

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA – JACKSONVILLE DIVISION**

**CASE NO. 3:09-bk-07047-JAF
CHAPTER 11**

IN RE:

**Taylor Bean & Whitaker
Mortgage Corp.,**

Debtor.

**AMERICAN HOME'S MOTION FOR RELIEF
FROM THE AUTOMATIC STAY
(3926 NW Sunset Cir., Portland Oregon, 97229)**

COMES NOW, American Home Mortgage Servicing Inc., as Servicer for U.S. Bank National Association, as Trustee for TBW Mortgage-Backed Trust Series 2006-5, Mortgage Pass-Through Certificates, Series 2006-5, its Successors and/or Assigns, (“Secured Creditor”), by and through its undersigned counsel, moves for Relief from the Automatic Stay, and states as follows:

1. The Court has jurisdiction over this matter pursuant to 11 U.S.C. § 362, FRBP 4001(a) and the various other applicable provisions of the United States Bankruptcy Code, Federal Rules of Bankruptcy Procedure and the laws of the United States of America.
2. The Debtor listed above (the “Debtor”) filed a voluntary petition pursuant to Chapter 11 of the Bankruptcy Code on August 24, 2009.
3. On August 7, 2006, Kar Wu (“borrower”) executed and delivered a promissory note and mortgage securing payment of the note to Taylor Beane & Whitaker Mortgage Corp in the amount of \$487,200.00. See Exhibit “A” attached hereto.
4. Secured Creditor holds a security interest based on said note and mortgage for real property located at 3926 NW Sunset Cir., Portland Oregon, 97229,, by virtue of a Mortgage

dated August 7, 2006, which was recorded in the Public Records of Multnomah County, Oregon, on August 9, 2006, in ID #1471448,

5. The aforementioned Mortgage gives Secured Creditor a first mortgage position on said property, legally described as:

**Lot 61, Alder Ridge No. 2, Portland, Multnomah County, Oregon.
TOGETHER WITH an undivided interest in Tract K**

6. The Debtor holds a junior mortgage on the above reference property.

7. The Debtor is unable to adequately protect the interest of the Secured Creditor.

8. There is no equity in the property.

9. The principal balance is \$467,826.69. The contractual due date is April 1, 2010.

10. Secured Creditor is prohibited from instituting and/or completing a foreclosure action in the State Court because of the pendency of the Bankruptcy action and that, in the absence of the Court's Order allowing Secured Creditor to proceed with the Foreclosure action, the Secured Creditor's security will be significantly jeopardized.

11. In support of this Motion is an Affidavit of Attorney attached as Exhibit "B".

12. Secured Creditor maintains that cause exists pursuant to 11 U.S.C. § 362(d)(1) for the automatic stay to be lifted to allow Secured Creditor to pursue its *in rem* remedies.

13. Pursuant to 11 U.S.C. § 362(e), Secured Creditor hereby requests that in the event a hearing becomes necessary one be held within thirty (30) days.

14. Secured Creditor respectfully requests the Court waives the fourteen (14) day stay of the Order Granting Relief pursuant to Bankruptcy Rule 4001 (a)(3), so the Secured Creditor can pursue its *in rem* remedies without further delay.

WHEREFORE, Secured Creditor moves for this Honorable Court to enter an Order allowing it to initiate or continue a foreclosure which includes Debtor as necessary party Defendant, and for such other relief as the Court may deem just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered to the addressees on the attached mailing list by First Class U. S. Mail postage pre-paid and/or by Electronic Filing this 8th day of March, 2011 pursuant Local Rule 1007(d).

Respectfully Submitted,

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