

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number
Christopher A. Minier [Bar No. 190705]
LAW OFFICES OF TODD C. RINGSTAD
2030 Main Street, Suite 1200
Irvine, CA 92614
Telephone: (949) 851-7450 Fax: (949) 851-6926

FOR COURT USE ONLY



**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re:
LAMBCO ENGINEERING, LLC, a California limited liability company,

CASE NO.:
SA 03-13314 JB

Debtor(s).

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: June 16, 2004

Time: 10:30 a.m.

Location: Courtroom 6D, 411 West Fourth Street, Santa Ana, CA 92701

Type of Sale: Public: Private: Last date to file objections: June 2, 2004

Description of Property to be Sold: Approximately 16.25 acres of agriculturally zoned real property located at 17152 Santiago Canyon Road, Orange County, California. Property has several small single family residences on it that were built in the 1960's to 1970's and in need of maintenance. Equestrian structures also present.

Terms and Conditions of Sale: Property is being sold "as is," and "where is," with no warranties or representations.

Proposed Sale Price: \$1,375,000

Overbid Procedure (If Any): See attached document for overbid procedures and additional important information.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):

Mr. David L. Kluver

GRUBB & ELLIS

4675 MacArthur Court, Suite 1600

Newport Beach, CA 92660

Tel: (949) 608-2055 Fax: (949) 608-5455

Date: May 20, 2004

January 2007
ORIGINAL

Notice of Sale of Estate Property

F 6004-2

F60042

MS
105

1 Todd C. Ringstad [Bar No. 97345]
Christopher A. Minier [Bar No. 190705]
2 **LAW OFFICES OF TODD C. RINGSTAD**
3 2030 Main Street, Suite 1200
Irvine, CA 92614
4 Telephone: (949) 851-7450
Fax: (949) 851-6926
5

6 Attorneys for Debtor and Debtor-in-Possession,
Lambco Engineering, LLC

7 UNITED STATES BANKRUPTCY COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9 SANTA ANA DIVISION

10 In re:
11 **LAMBCO ENGINEERING, LLC, a California**
12 **limited liability company,**
13 **Debtor and**
14 **Debtor-in-Possession.**

Case No. SA 03-13314 JB

Chapter 11

**NOTICE OF MOTION BY DEBTOR FOR AN
ORDER:
(1) APPROVING SALE OF REAL
PROPERTY OUTSIDE OF THE ORDINARY
COURSE OF BUSINESS, FREE AND CLEAR OF
LIENS, PURSUANT TO 11 U.S.C. § 363(b)(1)
AND (f);
(2) APPROVING OVERBID PROCEDURES;
(3) FOR A DETERMINATION THAT THE SALE
WAS CONDUCTED IN GOOD FAITH
PURSUANT TO 11 U.S.C. § 363(m); AND
(4) AUTHORIZING DISTRIBUTION OF SALE
PROCEEDS, IN PART, INCLUDING
APPLICATION FOR PAYMENT OF BROKERS'
COMMISSIONS**

HEARING DATE:

DATE: June 16, 2004

TIME: 10:30 a.m.

PLACE: Courtroom 6D,
411 West Fourth Street
Santa Ana, California 92701

27
28 **TO THE HONORABLE JAMES N. BARR, UNITED STATES BANKRUPTCY JUDGE, THE
OFFICE OF THE UNITED STATES TRUSTEE, AND OTHER INTERESTED PARTIES:**

1 **PLEASE TAKE NOTICE** that on June 16, 2004, at 10:30 a.m., in Courtroom 6D of the
2 above-entitled Court, located at 411 West Fourth Street, Santa Ana, California 92701, before
3 the Honorable James N. Barr, United States Bankruptcy Judge, Lambco Engineering, LLC,
4 debtor and debtor-in-possession in the above-entitled Chapter 11 case (hereafter "Debtor"),
5 will, and hereby does, move the Court for an Order:

6 (1) Pursuant to 11 U.S.C. § 363(b)(1) and (f), authorizing the sale of three
7 parcels of real property totaling approximately 16.25 acres of agriculturally zoned land
8 commonly known as 17152 Santiago Canyon Road, Orange County, California 92701
9 (hereafter the "Property"), free and clear of liens, interests and encumbrances, all of
10 which would transfer to and attach to the net sale proceeds, outside the ordinary course
11 of business, to Frank H. Torres and Yolanda V. Torres (hereafter collectively the "Buyer"),
12 subject to overbids, for an effective purchase price of \$1,351,685.00,¹ pursuant to the
13 terms specified in, and by approving the, Standard Offer, Agreement and Escrow
14 Instructions for Purchase of Real Estate, attached hereto as Exhibit "1" (hereafter the
15 "Agreement");

16 (2) Approving overbid procedures for the sale of the Property;

17 (3) Reciting that the parties to the sale of the Property are entitled to the benefit
18 and protection of 11 U.S.C. § 363(m);

19 (4) Authorizing and approving the payment of real estate brokers' / agents'
20 commissions at the close of escrow;

21 (5) Authorizing the disbursement of sale proceeds through the escrow, and at
22 the close of escrow, including payment of the following:

23 (A) Approving the application for approval and payment of commission of
24 Debtor's real estate broker and agents (Grubb & Ellis Company and its agents
25 David L. Kluver and Garrett M. Sholer hereafter collectively "Grubb & Ellis"), and
26

27 _____
28 ¹ This "effective purchase price" represents the \$1,375,000.00 purchase price specified in the Agreement, less total
repair credit of \$15,000.00, and less credit of \$8,315.00 for buyer to remedy, after the close of escrow, one or more
grading / excavation violations on title to the Property.

1 authorizing the payment of total commissions of: (i) 5.0% of the Property's gross
2 sale price at the close of escrow, to be split equally between Grubb & Ellis and
3 the broker for the Buyer² or for a successful overbidder; (ii) 4.0% of the
4 Property's gross sale price if David L. Kliver or Garrett Sholer of Grubb & Ellis
5 represent both the successful purchaser and seller of the Property; or (iii) 2.5% of
6 the Property's gross sale price to Grubb & Ellis if the Property is sold to an
7 unrepresented buyer.

8 (B) Normal "closing costs," which may include, but are not limited to,
9 payment of Debtor's share of title and escrow fees and charges, recording fees,
10 documentary transfer taxes, real property taxes, utilities, association dues and
11 charges, fees for obtaining beneficiary's demands from lenders, payment for a
12 *pest control report, hazard zone control report, title insurance policy, and other*
13 normal and customary charges, pro-rations, costs and fees;

14 (C) Payment of all amounts due and owing, estimated at approximately
15 \$645,000 to Barry Konier, in full satisfaction of a promissory note secured a first
16 Deed of Trust on the Property;

17 (D) Payment of all amounts due and owing, estimated at approximately
18 \$285,000 to Palo Plesnik, in full satisfaction of a promissory note secured a
19 second Deed of Trust on the Property;

20 (E) If, and only if, the Property is ultimately sold to a successful
21 overbidder, payment of a breakup fee of \$15,000 to the Buyer in compensation
22 for the substantial repairs that the Buyer has undertaken on the Property in order
23
24

25 ² The proposed Buyer, Frank H. Torres and Yolanda V. Torres, are represented by Millenium Realtors. Yolanda V.
26 Torres is a licensed California real estate agent with Millenium Realtors and is functioning as the real estate agent for
27 the Buyer. If, with Court approval, the Property is ultimately sold to the Buyer, Millenium Realtors and Yolanda V.
28 Torres have agreed to credit any and all real estate broker / agent commissions that would otherwise be due them
towards the purchase price of the Property being paid by the Buyer. At the proposed sale price, the amount so credited
would be \$33,792.13 (i.e., a total commission to the Buyer's broker / agent of 2.5% of the effective purchase price of
\$1,351,685.00).

1 to put it in a sufficiently safe condition for lenders to be willing to finance its
2 purchase; and

3 (E) The remaining sale proceeds to Debtor.

4 (6) In the alternative, authorizing sale of the Property to a third-person who
5 submits a higher and better bid, taking into consideration the purchase price, the terms
6 of sale, the desirability of closing escrow quickly, the financial qualifications of any
7 overbidder, and the potential ability of any overbidder to close escrow on the Property.

8 This Motion is made on the grounds that the above-described Agreement, sale, Order of
9 Court, payments, and related matters are in the best interest of the estate and all interested
10 parties.

11 **IF YOU DO NOT OPPOSE THE MOTION**, you need take no further action.

12 **IF YOU WISH TO OPPOSE THE MOTION**, pursuant to Local Bankruptcy Rule 9013-
13 1(a)(7), your objections must be in writing and must be filed with the Bankruptcy Court Clerk
14 (with a duplicate copy) at the United States Courthouse, located at 411 West Fourth Street,
15 Suite 2030, Santa Ana, California 92701, and must be served upon Debtor's counsel,
16 Christopher A. Minier, at the Law Offices of Todd C. Ringstad, located at 2030 Main Street,
17 Suite 1200, Irvine, California, 92614, and on the Office of the United States Trustee, located at
18 411 West Fourth Street, Suite 9041, Santa Ana, California, 92701, not less than fourteen (14)
19 days prior to the scheduled Court hearing.

20 **PLEASE TAKE FURTHER NOTICE** that Local Bankruptcy Rule 9013-1(a)(7)(A) further
21 provides that any opposition is to consist of "(1) A brief, but complete, written
22 statement of all reasons in opposition thereto . . . and answering memorandum of points and
23 authorities, declarations and copies of all photographs and documentary evidence on which the
24 responding party intends to rely"

25 **SUBMISSION OF OVERBIDS**

26 To ensure that the sale of the Property is fair and reasonable, and in order to obtain the
27 highest and best price for the Property, the Debtor proposes that the sale of the Property to the
28 above-described Buyer be subject to overbidding. If you wish to submit a competing bid for the

1 purchase of the Property, you must attend the Court hearing and follow the overbidding
2 procedure set forth below, which Debtor is hereby asking the Court to approve in taking any
3 overbids.

4 a. The Debtor requests that the Court permit any interested parties to bid at
5 the hearing on this motion, with a required initial minimum bid of \$50,000.00 above the
6 currently proposed purchase price of \$1,375,000. In other words, the first bid must be
7 at least \$1,425,000.00 (with no subsequent adjustments of any kind for allegedly
8 needed repairs, grading / excavation violations, deferred maintenance, or for any other
9 reason). Each subsequent bid must be in increments of at least \$5,000.00 until the
10 Property is sold to the highest "Qualified Bidder" (as defined below) upon terms which
11 are the same or better than those terms proposed for the sale of the Property to
12 Debtor's proposed Buyer, i.e., terms that are the same or better than those terms
13 contained in Exhibit "1" attached hereto, and taking into consideration the desirability of
14 closing escrow quickly, the financial qualifications of any overbidder, and the potential
15 ability of any overbidder to close escrow on the Property.

16 b. Any overbidder must agree to take the Property "as is" and "where is,"
17 with no representations or warranties being made or given by Debtor, with all warranties
18 and representations being expressly disclaimed, without repairs and without Debtor
19 providing credit for any needed repairs, and with the successful overbidder being solely
20 responsible for any costs of inspection and any and all repairs. Any overbidder must
21 further agree to take the Property subject to any and all existing grading / excavation
22 violations on title to the Property, without further credit being given by the Debtor toward
23 remediation of said violation(s), and without demand or requirement that Debtor
24 remediate said violations. Any overbidder must further agree that any and all grading /
25 excavation violations on title to the Property shall not be grounds for disapproval of the
26 condition of the Property, shall not be grounds for rescission of the purchase / sale
27 agreement or transaction, and shall not be grounds for failure to close escrow.

28

1 c. Unless otherwise authorized by the Court, only "Qualified Bidders" may
2 submit an overbid at the hearing on this Motion. A "Qualified Bidder" is one who, at or
3 before the hearing on this Motion, furnishes to Debtor's undersigned counsel, or to
4 Grubb & Ellis, any and all of the bidders:

5 (i) Year to date corporate and/or personal income statement and balance
6 sheets;

7 (ii) 2003, 2002, and 2001 corporate and/or personal federal and state
8 tax returns;

9 (iii) Proof of ability to provide a down payment of at least \$490,000 if the
10 bidder will be using financing to purchase the Property (or other sufficient proof
11 of the bidder's ability to pay any necessary down payment and / or the Property's
12 purchase price);

13 (iv) Preliminary loan approval from a lender if financing is to be used to
14 pay any part of the Property's purchase price; and

15 (v) a brief description of the bidder's business and proposed use for the
16 Property.

17 d. At or before the hearing on this Motion, any overbidder must present to
18 Debtor's counsel an initial down payment of at least \$100,000 in cash or certified funds
19 (payable to "Lambco Engineering, LLC"), with \$35,000 of this down payment becoming
20 non-refundable immediately upon the Court choosing the bidder as the successful
21 purchaser of the Property, and the additional \$65,000 becoming non-refundable upon
22 the expiration of a 30 day contingency period.

23 e. Any successful overbidder chosen as the purchaser of the Property must
24 close escrow within 60 days of the date of the hearing on this motion, or the Debtor may
25 consummate the sale with the next highest bidder.

26 If you would like more information about the Property, or would like to view the Property,
27 contact the Debtor's real estate agents: (1) Mr. David L. Kliver at Grubb & Ellis, located at
28 4675 MacArthur Court, Suite 1600, Newport Beach, CA 92660, telephone (949) 608-2055;

1 and/or Mr. Garrett M. Sholer at Grubb & Ellis, 4675 MacArthur Court, Suite 1600, Newport
2 Beach, CA 92660, telephone (949) 608-2026.

3 **Wherefore**, the Debtor respectfully requests that the Court enter an Order approving the
4 Agreement for the Debtor's sale of the Property, authorizing the sale as provided therein,
5 approving the proposed overbid procedures, reciting that the parties to the sale of the Property
6 are entitled to the benefit and protection of 11 U.S.C. § 363(m), authorizing and approving the
7 payment of real estate brokers' / agents' commissions, authorizing the payments and
8 disbursements through escrow as provided herein, and granting the other relief set forth above.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LAW OFFICES OF TODD C. RINGSTAD

Date: May 20, 2004

By: 
Christopher A. Minier,
Attorneys for Lambco Engineering, LLC,
Debtor and Debtor-in Possession

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 2030 Main Street, Suite 1200, Irvine, California 92614.

On May 20, 2004, I served the foregoing document described as **NOTICE OF SALE OF ESTATE PROPERTY** on the interested parties in this action by placing the true copies thereof enclosed in sealed envelopes addressed as follows or as otherwise indicated:

SEE ATTACHED SERVICE LIST

(xx) I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U. S. postal service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

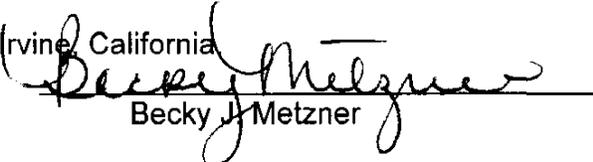
() By personal service, I caused such envelope to be delivered by hand to the above *addressee(s).

() By overnight courier, I caused the above-referenced document(s) to be delivered to an overnight courier service (Federal Express), for delivery to the above **addressee(s).

() By facsimile machine I caused the above-referenced document(s) to be transmitted to the *above-named person(s) at the above telecopier numbers .

I declare that I am employed in the office of a member of the bar of this court at whose direction this filing and declaration was made.

Executed on May 20, 2004, at Irvine, California


Becky J Metzner

SERVICE LIST

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Office of the United States Trustee
411 West Fourth Street
Suite 9041
Santa Ana, CA 92701-8000

Lambco Engineering, LLC
27068 La Paz Road
No. 437
Aliso Viejo, CA 92656-3041