

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>IN RE:</b>	)	
	)	<b>Case No. 08-02634</b>
<b>ADAM STERN HOMES, INC.,</b>	)	<b>Chapter 7</b>
	)	<b>Judge Paine</b>
<b>Debtor.</b>	)	

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

Pursuant to 11 U.S.C. § 362, The Bank of Nashville (“TBON”), a creditor and party-in-interest in this Chapter 7 case, moves the Court for relief from the automatic stay. For the relief sought herein, TBON would show as follows:

**JURISDICTION AND PARTIES**

1. Jurisdiction to adjudicate this matter is vested in this Court pursuant to 28 U.S.C. § 1334, and this contested matter is properly before this Court pursuant to 28 U.S.C. § 157(a).
2. This matter is a core proceeding as designated by 28 U.S.C. § 157(b)(2)(G).
3. Adam Stern Homes, Inc. (the “Debtor”) filed a petition for relief under Chapter 7 of the Bankruptcy Code on March 28, 2008.
4. TBON is a secured creditor of the Debtor.

**FACTUAL ALLEGATIONS**

**1004 Vaughn Crest Drive, Franklin**

5. Prior to the filing of the petition, on or about March 23, 2006, the Debtor executed that certain Promissory Note in the principal amount of \$1,700,000.00 (the “March 2006 Note”) in favor of TBON.
6. As evidenced by that certain Construction Deed of Trust, Assignment of Rents and Security Agreement dated March 23, 2006 (the “2006 Deed of Trust”), the Debtor’s

obligations under the March 2006 Note are secured by certain real property owned by the Debtor, located in Williamson County, Tennessee, being Lot No. 10201 on the Plan of Laurelbrooke, Section 10-B of record in Plat Book 32, page 7, Register's Office for Williamson County, and more particularly described in the 2006 Deed of Trust ("1004 Vaughn Crest Drive, Franklin"). A copy of the 2006 Deed of Trust is attached hereto as Exhibit A.

7. TBON's security interest in the 1004 Vaughn Crest Drive, Franklin, is properly perfected, being of record in the Register's Office of Williamson County, Tennessee, Book 3862, Page 808-823.

8. Also, prior to the filing of the petition, on or about August 15, 2007, the Debtor executed a second Promissory Note in the principal amount of \$150,000.00 (the "August 2007 Note").

9. The Debtor's obligations to TBON under the August 2007 Note, pursuant to the terms of the 2006 Deed of Trust, are also secured by 1004 Vaughn Crest Drive, Franklin.

#### **Thompson's Station Properties**

10. Also, prior to the filing of the petition, on or about June 5, 2007, the Debtor executed a Promissory Note in the principal amount of \$799,600.00 (the "June 2007 Note").

11. As evidenced by that certain Construction Deed of Trust, Assignment of Rents and Security Agreement dated June 5, 2007 (the "2007 Deed of Trust"), the Debtor's obligations under the June 2007 Note are secured by certain real property owned by the Debtor, located in Thompson's Station, Williamson County, Tennessee, being Lot No. 166 on the Plan of The Fields of Canterbury, Section 1A, of record in Plat Book P46, page 80, Register's Office for Williamson County, ("2517 Westerham Way, Thompson's Station") and Lots No. 107 and 111 on the Plan of The Fields of Canterbury, Section 1B, of record in Plat Book P46, page 81,

Register's Office for Williamson County ("2005 Callaway Park Place and 1008 Becket Circle, Thompson's Station"), which real property is more particularly described in the 2007 Deed of Trust. A copy of the 2007 Deed of Trust is attached hereto as Exhibit B.

12. TBON's security interest in 2517 Westerham Way, 2005 Callaway Park Place and 1008 Becket Circle, Thompson's Station, is properly perfected, being of record in the Register's Office of Williamson County, Tennessee, Book 4287, Page 81-97.

### **RELIEF REQUESTED AND REASONS THEREFORE**

13. TBON respectfully requests that this Court enter an order, pursuant to 11 U.S.C. § 362(d), modifying the automatic stay to permit TBON to foreclose on the 1004 Vaughn Crest Drive, Franklin and the 2517 Westerham Way, 2005 Callaway Park Place and 1008 Becket Circle, Thompson's Station properties (collectively, the "Real Property") and to otherwise exercise its rights under the 2006 Deed of Trust and the 2007 Deed of Trust.

14. As a result of the collective obligations, liabilities and indebtedness of the Debtor to TBON, the Debtor has no equity in the Real Property.

15. The Real Property is not necessary for an effective reorganization, no reorganization being contemplated in a Chapter 7.

16. TBON has not received adequate protection of its interest in the Real Property.

17. Accordingly, pursuant to 11 U.S.C. § 362(d), TBON is entitled to relief from the automatic stay to foreclose on the Real Property in accordance with the terms of the 2006 Deed of Trust and the 2007 Deed of Trust referenced above and applicable state law.

For the foregoing reasons, TBON requests entry of an order modifying the automatic stay to permit TBON to foreclose on the Real Property in accordance with the terms of the 2006 Deed

of Trust and the 2007 Deed of Trust and applicable state law. In addition, TBON requests such further relief as is appropriate and necessary.

Respectfully submitted

/s/ W. Neal McBrayer

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*Attorneys for The Bank of Nashville*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay has been served via first class mail, postage prepaid, on the 3<sup>rd</sup> day of April, 2008, upon the following:

Adam Stern Homes, Inc.  
1403 Willow Brook Circle  
Franklin, TN 37067

and

P.O. Box 3301  
Brentwood, TN 37027

Robert H. Waldschmidt, Chapter 7 Trustee  
300 James Robertson Parkway  
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Nashville, TN 37201-1107

Joseph P. Rusnak, Esq.  
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/s/ W. Neal McBrayer  
W. Neal McBrayer