

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
ORLEANS HOMEBUILDERS, INC., <u>et al.</u> , ¹)	Bankr. Case No. 10-10684 (PJW)
)	
Debtors.)	Jointly Administered
)	
)	Re: D.I. 6, 43

**FINAL ORDER AUTHORIZING DEBTORS TO PAY
PRE-PETITION OBLIGATIONS TO CERTAIN CRITICAL VENDORS**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's tax identification number, are: Orleans Homebuilders, Inc. (4323), Brookshire Estates, L.P. (8725), Community Management Services Group, Inc. (6620), Greenwood Financial Inc. (7510), Masterpiece Homes, LLC (1971), OHB Homes, Inc. (0973), OHI Financing, Inc. (6591), OHI PA GP, LLC (2675), OPCNC, LLC (8853), Orleans Arizona Realty, LLC (9174), Orleans Arizona, Inc. (2640), Orleans at Bordentown, LLC (4968), Orleans at Cooks Bridge, LLC (4185), Orleans at Covington Manor, LLC (9891), Orleans at Crofton Chase, LLC (8809), Orleans at East Greenwich, LLC (9814), Orleans at Elk Township, LLC (6891), Orleans at Evesham, LLC (7244), Orleans at Falls, LP (2735), Orleans at Hamilton, LLC (9679), Orleans at Harrison, LLC (4155), Orleans at Hidden Creek, LLC (3301), Orleans at Jennings Mill, LLC (4693), Orleans at Lambertville, LLC (0615), Orleans at Limerick, LP (7791), Orleans at Lower Salford, LP (9523), Orleans at Lyons Gate, LLC (2857), Orleans at Mansfield LLC (1498), Orleans at Maple Glen LLC (7797), Orleans at Meadow Glen, LLC (4966), Orleans at Millstone River Preserve, LLC (8810), Orleans at Millstone, LLC (8063), Orleans at Moorestown, LLC (9250), Orleans at Tabernacle, LLC (9927), Orleans at Thornbury, L.P. (4291), Orleans at Upper Freehold, LLC (3225), Orleans at Upper Saucon, L.P. (3715), Orleans at Upper Uwchlan, LP (8394), Orleans at Wallkill, LLC (2875), Orleans at West Bradford, LP (4161), Orleans at West Vincent, LP (9557), Orleans at Westampton Woods, LLC (8095), Orleans at Windsor Square, LP (9481), Orleans at Woolwich, LLC (9215), Orleans at Wrightstown, LP (9701), Orleans Construction Corp. (0893), Orleans Corporation (8770), Orleans Corporation Of New Jersey (5325), Orleans DK, LLC (5308), Orleans RHIL, LP (1938), Parker & Lancaster Corporation (1707), Parker & Orleans Homebuilders, Inc. (5269), Parker Lancaster, Tidewater, L.L.C. (7432), Realen Homes, L.P. (8293), RHGP LLC (8197), Sharp Road Farms Inc. (1871), Stock Grange, LP (4027), and Wheatley Meadows Associates (5459).

Upon consideration of the motion (the "Motion")² of the Debtors for orders, pursuant to Bankruptcy Code §§ 105(a) and 363, authorizing, but not requiring, them to pay pre-petition obligations to the Critical Vendors; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and the Court having found that good and sufficient cause exists for granting the Motion; and upon consideration of the Declaration of Benjamin D. Goldman in Support of First-Day Pleadings; and upon the record of these Chapter 11 cases and hearings held on March 3, and April 6, 2010, to consider the Motion; and it appearing that the relief requested in the Motion, as modified herein, is appropriate in the context of these cases and in the best interests of the Debtors and their respective estates, their creditors, and all other parties-in-interest; and it appearing that notice of the Motion was adequate and proper under the circumstances of these cases, and it appearing that no other or further notice need be given; and the Court having entered an interim order relating to the Motion on March 3, 2010, it is hereby

ORDERED that the Motion is granted on a final basis as set forth herein; and it is further

ORDERED that the Debtors are authorized and empowered, in their discretion, to pay or honor pre-petition obligations to the Critical Vendors; and it is further

ORDERED that the Debtors shall be authorized and empowered, in their discretion, to pay all or part of the Critical Vendor Claims, in an aggregate amount not to exceed

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

\$10 million upon such terms and in the manner provided for in this Order and the Motion; and it is further

ORDERED that the Debtors shall be authorized and empowered to determine, in their absolute discretion, on a case-by-case basis, whether a particular vendor is a Critical Vendor; and it is further

ORDERED that the following Critical Vendor Procedures are hereby authorized and approved in their entirety:

- (a) The payment of the Critical Vendor Claims shall be conditioned on the express agreement of each of the Critical Vendors to continue supplying goods and services to the Debtors on Customary Trade Terms and to provide the Release or upon other favorable terms. A letter substantially in the form attached to the Motion as Exhibit A (including the addition of a confidentiality provision), along with a copy of this Order, granting the relief requested in the Motion shall be provided to each vendor that the Debtors seek to pay pursuant to this Order. The letter shall include, without limitation, the following information and terms (or such modifications thereof as may be agreed to by the Debtors in their good faith business judgment in consultation with the Agent):
 - i. The amount of a Critical Vendor's estimated pre-petition claim, accounting for any setoffs, other credits, and/or discounts thereto, which shall be mutually determined in good faith by a Critical Vendor and the Debtors (but such amount shall be used only for the purposes of determining the Critical Vendor Claim under this Order, and shall not be deemed a claim allowed by this Court for any other purpose in these cases, and the rights of all interested persons to object to such claims shall be fully preserved until further order of this Court);
 - ii. A Critical Vendor's agreement to provide goods and services to the Debtors based upon Customary Trade Terms or upon such other favorable terms as the Debtors and the Critical Vendor may agree;
 - iii. A Critical Vendor's agreement to provide the Release (in a form acceptable to the Debtors in compliance with applicable state law) or upon such other favorable terms as the Debtors and the Critical Vendor may agree;

- iv. A Critical Vendor's acknowledgement that it has reviewed the terms and provisions of this Order, and consents to be bound thereby;
 - v. A Critical Vendor's agreement that it will not separately seek payment for any reclamation claims or claims under Bankruptcy Code § 503(b)(9) outside the terms of this Order unless a Critical Vendor's participation in the program to pay Critical Vendor Claims pursuant to this Order is terminated; provided, however, that such claims shall, if thereafter raised by a Critical Vendor as permitted by this Order, be treated as though raised on the date of this Order; and
 - vi. A Critical Vendor's agreement that any payments received by such Critical Vendor under this Order will be applied first to claims for the value of goods received by the Debtors within 20 days of the Petition Date that were sold to the Debtors in the ordinary course of business, and then to any other claims.
- (b) Such a letter, once agreed and accepted by a Critical Vendor, shall be the agreement (a "Vendor Agreement") between the parties that governs their relationship during these cases. To the extent the Debtors and a Critical Vendor have not, despite diligent efforts, agreed upon and entered into a Vendor Agreement, the Debtors shall nonetheless have the right to pay such Critical Vendor if they determine that failure to pay the Critical Vendor Claim would be likely to result in irreparable harm to the Debtors' business operations. The Debtors further shall retain the right, on a case by case basis, to obtain other written acknowledgement from the Critical Vendors of the terms to which the parties have agreed.
- (c) If a Critical Vendor refuses to supply goods and/or services to the Debtors on Customary Trade Terms and/or fails to provide the Release as required herein (or fails to comply with other terms to which the parties have agreed) following its receipt of payment on the Critical Vendor Claim, or fails to comply with the applicable Vendor Agreement or other agreement with the Debtors in any way, the Debtors may, in their discretion and without further order of this Court, declare that a Critical Vendor is in breach of its Vendor Agreement with the Debtors. To the extent the Critical Vendor fails to cure such default or reach an alternative agreement with the Debtors, the Debtors may seek appropriate relief from the Court, including, without limitation, injunctive relief to compel performance pursuant to the Vendor Agreement. In addition, if a Critical Vendor refuses to comply with the Customary Trade Terms and/or fails to provide the Release (or fails to comply with other terms to which the parties have agreed), any payment made to a Critical Vendor on account of a Critical Vendor's pre-petition claim shall be deemed to have been in payment of

any then outstanding post-petition obligations owed to a Critical Vendor, and the Debtors may seek immediate repayment of any payment previously made to a Critical Vendor on account of its pre-petition claim pursuant to the Motion, to the extent the aggregate amount of such payments exceeds the post-petition obligations then outstanding, without the right of any setoffs, claims, provision for payment of reclamation or trust fund claims, or otherwise.

- (d) The Debtors shall maintain a summary list of all payments made to the Critical Vendors and shall provide updated copies of such list to the United States Trustee, the Agent and counsel to the Agent, and counsel to the official committee of unsecured creditors appointed in these cases on a monthly basis;

and it is further

ORDERED that the Debtors are authorized and empowered, in their discretion, to make the payments authorized by this Order from any available funds subject to the terms of any post-petition financing and/or cash collateral orders; and it is further

ORDERED that all of the Debtors' banks are authorized and directed to honor all checks issued and fund transfers requested in respect of the Critical Vendor Claims requested in the Motion, as approved by this Order, to the extent sufficient funds are on deposit, regardless of whether such checks or fund transfer requests were issued prior to or after Petition Date; and it is further

ORDERED that the Debtors are authorized and empowered to take any necessary actions to implement and effectuate the terms of this Order; and it is further

ORDERED that the terms and conditions of this Order shall be immediately effective and enforceable upon its entry, notwithstanding any applicability of Bankruptcy Rule 6004(h); and it is further

ORDERED that this Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: Wilmington, Delaware

April 6 2010



THE HONORABLE PETER J. WALSH
UNITED STATES BANKRUPTCY JUDGE