

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 WAIVER OF 30-DAY
RULE PURSUANT TO 11 U.S.C. §362(e)
RE: 255 Barstow Road, Canterbury, CT 06331**

Comes now, Ocwen Loan Servicing, LLC. (“Movant”), by and through the undersigned attorney and requests the Court for entry of an Order Granting Relief from the Automatic Stay, 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 255 Barstow Road, Canterbury, CT 06331 and bearing the following legal description:

A certain tract of land with all buildings thereon, situated on the easterly side of Barstow Road in the Town of Canterbury, County of Windham and state of Connecticut bounded and described as follows:

Beginnings at the northwesterly corner of the within described tract if land /on the easterly side of said road: thence S. 65* E. 213 feet, along said wall adjoining the Bennett Cemetery, so-called, to a corner of wall; thence S. 10* S. 100 feet along a wall; thence S. 20* W. 155 feet along said wall; thence running in a westerly direction a distance of approximately 250 feet along land previously conveyed by Mary Kolehmainen to VonRudenburg to the easterly side of Barstow Road to the point and place of beginning. Being the same premises described in a Warranty Deed-Survivorship from Mary Kolehmainen to Christopher E. Smythe and Linda A Smythe recorded August 26, 1977 in Volume 65 page 220 of the Canterbury Land Records.

As partial consideration for this conveyance, the grantees herein assume and agreed to pay all Town of Canterbury taxes due or herein after becoming due on the within described premises on the assessment list of October 1,1983.

Subject also to a drainage and flowage easement from Christopher E. Smythe and Linda A. Smythe to the Town of Canterbury, dated July 21, 1982, recorded in Volume 70, page 395 (the "Subject Property")

4. Copies of the above-referenced documents are attached hereto and made a part hereof, as Exhibit "A".
5. The Debtor transferred physical possession of the Note to Movant but did not execute and record an Assignment of Mortgage to Movant prior to the Petition Date.
6. Debtor is not personally liable to Movant.
7. In an abundance of caution, Movant seeks an order granting relief from the automatic stay or an order determining there is no stay in effect so that it may record an Assignment of Mortgage and take such other actions are necessary to commence and/or continue its foreclosure action in the State Court with regards to the Subject Property.

8. Movant therefore requests that the Court enter an Order lifting the automatic stay or determining that no stay is in effect that prohibits Movant from recording an Assignment of Mortgage and taking such other actions are necessary to commence and/or continue its foreclosure action in the State Court with regards to 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).
10. Wherefore, Ocwen Loan Servicing, LLC 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 recording an Assignment of Mortgage and taking such other actions are necessary to commence and/or continue its foreclosure action in the State Court with regards to the Subject Property.

/s/ Kevin L. Hing
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay 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 August 3, 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
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