

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis  
Chief Bankruptcy Judge  
Sacramento, California

January 28, 2016 at 9:30 a.m.

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1.	<a href="#"><u>13-31441</u></a> -E-13	DOREEN GASTELUM	MOTION TO APPROVE STIPULATION
	MBK-1	Peter Macaluso	FOR RELIEF FROM THE AUTOMATIC
			STAY
			12-17-15 [ <a href="#"><u>66</u></a> ]

**Final Ruling: No appearance at the January 28, 2016 hearing is required.**

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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor's Attorney on December 24, 2015. By the court's calculation, 35 days' notice was provided. 28 days' notice is required.

The Motion for Relief From the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

<b>The Motion for Relief From the Automatic Stay is granted.</b>
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City of Chicago ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 1517 W. 61st Street, Chicago, Illinois (the "Property"). The Movant states that this is a stipulated Motion between the Movant and Doreen Gastelum ("Debtor"). The basis for the relief sought is the Movant's demolition lien that the Movant seeks to record and to file a complaint in Cook County Circuit Court to foreclose on the demolition lien.

Attached to the Motion is the Stipulation between the Debtor and Movant. FN.1. The Stipulation states that the following has been stipulated:

1. The Movant shall be granted relief from the automatic stay in

January 28, 2016 at 9:30 a.m.

place in Case No. 13-31441 pursuant to 11 U.S.C. § 362;

2. The Movant is permitted to re-record its demolition lien against the Property;
3. The Movant is permitted to proceed to foreclose on the foregoing lien up to the point of completion, including the issuance of a judicial deed and order for possession to the Movant or other successful bidder at the judicial sale.
4. The 14-day stay applied to orders related to relief from the automatic stay pursuant to Fed. R. Bankr. P. 4001(a)(3) shall be waived.

Dckt. 66, Exhibit A. The Stipulation is signed by both the Movant's counsel and Debtor's counsel.

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FN.1. The court notes that the Movant improperly attached the exhibits to the Motion, rather than filing the exhibits separate from the Motion as required by Local Bankr. R. 9014-1. However, given the nature of the Motion and the totality of the circumstances, the court waives this defect for purposes of the instant Motion.  
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The Stipulation indicates that the Movant's foreclosure on the Property will resolve all issues raised by the Debtor in her request for an Order to Show Cause - Motion for Contempt in Case No. 07-27123-E3L. Furthermore, the Stipulation indicates that the Circuit Court of Cook County, Illinois, entered judgment transferring all rights, title and interest of Debtor in the Property to County of Cook dba Cook County Land Bank Authority, the third party designated by the City. On June 30, 2015, a Judge's Deed was recorded in Cook County, Illinois, conveying to County of Cook dba Cook County Land Bank Authority the Property.

The Stipulation states reasonable terms, consistent with the outstanding dispute and the resolution which has been discussed with the court at prior hearings.

The Motion is granted, with relief from the stay as agreed by the Parties.

In addition, given the stipulation, Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the 14-day stay of enforcement required under Rule 4001(a)(3), and this part of the requested relief is granted.

No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief From the Automatic Stay filed by City of Chicago (the "Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and

good cause appearing,

**IT IS ORDERED** that the automatic stay provisions of 11 U.S.C. § 362(a) are immediately vacated to allow City of Chicago, its agents, representatives, and successors, and trustee to:

- A. To re-record or record the City of Chicago's demolition lien against the real property commonly known as.
- B. To foreclose on the above described demolition lien, including, without limitation, the issuance of a judicial deed and order for possession to the City of Chicago or other successful bidder at the judicial sale of the 1517 W. 61st Street, Chicago, Illinois Property.

**IT IS FURTHER ORDERED** that the fourteen (14) day stay of enforcement provided in Rule 4001(a)(3), Federal Rules of Bankruptcy Procedure, is waived for cause shown by Movant.

No other or additional relief is granted.

2. [07-27123](#)-E-13 DOREEN GASTELUM  
PGM-6

CONTINUED MOTION TO MODIFY  
ORDER FOR EVIDENTIARY HEARING  
6-12-15 [[186](#)]

**Final Ruling:** No appearance at the January 28, 2016 Status Conference is required.

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<p><b>The Status Conference is continued to 2:30 p.m. on April 20, 2016.</b></p>
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In the related Chapter 13 case, No. 13-31441 filed by Debtor, the City of Chicago and Debtor, the court has granted a stipulated motion for relief from the automatic stay to allow the City of Chicago to exercise its demolition lien against the real property commonly known as 1517 W. 61st Street, Chicago, Illinois. Debtor reports that this is part of a larger anticipated settlement to resolve this dispute. The court has observed the Parties cooperating and coordinating their efforts to allow the City to recover its expenses by exercising its lien against the property.

The court continues the Status Conference as requested by Debtor. If either or both Parties believe that an earlier Status Conference date is necessary or beneficial, an ex parte motion (providing the court with at least one suggested date) may be filed, after the Parties meet and confer concerning suggested dates, with the movant uploading a proposed order with the date and time left blank for the court to complete.