

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA - JACKSONVILLE DIVISION

IN RE:

CASE NO.: 09-07047-JAF  
CHAPTER: 11

TAYLOR, BEAN & WHITAKER  
MORTGAGE CORP.

Debtors.

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MOTION FOR RELIEF FROM STAY

**NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING**

Pursuant to Local Rule 2002-4, the Court will consider this motion, objection, or other matter without further notice or hearing unless a party in interest files an objection within 15 days from the date this paper is entered on the docket. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court at 300 North Hogan Street, Suite 3-350, Jacksonville, FL 32202, and serve a copy on the movant's attorney, Maurice Hinton, Esq., Robertson Anschutz & Schneid, PL, 3010 N. Military Trail, Ste. 300, Boca Raton, FL 33431.

If you file and serve an appropriate objection within the time permitted, and the objection reveals factual or legal issues requiring a hearing, the Court may schedule a hearing and you will be notified. Otherwise, the Court will consider the motion and the responses on the papers without further notice or hearing. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

CREDITOR, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR TBW MORTGAGE-BACKED TRUST SERIES 2006-5, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-5, by and through undersigned counsel and shows the Court:

1. Movant is a secured creditor of the above styled Debtor and brings this Motion pursuant to the provisions of Section 362 of the Bankruptcy Code.
2. Victor Barrera owns certain real property in Clark County, Nevada, described as:

**AN UNDIVIDED 1/20TH INTEREST AS TENANT-IN-COMMON IN AND TO PHASE 2 OF PLEASANT HILLS, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 37 OF PLAT, PAGE 66, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA, AND AMENDED BY CERTIFICATES OF AMENDMENT RECORDED DECEMBER 17, 1987 IN BOOK 871217 AS INSTRUMENT NO. 00437, OFFICIAL RECORDS, AND RECORDED AUGUST 3, 1988 IN BOOK 880803 AS INSTRUMENT NO. 00602, OFFICIAL RECORDS.**

**A/K/A: 840 North Sloan Lane 105, Las Vegas, NV 89110**

3. Victor Barrera owns the above real property subject to a promissory note and mortgage securing same, dated August 15, 2006, which note and mortgage are held by Movant. Copies of the note and mortgage are attached hereto as Exhibit "A."

4. Victor Barrera owes the Movant, pursuant to the aforementioned promissory note and mortgage, the principal amount of \$116,349.06 plus monthly late charges, escrow advances, per diem interest and attorneys' fees and costs. See attached Affidavit attached hereto as Exhibit B.

5. Victor Barrera has not made a payment on the subject mortgage since the installment due May 01, 2009, and therefore the interest of Movant is not being adequately protected.

6. The subject real property is not necessary to an effective reorganization by Victor Barrera.

7. Based on the foregoing, "cause" exists within the meaning of the U.S. Bankruptcy Code §362(d)(1) for granting Movant relief from automatic stay to proceed *in rem* in State Court to enforce its lien rights pursuant to the Note and Mortgage.

8. Accordingly, Movant will suffer irreparable injury if it is not granted relief from automatic stay to proceed against the collateral.

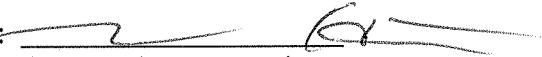
9. Furthermore, Movant has retained the undersigned law firm and is obligated to pay the firm reasonable attorneys' fees and costs for the prosecution of this motion in the instant bankruptcy case.

10. Movant respectfully requests the Court to allow relief from stay in order to permit the foreclosure action in Circuit Court as referred to in Paragraph 3 hereof to be commenced and completed.

WHEREFORE, MOVANT, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR TBW MORTGAGE-BACKED TRUST SERIES 2006-5, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-5, moves this Court to enter its Order granting relief from stay and/or granting such other relief as to the Court may seem just and proper.

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was furnished by First Class U.S. Mail to the attached mailing list; this 9<sup>th</sup> day of August, 2011.

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