

*Lloyd King*



Honorable Lloyd King  
United States Bankruptcy Judge

Entered on Docket  
April 23, 2012

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**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re  
  
AMERICAN WEST DEVELOPMENT, INC.,  
a Nevada corporation,  
  
fdba Castlebay 1, Inc.  
fdba Development Management, Inc.  
fdba Fairmont 1, Inc.  
fdba Glen Eagles 3, Inc.  
fdba Heritage 1, Inc.  
fdba Inverness 5, Inc.  
fdba Kensington 1, Inc.  
fdba Kingsbridge 1, Inc.  
fdba Promontory Estates, LLC  
fdba Promontory Point 4, Inc.  
fdba Silverado Springs 1, Inc.  
fdba Silverado Springs 2, Inc.  
fdba Tradition, Inc.  
fdba Windsor 1, Inc.,  
  
Debtor.

Case No. BK-S-12-12349-MKN

Chapter 11

**ORDER GRANTING DEBTOR'S  
FIRST OMNIBUS MOTION TO REJECT  
CERTAIN PRICING COMMITMENTS,  
EFFECTIVE AS OF THE PETITION DATE**

Hearing Date: April 10, 2012  
Hearing Time: 9:30 a.m.

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1 The Court, having reviewed and considered Debtor's First Omnibus Motion to Reject Certain  
 2 Pricing Commitments, Effective as of the Petition Date (the "Motion")<sup>1</sup>, for entry of an order pursuant  
 3 to 11 U.S.C. §§ 105(a) and 363(b) authorizing, but not requiring, Debtor to reject those certain  
 4 executory contract Pricing Commitments listed in **Exhibit A** thereto (collectively, the "Contracts")  
 5 effective as of the Petition Date; and upon consideration of the Omnibus Declaration of Robert M.  
 6 Evans filed in Support of Debtor's First Day Motions; the objections filed by Catherine Maballo,  
 7 Renato Maballo Jr., Sofia A. Williams, Edilberto and Marilou Zamora, Christopher and Stephanie  
 8 Ratliff, Kemp, Jones & Coulthard, LLP Homeowners (collectively, the "Kemp Jones Homeowners"),  
 9 Brad Knechtel, Hsiu Cloyd, the Rainey Devine Homeowners (collectively, the "Rainey Devine  
 10 Homeowners"), Dung Ho and Wanpen Suwanrat, and Larry B. Stokes, the Stipulation Resolving  
 11 Rainey Devine Homeowners' Opposition to Debtor's First Omnibus Motion to Reject Certain Pricing  
 12 Commitments, Effective as of the Petition Date [Docket No. 153] (the "Rainey Devine Homeowners  
 13 Stipulation"), resolving the opposition of the Rainey Devine Homeowners, and the Stipulation  
 14 Resolving Homeowners' Opposition to Debtor's First Omnibus Motion to Reject Certain Pricing  
 15 Commitments, Effective as of the Petition Date [Docket No. 154] (the "Kemp Jones Homeowners  
 16 Stipulation"), resolving the opposition of the Kemp Jones Homeowners, Debtor's Reply filed in support  
 17 of the Motion and having heard and considered the arguments of counsel and all other parties in interest  
 18 at the hearing on the Motion; and it appearing that the Court has jurisdiction over this matter; and it  
 19 appearing that notice of the Motion as set forth therein is sufficient, and that no other or further notice  
 20 need be provided; and it further appearing that the relief requested in the Motion is in the best interests  
 21 of Debtor and its estate and creditors; and upon all of the proceedings had before the Court; and after  
 22 due deliberation and sufficient cause appearing therefor, it is hereby

23 ORDERED that the Motion is granted; and it is further

24 ORDERED that Debtor is authorized to reject the Contracts effective as of the Petition Date;  
 25 and it is further

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 27 <sup>1</sup> All capitalized words and phrases not otherwise defined herein shall have the meanings given to them  
 28 in the Motion.

1 ORDERED that the Contracts are hereby rejected effective as of the Petition Date; and it is  
2 further

3 ORDERED that nothing herein is determination that any of the Contracts (or any other  
4 agreement) is an executory contract and/or has not expired by its own terms, and all of Debtor's rights  
5 in this regard are expressly reserved; and it is further

6 ORDERED that to the extent any of the Rainey Devine Homeowners' respective Contract (or  
7 any portion thereof) is deemed by this Court to constitute an executory contract within the meaning of  
8 section 365 of the Bankruptcy Code, such contract (or portion thereof) shall be rejected effective as of  
9 the petition date; and it is further

10 ORDERED that based on Kemp Jones Homeowners' acknowledgment that any and all claims  
11 under their respective Contracts arose prior to the Petition Date, the Motion is withdrawn without  
12 prejudice solely as to Kemp Jones Homeowners' respective Contracts; and it is further

13 ORDERED that neither rejection of Kemp Jones Homeowners or Rainey Devine Homeowners'  
14 respective Contracts (or any portion thereof), nor any other relief granted pursuant to the Motion, shall  
15 prevent or preclude any of the Kemp Jones Homeowners or Rainey Devine Homeowners from asserting  
16 a prepetition general unsecured claim against Debtor's estate; the rights of each of the Kemp Jones  
17 Homeowners or Rainey Devine Homeowners to assert such a claim, and the rights of Debtor and any  
18 other party to dispute such a claim, are expressly reserved; and it is further

19 ORDERED that the Rainey Devine Homeowners Stipulation is approved; and it is further

20 ORDERED that the Kemp Jones Homeowners Stipulation is approved; and it is further

21 ORDERED that all other objections to the Motion are overruled; and it is further

22 ORDERED that this Court shall, and hereby does, retain jurisdiction with respect to all matters  
23 rising from or related to the implementation and interpretation of this Order.

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1 Prepared and Respectfully Submitted by:

2 **FOX ROTHSCHILD LLP**

3 By           s/Brett A. Axelrod          

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12 **APPROVED**

13 **RAINEY DEVINE**

14 BY:           s/William Devine II          

15 William Devine II, Esq.  
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18 Henderson, Nevada 89074

19 *Counsel for Rainey Devine Homeowners*

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**CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021**

In accordance with Local Rule 9021, counsel submitting this document certifies as follows:

- The Court has waived the requirement of approval in LR 9021(b)(1).
- No party appeared at the hearing or filed an objection to the motion
- I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below:

ATHANASIOS  
AGELAKOPOULOS, OFFICE OF  
THE UNITED STATES TRUSTEE

KEMP, JONES & COULTHARD,  
LLP HOMEOWNERS?

No Response

No Response

CATHERINE MABALLO,  
RENATO MABALLO JR.

RAINEY DEVINE HOMEOWNERS

No Response

Approved

SOFIA A. WILLIAMS

BRAD KNECHTEL

No Response

No Response

EDILBERTO AND MARILOU  
ZAMORA

HSIU CLOYD

No Response

No Response

CHRISTOPHER AND STEPHANIE  
RATLIFF

DUNG HO AND WANPEN  
SUWANRAT

No Response

No Response

LARRY B. STOKES

No Response

- I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

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