Docket #0495 Date Filed: 10/22/2026

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

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

DEBTOR'S RESPONSE IN OPPOSITION TO DLP CAPITAL LENDING CH LLC'S RENEWED MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND REQUEST FOR INTERIM HEARING UNDER SECTION 362(e) OF THE BANKRUPTCY CODE

BRDL Warden Station, LLC (the "Debtor"), debtor and debtor in possession in the above-captioned case, submits the following response (the "Response") in opposition[2] to *DLP Capital Lending CH LLC's Renewed Motion for Relief from the Automatic Stay and for Adequate Protection and Request for Interim Hearing*[3] *under Section 362(e) of the Bankruptcy Code* [Docket Nos. 475] (the "Second Motion"). In support of this Response, the Debtor respectfully states as follows:

INTRODUCTION

1. The Second Motion regurgitates the same arguments and same misunderstandings as DLP Capital Lending CH LLC's ("DLP") first attempt at stay relief. And as with the first

[1] The Debtors in these jointly administered cases are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): BRD Land & Investment, a South Carolina partnership (6940), BRDL Warden Station Holding Co LLC (0184), and BRDL Warden Station, LLC (4687). The Debtors' address is 6433 Bannington Road, Charlotte, NC 28226.

[2] Again, the Debtor objects to DLP's filing of the Second Motion under the no-protest process provided by Local Rule 9013-1(e). The list of motions contained therein is the "the exclusive list of motions that may be noticed by the use of no protest notices and determined by the court without a hearing unless a hearing is specifically requested." As this motion requests an interim hearing, in addition to adequate protection and a super priority administrative expense claim, the Second Motion cannot make use of the no-protest process. Also, the hearing should have been set pursuant to the Local Rules and not set less than seven business days following the Debtors' response deadline.

[3] In the Second Motion, DLP did not argue the standards and framework associated with Section 362(e). Should DLP pivot to such arguments at the hearing on the Second Motion, the Debtor reserves all rights to argue that the Court should schedule a final hearing and the automatic stay should remain in effect pending such final hearing.

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attempt, the Second Motion should be denied outright to allow the Debtor to continue its marketing and sale process for the benefit of the Debtor's creditor body, including DLP.

2. Ultimately, the Court need not look beyond the Second Motion's own allegations to determine DLP is not entitled to stay relief. For example, DLP argues it is both under-secured but entitled to post-petition interest and attorneys' fees. DLP also argues no equity exists but acknowledges an equity cushion remains in April 2027. DLP is not entitled to stay relief.

FACTUAL BACKGROUND

3. On February 24, 2026 (the "Petition Date"), the Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code (the "Chapter 11 Case"). The Debtor owns three parcels of land in Conway, South Carolina; in total, these parcels amount to approximately 1,812.69 acres of land (the "Property") as more particularly identified in Schedule A of Exhibit A of the *Debtor's Motion for Authorization to Transfer Certain Real Property Free and Clear of Liens* [Docket No. 293] (the "Sale Motion").

4. On May 29, 2026, DLP filed the *DLP Lending Fund CH LLC's Motion for Relief from the Automatic Stay and for Adequate Protection and Request for Interim Hearing under Section 362(e) of the Bankruptcy Code* [Docket No. 226] (the "First Motion"), seeking identical relief and pressing nearly identical arguments. On June 17, 2026, the Court continued the First Motion to July 22, 2026, when it denied the First Motion as moot after granting the Sale Motion. Ultimately, the counterparty to the Sale Motion terminated the purchase contract, causing the Debtor to re-engage prospective purchasers in another marketing and sales process that continues as of the date of the filing of this Response.

5. In conjunction with the marketing and sales process, the Debtor put forth an outside timeline and specific guardrails governing the sale of the Property in the *Joint Second Amended*

Plan of Liquidation of BRD Land & Investment, BRDL Warden Station, LLC, and BRDL Warden Station Holding Co, LLC [Docket No. 451] (the "Plan").

6. Specifically, the Plan provides that the Debtor will file a motion to sell on or before an outside date of April 1, 2027, Plan, Section 9.2.2.1; such a sale would close on or before ten (10) days following entry of an order approving a sale, Plan, Section 9.2.2.2.; alternatively, the Debtor may auction the Property and DLP may credit bid, Plan, Section 9.2.2.3; and finally, should no sale or auction consummate a closing, the Debtor will surrender the Property to DLP, Plan, Section 9.2.2.4. Should the Debtor find an acceptable prospective purchaser in advance of the Plan's timelines, the Debtor reserves its rights to pursue a sale ahead of and independent of the Plan process, which may adjust the potential closing date to entry of any final order or completion of any contingencies.

RESPONSE

7. To obtain relief from stay generally, DLP must show "cause, including the lack of adequate protection of an interest in property of such party in interest[.]" 11 U.S.C. § 362(d)(1). "Because the Code provides no definition of what constitutes 'cause,' courts must determine when discretionary relief is appropriate on a case-by-case basis." In re Robbins, 964 F.2d 342, 345 (4th Cir. 1992).

8. Alternatively, to obtain stay relief specific to the Property, DLP must show "the debtor does not have an equity in such property; and such property is not necessary to an effective reorganization." 11 U.S.C. § 362(d)(2)(A)-(B). DLP "has the initial burden of proving cause exists for relief from the automatic stay, including lack of adequate protection, and lack of equity in the property." In re Morgan, 630 B.R. 476, 479 (Bankr. D.S.C. 2021).

9. DLP argues the stay should be lifted because (a) the Debtor has no equity in the property; (b) the Property is not necessary for an effective reorganization; (c) DLP's interest is not adequately protected; and (d) the Property's value is declining, constituting cause. Alternatively, DLP requests adequate protection in the form of payments equal to interest accruals and real estate taxes. Each argument fails under DLP's own allegations.

I. Equity exists in the Property.

10. Under 11 U.S.C. § 362(d)(2), a party can only obtain judicial relief from the automatic stay where (a) the debtor has no equity in the property and (b) the property itself is not necessary to an effective reorganization. DLP cannot show either.

11. In examining whether equity exists in a property, "the term 'equity' means the difference between the value of the property and encumbrances against it." First Am. Bank v. Monica Rd. Assocs., 147 B.R. 385, 389 (Bankr. E.D. Va. 1992).

12. First, DLP's contention that the Debtors lack equity in the Property is still—as in the First Motion, see First Motion, ¶ 55—solely based on Debtors' hypothetical Liquidation Analysis, *not* the Debtor's valuation, which is $18,345,621, see *Disclosure Statement for Joint Second Amended Plan of Liquidation of BRD Land & Investment, BRDL Warden Station, LLC, and BRDL Warden Station Holding Co, LLC* [Docket No. 452] (the "Disclosure Statement"), Ex. A, Liquidation Budget. Even taking DLP's assertion of its nearly $16 million claim as of April 1, 2026, millions of dollars of equity exist *today* in the Property.

13. Importantly, the variance between the hypothetical liquidation value ($10.5 million to $12 million) and the Debtor's value ($18 million) reinforces the conclusion that DLP should not be granted stay relief. If granted, DLP obtains an asset with a potential $6 million upside for which it would receive the entire windfall versus the Debtor's creditors, producing an inequitable result.

14. Separately, the Court need not rely solely on the Debtor's arguments because DLP throughout the Chapter 11 Case has asserted it is oversecured in the Property, most recently in the Second Motion itself by asserting rights to post-petition interest and legal fees. See Second Motion, ¶ 50; see also Claim No. 4-1, Part 2, ¶ 14, Case No. 26-30214 (the "Warden Station Claim[4]"). The only reason for the Warden Station Claim to increase post-petition is because DLP is oversecured due to the Debtor's equity in the Property.

15. In short, DLP has argued throughout this case that equity exists in the Property, giving DLP the rights to charge the Debtor post-petition interest and fees. DLP should not now be allowed to about-face[5] to receive a million-dollar windfall.

II. The Debtor is not gambling with DLP's money and is not waiting-and-seeing.

16. Since termination of the contract in the Sale Motion, the Debtor re-engaged interested parties and continues to market the Property. As of the filing of this Response, three parties have provided offers to purchase the Property for amounts[6] varying from $15 million to the $18 million cited in the Disclosure Statement.

17. And far from holding the Property hostage, the Debtor included outside key milestones in its Second Amended Plan to provide guardrails for the sale process and consensual stay relief should the Debtor be unable to close a sale of the Property in an amount in excess of the Warden Station Claim. While such a sale certainly benefits the Debtor's creditors writ large, it also

[4] The Debtor also contests several of the charges asserted by DLP and the Warden Station Claim, including but not limited to default interest, estimated legal fees and the principal late fee, all of which total more than $1.6 million. More specifically, while DLP cites email correspondence asserting an existing default, DLP had already extended the maturity date to June 1, 2026. See Second Motion, Ex. I.

[5] If no equity exists in the Property, then the Warden Station Claim is frozen in time as of the Petition Date. Daily interest of $7,225.33, Second Motion, ¶ 72, would not be accruing. DLP's own allegations defeat its arguments.

[6] Direct comparisons based solely on dollar amounts are challenging due to variance between terms and experience between the prospective purchasers.

benefits DLP. The Debtor also hopes to beat those Plan milestones should it receive an acceptable offer to bring before the Court in advance of the Plan process.

18. Ultimately, the cases cited by DLP are inapposite. DLP fails to cite any specific timelines or similar circumstances that would justify the relief sought. But even if DLP was able to cite such a case, its requested relief still fails because DLP must show that no equity exists *and* the Property is not necessary to an effective reorganization.

III. DLP is adequately protected by an equity cushion.

19. As with the First Motion, DLP cannot—by its own positions taken in the Chapter 11 Case and the Second Motion—meet the standard contemplated by Section 362 that its interest in the Property is not adequately protected.

20. "In the context of a motion for relief from the automatic stay for cause, adequate protection means 'protecting the secured creditor from any decrease in the value of the secured creditor's interest in the collateral caused by the imposition of the automatic stay.'" In re Jeff Benfield Nursery, Inc., 565 B.R. 603, 614-15 (Bankr. W.D.N.C. 2017). When analyzing the need for adequate protection, the "value" of a creditor's interest in property which merits protection is the "value of the collateral." In re Westchase I Assocs., Ltd. P'ship, 126 B.R. 692, 694 (W.D.N.C. 1991) (quoting United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Assocs., 484 U.S. 365, 372, 108 S. Ct. 626, 631 (1988)).

21. Here, the value of the Property ranges from roughly $15 million to $18 million, depending upon continued negotiations between the Debtor and prospective purchasers. That range provides the Debtor with millions of dollars of runway vis a vis the Warden Station Claim. In other words, the Property is not decreasing in value such that DLP is entitled to adequate protection.

22. To press its argument, DLP asserts that as of April 1, 2027, a two percent (2%) equity cushion would exist—a cushion other courts have found to be too low to support an argument that a creditor is adequately protected. DLP's argument is fatally flawed, though, because DLP is moving for relief now and scheduled a hearing on the Second Motion for October 28, 2026. In other words, the pertinent snapshot in time is today, not April 1, 2027. In any event, the equity cushion today is greater than two percent (2%) under DLP's own logic. And DLP has failed to present any evidence that the equity cushion today is small enough to flip the burden to the Debtor, especially considering the objectionable line items highlighted by DLP in the Second Motion and the Warden Station Claim. Consequently, a premature argument that at some point in the future the equity cushion will have eroded does not justify stay relief today.

IV. The Property is not declining in value.

23. DLP's conclusory assertions of the Property's decline in value are not persuasive, namely because they mistake the hypothetical liquidation analysis as the Debtor's assertion of the Property's market value as described herein. DLP provides no evidence of such a decline. Conversely, the Debtors' negotiations with prospective purchasers have found that the value remains steady and may have in fact increased.

V. DLP is not entitled to adequate protection.

24. To award DLP adequate protection a Court first must determine that there exists a lack of adequate protection of an interest in the property. In re Westchase, 126 B.R. at 694. But such adequate protection is not warranted: "if the value of the property itself is not declining . . . the creditor would not be entitled to protection of the accruing interest value of the claim[.]" Id.

25. Absent a finding that the Property has significantly declined in value since the Petition Date, DLP is not entitled to additional adequate protection. DLP itself fails to present any evidence of declining values.

CONCLUSION

26. For the foregoing reasons, the Debtor respectfully requests that the Court deny the relief sought by DLP.

Dated: October 22, 2026
Charlotte, North Carolina

RAYBURN COOPER & DURHAM, P.A.

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