**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:	:	Chapter 11
WHITEHALL TRUST, *Debtor*.	:	Case No. 25-15241 (PMM) (Jointly Administered)

**MOTION OF SECURED CREDITOR LEHIGH VALLEY 1, LLC
FOR DETERMINATION THAT TRUST DEBTORS ARE
SUBJECT TO SINGLE ASSET REAL ESTATE PROVISIONS
OF THE BANKRUPTCY CODE**

Secured Creditor Lehigh Valley 1, LLC ("Lender") hereby moves this Court for entry of an Order determining that Debtors Whitehall Trust and Saucon Trust (collectively, the "Trust Debtors") are subject to the single asset real estate provisions of the Bankruptcy Code, pursuant to 11 U.S.C. §§ 101(51B) and 362(d)(3). In support thereof, Lender states as follows:

INTRODUCTION

1. The Bankruptcy Code includes special provisions governing debtors whose business is single asset real estate, and specifically impose specific requirements and deadlines relating to relief from the automatic stay to allow a mortgagee to proceed against such a debtor's real property. *See* 11 U.S.C. § 362(d)(3).

2. The Trust Debtors each precisely fit the Bankruptcy Code's definition of single asset real estate. *See* 11 U.S.C. § 101(51B). Each of the Trust Debtors: (1) owns a single property; (2) generates substantially all of their income from that property; and (3) conducts no substantial business other than operating the real property.

3. The deadlines for single asset real estate bankruptcy cases established in Section 362(d)(3) of the Bankruptcy Code are triggered by either the Debtor's agreement

that they operate single asset real estate or the court's determination that they and their property are single asset real estate.

4. The Trust Debtors' have refused to stipulate that they operate single asset real estate, even though the Trust Debtors' voluntary petitions represent that they operate as single asset real estate.

5. As a result, the Lender has filed this Motion seeking a determination that the Trust Debtors operate single asset real estate and are thus subject to the provisions of Section 362(d)(3) of the Bankruptcy Code.

JURISDICTION

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A), (G), & (O).

7. The statutory bases for the relief requested herein include, *inter alia*, 11 U.S.C. §§ 101(51B) and 362(d)(3).

8. The Lender is a secured creditor of the Debtors and has standing to bring this motion.

FACTUAL BACKGROUND

9. The Lender incorporates by reference the detailed Factual Background set forth in its First Objection of Secured Creditor Lehigh Valley 1, LLC to Motion for (1) Interim and Final Orders (A) Authorizing Debtors to Use Cash Collateral of Existing Secured Party and Granting Adequate Protection for Use and (B) Prescribing Form and Manner of Notice and Setting the Time for the Final Hearing and (2) Expedited Hearing on the Relief Sought Herein (ECF 41). The Lender repeats here for emphasis particular portions of the background that are relevant to this motion.

10. The Trust Debtors each own a single piece of commercial real property located in Lehigh County, Pennsylvania.

11. This real property is the sole asset of each of the Trust Debtors. *See* Declaration of Abraham Atiyeh in Support of First Day Motions ("First-Day Declaration"), ECF 25, ¶¶ 6, 7.

12. Each of the Trust Debtors leases these properties to the respective Manor Debtor, and eacjh Manor Debtor "operates a senior living community on the property." *Id.*

13. The Trust Debtors only business – and only source of income[1] – is from leasing their real property.

14. Notably, in their petitions, each of the Trust Debtors checked the box indicating that their business is single asset real estate. *See* Amended Voluntary Petition of Whitehall Trust, ECF 54, at 2; Amended Voluntary Petition of Saucon Trust, ECF 24 in Case No. 25-15243, at 2.

15. Nonetheless, when asked to enter a stipulation that the Trust Debtors are single asset real estate businesses, the Debtors refused to do so.

16. Accordingly, the Lender bring this Motion seeking a declaration to that effect.

[1] In fact, in 2023 the Trust Debtors granted no-consideration lease amendments to the Manor Debtors – which the District Court invalidated in the Foreclosure Actions – and which forgave two years of past due rent, forgave rent in full for 2024, and changed the existing triple-net leases to allow the Manor Debtors to credit taxes and maintenance costs against the otherwise greatly reduced future rent, essentially eliminating any obligation to pay rent. The Trust Debtors have thus generated no income since at least 2021.

RELIEF REQUESTED

17. The Lender seeks a determination that the Trust Debtors are single asset real estate entities under the Bankruptcy Code and are subject to the provisions of Section 362(d)(3), 11 U.S.C. § 362(d)(3).

ARGUMENT

18. Section 101(51B) defines "single asset real estate" (or "SARE") as:

> [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.

11 U.S.C. § 101(51B).

19. With regard to single asset real estate, Section 362(d)(3) of the Bankruptcy Code provides special provisions governing obtaining relief from the automatic stay, what and a single asset real estate debtor must do, and when the single asset real estate debtor must do it, to avoid an automatic grant of stay relief.

> On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay …
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> (3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period) or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later—
>
> (A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

> (B) the debtor has commenced monthly payments that—
>
> (i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and
>
> (ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate ….

11 U.S.C. § 362(d)(3).

20. Previous bankruptcy courts have explained what the criteria of single asset real estate are.

> Section 101(51B) enumerates [three][2] criteria which must exist before a bankruptcy case falls within the scope of section 101(51B). First, real property constituting a single property or project, other than residential real property with fewer than four residential units, falls within the scope of 101(51B). Second, that real property must generate substantially all of the income of the debtor. Third, the debtor must not be involved in any substantial business other than the operation of its real property and the activities incidental thereto.

In re Kara Homes, Inc., 363 B.R. 399, 404 (Bankr. D.N.J. 2007) (quoting *In re Philmont Dev. Co.,* 181 B.R. 220, 223 (Bankr. E.D. Pa. 1995)).

21. This definition plainly fits the Trust Debtors and the property of their estates.

22. *First*, the property of each of the Trust Debtors constitutes a single property or project and is not residential property with fewer than four units. The generally accepted test for determining whether a property is a single project focuses on the debtor's

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[2] *Philmont Development* mentions a fourth factor – an upper limit on the debt the property could bear to qualify as single asset real estate – which was deleted in 2005. *Kara Homes*, 363 B.R. at 404 ("The last of the four criteria was eliminated as a result of the BAPCPA.").

intent or purpose. *See In re JJMM Int'l Corp.,* 467 B.R. 275 (Bankr. E.D. N.Y. 2012). Typical examples of this sort of property are "an apartment building, office building, or 'strip' shopping center owned by an entity whose sole purpose was to operate that real estate with monies generated by the real estate …." *Philmont Development,* 181 B.R. at 224.

23. Here, each of the Trust Debtors' properties contain a single business – the relevant Manor personal care home. Each of these commercial properties is a single property or project.

24. In addition, even if the Trust Debtors' property were considered as residential property, each of building consists more than four units, as each has well over 100 residents. First-Day Declaration, ECF 25, ¶ 21.

25. *Second*, leasing these properties generates all of the Trust Debtors' gross income, to the extent they have any.[3] "[A] business would not be a SARE if a reasonable and prudent business person would expect to generate substantial revenues from the operation of activities — *separate and apart from the sale or lease of the underlying real estate*." *In re Scotia Pacific Co., LLC,* 508 F.3d 214, 222 (5th Cir. 2007) (quotations omitted). To make this determination, courts look to the material nature of the business activities and whether the revenues the property owner receives are passive in nature, such as the simple collection of rents. *See Kara Homes,* 363 B.R. 399. To the extent the Trust Debtors have ever had income, it has only come from rental of their real property.

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[3] As noted above, *see supra* note 1, because of the fraudulent and recently invalidated 2023 Lease Amendments, the Trust Debtors in fact have had essentially no income since at least 2021.

26. *Third*, the Trust Debtors do not conduct any substantial business on these properties, other than the business of operating the real property and activities incidental thereto. "[A] 'single asset real estate' case is one in which the debtor performs functions intrinsic to owning and developing the real estate and not one where the debtor generates income from other activities not incidental thereto." *Kara Homes*, 363 B.R. at 406.

27. The Trust Debtors lease their properties to other entities – the Manor Debtors – which conduct their own business on the properties. The Trust Debtors do not operate any separate business other than owning and leasing the commercial buildings (for which they have not received any rent since 2021). To the extent the Debtors have any income, it only comes from leasing their properties to the Manor Debtors. That is quintessentially a function intrinsic to owning the properties and certainly is not income incidental to that ownership.

28. Given the foregoing facts, it cannot reasonably be disputed that the Trust Debtors own single-asset real estate and are subject to 11 U.S.C. § 362(d)(3). The Trust Debtors plainly satisfy every requirement of Section 101(51B).

29. Nonetheless, counsel for the Debtors has suggested that their intent to seek substantive consolidation of all the Debtors for confirmation purposes should somehow change this conclusion.

30. There is no simply basis in the Bankruptcy Code to conclude that the prospect of substantive consolidation alters the definition of when a debtor is single asset real estate or the application of Section 362(d)(3) in particular cases.

31. Whether the Debtors might seek substantive consolidation in the future has no bearing on whether any of the debtors is a single asset real estate entity. Each entity must be looked at on its own as of the time it filed for bankruptcy.

32. The Bankruptcy Code contains no "whole business exception" to the SARE provisions. *See In re Meruelo Maddux Props., Inc.,* 667 F.3d 1072, 1077 (9th Cir. 2012) ("the plain language of § 101(51B) gives no basis for a 'whole business enterprise' exception"); *see also In re Aspen Club & Spa, LLC,* No. 18-14158-JGR, 2019 WL 4233621, at *4 (Bankr. D. Colo. July 23, 2019) (following *Meruelo Maddux*); *In re Carolina Pediatric Eye Props.,* LLC, No. 15–50036, 2015 WL 1806047, at *3 (Bankr. M.D.N.C. Mar. 26, 2015) (following *Meruelo Maddux*). "Absent a substantive consolidation order, [a court] must accept [the debtor's] chosen legal status as a separate and distinct entity from its parent corporation and sister subsidiaries, and look only to its assets, income, and operations in determining whether [it] is single asset real estate." *Meruelo Maddux*, 667 F.3d at 1077.

33. Here, the Debtors have not even sought substantive consolidation at this point, let alone obtained a substantive consolidation order.

34. Even if the Debtors had sought substantive consolidation, it is highly unlikely that the Court could grant it. "The Third Circuit has described substantive consolidation as an 'extreme' and 'last-resort remedy' that 'rais[es] the specter for some [creditors] of a significant distribution diminution.'" *In re Universal Mktg., Inc.,* 541 B.R. 259, 302-03 (Bankr. E.D. Pa. 2015) (quoting *In re Owens Corning,* 419 F.3d 195, 206 (3d Cir. 2005) (quoting *In re Genesis Health Ventures, Inc.,* 402 F.3d 416, 423 (3d Cir. 2005))).

35. The Court of Appeals has identified various principles underlying consideration of the "extreme" remedy of substantive consolidation, the last of which is: "While substantive consolidation may be used defensively to remedy the identifiable harms caused by entangled affairs, it may not be used offensively (for example, having a

primary purpose to disadvantage tactically a group of creditors in the plan process or to alter creditor rights)." *Owens Corning*, 419 F.3d at 211. But that is precisely what the Debtors are trying to do here: use substantive consolidation as an offensive weapon to disadvantage the Lender tactically by preventing it from enforcing its rights against the single asset real estate debtors. The Third Circuit Court of Appeals has clearly prohibited this use of proposed substantive consolidation.

36. Moreover, as shown above, absent substantive consolidation, it cannot meaningfully be disputed that the Trust Debtors – "look[ing] only to [their] own assets, income and operations" – are single asset real estate debtors. *Meruelo Maddux*, 667 F.3d at 1077.

37. Under the clear terms of the Bankruptcy Code, the Trust Debtors are both single asset real estate debtors subject to the provisions of 11 U.S.C. § 362(d)(3).

RESERVATION OF RIGHTS

38. Notwithstanding the foregoing, Lender reserves all of its present and future rights, claims, and remedies with respect to its liens and security interests in the Debtors' property, including, without limitation, (i) its right to challenge the validity, extent, perfection, and priority of any liens or interests asserted by the Debtor or any other party in interest in such property; (ii) its right to contest the Debtors' proposed use of cash collateral and to seek appropriate adequate protection, including additional or replacement liens, additional adequate protection payments, or superpriority claims; (iii) its right to require valuations and to object to any valuation methodologies; (iv) its right to seek modification, expansion, or termination of the use of cash collateral if protections are inadequate; (v) its right to seek relief from the automatic stay on any applicable grounds or to seek other relief as permitted by the Bankruptcy Code; (vi) its

right to seek to dismiss the Debtors' bankruptcy cases on any other available grounds; and (vi) any other rights and remedies available under applicable law, equity, or contract.

WHEREFORE, the Lender respectfully requests that this Court enter an Order determining that the Debtors are single asset real estate entities subject to Section 363(d)(3) of the Bankruptcy Code.

Respectfully Submitted,

HANGLEY ARONCHICK SEGAL PUDLIN
& SCHILLER

Dated: January 13, 2026

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re:	:	Chapter 11
WHITEHALL TRUST, *Debtor*.	:	Case No. 25-15241 (PMM) (Jointly Administered)

ORDER THAT TRUST DEBTORS ARE SUBJECT TO SINGLE ASSET REAL ESTATE PROVISIONS OF THE BANKRUPTCY CODE

AND NOW, this ______ day of ____________, 2026, upon consideration of the Motion of Secured Creditor Lehigh Valley 1, LLC for Determination That Debtors Whitehall Trust and Saucon Trust (Are Subject to Single Asset Real Estate Provisions of the Bankruptcy Code (the "Motion"), and any response thereto and hearing and argument thereon; and this Court having found that (i) this Court has jurisdiction to consider the Motion and the relief requested therein under 28 U.S.C. §§ 157 and 1334, (ii) this Court may enter an order consistent with Article III of the United States Constitution, (iii) this is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (G), & (O), (iv) venue of this proceeding and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409, and (v) notice of the Motion and opportunity for a hearing were adequate and appropriate under the circumstances and no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefor,

It is hereby **FOUND** and **ORDERED** that:

1. The Motion is **GRANTED**.

2. The Court hereby determines that each of Whitehall Trust and Saucon Trust, and the property of their respective estates, is single asset real estate, as that term is defined in Section 101(51B) of the Bankruptcy Code, 11 U.S.C. § 101(51B).

3. Each of Whitehall Trust and Saucon Trust and the property of their respective estates is subject to Section 362(d)(3) of the Bankruptcy Code, 11 U.S.C. § 362(d)(3).

BY THE COURT:

Dated: __________

____
Patricia Mayer
United States Bankruptcy Judge