Foley & Lardner LLP
321 North Clark Street | Suite 2800
Chicago, IL 60654-5313
P 312.832.5397

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From: Mark Landman
To: "jeffrey.baasch@svn.com"
Cc: Michael Rachlis; "Ellen Duff"; "Walker, Scott Lee"; Walsh, Kevin Drew
Subject: Equitybuild/ Property Located at 638 N. Avers Ave, Chicago, IL 60624
Date: Tuesday, July 16, 2019 4:30:16 PM

Dear Mr. Baasch,

Pursuant to the "Sealed Bid Public Sale of Real Estate Terms and Conditions" (hereinafter "Terms and Conditions") approved by the court in SEC v. Equitybuild, 18-cv-5587, this notice is to advise you that Freddie Mac intends to participate as a Credit Bid Lender with respect to the property located at 638 N. Avers Avenue, Chicago, IL 60624. Therefore, please advise us of the highest offer and all other required information for this property as set forth in the Terms and Conditions.

At your convenience, please acknowledge receipt of this notice. Many thanks!

Mark

Mark S. Landman
Landman Corsi Ballaine & Ford P.C.
120 Broadway
New York , New York 10271
212-238-4880
[mlandman@lcbf.com](mailto:milandman@lcbf.com)

Landman Corsi Ballaine & Ford P.C. N.Y. 212 238-4800 N.J. 973 623-2700 P.A. 215 561-8540 NOTE: This message, and any attached files, may contain privileged or confidential information. It is intended for use only by the addressee(s). Any disclosure, copying or distribution of, or reliance upon, this message by anyone else is strictly prohibited. If you received this message in error, please notify the sender by reply e-mail message or by telephone to one of the numbers above.

From: [Kitel, Scott B.](#)
To: jeffrey.baasch@svn.com
Cc: [Michael Rachlis](#)
Subject: EquityBuild - Credit Bid Notice
Date: Thursday, July 25, 2019 12:50:06 PM

Jeffrey and Michael,

I am not sure which sale procedure Terms and Conditions were ultimately approved in the EquityBuild case, but this e-mail is to provide the Broker and Receiver notice of BC57, LLC's request to participate as a Credit Bid Lender with respect to:

- (i) 7625-7633 S. East End Ave,
- (ii) 7635-43 S. East End Ave, and
- (iii) 7750-7752 S. Muskegon

Please let me know if you need any additional information, and please confirm receipt of this e-mail.

Best,
Scott

Scott B. Kitei

HONIGMAN LLP
O 313.465.7524
M 847.257.2764
skitei@honigman.com

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please delete it and notify the sender of the error.

Exhibit 3



SOUTH SHORE 34-UNIT MULTIFAMILY

7600 S. KINGSTON AVE.
CHICAGO, IL 60649

Jeffrey Baasch
Senior Vice President
312.676.1873
jeffrey.baasch@svn.com

Finley Askin
Associate Advisor
312.414.0428
finley.askin@svn.com

Sealed Bid Instructions

Sealed Bid Public Sale of Real Estate Terms and Conditions

Property: 7600 S Kingston Ave, Chicago, IL 60649 (the “Property”)

Description: 34-Unit Multifamily Building

Scheduled Tour Dates: Tuesday, July 30, 2019 (1:00 PM – 2:00 PM)
Tuesday, August 6, 2019 (1:00 PM – 2:00 PM)

Offer Due Date: Wednesday, August 14, 2019

- Seller:** The Property is being sold by the Receiver for the EquityBuild Receivership Estate (the “Seller”) created by that certain Order Appointing Receiver dated August 17, 2018, and entered in the action styled *U.S. Securities and Exchange Commission v. EquityBuild, Inc., et al.*, Civil Action No. 1:18-cv-05587, in the United States District Court for the Northern District of Illinois, Eastern Division (the “Receivership Court”). The Receivership Estate includes ownership and control of the Property.
- Offers:** Good faith offers may be made on a cash basis, accompanied by a proof of funds, or subject to a financing contingency, in the latter case by completing Rider A to the form Purchase And Sale Agreement to be supplied by the Seller. A good faith offer may also be submitted by credit bid in accordance with Paragraph 11, below. All offers shall be delivered to Jeffrey Baasch (“Broker”), SVN Commercial Real Estate, 940 West Adams, Suite 200, Chicago, IL 60607, jeffrey.baasch@svn.com, by no later than 5:00 p.m. CST on August 14, 2019. Offers must be transmitted to the Broker by e-mail or enclosed in a sealed envelope and delivered by U.S. mail, by nationally-recognized overnight courier, or by hand. Untimely and non-conforming offers may be rejected at the sole discretion of the Broker. The Seller strongly recommends that prospective purchasers who do not submit cash offers pre-qualify for financing. No liability shall attach to Seller, Broker, or any other party for failure to receive or open any offer.
- Best and Final:** Although bidders are encouraged to submit their best offer, at the Seller’s sole discretion, a best and final round may be conducted. In that event, the Seller will select the most competitive bids and the corresponding bidders will be invited to participate in the best and final round to be conducted by the Broker. The best and final bidding process will be conducted by telephone and email.

Sealed Bid Instructions

4. Earnest Money Deposit: The winning bidder, if not a credit bidder, will be required to make an earnest money deposit in an amount equal to ten percent (10%) of the purchase price by wiring the funds to a designated title company within three (3) business days after acceptance of the Purchase and Sale Agreement. The earnest money deposit shall become non-refundable at the expiration of the due diligence period (see Paragraph 6 below) and applied toward the purchase price at closing.
5. Property Tours: Property tours will be available to all bidders at scheduled times, and the Property may also be shown by appointment. Prospective bidders will be provided a set of bid materials, although the accuracy of the information contained in the bid materials cannot be guaranteed, and, thus, prospective bidders are encouraged to complete any desired and non-invasive due diligence at their own expense.
6. Due Diligence: The winning bidder will be entitled to conduct a second due diligence review of the Property within ten days following acceptance of its offer and prior to closing.
7. As-Is Sale: The Property is being sold “as-is,” with all faults, as of the closing date. Neither the Seller, the Broker, nor any of their respective agents, contractors, attorneys, officers, or directors (“Agents”) makes any representation or warranty with respect to the physical condition of the Property, nor any of the personalty, fixtures, machinery, or equipment located thereon, including any warranty of merchantability or fitness for a particular purpose, or any type of other warranty, express or implied. The Seller, the Broker, and their Agents specifically disclaim any warranty, guaranty, or representation, oral or written, past or present, express or implied, concerning the physical condition of the Property or any of the personalty, fixtures, machinery, or equipment located thereon. Neither the Seller, the Broker, or the Agents possesses any authority to make any oral or written representation regarding the condition of the Property or its contents, other than as may be set forth in the Purchase and Sale Contract, and no bidder may rely upon any such oral or written representation. The bidders shall conduct their own independent physical inspections of the Property and its contents, shall be charged with full knowledge of all documents made available for inspection, and shall submit offers based solely upon their own independent judgment and conclusions and not in reliance upon any information provided by the Seller, the Broker, or the Agents.
8. Broker Participation Invited: A cooperating commission will be paid to a qualified, licensed real estate broker that procures the bidder who closes on the Property, provided that (1) said cooperating real estate broker is not prohibited by law from being paid such commission and, additionally, is not a principal or affiliate of the bidder and (2) no commission shall be considered earned or payable unless the broker registers its client on the Buyer Broker Registration form prior to the client's submission of a bid. Oral registrations will not be accepted. Under no circumstances shall any commission be paid if the sale does not close.

Sealed Bid Instructions

9. Closing: The closing shall be held within fifteen (15) days after the Receivership Court grants the Receiver's motion to approve the sale, which motion will be filed as soon as practicable following the Seller's acceptance of the contract submitted by the winning bidder. The Property will be conveyed by receiver's deed, subject to any and all covenants, conditions, and restrictions of record, actual and apparent public utility easements, building lines, if any, encroachments of a minor nature that can be insured over by the purchaser, real estate taxes not yet due and payable, housing court proceedings, building code violations and administrative proceedings, and acts suffered or permitted by the grantee.
10. Other Terms and Conditions:
 - a) The Closing shall remain subject to the approval of the Receivership Court.
 - b) The Seller and the Broker reserve the right, in their sole and absolute discretion, to postpone or cancel the Sealed-Bid Public Sale of Real Estate with or without notice or to amend or modify these Terms and Conditions prior to the submission of bids. To the extent of any conflict between these terms and conditions and the Purchase and Sale Agreement, the terms of the Purchase and Sale Agreement shall control.
 - c) These terms and conditions do not create any legal obligation on the part of the Seller or the Broker. If the sale fails to comply with any of these terms and conditions for any reason, the Seller and the Broker shall have no liability to any unsuccessful bidder.
11. Rules Regarding Credit Bids: Rules governing credit bids will be made available upon request.



PROPERTY INFORMATION

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Back Page

Property Summary

LOCATION INFORMATION

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Regional Map

Location Maps

Aerial Photo 1

Aerial Photo 2

Obama Presidential Library

Tiger Woods Golf Course

South Works Redevelopment Site

FINANCIAL ANALYSIS

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Financial Summary

Income & Expenses

Unit Mix Summary

DEMOGRAPHICS

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Demographics Report

Demographics Map

ADDITIONAL INFORMATION

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Photos - Exterior

Photos - Interior

Photos - Other

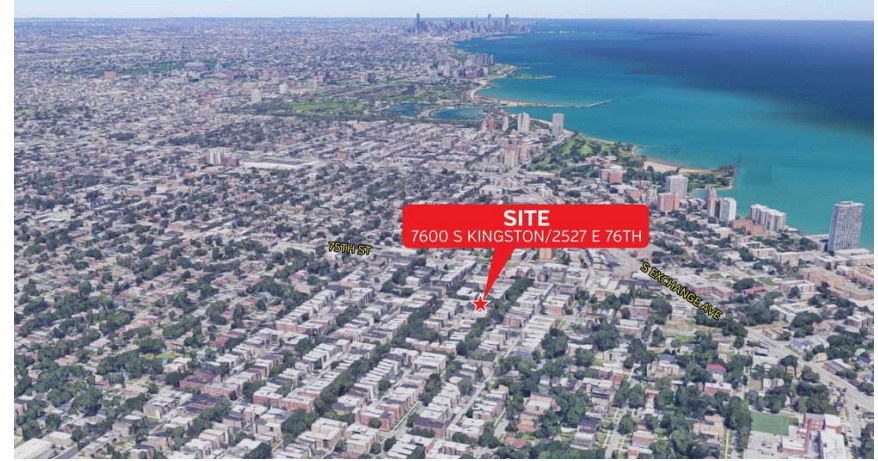
Disclaimer



1 PROPERTY INFORMATION

7600 S. Kingston Ave.
Chicago, IL 60649

Property Summary



OFFERING SUMMARY

Sale Price:	\$1,700,000
Number Of Units:	34
Price Per Unit	\$50,000
Cap Rate:	11.0%
NOI:	\$186,932
Lot Size:	14,602 SF
Year Built:	1927
Building Size:	17,522 SF
Zoning:	RT-4
Submarket:	South Shore
Price / SF:	\$97.02

PROPERTY OVERVIEW

SVN Chicago Commercial is pleased to present a 34-unit multifamily building in Chicago's south side neighborhood of South Shore. The unit mix includes [15] 1 bedroom, [14] 2 bedroom, and [5] 2 bedroom, 2 bath units. The building has been updated with newer vinyl windows, updated electric, central heat, new water tanks, and recently turned units. The property, built in 1927, is zoned RT-4 and situated on a 14,602 square foot parcel of land.

PROPERTY HIGHLIGHTS

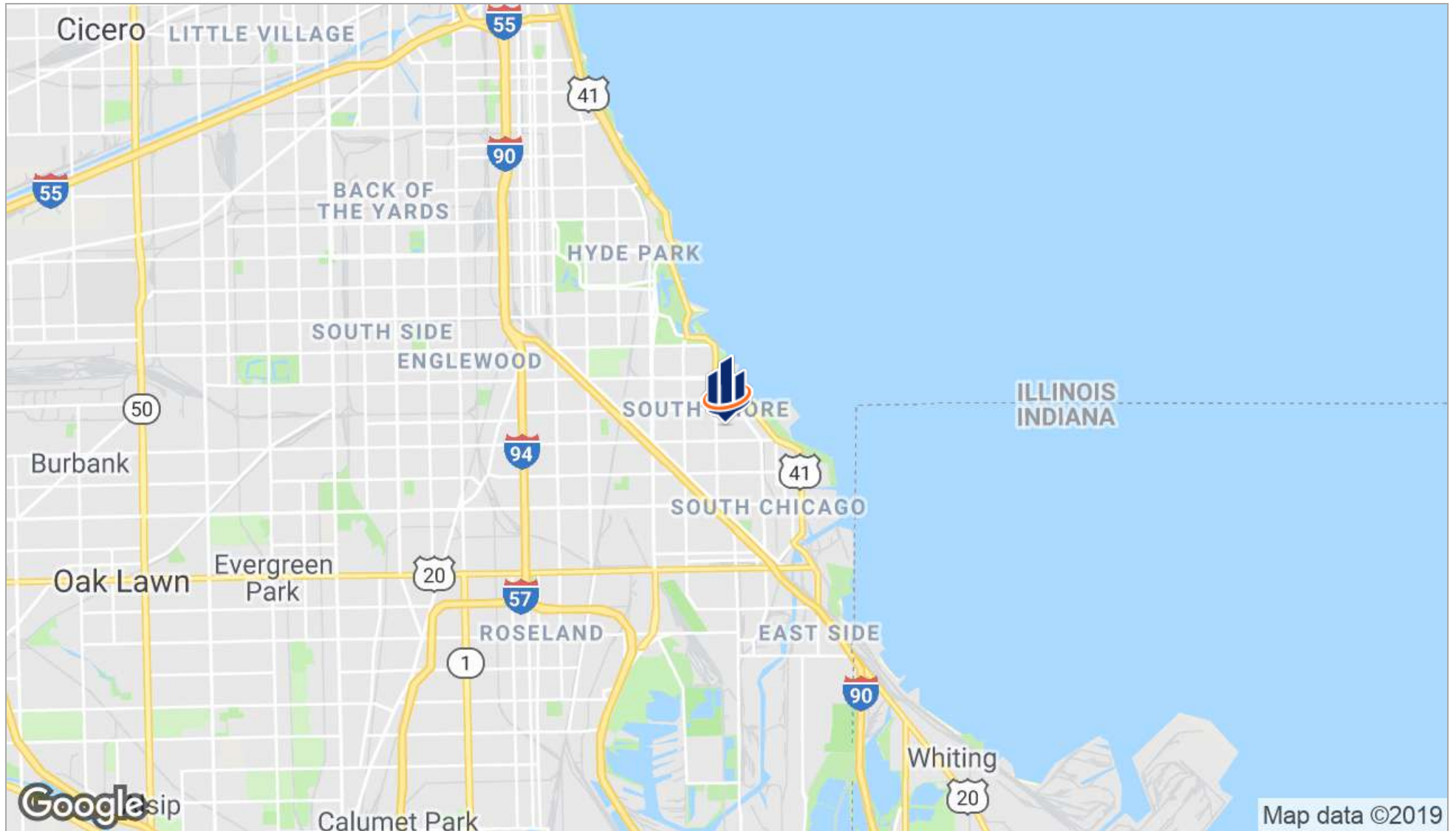
- Recently Turned Units
- Desirable Unit Mix: [14] 2 Bedroom, and [5] 2 Bedroom, 2 Bath
- Updated Electric
- Central Heat
- Proximity to Public Transportation



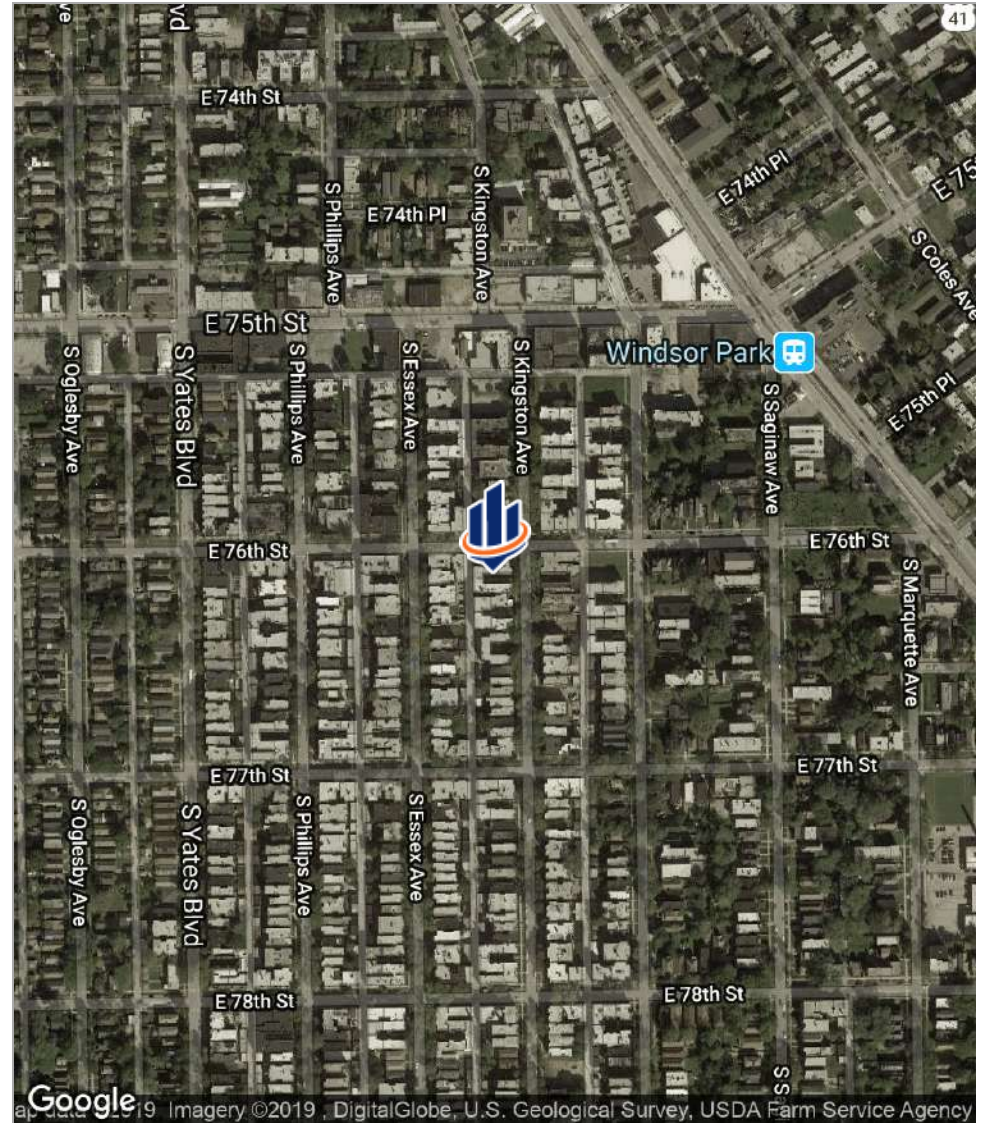
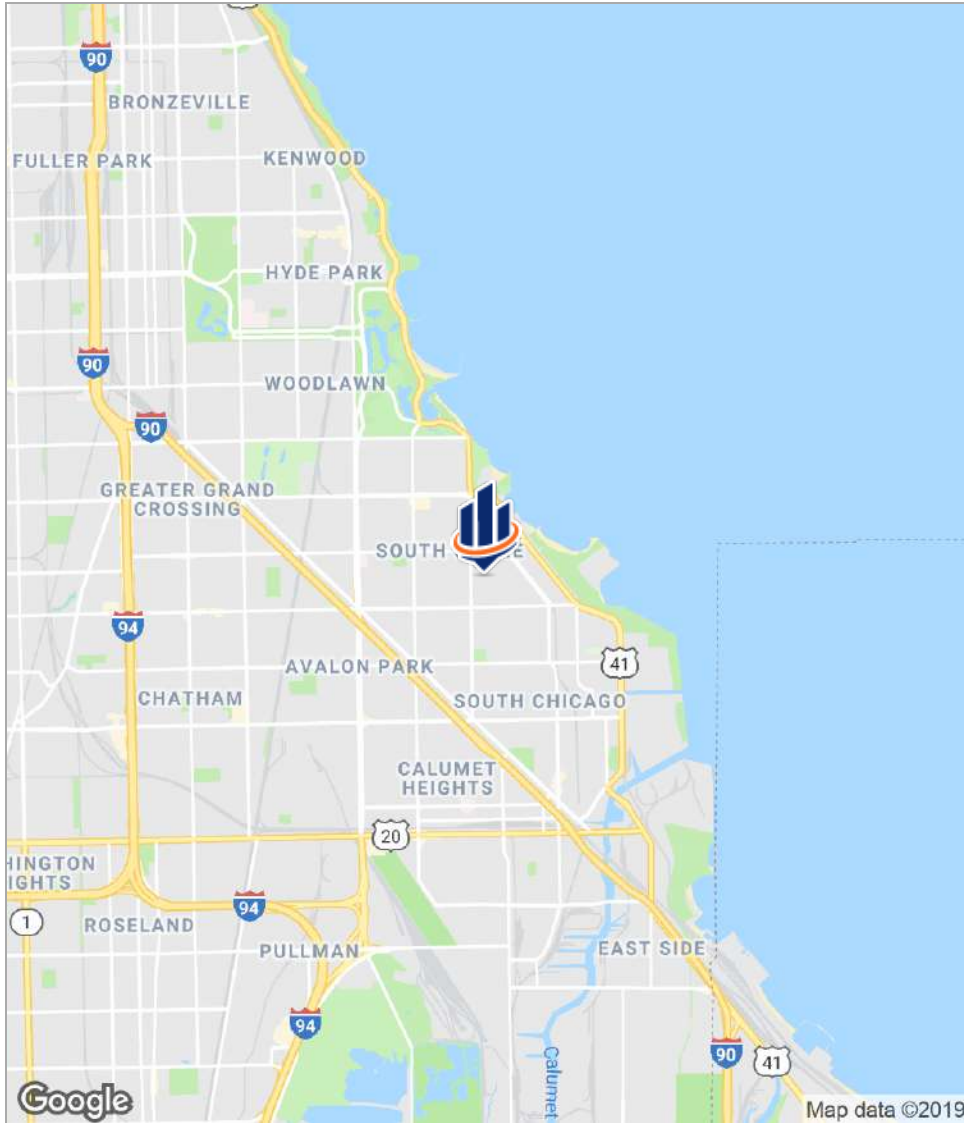
2 LOCATION INFORMATION

7600 S. Kingston Ave.
Chicago, IL 60649

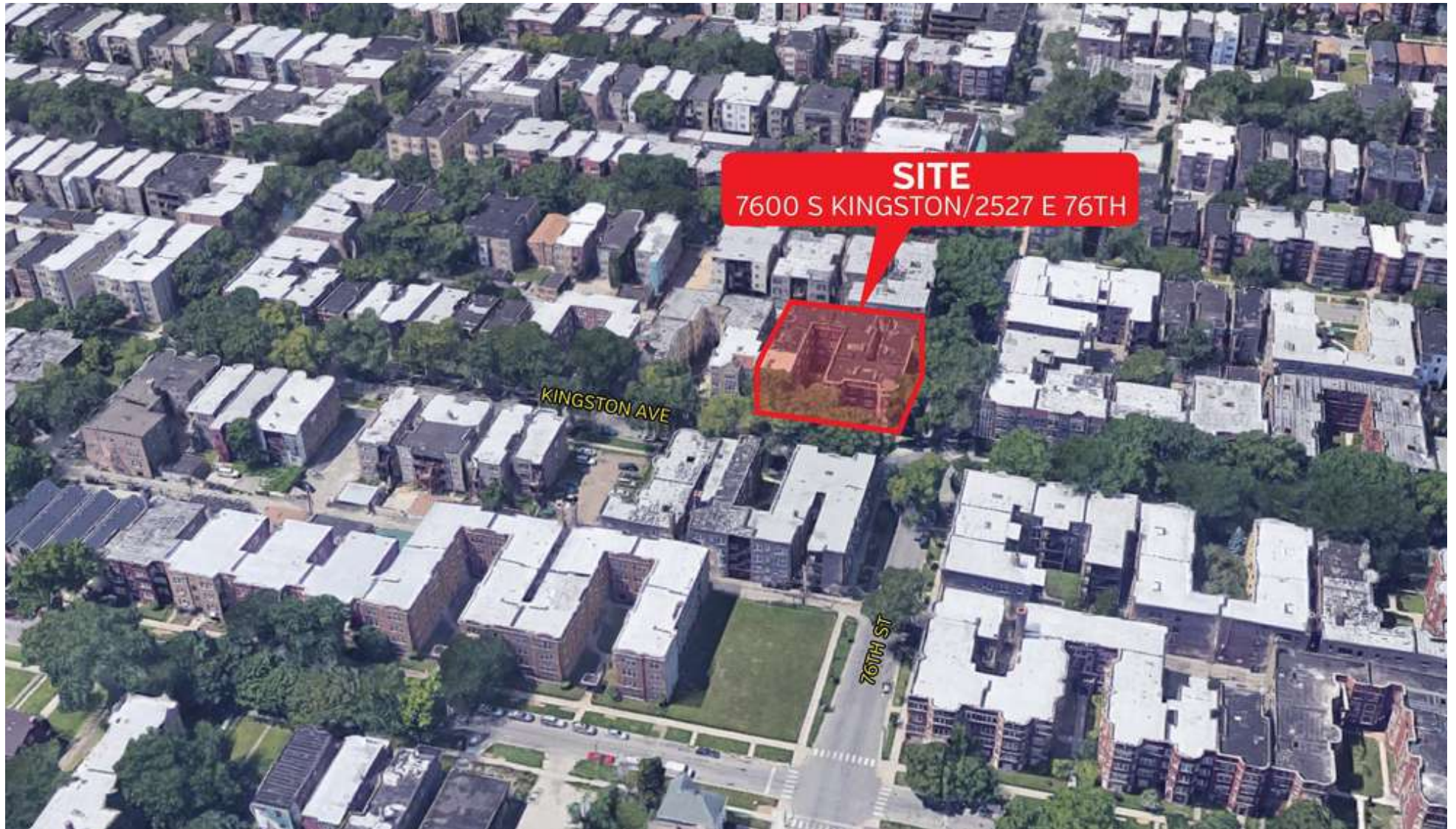
Regional Map



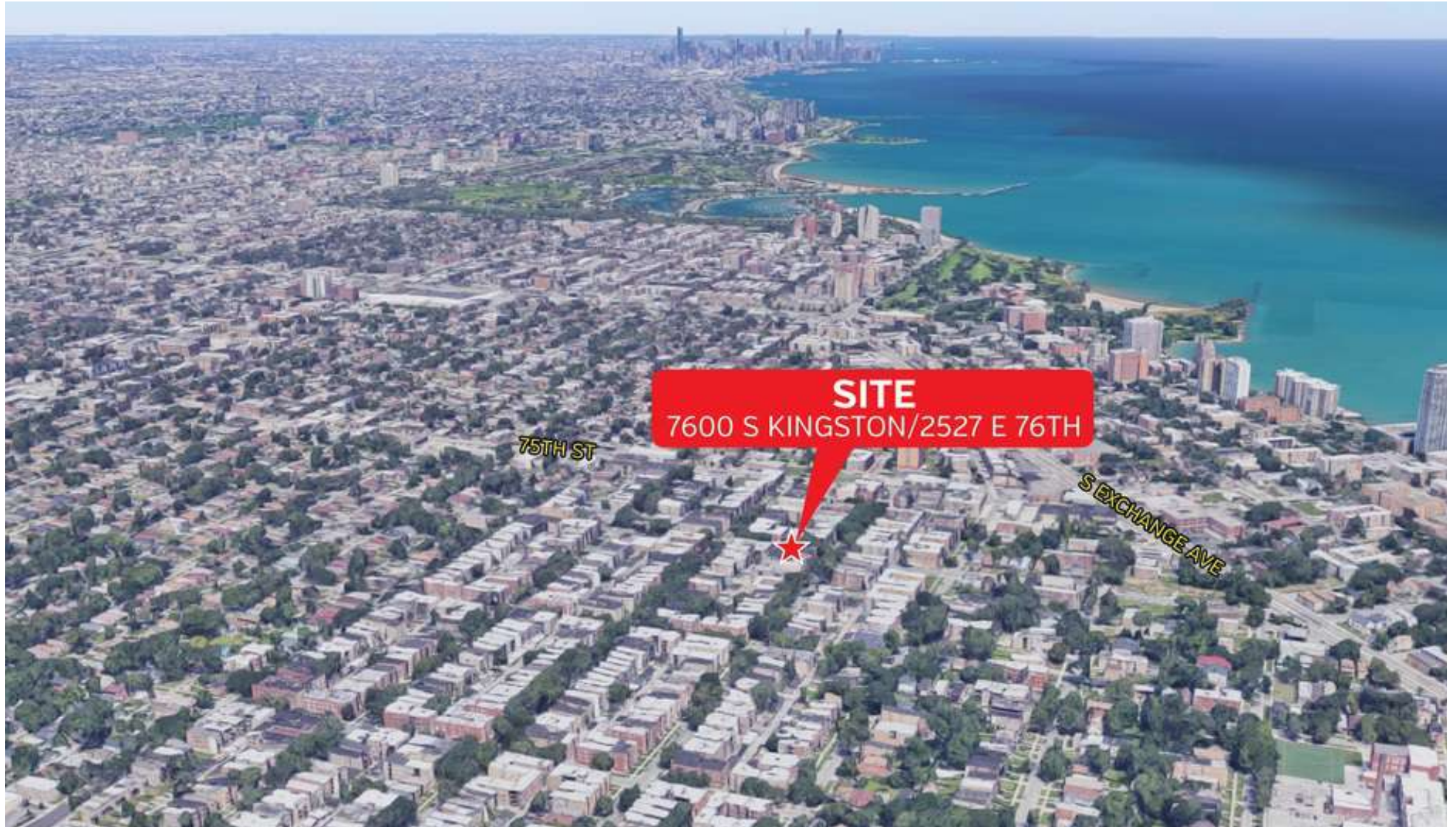
Location Maps



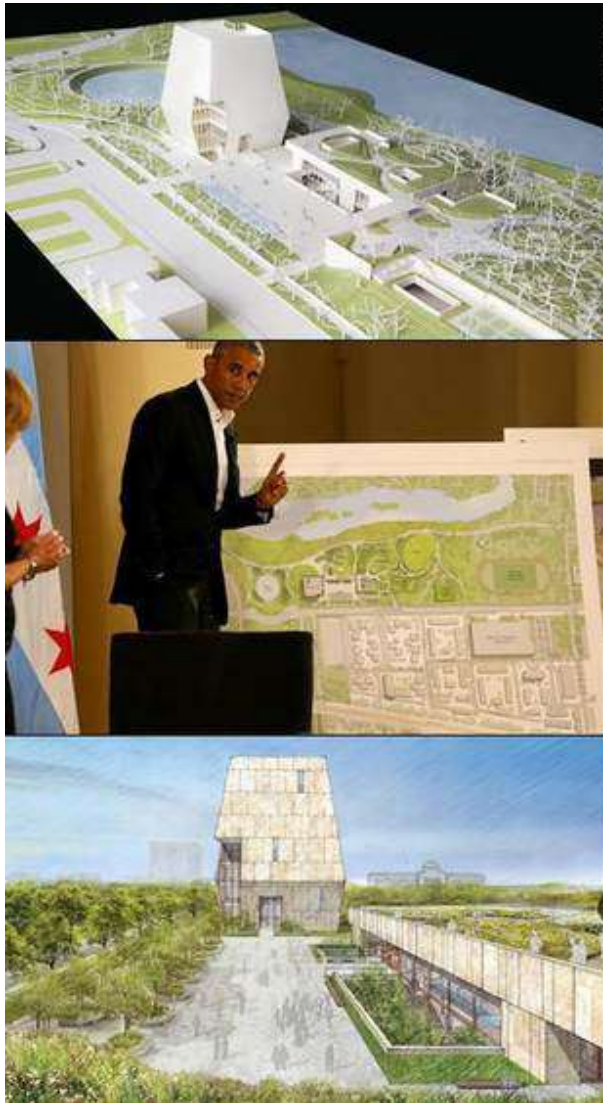
Aerial Photo 1



Aerial Photo 2



Obama Presidential Library



OBAMA PRESIDENTIAL LIBRARY

- \$600 Million project, includes museum, housing, Metra station upgrade, restaurants, road upgrades
- UC Chicago projects 800K visitors, 3300 construction jobs, 40 businesses & 1900 perm jobs
- \$10 year economic impact of \$3.1 Billion in Cook county, according to Deloitte
- Final location picked in Jackson Park, half a mile away from our portfolio.
- Museum CEO chosen, Architect chosen
- Developers have announced many mixed income residential projects totaling over 200 residential units, a grocery store, a pavilion, a music court, a new school building, and tens of thousands of square feet of retail space
- The Clinton museum was built in a similar economically challenged area. It was found that the center led to over \$2 Billion in area investment

Tiger Woods Golf Course

LEGEND

-  MULTI-USE TRAIL
-  PROPOSED UNDERPASS
-  PLAYGROUND
-  GOLF CART PATH
-  NATURAL AREA
-  SECONDARY ROUGH
-  PRIMARY ROUGH
-  FAIRWAY
-  GREEN
-  TEE



TIGER WOODS PGA GOLF COURSE

- Tiger woods announced plan on June 21, 2017 to combine Jackson Park and South Shore golf courses into one PGA caliber golf course
- \$30 million projected cost
- The park district has already paid over \$1 Million to commission the design
- 18 holes, 7,354 yards
- Scheduled to open 2020

PROPOSED LAYOUT OF THE NEW CHAMPIONSHIP COURSE BY TGR DESIGN

Rendering By:



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South Works Redevelopment Site



South Works Site

- 440 Acre Development Site
- Former U.S. Steel South Works Steel Plant / Factory
- Currently on the Market For Sale



3 FINANCIAL ANALYSIS

7600 S. Kingston Ave.
Chicago, IL 60649

Financial Summary

INVESTMENT OVERVIEW

Price	\$1,700,000
Price per Unit	\$50,000
GRM	4.6
CAP Rate	11.0%
Cash-on-Cash Return [yr 1]	21.62 %
Total Return [yr 1]	\$127,831
Debt Coverage Ratio	2.44

OPERATING DATA

Gross Scheduled Income	\$366,774
Other Income	-
Total Scheduled Income	\$366,774
Vacancy Cost	\$55,016
Gross Income	\$311,757
Operating Expenses	\$124,825
Net Operating Income	\$186,932
Pre-Tax Cash Flow	\$110,274

FINANCING DATA

Down Payment	\$510,000
Loan Amount	\$1,190,000
Debt Service	\$76,658
Debt Service Monthly	\$6,388
Principal Reduction [yr 1]	\$17,556

Income & Expenses

INCOME SUMMARY		PER UNIT
Expected Gross Income	\$366,774	\$10,787
Less: Vacancy/Credit Loss	-\$55,016	-\$1,618
Gross Income	\$311,758	\$9,169
EXPENSE SUMMARY		PER UNIT
Repairs/Maintenance	\$11,900	\$350
Cleaning/Decorating	\$11,900	\$350
Utilities - Gas	\$0	\$0
Utilities - Electric	\$3,400	\$100
Utilities - Water	\$13,600	\$400
Property Taxes	\$31,037	\$912
Insurance	\$13,600	\$400
Scavenger	\$6,800	\$200
Janitor	\$6,800	\$200
Management	\$15,588	\$458
Miscellaneous and Reserve	\$10,200	\$300
Gross Expenses	\$124,825	\$3,671
Net Operating Income	\$186,932	\$5,498

Unit Mix Summary

UNIT TYPE	COUNT	% TOTAL	RENT	MIN. RENT	MAX RENT
1 Bedroom, 1 Bath	15	44.1	\$841	\$750	\$1,040
2 Bedroom, 1 Bath	14	41.2	\$942	\$700	\$1,050
2 Bedroom, 2 Bath	5	14.7	\$950	\$900	\$1,000
Totals/Averages	34	100%	\$30,553	\$25,550.00	\$35,300.00



4

DEMOGRAPHICS

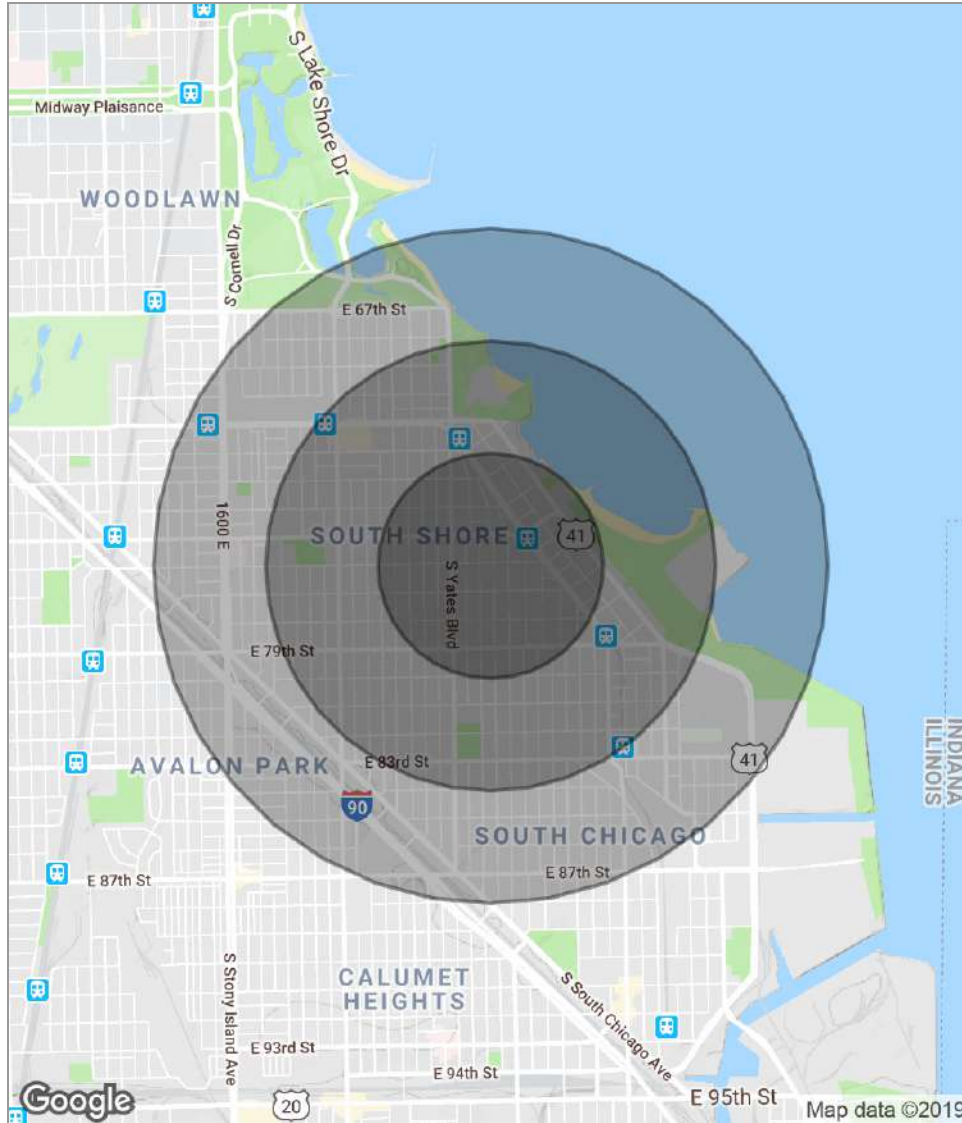
7600 S. Kingston Ave.
Chicago, IL 60649

Demographics Report

	0.5 MILES	1 MILE	1.5 MILES
Total population	13,136	40,241	74,748
Median age	34.7	37.8	36.5
Median age (male)	29.0	33.3	32.2
Median age (female)	36.9	39.9	39.3
Total households	5,316	16,551	30,597
Total persons per HH	2.5	2.4	2.4
Average HH income	\$40,597	\$42,966	\$43,027
Average house value	\$198,701	\$199,505	\$197,670

* Demographic data derived from 2010 US Census

Demographics Map



POPULATION	0.5 MILES	1 MILE	1.5 MILES
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5 ADDITIONAL INFORMATION

7600 S. Kingston Ave.
Chicago, IL 60649

Photos - Exterior



Photos - Interior



Photos - Other



Disclaimer

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