

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

IN RE:

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP.

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

CHAPTER 11

Debtor.

MOTION FOR RELIEF FROM AUTOMATIC STAY

TO THE HONORABLE JUDGE OF SAID COURT:

SECURED CREDITOR, U.S. Bank National Association, as Trustee for TBW Mortgage-Backed Trust Series 2007-2, TBW Mortgage Pass-Through Certificates, Series 2007-2 (“MOVANT”), by and through its undersigned attorney, moves for relief from the Automatic Stay pursuant to 11 USC §362(d), and in support states as follows:

1. On August 24, 2009, the above Debtor, Taylor, Bean & Whitaker Mortgage Corp. filed a Voluntary Petition for Relief pursuant to Chapter 11 of the United States Bankruptcy Code.
2. Jurisdiction in this cause is granted to the Bankruptcy Court pursuant to 28 USC §1334 and 11 USC §362, and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Court generally.
3. On February 5, 2007 (Borrower) Michael R. Newton and Jennifer L. Newton, husband and wife as Joint Tenants with Right of Survivorship, executed and delivered a promissory note and mortgage securing payment of the note and mortgage in the amount of \$185,600.00. See attached Exhibit “A”.
4. The mortgage secures the following real property located in Surprise, AZ County, Florida, to wit:

Parcel No.1:

LOT 160, KINGSWOOD PARKE PARCEL 16, ACCORDING TO BOOK 319 OF MAPS, PAGE 24, RECORDS OF MARICOPA COUNTY, ARIZONA.

Parcel 2:

THE NORTHERLY 305 FEET OF HERITAGE OAK WAY LYING BETWEEN THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 160 AND THE SOUTHERLY EXTENSION OF THE WEST LINE OF LOT 160, KINGSWOOD PARKE PARCEL 16, ACCORDING TO BOOK 319 OF MAPS, PAGE 24, RECORDS OF

MARICOPA COUNTY, ARIZONA, AS ABANDONED BY RESOLUTION RECORDED IN DOCUMENT NO. 950327715.

A/K/A 15022 W HERITAGE OAK WAY, SURPRISE AZ 85374

5. The Debtor holds a 2nd mortgage secured by the above-described collateral.
6. The MOVANT respectfully requests that the Court grant it relief from the Automatic Stay in this cause pursuant to §362(d)(1) of the Bankruptcy Code, for cause, namely the lack of adequate protection to Movant for its interest in the above stated collateral. The value of the collateral is insufficient in and of itself to provide adequate protection which the Bankruptcy Code requires to be provided to the MOVANT.
7. In support of this Motion for Relief from Automatic Stay, under §362(d) of the Bankruptcy Code, MOVANT would show that it would be inequitable to permit the borrower to retain the collateral.
8. MOVANT is receiving no payments from borrower to protect Movant against the erosion of its collateral position and MOVANT is not otherwise protected.
9. If MOVANT is not permitted to enforce its security interest in the collateral or provided with adequate protection, it will suffer irreparable injury, loss and damage.
10. The value pursuant to the property card in Maricopa County attached is 94,000.00. See attached Exhibit "B".
11. The principal balance is \$183,803.65. The contractual due date is April 1, 2008.

WHEREFORE, PREMISES CONSIDERED, MOVANT prays that the Debtor(s) be cited to appear herein; that upon Final Hearing (if necessary) the Court enter an Order modifying the Automatic Stay under 11 USC §362(d), to permit MOVANT to take any and all steps necessary to exercise any and all rights it may have in the collateral described hereinabove, and to gain permission of said collateral, together with such further relief and this Honorable Court deems just and appropriate.

I HEREBY CERTIFY that a true and correct copy of the foregoing was provided via electronic and/or Regular U.S. Mail to the parties listed on the attached service list, this 11th Day of March, 2011.

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the MIDDLE District of FLORIDA, and I am in compliance with the additional qualifications to practice in this Court set forth in the Local Rules.

SERVICE LIST

Edward J. Peterson, III
Stichter, Riedel, Blain & Prosser, PA
110 East Madison Street, Suite 200
Tampa, FL 33602

Amy Denton Harris
Stichter, Riedel, Blain & Prosser, P.A.
110 E Madison Street, Suite 200
Tampa, FL 33602-4700

Russell M Blain
Stichter, Riedel, Blain & Prosser
110 East Madison Street, Suite 200
Tampa, FL 33602

Richard C. Prosser
Stichter, Riedel, Blain & Prosser PA
110 E. Madison Street, Suite 200
Tampa, FL 33602

Jeffrey W Kelley
Troutman Sanders LLP
600 Peachtree Street
Suite 5200
Atlanta, GA 30308-2216

James D Dantzler, Jr
Troutman Sanders LLP
600 Peachtree Street Northeast
Suite 5200
Atlanta, GA 30308

Elena L Escamilla TB
135 W Central Blvd, Suite 620
Orlando, FL 32801

Elena L Escamilla
United States Trustee
135 W Central Blvd Suite 620
Orlando, FL 32806

Paul S Singerman
Berger Singerman PA
200 South Biscayne Boulevard
Suite 1000
Miami, FL 33131

Arthur J Spector
Berger Singerman PA
2650 North Military Trail
Suite 240
Boca Raton, FL 33431-7391

James D Gassenheimer
Berger Singerman
200 South Biscayne Boulevard
Suite 1000
Miami, FL 33131

Taylor, Bean & Whitaker Mortgage Corp.
4901 Vineland Road, Ste 120
Orlando, FL 32811

United States Trustee - JAX 11, 11
135 W Central Blvd, Suite 620
Orlando, FL 32801

Office of the US Trustee Office of the US Trustee
51 S.W. 1st Ave., Suite 1204
Miami, FL 33130

Local Rule 1007-2 Parties In Interest