



**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SAN FERNANDO VALLEY DIVISION**

In re:

Hillcrest Ventures, LLC,

Debtor in Possession.

Case No.: 1:25-bk-11472-MB

Chapter 11

**MEMORANDUM OF DECISION RE: ROYAL  
BUSINESS BANK’S MOTION FOR RELIEF  
FROM THE AUTOMATIC STAY**

*[Refiled to correct docketing error]*

Evidentiary Hearing Information

Date: February 17–19, 2026  
Place: Courtroom 303  
21041 Burbank Blvd.,  
Woodland Hills, CA 91367

**I. INTRODUCTION**

This case concerns a debtor whose business is redeveloping an office building located in Inglewood, California into a luxury apartment complex, entertainment venue, and retail hub. Prepetition, the debtor defaulted on its construction loan and the project remains incomplete. Postpetition, the bank moved for relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2). The Court held an evidentiary hearing on the bank’s motion, and it is now ripe for decision.

After weighing the parties’ competing appraisals and noting issues with each, the Court determines that the property’s as-is fair market value is \$31,890,000—the midway between the two appraisals. The Court finds that the bank’s secured claim was slightly oversecured on the petition date,

1 but is now undersecured, as a result of the accrual of postpetition interest under Bankruptcy Code  
2 section 506(b).

3 Accordingly, the Court will grant relief under section 362(d)(1), finding that no equity cushion  
4 exists and that the debtor is unable to afford adequate protection payments. Further, the Court will grant  
5 relief under section 362(d)(2), finding that the debtor has no equity in the property and that the debtor  
6 has failed to meet its burden to show the prospect of a successful reorganization within a reasonable  
7 amount of time. The Court will decline to waive the 14-day stay applicable under Federal Rule of  
8 Bankruptcy Procedure 4001(a)(4).

9 This Memorandum constitutes the Court’s findings of fact and conclusions of law for purposes  
10 of Federal Rule of Bankruptcy Procedure 7052, which is made applicable to the motion pursuant to  
11 Federal Rule of Bankruptcy Procedure 9014. The Court will enter a separate order effectuating these  
12 findings and conclusions.

## 13 II. FACTUAL AND PROCEDURAL BACKGROUND

14 Hillcrest Ventures LLC (the “Debtor”) is the debtor in the above-captioned chapter 11 case. The  
15 Debtor is represented by Raymond H. Aver of the Law Offices of Raymond H. Aver, APC. Dkt. 57.<sup>1</sup>  
16 The Debtor’s co-managers are Hilldale Group, LLC and Forbix Inglewood Venture, LLC. Dkt. 60 at 23  
17 (¶ 1), 30 (¶ 1). Brian R. Massie is the manager of Hilldale Group, LLC, and Emil Khodorkovsky is the  
18 manager of Forbix Inglewood Venture, LLC. *Id.* The Debtor’s construction lender is Royal Business  
19 Bank (the “Bank”). The Bank is represented in this case by Mia S. Blackler and Maggie Cardasis of  
20 Lubin Olson.

### 21 A. The Properties

22 The Debtor owns two parcels of real property located at 336 East Hillcrest Boulevard (the “Main  
23 Property”) and 324 East Hillcrest Boulevard (the “Support Property”) in Inglewood, California 90301.  
24 Dkt. 18 at 3–4 (schedule A/B). The Main Property is improved with the structural remnants of an office  
25 building. The Debtor’s business is to convert the former office building into a 6-story building with 65

---

26 <sup>1</sup> All facts herein are derived from declarations of the witnesses previously filed with the Court and deemed admitted, live  
27 testimony adduced at trial and all admitted trial exhibits. The Court also takes judicial notice of all papers filed in this case.  
28 *See O'Rourke v. Seaboard Sur. Co. (In re E.R. Fegert, Inc.)*, 887 F.2d 955, 957-58 (9th Cir. 1989) (holding that appellate  
courts can take judicial notice of bankruptcy docket, even if the parties did not include the underlying records in the appellate  
record); *Atwood v. Chase Manhattan Mortg. Co. (In re Atwood)*, 293 B.R. 227, 233 n.9 (B.A.P. 9th Cir. 2003) (same).

1 Class A apartment units. The conversion was substantially incomplete when the Debtor ran out of funds  
2 and ceased construction sometime in 2024. The Debtor currently leases 100 square feet of the Main  
3 Property’s roof to T-Mobile USA, Inc. for a cell tower. Dkt. 32 at 3. That lease generates \$3,634.61 per  
4 month. *See* Dkt. 38 at 8; Dkt. 91 at 13. This is the only income currently generated by the Debtor.

5 The Support Property is improved by a single-story commercial building that the Debtor is  
6 currently using “for office space and storage.” Dkt. 60 at 23–24 (¶ 5.b). At trial, Massie testified that it  
7 is “fully furnished” and that the Debtor intends to use it as the management office — “a place where  
8 tenants would go to sign agreements until the project is completed....” Feb. 19 Tr. at 47.

9 In addition to real property, the Debtor owns construction materials and food service equipment  
10 that it purchased for installation at the Main Property (the “Materials”). Dkt. 60 at 24 (¶ 6.a); Ex. A (list  
11 of construction materials and their locations); Ex. B (list of food service equipment and their purchase  
12 prices). Massie testified that the Materials are located “either onsite or offsite held by one of the  
13 subcontractors at their location, or ... physically onsite either at the [Support Property], in the shipping  
14 containers in the church parking lot,<sup>2</sup> or on the [Main P]roperty itself.” Feb. 19 Tr. at 83–84.

15 Massie also testified that the Materials are worth, in the aggregate, “in excess of \$5.2 million.”  
16 Dkt. 60 at 24 (¶ 6.a); Feb. 19 Tr. at 86. He based this value on how much the Debtor paid to purchase  
17 the Materials “a few years ago,” of which Massie personally approved the acquisition. Feb. 19 Tr. at 88.  
18 Massie further testified that, in his opinion, the Materials are worth more than the prices at which the  
19 Debtor purchased them because “there has been hyperinflation” in the market for the Materials. *Id.* at  
20 89. However, Massie acknowledged that he has not repriced the Materials. *Id.*

21 **B. The Bank’s Loan to the Debtor**

22 On July 30, 2021, the Bank made a construction loan evidenced by a “Secured Note” to the  
23 Debtor in the original principal amount of \$32,000,000. Dkt. 48 at 14 (¶ 7), 26–31 (the “Loan”). The  
24 Loan had a maturity date of February 10, 2023 and a variable interest rate. *Id.* at 26–27. The Bank  
25 obtained a guaranty of the Loan from Massie and Khodorkovsky. *Id.* at 15 (¶ 12), 81–90 (guaranty  
26

---

27 <sup>2</sup> The Debtor leases 26 of the 36 spaces in the nearby parking lot for the First United Methodist Church of Inglewood. Dkt.  
28 32 at 2 (amended schedule G). The Debtor uses that leased space to park 10 shipping containers, which the Debtor leases  
from Allied Storage Containers. *See id.*

1 dated July 30, 2021). The Loan is secured by a first-priority “Deed of Trust, Assignment of Leases and  
2 Rents, Fixture Filing and Security Agreement (Construction)” *Id.* at 14–15 (¶ 11), 56–79 (the “Deed of  
3 Trust”). On August 6, 2021, the Bank recorded the Deed of Trust against the Main Property. *Id.* at 55.<sup>3</sup>

4 The Deed of Trust also provides the Bank with a blanket lien in all of the Debtor’s then-existing  
5 and after-acquired tangible and intangible personal property in accordance with Article 9 of the Uniform  
6 Commercial Code (“UCC”). *Id.* at 56, 62. The record does not contain any copy of a UCC-1 Form  
7 financing statement perfecting such blanket lien, and a postpetition query using the terms “336  
8 Hillcrest” and “Hillcrest Ventures” the California Secretary of State’s UCC database returned no such  
9 results.<sup>4</sup>

10 Between March 22, 2023, and August 26, 2024, the Debtor and the Bank executed five  
11 successive “Change in Terms Agreements,” the last of which states that “[t]he outstanding principal  
12 balance under the Note is \$26,394,745.08” and extends the Loan’s maturity date to February 10, 2025.  
13 Ex. 2 at 0037.

#### 14 **C. The Default**

15 The Bank asserts that, the Debtor defaulted on the Loan by, among other bases, failing to pay the  
16 outstanding balance on the February 10, 2025 maturity date and failing to pay property taxes on the  
17 Main Property. Dkt. 48 at 15–16 (¶ 14). On February 14, 2025, the Bank recorded against the Main  
18 Property a “Notice of Default and Election to Sell Under Deed of Trust.” Ex. 8 at 0001–03.

19 On May 15, 2025, the Bank recorded against the Main Property a “Notice of Trustee’s Sale,”  
20 scheduling a foreclosure sale for June 17, 2025. *Id.* at 0004–07. The foreclosure sale was postponed  
21 from time to time throughout the summer of 2025 to allow the Debtor to pursue sale or refinance efforts.  
22 Dkt. 48 at 6 (¶ 18). During that summer, the Bank’s deputy chief credit officer, Robert Ross, and  
23 Khodorkovsky “had many conversations[,] both together and separately with third parties ... about a  
24 potential refinance loan, ... note sale, or short sale of the [Main] Property...” *Id.*

---

25 <sup>3</sup> It does not appear that the Support Property is part of the Bank’s collateral.

26 <sup>4</sup> See California Secretary of State, *UCC Search*, <https://bizfileonline.sos.ca.gov/search/ucc>. The Court may take judicial  
27 notice of public records from the California Secretary of State’s website. See Fed. R. Evid. 201; *Gerritsen v. Warner Bros.*  
28 *Ent., Inc.*, 112 F. Supp. 3d 1011, 1033-34 (C.D. Cal. 2015) (taking judicial notice of business entity profile from the  
California Secretary of State’s website); *L’Garde, Inc. v. Raytheon Space & Airborne Sys.*, 805 F.Supp.2d 932, 937-38 (C.D.  
Cal. 2011) (same).

1 On August 5, 2025, the Bank filed a civil complaint against the Debtor, Massie and  
2 Khodorkovsky in the Los Angeles Superior Court. *Id.* at 17–18 (¶ 19); *see* LASC Case No.  
3 25STCV23075 (the “State Court Action”). On August 13, 2025, the Bank filed an *ex parte* motion for  
4 the appointment of a receiver in the State Court Action. *Id.*

5 **D. The Bankruptcy Case**

6 On the same day that the Bank filed its receivership motion, the Debtor filed a chapter 11  
7 petition, staying the State Court Action (the “Petition Date”). *See* Dkt. 1; 11 U.S.C. § 362(a).<sup>5</sup>

8 **Cash Collateral**

9 On December 12, 2025, the Bank, the Debtor and Forbix stipulated to the Debtor’s use of cash  
10 collateral. Dkt. 75 at 17-29 (stipulation). After an emergency hearing and a subsequent final hearing,  
11 the Court approved the parties’ stipulation. Dkt. 94. The Debtor’s authorization to use the Bank’s cash  
12 collateral expired on February 28, 2026, and no party has filed papers regarding the Debtor’s use of cash  
13 collateral since then.

14 **The DDA Account**

15 Prepetition, the Debtor maintained a demand deposit account with the Bank (the “DDA  
16 Account”). On the Petition Date, the DDA Account had a balance of \$238,105.98, and the parties  
17 disputed ownership of those funds. On January 15, 2026, the Bank and the Debtor filed a stipulation  
18 whereby the Debtor withdrew any objection to the Bank’s ownership of the funds. Dkt. 93. The  
19 stipulation further authorized the Bank to use \$164,321.26 of the funds in the DDA Account to pay for  
20 premiums the Debtor owed on its property insurance and general and excess liability insurance policies  
21 for the Main Property. *Id.* On February 5, 2025, the Court approved the stipulation, and the Bank paid  
22 the premiums. Dkt. 110.

23 **The Bank’s Proof of Claim**

24 On November 24, 2025, the Bank filed a proof of claim against the Debtor, asserting a secured  
25 claim in the amount of \$31,238,526.60 as of the Petition Date. Claim No. 8-1. The Bank calculates its  
26 secured claim as follows:

27 \_\_\_\_\_  
28 <sup>5</sup> Unless otherwise stated herein, all statutory references are to sections of title 11 of the United States Code (the “Bankruptcy Code”).

1	Principal balance due at Petition Date .....	\$26,394,754.08
2	Accrued nondefault interest (June 28, 2021 to Aug. 13, 2025) .....	\$2,463,509.54
3	Accrued default interest (Feb. 14, 2025 to Aug. 13, 2025, <i>see</i> Note § 6).....	\$667,201.08
4	Late charges (5% of the principal owing at maturity, <i>see</i> Note § 3) .....	\$1,435,075.24
5	Fees, expenses and charges:	
6	Advanced insurance and taxes .....	\$174,862.33
7	Appraisal and inspection/cost study fees .....	\$23,000.00
8	Attorney’s fees .....	\$45,385.00
9	Trustee fees (as of 7/21/25).....	\$34,749.35
10	TOTAL .....	\$31,238,526.60

11 *Id.*

12 The proof of claim asserts that interest, attorneys fees and costs continue to accrue on the debt  
13 after the Petition Date “as provided under applicable law.” Claim No. 8-1 at 4. At trial, the Bank  
14 offered uncontroverted testimony that postpetition interest accrues at a rate of \$7,331 per diem. Feb. 18  
15 Tr. at 58. According to the Bank’s deputy chief credit officer, this rate is inclusive of default interest.

16 *Id.*

17 **The Motion**

18 On November 10, 2025, the Bank filed a “Motion for Relief from the Automatic Stay Under 11  
19 U.S.C. § 362.” Dkt. 48 (the “Motion”). In the Motion, the Bank seeks relief from the stay pursuant to  
20 §§ 362(d)(1) and (d)(2) to foreclose upon and seek appointment of a receiver of the Main Property  
21 pursuant to the Deed of Trust. *Id.* at 5, 147. In the alternative, the Bank requests that the Court  
22 condition the stay on the Debtor providing adequate protection. *Id.* In support of the Motion, the Bank  
23 offered the declaration of Robert Ross, deputy chief credit officer at the Bank. *Id.* at 6–146.

24 On November 20, 2025, the Debtor filed an opposition to the Motion. Dkt. 60 (the  
25 “Opposition”). In support of the Opposition, the Debtor offered the declarations of Massie and  
26 Khodorkovsky. Dkt. 60 at 23–35 (declarations); Dkt. 60-1 at 1–37 (exhibits to declarations). On  
27 November 25, 2025, the Bank filed a reply to the Opposition. Dkt. 63.

28

1           **Pretrial Proceedings**

2           On December 2, 2025, at 10:00 a.m., the Court held a preliminary hearing on the Motion. On  
3           December 5, 2025, at 2:00 p.m., the Court held a continued hearing on the Motion for the purpose of  
4           setting an evidentiary hearing on the Motion and related deadlines. On December 17, 2025, the Court  
5           entered an order scheduling the evidentiary hearing and related pretrial deadlines. Dkt. 73. The Court  
6           later extended certain deadlines set forth in the scheduling order regarding expert witness reports and  
7           depositions. *See* Dkt. 108.

8           On February 13, 2026, the Bank filed a motion in limine to exclude testimony from the Debtor’s  
9           proffered expert witness, Joy Kwong. Dkt. 115 (“MIL No. 1”); *see also* Dkt. 116 (declaration in  
10          support). In MIL No. 1, the Bank contended that Kwong did not timely produce responsive documents  
11          on which she based her expert opinion. *See id.* 5-6. The Bank also argued that Kwong spoliated a text  
12          message thread between herself and Khodorkovsky, and that the Court should draw an adverse inference  
13          therefrom. *See id.* at 6. Further, the Bank argued that it was put at a disadvantage because the Debtor  
14          declined to file a trial brief and that the Court should, for that reason, summarily grant relief from the  
15          automatic stay. *See* Dkt. 118 (supplement to MIL No. 1).

16          The Court denied MIL No. 1.

17          First, as the Court explained on the record at the evidentiary hearing, the Kwong Appraisal was  
18          timely exchanged under the parties’ revised stipulation. Feb. 17 Tr. at 32–35. The documents that  
19          Kwong relied on were produced six days later, which did put the Bank at some disadvantage and  
20          certainly was an inconvenience to the Bank. *Id.* at 33–34. But the Court had afforded the parties’  
21          counsel the opportunity to craft a stipulation regarding all pretrial procedures nearly two months before  
22          the trial. The parties’ stipulation did not require either party to produce the documents on which its  
23          expert witness relied—on any date. *Id.* at 34. Thus, the Court could not conclude that the timing of the  
24          production of those documents by the Debtor’s expert was any sort of misconduct. Further, the Court  
25          found that the wholesale exclusion of Kwong’s testimony would not be an appropriate remedy under the  
26          circumstances. *Id.*

27          Second, the Court was not persuaded that the deletion of certain text messages by Kwong was  
28          intentional, or that the wholesale exclusion of her testimony was an appropriate remedy for the loss of

1 those messages. The Court was satisfied that the Bank could explore the circumstances and substance of  
2 those messages at trial.

3 Third, the Court was not persuaded that the Debtor’s failure to file a trial brief constituted  
4 misconduct by the Debtor, let alone the sort of misconduct that would justify summarily granting the  
5 Bank relief from the automatic stay. As discussed at the evidentiary hearing, the Court held that even if  
6 sanctionable, the appropriate sanction for the Debtor’s failure to file a trial brief was a finding that its  
7 opportunity to do so had been forfeited. Feb. 17 Tr. at 32–33.

8 **The Evidentiary Hearing**

9 On February 17–19, 2026, the Court held an evidentiary hearing on the Motion. Raymond H.  
10 Aver of the Law Offices of Raymond H. Aver, APC appeared on behalf of the Debtor. Mia S. Blackler  
11 and Margaret T. Cardasis of Lubin Olson & Niewiadomski LLP appeared on behalf of the Bank.

12 On February 18, 2026, the Bank filed a second motion in limine, this time to exclude certain of  
13 the Debtor’s proposed trial exhibits, which the Bank contended were not timely disclosed. Dkt. 122  
14 (“MIL No. 2”). After oral argument, the Court granted MIL No. 2. Feb. 18 Tr. at 94.

15 Having considered the parties’ papers filed in support of and in opposition to the Motion, oral  
16 arguments, the testimony at trial, as well as other pleadings and papers filed in the case, the Court now  
17 finds and concludes as follows.

18 **III. JURISDICTION, ADJUDICATIVE AUTHORITY & VENUE**

19 The Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 1334(b), because the Motion  
20 arises under the Bankruptcy Code, namely under § 362(d). As such, the Motion pertains to statutorily  
21 and constitutionally core matters over which this Court has the adjudicative authority to enter final  
22 orders. *Wellness Int’l Network, Ltd. v. Sharif*, 575 U.S. 665, 670–71 (2015); 28 U.S.C. § 157(b)(1). The  
23 Court also finds that venue is proper under 28 U.S.C. § 1409(a) because the Motion was filed in the  
24 court where this case is pending.

25 **IV. DISCUSSION**

26 Upon the filing of the Debtor’s chapter 11 petition, an automatic stay became effective. *See*  
27 § 362(a). Among other things, the automatic stay applies to:  
28

1 the commencement or continuation, including the issuance or employment of process, of  
2 a judicial, administrative, or other action or proceeding against the debtor that was or  
3 could have been commenced before the commencement of the case under this title, or to  
4 recover a claim against the debtor that arose before the commencement of the case under  
5 this title[.]

6 § 362(a)(1). The stay also applies to any acts “to obtain possession of property of the estate.” §  
7 362(a)(3).

8 The Bankruptcy Code authorizes the Court to, upon request and after notice and a hearing, grant  
9 relief from the stay. § 362(d). The requesting party has the burden of proof on the issue of the debtor’s  
10 equity in the property. § 362(g)(1). The opposing party has the burden of proof on all other issues,  
11 including the existence of adequate protection and that the property is necessary to an effective  
12 reorganization. § 362(g)(2).

### 13 **A. § 362(d)(1): Lack of Adequate Protection as Cause for Relief**

14 The first ground for relief is “for cause, including the lack of adequate protection of an interest in  
15 property of ... [a] party in interest.” § 362(d)(1). The “interest in property” protected by § 362(d)(1)  
16 does not include a secured party’s right to immediate foreclosure. *United Sav. Ass'n of Tex. v. Timbers*  
17 *of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 371 (1988). Lack of adequate protection may result from  
18 a diminution in value of the subject property due to depreciation or to physical loss or damage.

19 The Bank contends that its interest in the Main Property is not adequately protected because the  
20 Bank has no “equity cushion.” An equity cushion is “the value in the property, above the amount owed  
21 to the creditor with a secured claim, that will shield that interest from loss due to any decrease in the  
22 value of the property during time the automatic stay remains in effect.” *Pistole v. Mellor (In re Mellor)*,  
23 734 F.2d 1396, 1400 n.2 (9th Cir. 1984) (citing *Pa. State Emp. Ret. Fund v. Roane (In re Roane)*, 8 B.R.  
24 997 (Bankr. E.D. Pa.), *aff'd*, 14 B.R. 542 (E.D. Pa. 1981)). The existence of an equity cushion is “is the  
25 classic form of protection for a secured debt justifying the restraint of lien enforcement by a bankruptcy  
26 court.” *Id.* at 1400.

#### 27 **1. The Value of the Bank’s Collateral**

28 Here, the Debtor bears the burden of establishing that adequate protection exists to protect the  
Bank’s interest in its collateral, i.e., the Main Property and the Materials. *See* § 362(g)(2). Each side  
offered a certified real estate appraiser to provide an opinion of value for the Main Property. The Bank

1 offered the testimony of Michael Frauenthal of Michael Frauenthal & Associates, Inc., which was  
2 supported by a written appraisal report. *See* Ex. 11 (the “Frauenthal Appraisal”).<sup>6</sup> The Debtor offered  
3 the testimony of Joy Kwong of Colliers Valuation & Advisory Services, which also was supported by a  
4 written appraisal report. *See* Ex. M (the “Kwong Appraisal”).<sup>7</sup> At the evidentiary hearing, the Court  
5 had the opportunity to observe the live testimony of both witnesses and assess their credibility. Based  
6 on that testimony—in addition to their declaration testimony—the Court finds that (i) both witnesses  
7 were qualified to provide the expert testimony they offered, (ii) their testimony was credible, and  
8 (iii) their methods and assumptions were generally reasonable and appropriate.

9 Both appraisers generally agreed the proper methodologies to determine the value the project  
10 was to assess it using each of the so-called “income” and “sales comparison” methods.<sup>8</sup> Utilizing these  
11 approaches, each appraiser developed three opinions of value: (i) an “as-is” value for the project (which  
12 currently is under construction and incomplete), (ii) a prospective market value of the project, assuming  
13 completion of construction, and (iii) a prospective market value assuming the project is leased to a  
14 stabilized occupancy. As a general matter, both appraisers determined the value upon stabilization of  
15 occupancy first. They then used that value to derive the value upon completion, i.e., adjusting the  
16 stabilized value downward to reflect the time and cost of leasing out the premises. Thereafter, both  
17 appraisers used the value upon completion to derive an as-is value, i.e., adjusting the completion value  
18 downward to reflect the time and cost of finishing construction of the project.

19 The appraisers’ opinions of value for the Main Property are summarized below:

20

FRAUENTHAL APPRAISAL		
Type	Date of Value	Amount
As-is	February 28, 2025	\$22,180,000
Value Upon Completion	May 31, 2026	\$39,600,000
Value Upon Stabilization	May 31, 2027	\$44,720,000

21  
22  
23  
24

25 <sup>6</sup> The Frauenthal Appraisal was co-authored by Frauenthal and his associate, Nick Walker. Ex. 11 at 4.

26 <sup>7</sup> At trial, the Bank objected to the admission of the Kwong Appraisal and the Court deferred its ruling until the time of this  
27 decision. *See* Dkt. 115; Feb. 18 Tr. at 110–11. The Court now overrules this objection for the same reasons it denied the  
28 Bank’s objection to the consideration of Kwong’s testimony. *See* Feb. 17 Tr. at 32–35.

<sup>8</sup> The Kwong Appraisal also considered the cost of replacement methodology but appears to have given it little weight and  
Kwong did not focus on this approach in her live testimony. *See* Ex. M at 00178–81.

KWONG APPRAISAL		
Type	Date of Value	Amount
As-is	January 21, 2026	\$41,600,000
Value Upon Completion	April 1, 2027	\$61,340,000
Value Upon Stabilization	October 1, 2027	\$65,600,000

As the foregoing chart demonstrates, both appraisers used the same overall approaches but reached substantially different conclusions of value. For instance, at various points in their analyses, each appraiser looked to different properties as “comparables” and made different adjustments to the data derived from those comparables to assess the value of the as yet unfinished Main Property—whether it was to assess prospective market rents for the residential and commercial spaces at the project, or to assess a prospective sales price for the project. Likewise, when translating the prospective income of the Main Property into a prospective market value, each appraiser determined that a different capitalization rate should be applied to the residential portion of the project (the largest source of income): 5.25% by Frauenthal and 4.75% by Kwong.<sup>9</sup>

These variables, and others, account for significant differences in the appraisers’ conclusions of value. The Court, however, is not persuaded that the appraisers’ differences in professional judgment were unreasonable. To the contrary, the Court is reminded that appraising real property is as much an art as it is a science. Two appraisers, using accepted methods, and making reasonable assumptions, can look at the same property and reach significantly different conclusions of value. The Court is not persuaded that either appraiser is necessarily “wrong,” or that either appraisal is so far superior that the other appraisal ought to be disregarded.

**a. Issues with the Frauenthal Appraisal**

This is not to say that the Court agrees with *every* assumption or calculation made by each appraiser. For instance, in generating a value based on the so-called “income approach,” Mr. Frauenthal testified to his assumption that all residential units, commercial units and the common space at the

---

<sup>9</sup> The Court also notes the appraisers took different approaches to the application of capitalization rates. Unlike Frauenthal, Kwong applied different capitalization rates to the other sources of income (e.g., the commercial space, digital signage, etc.). Frauenthal used a single capitalization rate for all income derived from this real estate project.

1 project would be billed directly for their utility usage, rather than the landlord advancing those charges  
2 and collecting reimbursement from the building tenants.<sup>10</sup> Based on this assumption, Mr. Frauenthal’s  
3 calculation of net operating income does not include any reimbursement income. *See Trial Ex. 11* at  
4 110. However, his projection of net operating income *does* show utility expenses for residential and  
5 retail spaces being deducted from the project’s overall monthly income. This is internally inconsistent.  
6 If utility services are billed directly to tenants by the utility providers, those billings should not be shown  
7 as an expense. This inconsistency reduces the net operating income projection and, as a result, the  
8 estimated value of the project. The Kwong Appraisal does not make this error.<sup>11</sup>

9 Another example is the amount of income projected for rental of the project’s rooftop event  
10 space. The Bank offered into evidence a five-year lease signed by the prospective tenant for that space  
11 showing an initial base rent of \$32,230 per month, with annual escalations thereafter. Mr. Frauenthal’s  
12 calculations, however, assumed only \$22,917 per month. *See Ex. 11* at 0104; Feb. 17 Tr. at 102–03.  
13 Whatever the reason for the discrepancy, the Court is persuaded that the signed lease provides the most  
14 reliable indication of the rent that can be realized for that space. Kwong used the correct amount. *See*  
15 *Ex. M* at 00133. Frauenthal’s use of an incorrect number resulted in a substantially lower net operating  
16 income and a lower income-based valuation of the subject property.

17 Finally, the Court notes the effective date of Frauenthal’s as-is opinion of value is February 28,  
18 2025, approximately eleven months before the effective date of Kwong’s valuation and nearly twelve  
19 months before the evidentiary hearing was held. The Court is puzzled why the Bank did not engage  
20 Frauenthal to update his appraisal prior to the evidentiary hearing. A one-year-old appraisal arguably  
21 has less persuasive force than a more recent appraisal. Without an update, the Court was left to wonder  
22 whether any of the differences between the appraisers’ opinions of value are the result of changes in the  
23 marketplace, differences in analysis, or some other reason. Ultimately, the Court is not persuaded that  
24

---

25 <sup>10</sup> At the evidentiary hearing, the parties referred to such a cost recovery system as “RUBS,” “Resident Utility Billing  
26 System” or “Ratio Utility Billing System.” *See* Feb. 17 Tr. at 73:7–14, 113:9–114:24.

27 <sup>11</sup> The Kwong Appraisal assumes the Debtor will use RUBS, i.e., advancing utility expenses and collecting them from  
28 tenants. The projection prepared by Kwong shows utility expenses being paid each month and a substantial portion of those  
expenses being recovered. The key issue is not whether the Debtor will RUBS or separate utility meters; the issue simply is  
that the projection be internally consistent.

1 the effective date of the Frauenthal Appraisal renders it irrelevant, but its age did cast some doubt on  
2 whether its substantially lower as-is valuation in early 2025 was the correct value for early 2026.

3 **b. Issues with the Kwong Appraisal**

4 On the other hand, the Court takes issue with several aspects of the Kwong Appraisal. First, the  
5 Court is not persuaded that the projection of income from leasing out the parking garage to a valet  
6 parking operator is realistic. The Frauenthal Appraisal assumes, consistent with the comparable  
7 properties it assessed, that residential tenants of the project will be given use of a single parking space  
8 per unit, with approximately 20 additional parking spaces available for rent. *See* Ex. 11 at 91; Feb. 17  
9 Tr. at 64:7-14, 71:6-72:19; 111:11-112:7; 134:9-23. The Frauenthal Appraisal projects income of only  
10 \$45,000 per year from those additional parking rentals.

11 In contrast, the Kwong Appraisal assumes \$198,000 in annual income from the parking lot. The  
12 Kwong Appraisal assumes that the Debtor will enter into a contract with a parking company to operate  
13 the parking spaces as a valet service; the appraisal uses the Debtor's projection of income from such a  
14 contract. *See* Feb. 18 Tr. at 140:4–143:3. Kwong provided testimony explaining how the building was  
15 constructed with a valet set-up in mind, how the use of valet parking permits stack parking and expands  
16 capacity, why valet parking would be beneficial to operations, and why valet parking may provide a  
17 potential source of additional income. *Id.* at 141:2–141:13. Kwong also testified to her belief that the  
18 parking projection was “reasonable.” However, she admittedly did no independent research on how  
19 much income would likely be generated from a valet contract in this location and that she was not aware  
20 of any such contract between the Debtor and a parking operator. *Id.* at 181:20-182:15. Further, she  
21 acknowledged that none of her rental unit comparables provided valet parking—free or otherwise. *Id.* at  
22 183:23-184:15.

23 Although the Debtor and its principals may be confident about the project's ability to generate  
24 this kind of income through a valet contract, there is no such contract at present. This is an unfinished,  
25 mixed use real estate project, with no track record of generating any income from leasing out its parking  
26 spaces to a valet operator. The Debtor offered no evidence that the market for such an arrangement  
27 would result in a nearly \$200,000 contract, or that charging residential and commercial tenants for this  
28 service would not reduce the amount of rent that could be generated from those lease operations.

1 Although Kwong testified that she thought the \$198,000 projection for valet income seemed  
2 “reasonable,” she did not persuade the Court that this opinion was as well informed as other aspects of  
3 her appraisal, which were based on extensive market research and analysis.

4 Likewise, the Court is not persuaded by Kwong’s projections of future income from the digital  
5 billboard to be installed at the property and managed under a contract with WOW Media, Inc.  
6 (“WOW”). Kwong projects the Debtor’s share of profits in the first year will total \$536,000, with  
7 increases to \$679,182 and \$819,864 in the second and third year, respectively. By contrast, the  
8 Frauenthal Appraisal assumes only \$300,000 each year.

9 Kwong testified that she has experience valuing digital signage assets. *See* Feb. 18 Tr. at  
10 129:23–24; 132:1–20. The Kwong Appraisal, moreover, contains numerous statements and statistics  
11 about the growth and profitability of the digital signage industry. Ex. M at 146-147. But Kwong’s  
12 testimony and appraisal report do little to persuade the Court that the income assumptions she relies  
13 upon for digital advertising are anything more than pie-in-the-sky projections provided by the Debtor.  
14 Although the contract with WOW creates a framework for how WOW will sell digital advertising,  
15 allocate expenses and share profits, it does not guarantee any particular sales volume or payment to the  
16 Debtor. Meanwhile, the evidentiary record is inadequate to demonstrate that the proposed digital  
17 signage—which is neither installed nor operating—will generate as much income as the Debtor hopes it  
18 will.

19 Kwong testified at trial that she “was given a WOW Media proposed budget.” *See* Feb. 18 Tr. at  
20 129:23–24; Ex. M at 146.<sup>12</sup> She then proceeded to (i) describe the projections and calculations in the  
21 proposed budget, (ii) explain how she discounted to present value the projected future revenues for each  
22 of three years and averaged them, (iii) explain how she applied certain adjustments to the projected  
23 revenue for anticipated expenses, and (iv) how she translated her calculation of annual digital billboard  
24 income into a component of property value (i.e., dividing by a 6% capitalization rate).

25 Notably absent from Kwong’s testimony was anything substantiating the underlying revenue  
26 projections made by the Debtor for an asset that is not operating at the Main Property, has no track  
27

---

28 <sup>12</sup> Curiously, she did not testify *who* provided it to her, but the Court infers that it came from the Debtor’s management.

1 record of financial performance, and has no contractually guaranteed revenue stream. The Kwong  
2 Appraisal itself purports to provide some evidence in support of the Debtor’s projection, but it is far  
3 from compelling. For instance, the appraisal mentions a building across the street from LA Live, which  
4 has earned \$1 million per year from static billboards and has received a proposal suggesting “the  
5 ownership could receive[d] \$3,000,000 in annual signage income.” Ex. M at 147. In contrast, the Main  
6 Property is not across the street from LA Live or any major entertainment venue and has no track record  
7 securing advertising revenue. And while the Main Property is in the same neighborhood as SoFi  
8 Stadium—a major sports and entertainment venue—it is about one mile away and not across the street  
9 from that venue.

10 The Kwong Appraisal mentions several other digital signs, but these examples fail to persuade  
11 the Court that the Debtor’s revenue projections are reasonable and achievable. The first two of these  
12 examples are located at or near the intersection of Wilshire and Western, in the Koreatown  
13 neighborhood in Los Angeles. For one, that property owner was provided a “quote” of \$600,000 in  
14 annual signage revenue, inclusive of the management fee. There is no suggestion that this revenue was  
15 actually realized. In the second, the property owner apparently realizes about \$618,000 in minimum  
16 guaranteed revenue. And, in the third example, a less-desirable intersection in Koreatown, the owner  
17 “projects” revenue of \$682,500 in the first year of what appears to be a not-yet-functional digital sign.

18 This testimony is simply inadequate to persuade the Court that the Main Property, to be  
19 completed at the intersection of E. Nutwood and E. Hillcrest streets in Inglewood—about 10 miles away  
20 from the intersection of Wilshire and Western—will actually generate the same level of advertising  
21 income. The principals of the Debtor certainly hope it will and they have made a financial bet on it. But  
22 they have also defaulted on the Loan and run out of capital to complete the project. Under all of these  
23 circumstances, the Court simply does not believe the Debtor’s projections of digital revenue or the very  
24 substantial portion of market value attributed to the entire project on account of those revenue  
25 projections.

26 Finally, the Court is not persuaded that the Main Property will generate approximately \$107,000  
27 in annual revenue from leasing the gym to a gym operator. There is no evidence that such a contract  
28 exists or that there is demand for such space in that neighborhood. As Frauenthal testified, “all the

1 competitive apartment projects in the area, and in the expanded area, have gymnasiums included, or  
2 workout areas for the tenants, so that's included in the rent..." See Feb. 18 Tr. at 72:23–73:6. As a  
3 consequence, the Frauenthal Appraisal did not treat the gym as an income producing feature of the  
4 property. The Court found this testimony persuasive and heard nothing from Kwong (or any other  
5 witness) to persuade the Court otherwise. Of course, this is not to say that the Debtor will never  
6 monetize the gym in this way. It is *possible* that the Debtor will find a party willing to pay rent for the  
7 gym space *and* permit apartment residents to use the facility without additional cost. But the Court is  
8 not convinced on this evidentiary record that the marketplace would necessarily ascribe value to the  
9 project on account of this concept.

10 **c. The Court's Determination**

11 For all the foregoing reasons, the Court concludes that the Frauenthal Appraisal concludes to a  
12 value that is too low, and the Kwong Appraisal concludes to a value that is too high. The Court is firmly  
13 convinced that the as-is fair market value of the Main Property is squarely between the two.  
14 Specifically, the Court determines that the as-is value of the Main Property, as of the date on which the  
15 evidentiary hearing concluded, February 19, 2026, is the mean, or average, of the two opinions of value:  
16 **\$31,890,000** (i.e., equal to the sum of \$22,180,000 and \$41,600,000, divided by 2). No party offered  
17 testimony that the value has been fluctuating, is unstable or is deteriorating over time, so the Court finds  
18 that the Main Property's value is stable. For these reasons, the Court also finds that the as-is value of the  
19 Main Property was \$31,890,000 *as of the Petition Date*.

20 Also, the Court rejects the Debtor's argument that there is additional value securing the Bank's  
21 claim in the form of the Materials, which the Debtor values in excess of \$5,000,000. This would not be  
22 appropriate because both appraisers derived their as-is values by subtracting the cost to complete the  
23 project from their estimated value upon completion. In other words, the value of the Main Property  
24 when completed will necessarily include all of the raw materials and appliances. The value of the  
25 Materials is baked into both appraisals. Further, the Court received no evidence suggesting that the  
26 appraisers' estimates of the costs to complete the Main Property included the cost to acquire the  
27 Materials—because the Debtor had already acquired them. If the Court treated these as an additional  
28

1 form of collateral securing the Loan, the Court effectively would be crediting the value of that collateral  
2 twice.

3 **2. The Amount Owed to the Bank**

4 The Bank's claim is not subject to any pending objection and is deemed allowed under  
5 Bankruptcy Code section 502(a). On the Petition Date, the Bank's claim was slightly oversecured, i.e., a  
6 claim of \$31,238,526.60 secured by the Main Property, valued at \$31,890,000. Thus, the Bank has  
7 been accruing interest on its claim pursuant to Bankruptcy Code section 506(b). Using the Bank's per  
8 diem interest figure of \$7,330, the Court calculates the Bank's claim as of the date on which the  
9 evidentiary hearing concluded, February 19, 2026, as follows:

10

Date	Days Elapsed	Postpetition Interest	Claim Balance
8/13/2025	0	\$0	\$31,238,526.60
2/19/2026	190	\$1,392,700.00	<b>\$32,631,226.60</b>

11  
12  
13  
14

15 *See* Feb. 18 Tr. at 58.

16 **3. No Equity Cushion Exists to Protect the Bank's Interest in the Main Property**

17 Because the Court finds that the Main Property is worth \$31,890,000 as of February 19, 2026,  
18 the Bank's claim is now undersecured. In other words, the Court finds that, as of February 19, 2026, no  
19 equity cushion exists to protect the Bank's interest in the Main Property.

20 In addition to the lack of an equity cushion, the Debtor apparently lacks any ability to make  
21 monthly adequate protection payments. The Debtor's only cash flow is a meager \$3,634.61 per month  
22 from the lease of a portion of the Main Property's roof to T-Mobile. The Debtor has been using all of  
23 that cash flow to pay for its operating expenses. *See* Dkt. 75 at 29 (cash collateral budget); Dkt. 94  
24 (order approving budget); Dkt. 138 (monthly operating report for Feb. 2026). As noted above, the  
25 Debtor's authorization to use the Bank's cash collateral to pay its operating expenses expired on  
26 February 28, 2026, and no party has filed papers regarding the Debtor's use of cash collateral since then.

27 Given the lack of equity cushion, and the Debtor's apparent inability to make monthly adequate  
28 protection payments, the Court finds that cause exists to lift the automatic stay under section 362(d)(1).

**B. § 362(d)(2): Lack of Equity in Property Unnecessary to Effective Reorganization**

The Bankruptcy Code provides that the Court “shall” grant relief from the stay of an act against property if the debtor has no equity in the property and the property is not necessary for an effective reorganization. § 362(d)(2). The two elements are stated conjunctively and both must be satisfied to obtain relief from the stay in a chapter 11 case.

**1. Lack of Equity**

“Equity” in section 362(d)(2)(A) “refers to the difference between the value of the property and all encumbrances upon it.” *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). That is, the court takes into account liens junior to the movant’s. The movant has the burden of establishing the debtor’s lack of equity in the property. § 362(g)(1).

As of February 19, 2026, the Court calculates the amount of liens encumbering the Main Property as follows:

<b>Lien</b>	<b>Amount on Petition Date</b>	<b>Source</b>
Tax lien of the Los Angeles County Tax Collector	at least \$457,061.18	Claim No. 11-1; Exs. 7, 26 and 27
First-priority consensual lien of Royal Business Bank, recorded on August 6, 2021	\$32,631,226.60	Claim No. 8-1; Trial testimony
Consensual lien of Forbix Capital	\$4,500,000.00	Dkt. 18 at 7
Mechanic’s lien of PRL Glass Systems, Inc., recorded on April 1, 2025	\$32,389.49	Claim No. 6-1
Mechanic’s lien of Parry Construction Inc., recorded on May 29, 2025	\$575,167.82	Claim No. 17-1
Mechanic’s lien of Emerald Aire, Inc., recorded on May 30, 2025	\$214,343.37	Claim No. 5-1
Mechanic’s lien of Best Choice Plumbing & Repair Inc., recorded on July 8, 2025	\$217,860.76	Claim No. 4-1
<b>Sum:</b>	<b>\$38,628,049.22</b>	

As set forth in Section IV.A.1.c above, the Court determines that the value of the Main Property is \$31,890,000. Therefore, the Bank has met its burden of establishing the Debtor’s lack of equity in the Main Property.

1           **2. Property Unnecessary to Effective Reorganization**

2           On the second element for relief from the stay under section 362(d)(2), the debtor must prove  
3 that the “property is ... necessary to an effective reorganization.” § 362(d)(2)(B). In *Timbers*, the  
4 Supreme Court addressed this provision’s meaning:

5           What this requires is not merely a showing that if there is conceivably to be an effective  
6 reorganization, this property will be needed for it; but that the property is essential for an  
7 effective reorganization *that is in prospect*. This means ... that there must be a reasonable  
possibility of a successful reorganization within a reasonable time.

8 484 U.S. at 375–76. (internal citations and quotations omitted). The Supreme Court further  
9 acknowledged that the debtor’s burden on this issue is a moving target:

10           The cases are numerous in which § 362(d)(2) relief has been provided within less than a  
11 year from the filing of the bankruptcy petition. And while the bankruptcy courts demand  
12 less detailed showings during the four months in which the debtor is given the exclusive  
right to put together a plan, see 11 U.S.C. §§ 1121(b), (c)(2), even within that period lack  
of any realistic prospect of effective reorganization will require § 362(d)(2) relief.

13 *Id.* at 376. (internal citations and footnotes omitted).

14           The Bankruptcy Appellate Panel of the Ninth Circuit has offered even greater clarity regarding  
15 the debtor’s burden on this issue at various stages of a chapter 11 case:

Stage of Case	Debtor must demonstrate that a successful reorganization with a reasonable time is...
1. Early	“plausible”
2. Near expiration of the debtor’s exclusive period to file a plan under § 1121(b)	“probable”
3. After expiration of the debtor’s exclusive period to file a plan under § 1121(b)	“assured”

22 *Sun Valley Newspapers, Inc. v. Sun World Corp. (In re Sun Valley Newspapers, Inc.)*, 171 B.R. 71, 75  
23 (B.A.P. 9th Cir. 1994) (citing *Sumitomo Tr. & Banking Co. v. Holly’s, Inc. (In re Holly’s, Inc.)*, 140  
24 B.R. 643, 700–02 (Bankr. W.D. Mich. 1992)).

25           The Debtor’s case is well into the third stage. The Debtor’s exclusive period to file a plan  
26 expired on December 11, 2025. See § 1121(b); Fed. R. Bankr. P. 9006(a)(1) (setting forth rules for  
27 computing time period stated in days). The deadline to file proofs of claim was December 12, 2025.  
28

1 Dkt. 43. On December 11, 2025, the Court entered an order setting a deadline of February 6, 2026, for  
2 the Debtor to file an initial chapter 11 plan and disclosure statement. Dkt. 67. On February 5, 2026, the  
3 Court entered an order extending that deadline for to March 9, 2026. Dkt. 109. On March 10, 2026, the  
4 Court entered an order to show cause why the Debtor’s case should not be dismissed or converted for,  
5 among other reasons, failure to timely file an initial chapter 11 plan and disclosure statement. Dkt. 134  
6 (the “OSC”). The Clerk of Court served the OSC on Mr. Aver, the Debtor’s counsel, via email shortly  
7 after 3:17 p.m. *Id.* at 5 (proof of service). In the week following the issuance of the OSC, and despite  
8 the Debtor having known the universe of claims in this case for more than 90 days, the Debtor *still* has  
9 not filed an initial chapter 11 plan and disclosure statement.

10 The testimony at trial was inadequate to meet the Debtor’s burden. In early May of 2025—  
11 approximately 10 months ago—the Debtor executed a listing agreement with Colliers to market the  
12 Main Property for sale or investment. Feb. 19 Tr. at 95:19-22. The Debtor has twice executed  
13 extensions of that listing agreement and it has been active at all times since its original execution. *Id.* at  
14 96. At the evidentiary hearing, Khodorkovsky testified:

15 Postpetition..., the brokers that we hired from Colliers have taken a very aggressive  
16 approach to market it far [and wide]. And prepetition, the issue we’re having is that  
17 because there was a looming foreclosure on the [Main P]roperty, that we just couldn’t get  
certain people to the table. I think postpetition, we were able to have a lot more showings,  
a lot more people coming to the property to see if they want to invest and to buy.

18 Given the fact that we had November, which was a little bit slow due to holidays, and  
19 December is pretty rough, I think they’ve had three solid good months of activity, and it’s  
20 been renewed in January and February substantially. So that’s what ... we’ve been working  
on postpetition and trying to raise cash [too], of course, make sure everybody gets paid.

21 *Id.* at 48; *see also id.* at 90-91 (Massie testifying the same). Massie testified that he’d spoken to “[w]ell  
22 over 30” prospective buyers, developers or equity investors. *Id.* at 91:9-15.

23 Khodorkovsky testified that the Debtor had received two offers postpetition, neither of which  
24 was binding. *Id.* at 51, 78. The first offer was received “[a] few months ago,” whereby the offeror  
25 would advance \$25 million, the Bank would advance “some money,” and Forbix would subordinate its  
26 junior lien in the Main Property. *Id.* at 73–75. The second offer was received on Monday, February 16,  
27 2026, and concerned an equity investment of \$16.5 million, “with [the Bank]’s involvement” “to finish  
28 the project ... and make everybody whole.” *Id.* at 75–78. Khodorkovsky acknowledged, however, that

1 the Bank had not consented to either offer, and that its consent was a condition precedent to the offer  
2 being of any value. *Id.* at 78, 81:20-21.

3 Khodorkovsky and Massie both testified that the Debtor is expecting more offers because  
4 Khodorkovsky had “received indication from certain parties verbally” that had toured the Main  
5 Property. *Id.* at 51, 78:24-25, 92:2-4. But the Court is not persuaded. After 10 months of marketing—  
6 approximately 6 of which were under the protection of the chapter 11 process—the Debtor has been  
7 unable to locate the capital necessary to complete the project or a buyer to facilitate an orderly  
8 liquidation. At this point, the Court finds that the prospects of a feasible reorganization in a reasonable  
9 amount of time are dim—at best. The Court finds that the Debtor has now had a reasonable time to  
10 effectuate a reorganization and failed to do so. Under any of the standards described in *In re Sun Valley*  
11 *Newspapers, Inc.*, but most assuredly under the standard applicable in this late stage of the case, the  
12 Debtor has failed to meet its burden of proof under Bankruptcy Code section 362(d)(2)(B).

13 Accordingly, the Court will grant relief from the stay under section 362(d)(2).

14 **V. CONCLUSION**

15 For the reasons set forth above, the Court will grant the Motion under sections 362(d)(1) and  
16 (d)(2). In its discretion, the Court declines the Bank’s request for waiver of the 14-day stay provided in  
17 Rule 4001(a)(4) of the Federal Rules of Bankruptcy Procedure. The Court will separately enter an order  
18 in accordance with the foregoing.

19  
20  
21  
22  
23 Date: March 19, 2026



\_\_\_\_\_  
Martin R Barash  
United States Bankruptcy Judge