



OFFICE OF THE CORPORATION COUNSEL

MEMORANDUM

TO: Donna Vogel, Chair CDBG Commissions
CC: CDBG Commission
FROM: Assistant Corporation Counsel Richard Greenlee
DATE: July 17, 2015

RE: Jeff Knops, CamRock Café ED-RLF Loan

In preparation for the CDBG Commission meeting to be held Thursday, July 23, 2015, Donna Vogel, Chair CDBG Commission, requested an opinion concerning the financial condition of Jeff Knops. Knops was the owner and proprietor of Cam Rock Café, and the beneficiary of an ED-RLF loan disbursed by the County in July 2012.

In November of 2013, Knops came before the Commission and requested authorization to sell CamRock Café. At that point, he claimed he had incurred substantial debts, was unable to operate the business anymore and that the sale would allow him to pay down other debts so he could remain solvent. Knops's request was approved contingent on Dane County receiving a second mortgage on the commercial real estate owned by Knops located at 217 Main St. in Cambridge, Wisconsin. Such mortgage was executed and recorded. Knops also agreed that if the commercial real estate was sold, the proceeds of that sale would be used to pay off the remaining debt to Dane County.

By letter dated June 25, 2015, Knops now requests that the Commission grant a 3-month deferral of all loan payments on his ED-RLF loan, and further restructure his remaining loan payment schedule so as to "refinance the terms of the loan in an effort to minimize the monthly payments as much as possible."

Knops's original loan was for \$55,376.00 at 5.250% nominal annual rate for a term of 7 years. Currently, Knops is up-to-date on his payment schedule with a remaining principle balance of \$33,528.69. His monthly loan payment to Dane County is \$790.78.

Knops claims that due to the failure of his business and his move to Seattle to pursue other job opportunities he is "unable to make adequate payments on his substantial credit debt," a debt that totals approximately \$45,000.

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Knops lists his current *monthly* liabilities as:

Monthly Debts

Mortgage	\$ 2,200.00
Rent in Seattle	\$ 1,500.00
Commercial Building Loan	\$ 1,350.00
Auto Loan	\$ 399.00
Credit Card	\$ 1,000.00
Monona State Bank	\$ 100.00
WWBIC	\$ *788.83
Dane County	\$ 790.78
Total Monthly Debts	\$ 8,128.61

*Knops was granted a 3-month deferment on his WWBIC debt.

Knops lists is *monthly* income as:

Monthly Income

Collection of rents	\$ 3,050.00
Net Monthly Salary	\$ 7,752.00
Total monthly income	\$ 10,802.00

The County has not received from Knops written supporting documentation of the figures provided. However, by Knops own assertions, his monthly income does satisfy his monthly liabilities, although with very little disposal income for each month. While the county has not been able to verify the monthly obligations, it can confirm, through Knops credit report, some the figures as the relate to total indebtedness.

<u>Total Debts:</u>	<u>Knops reported</u>	<u>TransUnion Credit Report</u>
WI Mortgage	\$289,000.00	\$272,215.00
Commercial Building Loan	\$178,000.00	
Auto Loan (Nissan fin + Chase auto)	\$24,500.00	\$18,567.00
Credit Card (3 CCs + Amex)	\$45,000.00	\$51,377.00
Monona State Bank (home equity loan)	\$10,000.00	\$8,443.00
WWBIC (2 loans)	\$31,837.13	\$33,000
Dane County	\$34,808.47	\$33,528.00
	\$613,145.60	\$383,602.00

The large unknown here is what is the total due on the purchase money mortgage for the commercial building. When executed in 2013, the maximum mortgage was listed at \$182,000, but ostensibly that debt has been paid down via his monthly payments and is now valued at some lower figure. Knops claims that figure is \$178,000, but because the loan was made to CamRock Properties LLC, it does not show up on Knops credit report. He has not provided independent verification of the balance due on that loan. If \$178,000 is due, then Knops total indebtedness would be verified at \$561,602.

Knops listed his assets as follows:

<u>Assets</u>	
Commercial Building	\$182,000.00
Home	\$300,000.00
Honda Pilot	\$8,000.00
Nissan Rogue	\$15,000.00
SeaRay Boat	\$8,000.00
	\$ 513,000.00

For the purpose of evaluating the County's position relative to Knops, the most important figure on the above table is the commercial real estate building. Knops asserts that the commercial real estate is valued at only \$182,000, or the total value of the purchase money mortgage granted to Cambridge State Bank when Knops purchased the building. This figure is also the total value of the building when it was sold to Knops via foreclosure sale in 2013. This figure appears to undervalue the building. Currently the property is for sale. Knops has provided a flier advertising its sale, in which, the asking price is listed at \$350,000. The current tax assessment (tax year 2015/payable 2016) is listed at \$225,000. If it is assumed that the lesser value, the tax assessment, is closer to the actual fair market value of the building, that brings his total assets to \$556,000.

Consequences in Bankruptcy

If Knops were to go into bankruptcy, the County's financial position will be dependent on the actual fair market value of the commercial real estate located in Cambridge. It is important to note that insolvency is not a requirement of obtaining bankruptcy protection. While Knops may be currently solvent using a *cash flow test*, he could still use the bankruptcy system to restructure his debts if he was willing to assume the long-term collateral consequences of having declared bankruptcy.

Under the bankruptcy code, the County will be considered a secured creditor. As secured debt, the County's claim is guaranteed repayment in full so long as the value of the collateral that the claim is secured against exceeds the value of the total secured claims on that collateral. If not, then it is possible that any junior claim that exceeds that value of the collateral will be "crammed

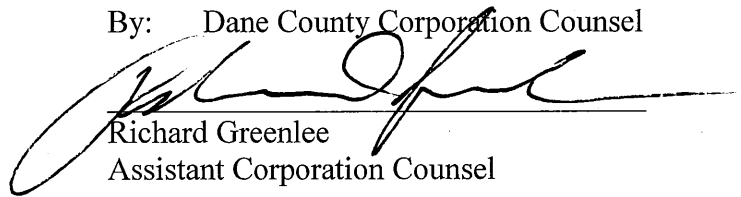
down” and the part of the claim that is over the value of the collateral will be treated as unsecured debt. Repayment of unsecured debt is not guaranteed, and often occurs at cents on the dollar.

Here, the collateral in question, the commercial real estate, will have two secured claims: A purchase money mortgage to Cambridge State Bank, and the County’s junior mortgage for the ED-RLF loan extended to CamRock Café. As stated above, for the purposes of this memo it is assumed that remaining debt on the purchase money mortgage is valued at \$178,000. The remaining obligation on the ED-RLF loan is \$33,528, totaling \$211,528.

In a Chapter 7 liquidation bankruptcy, the fair market value of the building will be set by a liquidation sale. Meaning, if the sale price of the building were to exceed \$211,528 then both creditors would be paid. If the sale price falls below \$211,528, then the County’s claim would only be partially paid and the unpaid portion would be lumped together with the other unsecured debts. When last sold in 2013, the building was sold in foreclosure at sheriff’s sale for \$182,000. The market is better now, and the trustee has more discretion to refuse to sell in bankruptcy if the offered sale price is not suitable, than the sheriff in the foreclosure process. Accordingly, it is likely that even in a Chapter 7 liquidation, the building would sell for more than \$182,000, but how much more is very unknown at this point in time.

In either a Chapter 11 reorganization, or Chapter 13 repayment plan, the value of the building is much more fluid and can be litigated as part of the pre-plan confirmation process. Given the current tax assessment, and the current posted sale price of the building, it is highly likely that the building would be valued at above the \$211,528 necessary to ensure the County’s claim is fully secured and therefore completely repaid as a part of any reorganization or repayment plan.

By: Dane County Corporation Counsel

A handwritten signature in black ink, appearing to read 'Richard Greenlee', is written over a horizontal line. The signature is fluid and cursive.

Richard Greenlee
Assistant Corporation Counsel