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# Kirk Homes outlines reorganization plan to bankruptcy judge

## JPMorgan Chase says proposal is too risky; judge urges negotiations

By Mary Ellen Podmolik

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The Kirk Corp. and JPMorgan Chase painted two very different pictures of the home builder's chances for survival during a second full day of testimony on Kirk's Chapter 11 reorganization plan.

Either the company's plan is based on very conservative projections that will enable it to succeed and eventually repay its \$52 million loan with Chase, or it is rife with risk and a court-ordered liquidation of the company is the best hope for Chase to receive some of its funding. It depends on whom you ask.

U.S. Bankruptcy Judge Carol Doyle posed such a question late Friday afternoon, asking Brian Grant, a director at consultant CM&D and a Chase witness, what would happen if Kirk's plan were not confirmed.

"Although it's an ugly number, what [Chase] is going to get in a [Chapter 7 liquidation] is for real," Grant testified. "Here, you have tremendous risk."

As the hearing concluded, the judge told Kirk and Chase it was "baffling" that there had been no negotiations between the home builder and bank since the onset of the case in May, and she urged them to consider it.

Late Thursday night, Kirk filed with the court a fourth amended reorganization plan. That plan would, among other things, speed payments to Chase and reduce the balloon payment to the bank in 2024 to \$15.6 million, from \$38.2 million. It also would not allow Kirk to use Chase's funds to acquire new land or start new developments without the bank's permission.

On Friday, Kirk President and Chief Executive John Carroll outlined the financial parts of the plan and how Chase's lien would be protected. He did not testify specifically, however, about the plan's feasibility, a point noted by Doyle.

"This is your only company witness?" Doyle asked Kirk attorney Forrest Lammiman. "How is it he's not going to address feasibility? Who are you going to have testify about that? I just don't understand how this witness can go off the stand without doing that."

Scott Peltz, managing director of RSM McGladrey Inc. who has served as Kirk's financial adviser, later testified that he believes the plan is feasible because it assumes a sluggish real estate market with depressed home prices that slowly recover. Kirk's plan calls for it to build 87 homes next year and increase that to almost 500 new homes in 2014.

Chase is not doing any new lending in real estate because "it's deemed too risky of a business," said James Phillip, a senior client executive at Chase.

If Kirk is liquidated, it may not bode well for its developments in Woodstock, Lakemoor and Bolingbrook. "Sites like these, that are 60 miles outside Chicago, they are always the first to go and the last to come back," Grant said.

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