

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.

---

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. Dung Van Do owns certain real property in Norfolk County, Massachusetts, described as:

**THE LAND WITH THE BUILDINGS THEREON, SITUATED IN  
QUINCY, NORFOLK COUNTY, MASSACHUSETTS, BEING**

**NUMBERED 64 MYOPIA RAOD IN THE PRESENT NUMBERING AND BEING SHOWN AS "PART OF LOT E" ON PLAN ENTITLED "SUBDIVISION OF LOT E, QUINCY, MASS." DATED APRIL 8, 1957, BY L.W. DECELLE SURVEYORS, INC., RECORDED WITH NORFOLK COUNTY REGISTRY OF DEEDS AS PLAN NO 493 OF 1957, BOOK 3556, PAGE 579, AND ACCORDING TO SAID BOUNDED AND DESCRIBED AS FOLLOWS:**

**NORTHLERLY: BY MOYIA ROAD, EIGHTY-SIX AND 00/100 (86.00) FEET;**

**EASTERLY: BY LOT B ON SAID PLAN, EIGHTY-ONE AND 63/100 (81.63) FEET;**

**SOUTHERLY: BY LOT G ON SAID PLAN, ONE HUNDRED SIX (106) FEET, MOR OR LESS, AND**

**WESTERLY: BY LAND NOR OR LATE OF KELLEY, EIGHTY AND 09/10 (80.09) FEET.**

**CONTAINING 8,066 SQUARE FEET OF LAND, MORE OR LESS, ACCORDING TO SAID PLAN.**

**SAID PREMISES ARE CONVEYED SUBJECT TO AND WIITH THE BENEFITS OF EASEMENTS, RESTRICTIONS, AGREEMENTS AND RESERVATIONS OF RECORDS, IF ANY THERE BE INsofar AS THE SAME MAY BE IN FORCE AND APPLICABLE.**

**EXCEPTING FROM THE ABOVE PARCEL, THE LAND CONVEYED BY DEED OF MICHELE O. PALUMBO AND GENEVIEVIE PALUMBO DATED APRIL 22, 1957 AND RECORDED IN BOOK 3556 PAGE 579 AND FURTHER DESCRIBED AND SHOWN AS LOT "F" AND LOT "G" ON PLAN DATED APRIL 8, 1957 AND RECORDED IN BOOK 3556 PAGE 579, NORFOLK REGISTRY OF DEEDS.**

**THE MORTGAGOR(S) EXPRESSLY RESERVE(S) MY/OUR RIGHT OF HOMESTEAD AND DO NOT WISH TO TERMINATE MY/ OUR HOMESTEAD BY GRANTING THE WITHIN CONVEYANCE NOTWITHSTANDING MY/OUR WAIVER OF SUCH HOMESTEAD IN PARAGRAPH 24 OF THE WITHIN MORTGAGE.**

**A/K/A: 64 Myopia Road, Quincy, MA 02169**

3. Dung Van Do owns the above real property subject to a promissory note and mortgage securing same, dated August 11, 2006, which note and mortgage are held by Movant.

Copies of the note and mortgage are attached hereto as Exhibit "A."

4. Dung Van Do owes the Movant, pursuant to the aforementioned promissory note and mortgage, the principal amount of \$265, 169.21 plus monthly late charges, escrow advances, per diem interest and attorneys' fees and costs. See attached Affidavit attached hereto as Exhibit B.

5. Dung Van Do has not made a payment on the subject mortgage since the installment due November 01, 2010, and therefore the interest of Movant is not being adequately protected.

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

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.

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 day of August, 2011.

Robertson, Anschutz & Schneid, P.L.  
Attorney for Plaintiff  
3010 N. Military Trail, Suite 300  
Boca Raton, FL 33431  
Telephone: 561-241-6901  
Fax: 561-241-9181

By:   
Maurice D. Hinton, Esquire  
FBN: 26215

**MAILING LIST**

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

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

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

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

James D Dantzler, Jr , Esq.  
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

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

Alisa Paige Mason  
Berger Singerman PA  
200 South Biscayne Boulevard  
Miami, FL 33131

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