

ML MANAGER LLC

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ML MANAGER LLC NEWSLETTER #32

Dear Investors:

The following are the significant events that have occurred since our last newsletter.

**Theft Losses**

Good news! After approximately 3 ½ years of effort, we have been successful in obtaining IRS approval of theft loss deductions for MP Fund investors for the 2009 tax year. We believe this outcome is as good as anything we could have hoped for when we started the process in early 2010. The analysis used by the IRS in approving theft losses for MP Fund investors should be useful to investors in the Loan LLCs and to investors who held loan interests outside of the Loan LLCs, to the extent those investors may have claimed theft losses for 2009 that have been challenged by the IRS.

We were recently advised that the IRS had completed its audit of the 2009 amended tax returns (the "Amended 2009 Returns") that were filed in April, May and June of 2012 for the nine MP Funds. The IRS has issued a letter to each MP Fund (an "Allowance Letter") that allows in full all theft losses and other adjustments that were reported on the Amended 2009 Returns. Although the Allowance Letters are dated August 23, 2013, we actually received them in September.

At the time the Amended 2009 Returns were filed (and consistent with the IRS's reporting requirements for filing of amended partnership tax returns), our accountants issued "informational" Schedule K-1s to the MP Fund investors (each, an "Amended 2009 K-1") showing their respective shares of the theft losses and other adjustments reported on the Amended 2009 Returns. We subsequently recommended that all MP Fund investors file protective claims reporting theft losses for the 2009 tax year, on amended returns to be filed before April 15, 2013 (or an earlier date for taxpayers whose returns are not normally due on April 15).

Many MP Fund investors filed amended returns claiming theft losses for the 2009 tax year and the IRS has informed us that it has already processed many of those returns and issued refunds. The IRS has also informed us that it plans to continue processing amended returns filed by MP Fund investors claiming theft losses for 2009 and to issue refunds in a manner that is consistent with the theft losses reflected on the Amended 2009 K-1s. If you are an MP Fund investor and filed an amended 2009 tax return

claiming a theft loss, and if you have not received a refund based on that amended return, you should contact the IRS regarding the status of your refund.

If you are an MP Fund investor and have not filed an amended tax return claiming a theft loss for 2009, the Allowance Letters state that you have until April 14, 2014 to file such a claim (but an earlier date might apply to taxpayers whose returns are not ordinarily due on April 15). The April 14, 2014 (or potentially earlier) deadline for filing an amended return for 2009 is available because the MP Funds extended the statute of limitations that would otherwise apply to amendments of their 2009 tax returns. You should use the information included on the Amended 2009 K-1 that you previously received for purposes of making your theft loss claim on an amended 2009 tax return. If you do not have that Amended K-1, please contact us at [mortgagesinfo@mtgltd.com](mailto:mortgagesinfo@mtgltd.com) or 623-234-9560, and we will make arrangements for you to receive a copy.

ALTHOUGH THE TAX CODE WOULD PERMIT THE IRS, ON ITS OWN INITIATIVE, TO REVISE THE MP FUND INVESTORS' 2009 TAX RETURNS AND ISSUE REFUNDS BASED ON THE RECENTLY COMPLETED AUDIT, THE IRS HAS INDICATED THAT IT WILL NOT ISSUE REFUNDS WITH RESPECT TO THE THEFT LOSSES DESCRIBED IN THE APPROVAL LETTERS UNLESS THE MP FUND INVESTORS FILE THEIR OWN AMENDED TAX RETURNS CLAIMING THEFT LOSSES AND REQUESTING REFUNDS. REFUNDS WILL NOT BE AUTOMATIC AND AMENDED RETURNS MUST BE FILED BY APRIL 14, 2014 (OR EARLIER FOR TAXPAYERS WHOSE RETURNS ARE NOT ORDINARILY DUE BY APRIL 15). MP FUND INVESTORS' FAILURE TO FILE TIMELY AMENDED RETURNS CLAIMING THEFT LOSSES FOR 2009 WILL TERMINATE ANY POSSIBILITY OF EVER OBTAINING A REFUND FOR THE THEFT LOSSES.

If a theft loss claimed for 2009 results in a net operating loss for that year, it may be possible to use that net operating loss to offset income reported in the prior three tax years (and, in some limited cases, in the prior five tax years). The deadline for filing an amended return that uses a net operating loss arising from a 2009 theft loss to offset income for any prior years is the same as the deadline for filing the amended return that claims the 2009 theft loss itself (i.e., the net operating loss "carryback" must be reported on a return filed by April 14, 2014, or any earlier-required date pursuant to the rules described above). The "carryback rules" for net operating losses are complex and circumstances will differ for each investor. Accordingly, investors should consult with competent tax advisors regarding these rules.

We have posted on our webpage ([www.mtg.ltd.com](http://www.mtg.ltd.com), at the "IRS Theft Loss Tax Information" tab that is immediately to the right of the box labeled "ML Manager LLC") copies of the Allowance Letters issued to the MP Funds. We have also posted at that same location a copy of a Form 4605 (Examination Changes – Partnerships, Fiduciaries, S Corporations, and Interest Charge Domestic International Sales Corporations) and a Form 886-A (Explanation of Items) that were issued to the MP Funds (collectively, the "Examination Forms"). The Examination Forms include the IRS's analysis of (and agreement with) the methodology that was used to compute theft losses and other items reported on the Amended 2009 Returns.

The Examination Forms reflect that the MP Funds disclosed to the IRS that: (i) the MP Funds discovered that certain events (generally foreclosures) that occurred in 2009 were inadvertently omitted from the Amended 2009 Returns; and (ii) if properly reported,

those events would have resulted in relatively minor reductions to the amounts of theft losses reported on the Amended 2009 Returns and the Amended 2009 K-1s. The IRS informed the MP Funds' accountants that the IRS would not require the issuance of new Schedule K-1s to reflect these minor adjustments. Accordingly, the Allowance Letters (which were issued after the Examination Forms) state that the IRS agreed with the Amended 2009 Returns and will not take further action on the related adjustments to partner accounts. This means that any amended tax refunds filed by MP Fund investors to claim 2009 theft losses should be based on the Amended 2009 K-1s that were previously provided to investors by the MP Funds' accountants.

The information included in the Allowance Forms and Examination Forms is both technical and complex and investors should direct any questions regarding these matters to their tax advisors.

Although the Allowance Letters and Examination Forms are addressed only to the MP Funds, investors that are not MP Fund members (i.e., investors holding direct interests in Loan LLCs and "pass-through" investors that held direct interests in loans originated by Mortgages Ltd. without contributing those interests to Loan LLCs) may find the Allowance Letters and Examination Forms useful in processing any claims they may have previously filed for theft losses. Accordingly, those investors should review the Allowance Letters and Examination Forms with the assistance of competent tax advisors.

The issuance of the Allowance Letters should conclude matters relating to the MP Funds' 2009 tax returns. Amendments will be required to the MP Funds 2010 tax returns, to the extent they are inconsistent with the allowance of theft losses for 2009. For example, the MP Funds' 2010 tax returns reported capital losses that are duplicative of some of the theft losses that have been allowed for 2009, so the excess capital losses will need to be reversed. The 2010 amendments will be processed later this year. The IRS has indicated that it plans to review investor returns to ensure that they have not claimed both theft losses and capital losses for the same economic losses (a matter that has been described in greater detail in prior posting to our webpage). Investors should consult with competent tax advisors to determine whether they need to take action with respect to potential duplicative loss claims before their returns are reviewed by the IRS (potential penalties may be avoided or mitigated by appropriate action before an IRS review occurs).

THE MATTERS SET FORTH ABOVE ARE BOTH TECHNICAL AND COMPLEX. INVESTORS SHOULD CONSULT WITH COMPETENT TAX ADVISORS TO MAKE SURE THAT ANY THEFT LOSSES THEY PREVIOUSLY REPORTED HAVE BEEN PROPERLY REPORTED AND THAT ANY THEFT LOSSES THEY HAVE NOT PREVIOUSLY REPORTED ARE PROPERLY CLAIMED ON TIMELY FILED AMENDED TAX RETURNS FOR 2009.

INVESTORS SHOULD ALSO DISCUSS WITH THEIR TAX ADVISORS WHETHER THEY MAY BE ENTITLED TO USE THEFT LOSSES TO OFFSET INCOME REPORTED FOR TAX YEARS PRIOR TO 2009.

FINALLY, INVESTORS SHOULD DETERMINE, WITH PROPER ADVICE FROM THEIR TAX ADVISORS, WHETHER THEY HAVE REPORTED CAPITAL LOSSES THAT ARE DUPLICATIVE OF THEFT LOSSES THAT THEY HAVE EITHER PREVIOUSLY

REPORTED OR THAT THEY MAY REPORT FOR 2009, AND SHOULD OBTAIN ADVICE ON WHETHER FURTHER ACTION IS REQUIRED. AS NOTED ABOVE, THE IRS HAS INFORMED OUR TAX ACCOUNTANTS THAT THE IRS INTENDS TO REVIEW INVESTOR RETURNS TO DETERMINE IF DUPLICATIVE LOSSES HAVE BEEN CLAIMED.

A copy of the foregoing matters (i.e., those appearing under the heading "Theft Losses") will be sent by certified mail to each MP Fund investor to ensure that investors without access to the internet have received this information. If you are reading these materials you should expect to receive a duplicate copy in the mail.

### **Next Distribution**

We are working on the next distribution of cash to investors. The loans that are involved in the next distribution are Town Lake, ABCDW I, ABCDW III, 300 E. Camelback (2), Rightpath I, and Bisontown, . Please note that some of these loans will not have sufficient sales proceeds to make distributions to investors. Also, the repayment of the replacement loans will continue. We will make the distribution as soon as possible after we receive the approval of the Bankruptcy Court. The proceeds from sales that close after the date of this newsletter will not be included in the up coming distribution. They will be included in the following distribution that will be made in 2014.

### **Rightpath Limited Development Group, LLC (Loan 858406)**

The sale of the remaining approximately 5 acres of unimproved property on the south side of Glendale Avenue was consummated on August 15th for a price of \$508,882.

### **ABCDW, LLC (Loan 861206)**

The sale of this property consisting of approximately 4,000 acres located on the edge of Sierra Vista, Arizona, was consummated on August 7th for a price of \$5.325M.

### **Town Lake (Loan 861305)**

The sale of this property located in Tempe, Arizona near the Tempe Town Lake was consummated on August 28th for a price of \$1.2M. We obtained a judgment of approximately \$25M against guarantors, Tod Decker and Michael and Sherri Earl. We are beginning efforts to attempt to collect on this judgment.

### **Central & Monroe (Loan 858606)**

We have entered into a sale agreement for this property located in downtown Phoenix for a price of \$7,850,000. The sale was approved by the members of C&M Loan LLC and the Bankruptcy Court. The closing is scheduled for November 22, 2013. We continue to work to resolve the litigation with the mechanic lienholders that affect this property.

### **Rightpath II (Loan 859806)**

We have entered into a sale agreement for the approximately 60 acre unimproved property in far west Phoenix, just north of the Dodgers/White Sox spring training facilities, for the price of \$3,835,000. The sale agreement received the affirmative vote of the members of RLD II Loan LLC and the approval of the Bankruptcy Court. The buyer is attempting to rezone the property. The closing is currently scheduled for November 8, 2013.

### **Vistoso Partners, LLC (Loan 857406)**

We entered into a sale agreement for the remaining 26 acre parcel located in Oro Valley, Arizona, for a price of \$4,810,000 with KB Homes. During the escrow, however, KB Homes terminated the sale agreement. We have identified a new buyer and are in the process of finalizing the sale agreement. This would be a short sale. The sale was approved by the members of VP I Loan LLC and the Bankruptcy Court and the new sales price is higher than the prior sales price. If the buyer proceeds with the sale, the closing is scheduled for December 19, 2013.

**Vanderbilt Farms, L.L.C (Loan No. 859606)**

We entered into a sale agreement with a buyer for this property containing approximately 115 acres located in Queen Creek, Arizona. The sale was approved by the members of VF I Loan LLC and the Bankruptcy Court. Unfortunately, the buyer just notified us that they are terminating the escrow. We will immediately re-market the property for sale.

**HH20 (Loan 858305)**

We have entered into a sale agreement for the remaining approximately 13 acres of property located in Pinal County for a price of \$550,000. The sale is subject to the affirmative vote of the members of HH Loan LLC and the Bankruptcy Court. A hearing to obtain the Bankruptcy Court approval has been scheduled for 2:30 pm on October 1, 2013. The closing is scheduled for November 4, 2013.

**Vistoso Partners, LLC (Loan 858006)**

We have identified a buyer and are finalizing a sale agreement for this unimproved property in Oro Valley, Arizona. The sale would be subject to the affirmative vote of the members of VP II Loan LLC and the Bankruptcy Court.

**Remaining Properties.**

The following is the only other property that remains unsold:

**Rightpath II Loan 859806)**

We are working to eliminate or amend a significant land use restriction that was recorded against the approximately 16.7 acre property many years ago. The property probably cannot be sold unless and until this land use restriction is eliminated or significantly modified.

**Ongoing Operations.**

As you can see from the above items, ML Manager is winding down its operations. That being said, significant work remains to be completed, including pursuing and defending several lawsuits and closing the sales of several properties. Once all properties are sold and all sums are collected from borrowers, guarantors and title companies, there will be a final reconciliation of all revenue and expenses. It is not possible to know when this will occur, but several of the litigation matters will likely continue for a few more years.

**Centerpoint/Fidelity Litigation**

As we have reported previously, we continue to pursue various claims against Fidelity National Title Insurance Company and some of their affiliates regarding the Centerpoint loans. The litigation is very complex and, like almost all litigation involving large insurance companies, is moving slowly. We believe that we have achieved some significant victories as the litigation has proceeded, but the final resolution remains quite a ways in the future.

**Updating Account Information.**

Many investors have changed their addresses, phone numbers, and e-mail addresses. Please make sure that our records reflect your current information. In order to update your information it is necessary to complete an account change request form. These forms can be obtained by contacting us at [mortgagesinfo@mtgltd.com](mailto:mortgagesinfo@mtgltd.com).

**If you have any questions, you may contact our office at 623-234-9560 or via email at [mortgagesinfo@mtgltd.com](mailto:mortgagesinfo@mtgltd.com).** It is much more efficient for us to respond to written questions and we ask whenever possible, please communicate with us via email. Also, please also feel free to contact Karen Epstein at 480-948-6777.

Thank you for your support of our efforts.

Best Regards,

Elliott Pollack

Chairman