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KEY CHAPTER 11 BANKRUPTCY ISSUES FOR VALUATION CONSULTANTS

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Chapter 11 Case Study

- Two resort properties in California
- $110mm in CMBS secured debt; $20mm in subordinated debt; $4mm in vendor debt
- Resort #1 as is value: $25-35mm
- Resort #2 as is value: $70-90mm
- EBITDA and debt service capacity of the resorts
Prebankruptcy Stage

- Loan defaults by borrowers
- Loan modification/forbearance negotiations
- Outcome – interim peace or global solution
- Role of financial consultant and/or appraiser
Initial Chapter 11 Stage

• Initial financial analysis
• Cash collateral and DIP loan process
• Adequate protection process and consultant’s role
  – Assignment #1 - Prepare or verify property projections
  – Assignment #2 - Testify on value of lender’s collateral
  – Assignment #3 - Testify on issues of adequate protection
Mid-Term Chapter 11 Stage

- Negotiations regarding a global solution
- Cash Collateral and DIP loan maintenance
- Stay relief – valuation litigation and consultant’s role
  - Proof: Equity in property and ability to formulate a facially confirmable plan
  - Assignment #1 – valuation based on debtor’s use of property
  - Assignment #2 – EBITDA and debt service capacity for restructured debt and business operations
  - Assignment #3 – adequate protection analysis
Final Chapter 11 Stage

• Global consensual solution and restructured/new debt structure
  OR
• Contested plan confirmation
• Proof: plan feasibility
  – Assignment #1 – cash flow and debt service capacity for restructured debt
  – Assignment #2 – term and interest rate for secured creditor cram down
  – Assignment #3 – sale or refinance exits at end of plan term
• Full Cram Down Plan
  – New value exception elements and consultant role
  – Key assignment – value of restructured equity and equivalence to new value contribution
CONCLUSION

• Wait Ten Years Or Less
• Do It All Over Again