IN RE GENERAL GROWTH PROPERTIES, INC., ET AL.,
CASE NO. 09-11977 (ALG)

Thomas H. Nolan, Jr. Proffer in Support of Bidding Procedures Motion

Good morning your Honor. Penny Reid with Weil Gotshal on behalf of the Debtors. I offer as a proffer testimony that would be given by Thomas H. Nolan, Jr., President and Chief Operating Officer of General Growth Properties, Inc, and a member of the Board of Directors of GGP.

I. Overview of the Negotiations Leading Up to the Latest BFP Proposal

Mr. Nolan would testify that since the Bidding Procedures Motion was filed on March 31, 2010 with the original proposal from Brookfield, Fairholme and Pershing (the "Original BFP Proposal"), the Debtors have continued to engage in an intensive competitive bidding process and, as a result, have successfully negotiated a revised agreement with BFP resulting in substantial improvements to the terms, costs and extent of the Original BFP Proposal. After the Motion was filed, a robust round of bidding ensued just as envisioned by the Bidding Procedures. On April 14, 2010, Simon Property Group submitted an initial equity proposal, which essentially matched the core economics of the Original BFP Proposal but did not entail the issuance of any warrants. On April 21, 2010, Simon submitted a revised proposal with certain improvements to their offer and the Original BFP Proposal, including an agreement to backstop the $1.5 billion credit facility, revisions to closing conditions, and flexibility in the GGO spin-off.

Mr. Nolan would testify that the GGP Board heard presentations from both BFP and Simon at its April 13 and April 22, 2010 meetings. Mr. Nolan would explain that, after those Board meetings, the bidding continued. On May 3, 2010, GGP received a Revised BFP Proposal, which not only incorporated improvements made by Simon in its proposal, but made additional improvements to the terms of the warrants.

Mr. Nolan would testify that on the eve of this hearing, GGP received another proposal from Simon at $15 per share for GGP Mall Co and a dividend of GGO to GGP current shareholders, with a backstop investment proposal of $11 per share and no warrants (the "Simon Proposal"). Later the same evening, Pershing informed GGP that it would agree to forego its share of the interim warrants. This morning, Brookfield raised the exercise price on its permanents warrants to $10.75. For reasons that Mr. Nolan will testify to, the Board chose to pursue the Revised BFP Proposal with the removal of Pershing's interim warrants and the increased exercise price (the "Latest BFP Proposal").

II. Overview of the Terms of the Latest BFP Proposal

Specifically, Mr. Nolan would testify that the Latest BFP Proposal provides equity commitments totaling $7 billion, an increase of $500 million over the original commitments. The Latest BFP Proposal modifies the closing conditions to provide General Growth with greater certainty that the transaction will close by lowering the minimum liquidity target to $350 million from the original minimum of $500 million, increasing the maximum consolidated debt cap to $22.25 billion from $22.1, and increasing the share cap to 1.120 billion. Further, the Latest BFP Proposal provides a full backstop of the $2.0 billion of additional capital to be raised from third parties. Mr. Nolan would attest that, the Latest BFP Proposal establishes a backstop for a loan of $1.5 billion, with no amortization for three years and at market interest rates and fees. This

$1.5 billion loan backstop, along with a backstop for additional equity of $500 million, eliminates any perceived risk that the Debtors would not be able to secure all capital necessary to emerge from chapter 11. The Latest BFP Proposal also eliminates the Essential Assets clause in the GGO conditions, thereby providing General Growth with greater flexibility in accomplishing the GGO spin off.

Mr. Nolan would further testify that the terms of the warrants have been revised to reduce their cost both before and after emergence from chapter 11. Pershing has agreed to eliminate its interim warrants entirely. Brookfield and Fairholme have agreed that the warrants will now vest over time so that only 40% of the warrants vest upon approval by the Court, an additional 20% will vest on July 12, 2010, and the remaining 40% vests in periodic installments commencing July 13, 2010 and continuing through the end of the commitment period. Upon termination of the Latest BFP Proposal, no further warrants would vest. These changes lower the total value of the warrants and will afford General Growth significantly increased flexibility in its continued efforts to further improve on the emergence transaction without triggering the full cost of the remaining warrants. The Latest BFP Proposal also increases the strike price of the post-emergence GGP warrants from $10 per share to $10.50 for Fairholme and Pershing and $10.75 for Brookfield.

Mr. Nolan would testify that the Latest BFP Proposal also includes an agreement that Brookfield will enter into a strategic relationship agreement to use General Growth as its primary platform for any regional mall opportunities it or one of its affiliates pursues in North America, and will seek to provide global opportunities through

Brookfield's institutional relationships. This strategic relationship embodies the type of active sponsorship that will maximize value for General Growth's shareholders.

Mr. Nolan would testify that the negotiations included the Equity Committee and that it supports the Latest BFP Proposal.

III. <u>The Board's Business Judgment That the Latest BFP Proposal is Superior</u>

Mr. Nolan would testify that, today, May 7, 2010, the Board determined, after much deliberation, consultation, and advice provided by its advisors, that the Latest BFP Proposal, even with the cost of the warrants, and a per share price of $10 for GGP Mall Co. versus an $11 backstop investment bid proposed by Simon along with its May 6 whole company proposal, represents a better option for maximizing long-term shareholder recoveries and maximizing enterprise value than the Simon Proposal. The Board weighed and considered numerous factors, both quantitative and qualitative in reaching its decision. These factors included:

- the Net price to be paid;
- the Form of currency;
- the Conditionality or certainty of closing;
- impact on long-term shareholder value;
- opportunity to complete a change of control transaction in the future;
- the expected performance of the Company after emergence from chapter 11, as that will affect the value of the securities issued to General Growth's shareholders
- the intangible differences between potential sponsors, including market perception of the investor, likely impact on post-emergence trading, impact on personnel, and ability to source attractive acquisition, development, and financing opportunities, and the management and operational expertise for GGO; and

- the expected contribution by the potential sponsor to the overall auction process.

Mr. Nolan would testify that, after evaluating these factors, it was the Board's business judgment that the risks and uncertainties associated with the Simon Proposal and the potential long-term shareholder value of the Latest BFP Proposal outweigh the potential dilutive effects of the Warrants.

Mr. Nolan would testify that GGP is prepared to continue to negotiate with Simon on its Proposal and believes that the issuance of the warrants should not preclude that negotiation. As part of its analysis of a whole company proposal, the Board would consider, among other factors, the change of control premium, as well as the uncertainty of closing due to likelihood of review by regulatory authorities.

Mr. Nolan would testify that after substantial discussions regarding a Simon Group backstop investor proposal, the Board was left with serious concerns about having one of its most powerful competitors as its largest stockholder. Among other things, the Board believes that Simon would face a tension between being General Growth's largest shareholder and the fiduciary duties that Simon's board and management owe to its own shareholders.

Mr. Nolan would attest that, conversely, Brookfield, Fairholme and Pershing's interests as majority investors in GGP would be wholly aligned with the Company to maximize shareholder value. Those three parties would therefore actively work to increase enterprise value, a prime example of which is the strategic relationship agreement in the Latest BFP Proposal that will provide General Growth with valuable corporate opportunities. Simon would not, and could not, enter into any such strategic relationship with its largest competitor.

Mr. Nolan would testify that the Board has determined that the Latest BFP Proposal provides the best opportunity to maximize current and future shareholder value while, at the same time, protecting the Company and its creditors on the downside. Although the Company has the Latest BFP Proposal as the initial equity sponsor, the process is not over and the Latest BFP Proposal remains subject to higher and better offers, including an offer from Simon.

IV. The Warrants Are Reasonable

Mr. Nolan would testify that it is the Board's judgment that the warrants are reasonable consideration for the value that General Growth will receive from the Latest BFP Proposal and the significant financial commitment that Brookfield, Fairholme and Pershing are making. The Company and its advisors rigorously negotiated the terms of the warrants with Brookfield, Fairholme and Pershing and were able to secure the elimination of Pershing's interim warrants and other improvements included in the Latest BFP Proposal.

Mr. Nolan would testify that General Growth values the interim warrants with 40% vested upon approval by the Court, at approximately $315 million, assuming a change of control transaction valued at $20.00 per share and 20% volatility. Assuming 100% vested following the nine-month commitment period, under the same per share price and volatility, the Company values the interim warrants at approximately $688 million. The value of the permanent warrants ranges depending on the performance of the company post emergence. They are of lesser impact per share than the interim warrants because they dilute the equity value of all post reorganization shareholders, including the investment parties.

Mr. Nolan would testify that the Board's judgment is that the value of the warrants is reasonable in light of the benefits that will General Growth will obtain from the Latest BFP Proposal. The Latest BFP Proposal provides the insurance that General Growth will have 100% of the capital it needs to emerge from chapter 11, while still affording the Company the flexibility to pursue cheaper capital or a better transaction, thereby best maximizing and protecting shareholder value. The Latest BFP Proposal also encourages bidding by setting an important bidding floor. The benefit of a bidding floor has already been evidenced in this case – after General Growth announced the Original BFP Proposal, Simon increased their GGP Mall Co. per share price from $6 to last night's bid of $15. The new vesting schedule incentivizes a competing bidder to act within the schedule set forth in the Motion so that a plan with a final emergence transaction can be filed in early July.

Mr. Nolan would testify that the warrants are reasonable given the nine month commitment of capital that is being made by Brookfield, Fairholme and Pershing. Mr. Nolan would attest that nine months is an extraordinary period of time to commit capital to a transaction that permits General Growth to replace all or part of the capital with an offer from another bidder. The Board determined that the vesting schedule of the warrants is appropriate. The warrants to be issued to Brookfield and Fairholme will increase the longer their capital is committed.

Mr. Nolan would testify that the Board deliberated at length on the issuance of the warrants, even under the improved terms included in the Latest BFP

Proposal, and ultimately determined that the benefits afforded by the Latest BFP Proposal outweighed the cost of the warrants when compared against the risks and uncertainties posed by the Simon Proposal.

V. <u>The Brookfield Indemnification is Appropriate</u>

Mr. Nolan would testify that, in exchange for an agreement to assist General Growth with raising approximately $1.5 billion of exit financing, the Company has agreed to indemnify Brookfield for any liability or expenses it may incur in connection with this assistance. The Company was informed by its advisors that such an indemnification agreement is not unusual. Mr. Nolan would testify that Board determined that the indemnification was reasonable in exchange for the assistance to be provided by Brookfield.