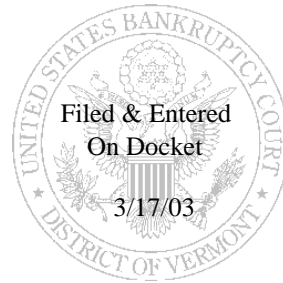


UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT



In re:

**MICHELLE LARAWAY and
JOSHUA LARAWAY,
Debtors.**

**Chapter 13 Case
02-11520**

ORDER
OVERRULING OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

WHEREAS creditor Town of Shoreham (“the Town”) is a secured creditor in this case by virtue of the delinquent property taxes which the Debtor owes to the Town and which, by operation of law, are secured by the Debtors’ real property; and

WHEREAS the Town filed a “Response to the First Amended Chapter 13 Plan” (doc. #16) that the Court construed as an objection to the First Amended Chapter 13 Plan (“the Plan”); and

WHEREAS the Town set forth the basis of its objection to the plan at the December 19, 2002 confirmation hearing, arguing that the plan should be denied confirmation because it failed to provide the Town with 12% interest on the delinquent taxes; and

WHEREAS, at the conclusion of the hearing, the Court directed the Town and the Debtors to file memoranda of law supporting their respective positions regarding the amount of interest to be paid on the delinquent taxes, and the parties timely filed memoranda of law, see doc. #17 and doc. #21, respectively.

UPON CONSIDERATION of all papers submitted and the relevant case law, the Court is unpersuaded by the Town’s arguments. Rather,

THE COURT FINDS the Town is entitled to be paid interest at a rate computed according to the principles set forth in In re Valenti, 105 F.3d 55 (2nd Cir. 1997). In Valenti, the Second Circuit instructed that “the market rate of interest under 1325(a)(5)(B)(ii) should be fixed at the rate of a United States Treasury instrument with a maturity equivalent to the repayment schedule under the debtor’s reorganization plan.” Id. at 64. It further instructs that the interest rate should include a one-to-three percent risk factor. See id.

THE COURT FURTHER FINDS that the Town has failed to demonstrate that the risk factor proposed by the Debtors is unreasonable or unfair, and that a 2% risk factor is not unreasonable or unfair in this case.


THE COURT FURTHER FINDS that on the date of the Debtors' filing the rate of a United States Treasury instrument with a five (5) year maturity was fixed at 3%.

THE COURT FURTHER FINDS that since the plan provides that the Town will receive 5% interest on its delinquent taxes (i.e., its secured claim), this rate comports with the Valenti requirement that the interest rate be equal to the Treasury bill rate plus a one-to-three percent risk factor Accordingly,

IT IS HEREBY ORDERED that the Town's objections to Debtors' First Amended Plan is OVERRULED and the Debtors' First Amended Plan is CONFIRMED in all respects.

SO ORDERED.

March 15, 2003.



Colleen A. Brown.
United States Bankruptcy Judge