



2. [14-31853](#)-B-13 PETER ZUBENKO  
AID-1 Scott J. Sagaria

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
1-13-15 [[15](#)]

HEBERT U.S. REAL ESTATE  
COMPANY VS.

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

**Tentative Ruling:** Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling. If there is opposition offered at the hearing, the court may reconsider this tentative ruling.

The motion will be granted.

Hebert U.S. Real Estate Company ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 22 Seacrest Court, Sacramento, California (the "Property"). Movant has provided the Declaration of Anthony I. Danielson to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

From the pleadings, the court concludes that Movant is requesting relief from stay to allow it to record a Trustee's Deed Upon Sale, and to allow it to proceed with an action for possession of the Property.

Movant acquired title to the Property at a foreclosure sale held on November 24, 2014. The Trustee's Deed Upon Sale was executed on November 26, 2014. The Debtor filed a voluntary Chapter 13 petition on December 5, 2014, before the Trustee's Deed could be recorded. Thus, while equitable title is vested in Movant the estate holds only bare legal title to the foreclosed Property.

Based upon the evidence submitted, the court is convinced Movant's position has merit and that bare legal title to the Property is of no value to the estate. Accordingly, there is cause for relief from the stay to allow Movant as the holder of equitable title to reunite its equitable title with legal title to the Property. 11 U.S.C. § 362(d)(1). There also is no equity in the Property for either the Debtor or the Estate and there is no showing that the Property is necessary for an effective reorganization of the debtor. 11 U.S.C. § 362(d)(2).

Movant has not alleged adequate facts and presented sufficient evidence to support the court waving the 14-day stay of enforcement required under Rule 4001(a)(3).

The automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Hebert U.S. Real Estate Company and its agents, representatives and successors, to exercise and enforce all nonbankruptcy rights and remedies including, but not limited to, recording the Trustee's Deed Upon Sale and to obtain possession of the property commonly known as 22 Seacrest Court, Sacramento, California.