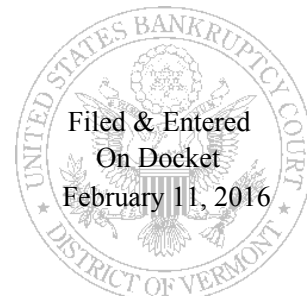


UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In Re: 15-10395-cab
August A. Button and Thomas P.
Button
Debtor

) Chapter 7 Case
) # 15-10395
)
)
)
)



**ORDER GRANTING MOTION FOR RELIEF
AND SUSTAINING TRUSTEE'S OBJECTION TO WAIVER OF RULE 4001 STAY**

This matter came on before the Court on the Motion of U.S. Bank National Association, as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage Asset-Backed Pass-Through Certificates, Series 2005-KS12 (hereafter, the "Movant"). The motion was served pursuant to the Order and Notice and Opportunity procedures established by VT LBR 2002(e) and VT LBR 4001(c).

IT IS HEREBY ORDERED that the automatic stay instituted upon filing of the within bankruptcy is hereby modified pursuant to 11 U.S.C. § 362(a) as to the Movant's secured lien interest in real property known as **1042 Stevens Road, Barton, VT**, to the extent that Movant and its successors and assigns are free to pursue applicable non-bankruptcy law with respect to such lien interests; and

IT IS FURTHER ORDERED although Debtor's Statement of Intentions indicates the subject real property is to be surrendered, the 14-day stay of Fed.R.Bankr.P. 4001(a)(3) is still applicable. A Debtor's intent to surrender the collateral, standing alone, does not constitute cause for such a waiver, even where a Debtor does not object to that relief. Without an affirmative consent from the Debtor, or a showing by the movant of cause to justify the granting of a waiver, the Rule 4001 stay applies. There is neither affirmative consent or a showing of cause in the record here. The Trustee filed an objection to the movant's request for a waiver of the Rule 4001 stay (doc. # 26). That objection accurately observes the movant's failure to show cause for a waiver and correctly recites the law on this point. Accordingly, the movant's request for a waiver of the Rule 4001(a)(3) stay is DENIED and the Trustee's objection to a waiver of the stay is SUSTAINED.

IT IS FURTHER ORDERED that Movant shall deliver any surplus money to the case trustee promptly after the consummation of a foreclosure sale of the subject real property and, if there is surplus money, serve the case trustee with an accounting of the sale promptly after its consummation.

Dated: _ February 11, 2016 .

BY THE COURT



Honorable Colleen A. Brown