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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
In re	: Chapter 11 Case No.
	:
GENERAL GROWTH	: 09-11977 (ALG)
PROPERTIES, INC., <u>et al.</u>,	:
	: (Jointly Administered)
Debtors.	:
-----X	

**DEBTORS' REPLY TO CREDITORS' COMMITTEE'S OBJECTION
TO DEBTORS' MOTION PURSUANT TO SECTION 1121(d)
OF THE BANKRUPTCY CODE REQUESTING A SECOND
EXTENSION OF EXCLUSIVE PERIODS FOR FILING A
CHAPTER 11 PLAN AND SOLICITING ACCEPTANCES THERETO**

TO THE HONORABLE ALLAN L. GROPPER,
UNITED STATES BANKRUPTCY JUDGE:

South Street Seaport Limited Partnership, its ultimate parent, General Growth
Properties, Inc. ("**GGP**"), and their debtor affiliates, as debtors and debtors in possession



(collectively, “**General Growth**” or the “**Debtors**”),¹ as and for their reply (the “**Reply**”)² to the objection of the Creditors’ Committee (as defined below) (the “**Objection**”)³ to the *Debtors’ Motion Pursuant to Section 1121(d) of the Bankruptcy Code Requesting a Second Extension of Exclusive Periods for Filing a Chapter 11 Plan and Soliciting Acceptances Thereto* (the “**Motion**”)⁴ respectfully state:

I.

PRELIMINARY STATEMENT

1. General Growth has had a high-profile and successful chapter 11 case. Based on trading prices of GGP’s stock and unsecured debt, since the filing date its equity value has increased 22.5 times from approximately \$189 million to \$4.25 billion and the value of the corporate-level unsecured debt has gone from less than \$2 billion to approximately \$7 billion, an increase in market capitalization from less than \$2 billion to over \$11 billion . It is a poster child for the protective benefits of chapter 11: seeking relief approximately 10 months ago under the pressure of the credit crunch, achieving a breathing spell from numerous debt defaults, and using that opportunity to pursue a comprehensive

¹ A list of the Debtors, along with the last four digits of each Debtor’s federal tax identification number, is filed with the Court at Docket No. 593 and is also available for free online at www.kccllc.net/GeneralGrowth. Lists of these emerged Debtors are filed with the Court at Docket Nos. 4163, 4253, 4330, and 4440, and are also available for free online at www.kccllc.net/GeneralGrowth.

² The Debtors’ motion in support of extending its exclusive period can be found at Docket No. 4296.

³ A statement of support for the Objection was filed by Simon (as defined herein).

⁴ Capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed to them in the Motion.

restructuring of its secured debt, which has laid the foundation for its ultimate emergence from chapter 11.

2. General Growth's extraordinary success provides multiple options to satisfy its corporate-level debt and achieve significant value for its shareholders under a plan of reorganization. Indeed, General Growth has come a long way from a time when its debt traded in the range of 10 to 30 cents on the dollar. Today, General Growth's stock is trading millions of shares each day at over \$13 per share. The market value of the stock and third-party proposals demonstrate that General Growth has a multi-billion dollar equity value. This has made General Growth an unusual debtor, one with the fiduciary duty to maximize value for shareholders.

3. General Growth is seeking a second extension of exclusivity to pursue and complete the final phase of its emergence process during the next six months. General Growth's process to emerge from chapter 11 has been deliberately staged in two parts. The first part was to secure long-term, economically attractive mortgage debt financing allowing the market to establish an enterprise value of General Growth. The second part includes a competitive capital raise and strategic sale process to maximize recoveries for stakeholders and fairly distribute the tremendous enterprise value created during the first 10 months of these highly complex cases. General Growth has successfully restructured \$11.6 billion of secured mortgage debt and confirmed plans for 219 entities, which represent the majority of General Growth's operating entities. As a result, General Growth has taken the bulk of its approximately \$15 billion of secured mortgage debt due in the next few years and extended it for an average of five years at an average interest rate of approximately 5%, confirming

that the value of its vital retail mall platform and commercial real estate portfolio is preserved for the stakeholders of GGP, both creditors and shareholders.

4. Having realigned the mortgage debt obligations to support long-term viability and developed its business plan, General Growth is poised to proceed with a dual-track process to select a transaction that provides full recovery to creditors while achieving the highest total enterprise value for shareholders. The two-track process includes a capital raise effort from both “public” and private sources, as well as a solicitation of merger and acquisition (“**M&A**”) proposals from interested parties.

5. General Growth is proposing a timeline for execution of this two-track process which culminates in the confirmation of a plan of reorganization. The timeline, set forth below, has two parts: (i) selection of the best transaction to be incorporated in the plan and (ii) the confirmation process. Whether General Growth selects a standalone reorganization or a sale transaction to include in its plan of reorganization, the timeline is the same.

6. Although General Growth has chosen Brookfield Asset Management, Inc. (“**Brookfield**”) as its stalking horse, it expects interested parties to complete due diligence during the sixty days following the filing of the Bidding Procedures Motion (as defined below), and by the sixtieth day submit proposals for competing transactions. General Growth will share the final proposals with the official committee of unsecured creditors (the “**Creditors’ Committee**”), the official committee of equity security holders (the “**Equity Committee**” and, collectively with the Creditors’ Committee, the “**Committees**”), and the advisors to the ad hoc committees. Within thirty-five days

thereafter, General Growth intends to negotiate with parties concerning their proposals, select the best transaction, and file a plan and disclosure statement. Under any analysis, this is a reasonable, if not aggressive, timeline and is indifferent to the name or nature of the stalking horse⁵:

DAY 1 (MARCH 19)	<ul style="list-style-type: none"> • File motion to approve proposed bidding procedures/selection of plan transaction • Company continues due diligence and capital raise process
DAY 25 (APRIL 13)	<ul style="list-style-type: none"> • Order entered on motion
DAY 60 (MAY 18)	<ul style="list-style-type: none"> • Deadline for potential bidders to submit bids
DAY 60 - 95 (MAY 18 – JUNE 22)	<ul style="list-style-type: none"> • Company negotiates final bids and determines transaction to be included in plan • File plan and disclosure statement
DAY 130 (JULY 27)	<ul style="list-style-type: none"> • Disclosure statement approved
DAY 140 (AUGUST 6)	<ul style="list-style-type: none"> • Deadline to commence solicitation
DAY 185 (SEPTEMBER 20)	<ul style="list-style-type: none"> • Voting Deadline • Objection deadline
DAY 200 (OCTOBER 5)	<ul style="list-style-type: none"> • Plan confirmed

7. General Growth welcomes appropriate coordination with the Committees to maintain the integrity of the competitive process to select the best transaction on which to base a plan. In furtherance of the emergence process, before submitting the bidding procedures to the Court for approval, General Growth will review them with the Committees. General Growth’s ability to conduct a public-style capital raise in parallel with the solicitation of private financing and M&A transactions is a key element of the process.

⁵ The following dates are approximate, and are subject to both the Court’s and all interested parties’ availability.

General Growth is abundantly solvent and intends to remain a real estate investment trust (a “**REIT**”). As a consequence, General Growth has a natural investment constituency consisting of mutual funds and hedge funds that primarily invest in REIT securities, which funds have expressed widespread interest in participating in the capital raise process. General Growth would likely sacrifice substantial value if it failed to avail itself of this alternative source of capital from these uniquely situated parties which do not typically invest in chapter 11 companies at emergence.

8. General Growth has received the support of the Equity Committee for the requested six-month extension, however, the Creditors’ Committee has objected to any extension. Its Objection raises four points. Each is flatly wrong. First, the Creditors’ Committee alleges that General Growth has not made progress on the restructuring of TopCo (as defined below). In fact, General Growth has made exceptional progress, especially following the last exclusivity extension, in formulating and implementing its strategy to emerge with a stronger balance sheet. That plan has been communicated many times to the Creditors’ Committee.

9. Second, the Creditors’ Committee claims that General Growth’s capital raise and emergence process will force uncertainty on creditors by failing to pursue a quick cash-based M&A transaction. The Creditors’ Committee’s position is flawed. Any transaction will require the same time period to accomplish, as outlined by General Growth’s emergence timeline. There simply is no additional risk to creditors by General Growth’s process, particularly when the question of solvency is not close.

10. Third, the Creditors' Committee's contention that the retention of UBS Securities LLC ("UBS") to assist in this process ignores fiduciary duties is unfortunate. It also is hard to understand given General Growth's fiduciary duty to shareholders. Given General Growth's current equity trading value and the ability of debt holders to sell their claims for a full cash recovery today, it is incumbent on General Growth to explore, within the appropriate bounds of reason, a recapitalization that involves sources of equity and/or debt capital that may provide the best outcome for stakeholders.

11. Fourth, and perhaps most disappointingly, the Creditors' Committee has adopted as its agenda a desire to usurp control of the emergence process in an effort to truncate any effort to realize the fair value of the enterprise for shareholders. The Creditors' Committee has done this under the guise of General Growth's lack of transparency. Months ago, General Growth provided the advisors to the Creditors' Committee detailed models and projected cash flows forecasting General Growth's businesses, which are the underpinnings of the business plan that has since been finalized. General Growth identified a member of the senior management team to liaise with the advisors to the Creditors' Committee. General Growth's advisors have had numerous calls and meetings with the advisors to the Creditors' Committee explaining the capital raise process and rationale for UBS's retention. The process has resulted in countless meetings and calls without complaints regarding information flow. The Creditors' Committee's argument that General Growth has failed to be transparent with respect to its capital raise process is wholly undermined by the fact that, to date, General Growth has been transparent in all other aspects of its restructuring and has engaged with the financial advisors to the Creditors' Committee to describe General

Growth's capital raise process. General Growth expects to continue to conduct its process in a manner that is transparent to its stakeholders.

12. General Growth submits that the recognized success of the first 10 months of these chapter 11 cases, and the roadmap necessary to complete them in the most appropriate manner, necessitates granting the six-month extension of the exclusive periods for filing a chapter 11 plan and soliciting acceptances thereto (the "**Exclusive Periods**"). General Growth delivered the progress it told the Court it hoped to achieve during its first extension of exclusivity and it expects to do so for the requested extension as well. Its opportunity to deliver a value maximizing restructuring should not be cut short.

II.

ARGUMENT

A. General Growth Has Established a Clear Timeline Which Provides the Necessary Steps To Complete Its Restructuring

13. General Growth has established a deliberate and concrete plan for restructuring GGP, GGP Limited Partnership, GGPLP LLC, The Rouse Company LP, and a number of parent holding companies (collectively, "**TopCo**") within the next six months. General Growth's timeline is derived from the time required to conduct a competitive bidding process, select the highest and best offer, and implement the result in a process to confirm a plan. General Growth intends to file shortly a motion to approve proposed bidding procedures for the selection of a plan transaction and payment of fees to Brookfield as the stalking horse (the "**Bidding Procedures Motion**"). General Growth's process to raise capital and permit due diligence by other interested parties has commenced. General Growth believes that sixty days following the filing of its Bidding Procedures Motion will

be needed for it to engage appropriately with all interested parties so that such parties can complete their due diligence and submit bids. During the next thirty-five days, General Growth will review, evaluate, and ultimately select the highest and best offer, and file a TopCo plan and disclosure statement. The aggressiveness of this timeline is a testament to General Growth's desire to emerge the remaining entities from chapter 11 as rapidly as possible.

14. The timeline ahead for General Growth is indifferent to the name or nature of the stalking horse. If, as the Creditors' Committee urges, Simon Property Group, Inc. ("Simon") were selected, the process and timeline would be the same – and perhaps longer – because of Simon's due diligence contingency and the potential for Federal Trade Commission review.

B. General Growth Has Made Substantial Progress With Respect to Its Restructuring

15. At the first exclusivity extension hearing on July 28, 2009, General Growth stated the restructuring goals it planned to achieve during the requested extension period – negotiations with the property-level lenders and formulation of restructuring plans to form the basis for negotiations with the unsecured creditors at the TopCo level. The Court noted, perhaps skeptically, that "I find the debtors' commitment to attempt to propose a plan that would take into account the interests of the separate property-owning companies and their creditors within six months is to be a – it may be a somewhat heroic endeavor but it shouldn't be deterred." Transcript of July 28, 2009 Hearing, p. 63, lines 21–25 (Docket No. 1121).

16. General Growth lived up to its commitment. General Growth has substantially finished the property-level restructurings it committed to accomplish within the first exclusivity extension. General Growth has confirmed plans of reorganization for 219 property-level entities that provided payment in full to unsecured creditors and preserved equity value. The terms of these plans secured an average loan maturity extension of five years from January 1, 2010 at a fixed average interest rate of 5.37%. General Growth is continuing to aggressively pursue completion of the restructuring of the eight property-level loans remaining to be resolved, aggregating approximately \$3.3 billion. General Growth hopes to announce the resolution of the remaining property-level debt shortly.

17. General Growth's bottom-up restructuring strategy has proven remarkably successful – a point that even the Creditors' Committee acknowledges, referring to the property-level restructuring process as a "success." Objection, p. 9, ¶ 17. At the time of filing, General Growth's public stock was trading at around 59 cents per share, and its approximately \$7 billion of TopCo debt was trading in the order of 10 to 30 cents on the dollar. As of February 26, 2010, these trading values have increased to \$13.11 and near or in some cases over par plus accrued interest, respectively. While the Creditors' Committee attempts to downplay the significance of these accomplishments by characterizing them as mere "balance sheet" restructurings, it fails to acknowledge the necessity of the property-level restructurings as a prerequisite for a successful TopCo restructuring, and does not acknowledge the enormous resources required to confirm plans of reorganization, close on more than 100 loans, and transition these 219 entities from chapter 11 debtors to emerged companies. Objection, p. 15, ¶ 29.

18. General Growth has, and continues to, aggressively advance the restructuring of TopCo. General Growth completed its business plan – a business plan formulated with the benefit of having substantially finished the property-level restructurings, thus removing uncertainties related to the resolution of the property-level loans. General Growth delivered its business plan to the Committees and has had in-person meetings with them to review it. In furtherance of its business plan, General Growth announced a process to separate its ongoing mall business from its other assets. The transparency created by this separation will afford investors the opportunity to commit capital to the assets in which they are most interested. General Growth has also done substantial tax analysis regarding its emergence. At the same time, General Growth has been exploring third-party alternatives and has entered into confidentiality agreements with several parties. General Growth anticipates providing the confidential memorandum and due diligence information to these prospective investors within days. General Growth expects to enter into additional confidentiality agreements. Further, General Growth has and will continue to analyze, develop, and negotiate the many other issues that will form the basis of the TopCo restructuring that are customarily found in chapter 11 cases.

19. General Growth has addressed a number of other substantial matters leading up to the TopCo plan process as reflected in the record of these chapter 11 cases. General Growth anticipates that any remaining unresolved matters will be dealt with in the timeframe it has proposed. For example, one unresolved contingency is the unliquidated claims of the so-called “Hughes Heirs” – heirs of the late Howard Hughes, and their successors and assignees, who have rights under a contingent stock agreement from the

1996 sale of The Howard Hughes Corporation to The Rouse Company.⁶ A negotiated resolution of these claims, or an adjudication or estimation proceeding, will be necessary to resolve this contingency, which General Growth expects to accomplish within its proposed timeline.

20. The Creditors' Committee's suggestions that General Growth has let TopCo creditors sit by idly, pursued a restructuring of the property-level Debtors at the expense of TopCo, and ignored the case as a whole are patently false. More accurately put, the restructuring of the property-level Debtors was an integral part of the process for the overall restructuring of General Growth. Determining the cost of capital and maturity schedule at the property-level entities was a prerequisite to the resolution of the TopCo debt and ultimate determination of General Growth's equity value. In fact, mere weeks after substantially completing the property-level restructuring, and attributable to the success thereof, General Growth received proposals from substantial parties, Brookfield and Simon, even before a formal process was fully underway. After analyzing these initial proposals, General Growth has determined to move forward with Brookfield as its stalking horse. The steps that follow this selection can move forward efficiently within the proposed exclusivity extension and the timeline General Growth proposes. It goes without saying that General Growth is firmly committed to completing a restructuring of TopCo using a process that is transparent, but likewise fair and competitive, within the timeline proposed, and with the

⁶ The Hughes Heirs' proofs of claim that concern the contingent stock agreement are No. 7054 filed against Howard Hughes Properties, Limited Partnership, No. 7635 filed against The Rouse Company LP, No. 7673 filed against The Howard Hughes Corporation, No. 7692 filed against General Growth Properties, Inc., and No. 7892 filed against Howard Hughes Properties, Inc.

same level of commitment as it demonstrated in connection with the first exclusivity extension.

C. The Foundation for General Growth’s TopCo Restructuring Strategy Is Its Fiduciary Duty to Maximize Enterprise Value

21. General Growth has a fiduciary duty to maximize value for all stakeholders. Since all of General Growth’s restructuring alternatives, including the agreement in principle with Brookfield (the “**Brookfield Agreement**”), contemplate full recovery for unsecured creditors, the equity holders are the fulcrum class. It is a basic tenet of Delaware law that the fiduciary duty of a board of a solvent Delaware corporation, such as GGP, runs to its shareholders. N. Am. Catholic Educ. Programming Found., Inc. v. Gheewalla, 930 A.2d 92, 99 (Del. 2007); see In re Trados Inc. S’holder Litig., 2009 WL 2225958, at *7 (Del. Ch. Jul. 24, 2009) (“[I]t is possible that a director could breach her duty by improperly favoring the interests of the preferred stockholders over those of the common stockholders” in a merger that pays nothing to common stockholders); Blackmore Partners, L.P. v. Link Energy LLC, 864 A.2d 80, 86 (Del. Ch. 2004) (finding a reasonable inference of disloyalty where pleadings asserted that a merger wiped out equity holders and solely benefited creditors). There is no question that General Growth is obligated to conduct the TopCo restructuring process in a manner that maximizes value for equity holders. Thus, it is not surprising that the board of GGP, in the exercise of its fiduciary duties, did not bend to pressure from the Creditors’ Committee to rush to pursue the proposal from Simon (the “**Simon Letter**”).

22. General bankruptcy principles are no different. “As fiduciaries, the debtor in possession and its managers are obligated to treat all parties to the case fairly,

maximize the value of the estate, and protect and conserve the debtor's property.” In re Centennial Textiles, Inc., 227 B.R. 606, 612 (Bankr. S.D.N.Y. 1998) (internal citations omitted). It is clear that this fiduciary duty runs “to shareholders as well as to creditors.” Commodity Futures Trading Comm’n v. Weintraub, 471 U.S. 343, 355 (1985). A debtor in possession is not permitted to prefer creditors over shareholders. See In re Cent. Ice Cream Co., 836 F.2d 1068, 1072 (7th Cir. 1987); In re Spielfogel, 211 B.R. 133, 144–46 (Bankr. E.D.N.Y. 1997). Where estate assets are sufficient to pay all creditors then shareholders are residual claimants and are entitled to collect each additional dollar. See Central Ice Cream, 836 F.2d at 1072; Spielfogel, 211 B.R. at 145 (“[N]ot only does the Trustee have a fiduciary duty to the Debtor in his capacity as residual claimant . . . but he is disregarding that duty by not considering the Debtor’s residuary interest in any settlement.”); see also In re Coserv, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (“A debtor in possession, like a trustee, is a fiduciary holding the bankruptcy estate and operating the business for the benefit of its creditors and (if the value justifies) equity owners.”).

23. General Growth must be permitted to employ its business judgment in determining how to effectively maximize enterprise value. In the context of a full pay plan, this process often involves balancing the interests of unsecured creditors and shareholders. For example, the bankruptcy court in Central Ice Cream approved the trustee’s decision to settle a lawsuit that constituted the main asset of the estate for \$15.5 million, where a jury had awarded the estate \$52 million in damages with respect to the lawsuit, rather than risk the uncertain outcome of further litigation. See Central Ice Cream, 836 F.2d at 1069–70. Commenting on the bankruptcy court’s opinion, the United States Court of Appeals for the

Seventh Circuit noted that “[i]t is true, as the bankruptcy judge wrote, that spurning the settlement would expose creditors to risk, but this parallels the risk creditors face outside of the bankruptcy process as firms try to maximize the expected value of the enterprise. The bankruptcy court should try to implement, rather than alter, non-bankruptcy entitlements.” Id. at 1072. The court further specified that “[b]oth shareholders and creditors have such entitlements.” Id.

24. The Creditors’ Committee contends that by rejecting the Simon Letter General Growth is improperly risking a full cash recovery for unsecured creditors for the purpose of inflating equity value. In the context of this case, such assertion is ludicrous. Creditors in this case who want cash have been and can continue selling their debt for prices equal to, and in some cases greater than, par plus accrued interest. There are significant debt holders, including Brookfield, who prefer to convert their debt claims to General Growth equity. General Growth should have the opportunity to propose a plan that offers creditors a choice of cash or General Growth equity so that creditor preferences can be addressed.

25. Even more fundamentally, this is just not a case where creditors are at risk. General Growth is solvent by a wide margin. The Simon and Brookfield proposals establish a floor for equity value. To put creditor recoveries at risk, the equity of General Growth would have to be multiple billions of dollars less than the very first proposals to surface. Speculation as to unsupportable hypotheticals by the Creditors’ Committee should not be a basis to turn the bankruptcy process and established fiduciary duties upside down.

26. Unlike the Creditors’ Committee, General Growth does not have the luxury of limiting its focus to a single group of interested parties. The Bankruptcy Code

does not, and this Court should not, sanction the Creditors' Committee's flagrant attempt to strong-arm the plan process in an effort to overly benefit the interests of unsecured creditors at the expense of equity holder recoveries, and obstruct the proper exercise of fiduciary duties by the GGP board.

D. General Growth's Restructuring Strategy Is Specifically Designed to Maximize Enterprise Value

27. Consistent with its fiduciary duty, the focus of General Growth's TopCo restructuring process is to maximize recoveries for all stakeholders. To that end, General Growth has designed a competitive process that focuses on a broad variety of potential restructuring alternatives and capital sources, including investors that do not typically invest in chapter 11 debtors. As discussed in the Motion, General Growth is open to any restructuring alternative that maximizes value for stakeholders, including a standalone restructuring as well as a potential M&A or other change of control transaction with financial or strategic investors. General Growth is also considering traditional and non-traditional forms of exit financing and capital. All of General Growth's restructuring alternatives contemplate full recovery of par plus accrued interest for unsecured creditors.

28. As General Growth has previously indicated to the Committees and this Court, its design of a process to encourage competing alternatives does not foreclose the use of a stalking horse. The selection of Brookfield as a stalking horse will serve as an important first step in this process. The Brookfield Agreement is, of course, subject to higher and better offers. As such, the Brookfield Agreement will encourage other interested parties to participate in General Growth's competitive process, and allow it to ferret out the highest and best offer. Brookfield is one of the world's largest and most respected real

estate investors and asset managers. Its multi-billion dollar equity commitment, which has an indicative value of \$15 per share, sends a definitively confident message to the market and other interested parties regarding General Growth's enterprise value.

29. Despite the significant progress made to date, General Growth requires additional time to execute its TopCo strategy. General Growth has articulated a clear timeline for resolving the \$7 billion in TopCo debt and a competitive process that will maximize value for shareholders. General Growth, not the Creditors' Committee, has a duty to maximize value for stakeholders. Given that General Growth is demonstrably solvent, terminating its Exclusive Periods so that the Creditors' Committee can file a plan that is not reflective of a value maximizing process likely would result in a potential distraction of competing plans with a resulting loss of significant value for shareholders. Without a centralized process that creates a level playing field for all interested parties, it is almost certain that General Growth's maximum enterprise value would not be realized.

E. Participation of the Creditors' Committee
In the TopCo Restructuring Process

30. General Growth has always intended to involve both Committees in the TopCo restructuring process. It is unfortunate that, without consulting General Growth and during General Growth's Exclusive Periods, the Creditors' Committee pursued its own negotiations with interested third parties and then announced to the press that it embraced the Simon Letter. The Creditors' Committee has been resolute in pursuing its own agenda to the detriment of the shareholders and to creditors which prefer to convert their debt to General Growth equity. General Growth has a fiduciary duty to maximize enterprise value, and will not be coerced into accepting an offer that does not achieve this goal. The conduct

of the Creditors' Committee here brings to mind the admonition of the Second Circuit in Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.):

In this case the only reason advanced for granting the request to sell Lionel's 82 percent stock interest in Dale was the Creditors' Committee's insistence on it. Such is insufficient as a matter of fact because it is not a sound business reason and insufficient as a matter of law because it ignores the equity interests required to be weighed and considered under Chapter 11.

722 F.2d 1063, 1071 (2d Cir. 1983).

The Circuit Court went on to say that “[i]n fashioning its findings, a bankruptcy judge must not blindly follow the hue and cry of the most vocal special interest groups; rather, he should consider all salient factors pertaining to the proceeding and, accordingly, act to further the diverse interests of the debtor, creditors and equity holders, alike.” *Id.* General Growth welcomes the involvement of the Creditors' Committee in the TopCo restructuring process, and hopes that the Creditors' Committee will decide to participate in, rather than seek to control, the plan process.

F. Cause Exists for Extending General Growth's Exclusive Periods

31. As this Court is well aware, in determining whether cause exists to extend exclusivity, a court may consider a variety of factors to assess the totality of circumstances in each case. General Growth has addressed these factors extensively in both the Motion and this Reply. Nonetheless, without wasting the Court's time repeating previously discussed matters, General Growth must address certain inaccuracies in the Objection.

32. First, the Creditors' Committee argues that size and complexity alone are not sufficient to justify an extension of the Exclusive Periods. While General Growth

has no intention of relying on its size and complexity alone, the proposition asserted by the Creditors' Committee is not reflective of the law in the Southern District of New York. See In re Manville Forest Prod. Corp., 31 B.R. 991, 995 (S.D.N.Y. 1983) (holding that "the sheer mass, weight, volume, and complication" of the case was sufficient to justify a *fifth* extension of exclusivity). Further, to argue that General Growth has failed to make good faith progress towards reorganization simply belies the record in these chapter 11 cases, and is further evidence that the Creditors' Committee has its own agenda that is counter to General Growth's exercise of its fiduciary duties. The Creditors' Committee completely disregards the quantum of work and dedication of resources required to achieve General Growth's successes to date. In addition, the Creditors' Committee argues that the TopCo restructuring is not sufficient to constitute an "unresolved contingency" and yet six pages later cites "the necessity of sufficient time to permit the debtor to negotiate a plan of reorganization and prepare adequate information" as a factor that should be considered in determining whether to extend the Exclusive Periods. Objection, p. 25, ¶ 55. The Creditors' Committee fails to reconcile this inconsistency. Finally, despite the Creditors' Committee's assertion that General Growth is seeking an extension of the Exclusive Periods to pressure unsecured creditors to accede to its reorganization demands, the facts indicate the contrary. The Creditors' Committee made it clear that it would object to exclusivity unless General Growth embraces the Simon Letter. Such an approach is coercive, and is contrary to General Growth's fiduciary duties and to the interests of creditors which have indicated their desire to convert their debt to General Growth equity rather than be cashed out.

G. The Simon Statement

33. The Simon Letter exposes Simon's transparent attempt to alter the process for its own benefit. As one of General Growth's top competitors, Simon is obviously attempting to truncate exclusivity, eliminate General Growth's competitive process, and effectuate a land-grab. Simon's statement also takes liberty with certain facts. General Growth requested proposals from Simon on multiple occasions. In response, on February 8, 2010, Simon sent a two-page letter to General Growth generally indicating its interest in a potential transaction. Simon refused to engage substantively with General Growth despite representations to the contrary in a series of press releases. Nonetheless, General Growth recently executed a confidentiality agreement with Simon, and expects that Simon will commence its due diligence in a matter of days. General Growth looks forward to Simon's good-faith participation in the competitive TopCo restructuring process.

III.

CONCLUSION

34. For the foregoing reasons, General Growth submits that there is ample support for the requested extension of the Exclusive Periods, and the Objection and any statement of support thereof should be overruled.

WHEREFORE General Growth respectfully requests that the Court grant the relief requested in the Motion, overrule and deny the Objection and any statement of support thereof, and grant such other and further relief as it deems just and proper.

Dated: March 1, 2010
New York, New York

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