

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

2009 JUN -4 P 12:57

In re:

Administrative Order Adopting New
Guideline 12 Regarding Procedure for Lien
Strip of a Junior Mortgage in Chapter 13

U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN-DETROIT
No. 09-09

It is hereby ordered that the Courts adopts the following new Guideline 12:

Guideline 12 Procedure for Lien Strip of a Junior Mortgage in Chapter 13

This guideline applies to any Chapter 13 case in which a debtor proposes to strip a junior lien on real property under §§ 1322(b)(2) and 506(a) of the Bankruptcy Code. If the lien strip is agreed upon by the debtor and the lien holder, the debtor and the lien holder may file a stipulation in the bankruptcy case and submit a proposed order accomplishing the lien strip. If the debtor does not have the agreement of the lien holder to the lien strip, the debtor must file an adversary proceeding contemporaneous with the debtor's Chapter 13 plan. In such case, the plan must contain a provision informing the lien holder that an adversary proceeding to strip the lien has been filed under §§ 1322(b)(2) and 506(a) of the Bankruptcy Code. A Chapter 13 debtor filing such adversary proceeding is exempt from payment of the adversary proceeding filing fee. Any lien strip default judgment entered in such adversary proceeding must include the following language:

IT IS ORDERED that upon completion of the debtor's Chapter 13 plan and the entry of a Chapter 13 discharge order in bankruptcy case number _____, the mortgage ("Mortgage") dated _____, covering the following described property ("Property") situated in the City of _____, County of _____, State of _____, and further described as follows:


[legal description]

recorded in the _____ County Register of Deeds on _____, Liber _____, Page _____, will be stripped from the Property and discharged.

IT IS FURTHER ORDERED that upon completion of the debtor's Chapter 13 plan and the entry of a Chapter 13 discharge order in bankruptcy case number _____, the debtor may record a certified copy of this order, with a copy of the debtor's Chapter 13 discharge order attached, with the _____ County Register of Deeds, which will constitute and effectuate the discharge of the Mortgage.

IT IS FURTHER ORDERED that if the debtor fails to complete the debtor's Chapter 13 plan and obtain a Chapter 13 discharge order in bankruptcy case number _____, this order does not affect the validity or enforceability of the Mortgage and may not be used in any subsequent bankruptcy case of the debtor either to compel

the holder of the Mortgage to execute a discharge of the Mortgage, or to otherwise act as a discharge of the Mortgage.


PHILLIP J. SHEFFERLY, Chief Judge
United States Bankruptcy Court

Dated: June 4, 2009