



IT IS HEREBY ADJUDGED and DECREED that the below described is SO ORDERED.

Dated: February 13, 2020.

**TONY M. DAVIS
UNITED STATES BANKRUPTCY JUDGE**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE: § CASE NO. 17-11540-tmd
IO at TECH RIDGE, LP, §
Debtor. § CHAPTER 11

AMENDED RULING ON 11 U.S.C §363(f) ISSUE

On March 1, 2018, the Debtor moved for approval of the sale of its primary asset, an apartment complex, free and clear of liens [ECF No. 75]. A hearing on the motion was conducted on March 20, 2018. After the hearing, briefing on how the Court should apply 11 U.S.C. §363(f) to the potential sale was requested.

Section 363(f)(3) allows for the sale of property free and clear of interests in the property if “such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property.” Consistent with the *In re Terrance Gardens Park Partnership*¹ and *In re Boston Generating, LLC*² opinions, the Court interprets subsection (f)(3)

¹ *In re Terrance Gardens Partnership*, 96 B.R. 707, 712-13 (Bankr. W.D. Tex. 1989).

² *In re Boston Generating, LLC*, 440 B.R. 302, 332-33 (Bankr. S.D.N.Y. 2010).

to mean that the sales price “must be equal to or greater than the aggregate value of the liens asserted against it, not their amount.”³

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³ *In re Berker Industries Corp.*, 63 B.R. 474, 476 (Bankr. S.D.N.Y. 1986). *But see Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25 (9th Cir. BAP 2008) (interpreting “value” as used in subsection (f)(3) to refer to the total face amount of all the liens on the property); *In re Flour City Bagels, LLC*, 557 BR. 53, 88 (Bankr. W.D.N.Y. 2016) (same). Because the sale may go forward if any of the subsections of section 363(f) are met, the Court does not reach the subsection (f)(5) issue. 11 U.S.C. § 363(f); *GSL of Ill, LLC v. McCaffety Elec. Co. (In re Demany Int’l, LLC)*, 471 B.R. 510 (Bankr. S.D. Tex. 2012).