

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - Detroit

IN THE MATTER OF:

CITY OF DETROIT, MICHIGAN

Debtor.

Chapter 9

Case No. 13-53846

Hon. Steven W. Rhodes

**MICHIGAN PROPERTY TAX RELIEF, LLC'S MOTION FOR
RELIEF FROM THE AUTOMATIC STAY AND FOR
WAIVER OF PROVISIONS OF FED.R.BANKR.P. 4001 (a) (3)**

Michigan Property Tax Relief, LLC, by and through its counsel, OSIPOV BIGELMAN, P.C., and pursuant to 11 U.S.C. § 362(d) as made applicable by 11 U.S.C. § 922(b), L.B.R. 4001-1(E.D.M.), and L.B.R. 9014-1 (E.D.M.), moves for relief from the Automatic Stay to file and pursue property tax appeals against the City of Detroit and for waiver of the provisions of Fed. R. Bankr. P. 4001 (a)(3). See attached **Exhibit A**. In support of this Motion, Creditor states as follows:

1. This Court has jurisdiction over the proceeding pursuant to 28 U.S.C. §§ 157 and 1334.
2. On July 18, 2013, Debtor filed a petition for relief under Chapter 9 of the Bankruptcy Code.
3. Pursuant to 11 U.S.C. § 922(a), the automatic stay of 11 U.S.C. § 362(a) became applicable at the time that the bankruptcy petition was filed.
4. Movant, Michigan Property Tax Relief, LLC represents dozens of clients seeking to file property tax appeals against the City of Detroit. These clients have several hundred properties and typically are seeking reductions in assessments of anywhere between a few hundred to a couple thousand dollars in their tax bills.
5. The deadline for filing a property tax appeal is July 31, 2013. The Michigan Tax Tribunal

considers the timely filing of appeals to be jurisdictional and has previously taken the position that it has no jurisdiction to consider late filed appeals. *See MCL 205.735a(6)*.

6. While Movant believes that 11 U.S.C. § 108(c) should extend the deadline to file these appeals, Movant has been informally advised that the chief clerk of the Michigan Tax Tribunal disagrees and believes that 11 U.S.C. § 108(c) is inapplicable. Movant believes that the Michigan Tax Tribunal may be under the mistaken belief that 11 U.S.C. § 362(b)(9)(D) somehow exempts the process from the automatic stay even though the exception is not made applicable to Chapter 9 proceedings by 11 U.S.C. § 922.
7. Movant's clients desire to simply adjudicate the amount of their tax liability. They are not seeking to file any collection actions or pursue any tax refunds at this time.
8. Given the lack of clarity regarding the applicable rights, Movant is seeking that this Court issue an order granting Movant relief from stay to file and litigate property tax appeals against the City of Detroit. Movant simply wants the amount of the tax liability to be liquidated and will not take any action to collect on any pre-petition debts.
9. Movant's counsel attempted to obtain concurrence from the City of Detroit, by and through its counsel, Heather Lennox. However, concurrence could not be given at this time.
10. Pursuant to 11 U.S.C. § 922(b), a party may seek relief from stay under 11 U.S.C. § 362(d).
11. 11 U.S.C. § 362(d)(1) permits this Court to grant relief from stay for cause.
12. Movant believes that relief from stay should be given in this case to provide clarity to the parties and to allow the property tax appeal process to go forward without incident.

WHEREFORE, Movant respectfully requests that this Court grant Michigan Property Tax Relief, LLC, and its clients relief from the automatic stay and waive the provisions of Fed. R. Bankr. P. 4001(a)(3), and grant all other relief as this Court deems just.

Respectfully submitted,

OSIPOV BIGELMAN, P.C.

Dated: July 29, 2013

/s/ William C. Blasses

WILLIAM C. BLASSES (P73945)

YULIY OSIPOV (P59486)

Attorneys for Michigan Property Tax Relief, LLC

20700 Civic Center Drive, Suite 310

Southfield, MI 48076

(248) 663-1800

wcb@osbig.com, yo@osbig.com

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**ORDER GRANTING MICHIGAN PROPERTY TAX RELIEF, LLC'S MOTION FOR
RELIEF FROM THE AUTOMATIC STAY AND FOR
WAIVER OF PROVISIONS OF FED.R.BANKR.P. 4001 (a) (3)**

Upon consideration of the Michigan Property Tax Relief, LLC's Motion for Relief from the Automatic Stay and for Waiver of Provisions of Fed. R. Bankr. P. 4001 (a)(3) (the "Motion"), and the Court being duly advised of the premises;

IT IS ORDERED that:

- 1) The Motion is GRANTED.
- 2) Relief from that automatic stay applicable under 11 U.S.C. § 922(a) and 11 U.S.C. § 362(a) is GRANTED for the limited purpose of allowing the Movant and its clients to take all steps necessary to file and litigate property tax appeals against the City of Detroit. Movant and its clients may take all steps necessary to determine and liquidate the amounts of their property tax liabilities. However, Movant and its clients shall not take any action to collect any refund of any pre-petition property tax overpayment absent further order of this Court.
- 3) This Court finds that Rule 4001 (a) (3) of the Federal Rules of Bankruptcy Procedure is waived and Michigan Property Tax Relief, LLC, and its clients may immediately file and commence property tax appeals against the City of Detroit.

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - Detroit

IN THE MATTER OF:

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**NOTICE OF MICHIGAN PROPERTY TAX RELIEF, LLC'S MOTION FOR
RELIEF FROM THE AUTOMATIC STAY AND FOR
WAIVER OF PROVISIONS OF FED.R.BANKR.P. 4001 (a) (3)**

Michigan Property Tax Relief, LLC, has filed papers with the court to terminate the Automatic Stay and to waive the provisions of Fed. R. Bankr. P. 4001(a)(3).

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the Court to grant relief requested in the **motion**, or if you want the Court to consider your views on the matter, within fourteen (14) days from the date of service of this notice, you or your attorney must:

1. **File with the Court** a written response or an answer, explaining your position at:

United States Bankruptcy Court
211 West Fort Street, Suite 1700
Detroit, Michigan 48226

If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it within the above-referenced time period.

2. **Mail a copy to:**

William C. Blasses
Attorney for Movant
Osipov Bigelman, P.C.
20700 Civic Center Drive, Suite 310
Southfield, MI 48076

3. **If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.**

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought and may enter an order granting that relief.

Respectfully submitted,

OSIPOV BIGELMAN, P.C.

Dated: July 29, 2013

/s/ William C. Blasses

WILLIAM C. BLASSES (P73945)

YULIY OSIPOV (P59486)

Attorneys for Michigan Property Tax Relief, LLC

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Southfield, MI 48076

(248) 663-1800

wcb@osbig.com, yo@osbig.com