

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

IN RE:

Taylor, Bean & Whitaker Mortgage Corp.

Debtor(s).

Case No. 3:09-bk-07047-JAF  
Chapter 11

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND FOR ORDER  
DIRECTING EXECUTION AND RECORDATION OF ASSIGNMENT OF DEED OF  
TRUST AND WAIVER OF 30-DAY RULE PURSUANT TO 11 U.S.C. §362(e)  
RE: 5 Beedle Terrace, Methuen, MA 01844**

Comes now, U.S. Bank National Association, as Trustee for TBW Mortgage-Backed Trust Series 2006-5, Mortgage Pass-Through Certificates, Series 2006-5, as serviced by American Home Mortgage Servicing, Inc. ("Movant"), by and through the undersigned attorney and requests the Court for entry of an Order Granting Relief from the Automatic Stay and Directing Execution and Recordation of Assignment of Deed of Trust, and as grounds would show:

1. That Debtor filed a petition under Chapter 11 Bankruptcy Code on August 24, 2009.
2. That the Bankruptcy Court has jurisdiction over this proceeding pursuant to 11 U.S.C., § 362(d) and Bankruptcy Rule 4001(a).
3. That Movant a secured creditor by virtue of a Note and Deed of Trust on real property located at 5 Beedle Terrace, Methuen, MA 01844 and bearing the following legal description:

THE LAND IN METHUEN IN SAID COUNTY WITH THE BUILDINGS THEREON, BEING THE SOUTHWESTERLY HALF OF LOT NUMBERED FORTY-FOUR AND ALL OF LOT NUMBERED FORTY-THREE ON PLAN OF "OAKSIDE", SO-

CALLED, MADE BY FRED W. STOWERS, ENGINEER, AND RECORDED IN SAID REGISTRY OF DEEDS AS PLAN NO. 518, BOUNDED AND DESCRIBED AS FOLLOWS: NORTHEASTERLY ONE HUNDRED FEET BY THE REMAINDER OF LOT NO. 44 AS SHOWN ON SAID PLAN; SOUTHEASTERLY SEVENTY-FIVE FEET BY PART OF LOT NO. 50 AND LOT NO. 51 AS SHOWN ON SAID PLAN; SOUTHWESTERLY ONE HUNDRED FEET BY LOTS NO. 41 AND 42 AS SHOWN ON SAID PLAN AND NORTHWESTERLY SEVENTY-FIVE FEET BY BEEDLE TERRACE AS SHOWN ON SAID PLAN.

(the "Subject Property")

4. Copies of the above-referenced documents are attached hereto and made a part hereof, as Exhibit "A".
5. The aforementioned documents create a first mortgage position on the Subject Property.
6. The Debtor transferred physical possession of the Note to Movant and executed an Assignment of Mortgage (the "Assignment", a copy of which is attached hereto as Exhibit "B"), but did not record the Assignment. Movant requires the execution and recordation of the Assignment in order to commence and/or continue a foreclosure action in the State Court with regards to the subject property.
7. Movant is unable to commence and/or complete a foreclosure action in the State Court unless and until the Court enters its Order 1) authorizing and directing the Debtor to execute and record the Assignment, and 2) allowing the Movant to proceed with the Foreclosure action.
8. Debtor is not personally liable to Movant as a Debtor and Movant seeks only in rem relief to foreclose upon the Subject Property.
9. Movant hereby waives the thirty (30) day rule set forth in 11 U.S.C. §362(e) and consents to the Court setting a hearing on this Motion on or within thirty (30).

Wherefore, U.S. Bank National Association, as Trustee for TBW Mortgage-Backed Trust Series 2006-5, Mortgage Pass-Through Certificates, Series 2006-5, as serviced by American Home Mortgage Servicing, Inc. moves this court to enter an order granting Movant relief from the Automatic Stay or, in the alternative, to enter an Order determining that the Subject Property is not property of the estate and that the automatic stay in this case does not bar the Movant from foreclosing or continuing to foreclose its interest in the Subject Property. Furthermore, Movant moves the Court to enter an order authorizing and directing the Debtor to execute an Assignment of Deed of Mortgage in favor of Movant with and authorizing the recordation of such Assignment of Mortgage.

/s/ Kevin L. Hing  
Kevin L. Hing  
FL Bar # 0071976  
SHAPIRO, FISHMAN & GACHÉ, LLP  
Attorney for Secured Creditor  
4630 Woodland Corporate Blvd.  
Suite 100  
Tampa, FL 33614  
Telephone: (813) 880-8888  
Fax: (813) 880-8800  
E-mail: [khing@logs.com](mailto:khing@logs.com)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay and for Order Directing Execution and Recordation of Assignment of Deed of Trust and Waiver of 30-day Rule Pursuant to 11 U.S.C. § 362(e) and all Exhibits have been served by either electronic or standard first class mail on April 14, 2011 to:

Taylor, Bean & Whitaker Mortgage Corp., 315 Northeast 14th Street, Ocala, FL 34470  
Edward J. Peterson, III, 110 East Madison Street, Suite 200, Tampa, FL 33602;  
Amy Denton Harris, 110 East Madison Street, Suite 200, Tampa, FL 33602  
Russell M. Blain, 110 East Madison Street, Suite 200, Tampa, FL 33602  
Richard C. Prosser, 110 East Madison Street, Suite 200, Tampa, FL 33602  
United States Trustee, 135 West Central Blvd., Suite 620, Orlando, FL 32801  
Elena L. Escamilla, 135 West Central Boulevard, Suite 620, Orlando, FL 32801  
All other interested parties and creditors listed on the 1007(d) parties in interest list

/s/ Kevin L. Hing  
Kevin L. Hing  
FL Bar # 0071976  
SHAPIRO, FISHMAN & GACHÉ, LLP  
Attorney for Secured Creditor  
4630 Woodland Corporate Blvd.  
Suite 100  
Tampa, FL 33614  
Telephone: (813) 880-8888  
Fax: (813) 880-8800  
E-mail: [khing@logs.com](mailto:khing@logs.com)

10-212929