

From: Thomas Cassidy tcassidy09@gmail.com
Subject: Gondolier Properties - Interest Rate Swap
Date: November 15, 2023 at 10:41 AM
To: JOHN J. COFFEY john.coffey@firsthorizon.com, Matochik, Brian Brian.Matochik@fhfinancial.com
Cc: John Cassidy jrcnsgy@aol.com



John and Brian,

Brian, thank you for forwarding the swap documents. As we discussed last week, GPLLC is considering partially prepaying the mortgage loan secured by the Galleria Plaza and personally guaranteed by Dr. Cassidy. The amount of any such prepayment has not yet been determined, but would likely be between \$1 million and \$3 million. Under the mortgage loan agreement executed in December 2019, this prepayment would have no effect on the security for the loan or Dr. Cassidy's personal guaranty, and the mortgage loan and swap obligations would continue to be fully secured by the Galleria Plaza.

Based upon our review of the swap documents, this prepayment would not constitute an "Additional Termination Event", as defined in Section 1(g) of the Schedule to the Master Agreement.* The pertinent part of Section 1(g) reads as follows:

"...the loan or other indebtedness...is repaid, in whole or in part, whether upon acceleration of principal. at maturity, or otherwise, or for any other reason is not an obligation of Party B..."

Section 1(g) appears to provide that a repayment, in whole or in part, does not constitute an Additional Termination Event (an "ATE") unless it has the effect of terminating in full GPLLC's obligations under the loan, hence the phrase "or for any other reason is not an obligation of Party B...". We believe it is plain that Section 1(g) cannot be read to provide that any repayment constitutes an ATE because the loan is repaid in part every month, as contemplated in the mortgage loan documents, and such a reading would in effect make the swap terminable at will by the First Horizon swap counterparty. Furthermore, all three subclauses of Section 1(g) describe events terminating or impairing the obligations of GPLLC under the loan or the security provided therefor. A partial prepayment of the loan would not terminate or impair in any way GPLLC's obligations under the loan or the security for the loan.

There is no provision in the swap documents that would adjust the notional principal amount or swap amortization schedule in the event of a partial prepayment of principal on the loan. Such adjustments to the swap notional principal balance in connection with a partial loan prepayment are not uncommon, and the absence of any such provision in the swap documents strongly suggests to us that the parties did not intend any proportional reduction in the swap notional principal balance in connection with a partial loan prepayment.

We would like to confirm with you that a partial prepayment of the loan would have no effect on the notional principal amount of the swap or the amortization schedule for the swap.

* SECTION 1(g): Additional Termination Event will apply. It shall be an "Additional Termination Event" with Party B being the Affected Party if (i) the loan or other indebtedness in connection with which a Transaction is entered into by Party B for the purpose or with the effect of altering the net combined payment of Party B from a floating to fixed or a fixed to floating rate basis is repaid, in whole or in part, whether upon acceleration of principal. at maturity, or otherwise, or for any other reason is not an obligation of Party B, (ii) any Credit Support Document expires, terminates, or ceases to be in full force and effect for the purpose of this Agreement unless this Agreement is expressly amended in writing to reflect that it is no longer a Credit Support Document hereunder, or (iii) the obligations of Party B cease to be secured equally and ratably on a pari passu basis with the obligations owing to the lenders in respect of any loan or other indebtedness in connection with which a Transaction is entered.