

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

In re)
) Case No. SV 09-13356 KT
)
MERUELO MADDUX PROPERTIES,)
INC., et al.,) Chapter 11
) (Jointly Administered)
)
Debtor.) **MEMORANDUM ON MOTION BY CATHAY
) BANK TO DECLARE ALAMEDA
) PRODUCE MARKET, LLC, A "SINGLE
) ASSET REAL ESTATE" CASE PURSUANT
) TO 11 U.S.C. § 101(51B) AND IMPOSE
) THE REQUIREMENTS OF 11 U.S.C.
) § 362(d)(3) IN ACCORDANCE
) THEREWITH
)
) DATE: May 21, 2009
) TIME: 2:00 p.m.
) PLACE: Courtroom 301
) 21041 Burbank Blvd.
) Woodland Hills, CA 91367
)**

Cathay Bank ("Cathay") seeks a determination that Alameda Produce Market, LLC ("Alameda Produce"), the debtor in case no. 09-13394-KT, is a "single asset real estate" case within the meaning of 11 U.S.C. § 101(51B) and to impose the requirements of 11 U.S.C. § 362(d)(3) that would follow from such determination. Cathay holds an obligation of Alameda Produce that is secured by a lien on certain real property assets of Alameda Produce. The motion is opposed by the Debtors and the Official Committee of Unsecured Creditors (the "Committee").

The facts on which this court bases its decision are undisputed. The matter has been fully briefed and can be determined on the pleadings. The court does not require oral argument.

Alameda Produce is one of 54 related debtor-entities that filed for protection under Chapter 11 on March 27, 2009. Pursuant to the court's order of April 7, 2009, all 54 cases are jointly administered under the case of Meruelo Maddux Properties, Inc. (case number 09-13356) (the "Debtors").

Section 101(51B) defines "single asset real estate" as follows:

"[R]eal property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor who is not a family farmer and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto."

Each element must be met to be considered a single asset real estate debtor, i.e., (1) the debtor must have real property constituting a single property or project, other than residential real property with fewer than 4 residential units; (2) which generates substantially all of the gross income of a debtor; and (3) on which no substantial business is being conducted other than the business of operating the real property and activities incidental thereto. In the Matter of Scotia Pacific Company, LLC, 508 F.3d 214, 220 (5th Cir. 2007).

A debtor with more than one piece of real property can be determined to be a single asset real estate debtor if the properties constitute a "single project." In order to be considered a single project, "the several distinct properties involved [must be] all linked together for a common purpose" or "operated together to serve a common purpose." In re The McGreals, 201 B.R. 736, 742-743 (Bankr. E.D. Penn. 1996).

Alameda Produce Real Estate

Alameda Produce owns more than one piece of real estate covering a total of approximately 34.7 acres in downtown Los Angeles, some of which is subject to Cathay's lien(s) and some of which is not.

Alameda Square/Seventh and Alameda Square

The Debtors describe one set of assessor's parcel numbers as Alameda Square. This is the same property described in an appraisal purportedly prepared in August 2005 for Cathay as Seventh and Alameda Square, previously known as the Rycoff properties. This property is improved with four industrial loft structures with over 1.2 million square feet of space. American Apparel, a manufacturer and wholesaler of

casual clothing, presently occupies the buildings. In addition, Meruelo Maddux Properties, Inc., which runs the business of all of the related Debtors, occupies space in one of the Alameda Square buildings.

The Seventh Street Produce Market

Alameda Produce also owns the property described by the Debtor as the Seventh Street Produce Market project. This is the same property described in an appraisal purportedly prepared in September 2005 for Cathay as 1312 East Seventh Street at Central Avenue and as the Seventh Street Produce Market. The Seventh Street Produce Market is a produce wholesale terminal that houses a large number of small businesses in the fresh produce distribution business.

Two Unencumbered Properties

In addition to the foregoing, Alameda Produce also owns two unencumbered properties that are located across the street from Alameda Square and the Seventh Street Produce Market. One is located at 1215 East 7th Street and is currently being donated for use by the Central City East Association to store the belongings of homeless people. The other is located at 1339 East 7th Street and is the subject of an eminent domain proceeding by the Metropolitan Transit Authority.

Cathay argues that Alameda Produce is a single asset real estate entity because substantially all of its gross revenues are generated from its real estate holdings and because there is no substantial business being conducted by the Alameda Produce other than the business of operating the real property and activities incidental thereto. While the first assertion appears to be the case, the second assertion is less clear. Alameda Produce is part of, or a participant in, the business operations run by Meruelo Maddux Properties, Inc. and housed in Alameda Square.

The court does not have to decide whether there is no substantial business being conducted by the Alameda Produce other than the business of operating the real property and activities incidental thereto because even if that were so, it is not enough. Cathay has not and cannot demonstrate that the first element of the single asset real estate definition is met.


The real property owned by Alameda Produce does not constitute a single property or a single project. There is no unifying purpose or business development scheme linking Alameda Square with the produce market or with either of the unencumbered properties. Operating or holding real estate for profit is not a sufficient "common purpose" to convert what is otherwise a collection of real property assets into a "single project." The fact that Cathay made a business decision to make a refinance loan on part of that collection does not convert the properties into a single project. Nothing in the Reply Declaration of Gregory Badura in support of Cathay's motion alters the court's analysis of the Alameda Produce real estate holdings.

The undisputed facts of the Alameda Produce case require denial of Cathay's motion. For the purposes of this motion, there is no reason for the court to incorporate rulings on the arguments of the Debtors and the Committee that are the subject of the Debtors' related motion for a determination that none of the related Debtors are a single asset real estate entity.

Based on the foregoing, Cathay's motion is DENIED on the merits. A separate order will be entered concurrently herewith.

IT IS SO ORDERED.

Dated: JUN 1st 2009


KATHLEEN THOMPSON
U.S. BANKRUPTCY JUDGE