

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

In Re:

**PATRICIA E. DAWES,**

Debtor.

**Case No. BG 15-00091**

Chapter 7; Filed: 1/9/15

Honorable James W. Boyd

**ORDER GRANTING EX PARTE MOTION TO SHORTEN NOTICE  
UNDER FRBP 9006**

PRESENT: Honorable James W. Boyd  
U.S. Bankruptcy Judge

Chapter 7 Trustee Jeff A. Moyer having filed an Ex Parte Motion to Shorten Notice Under FRBP 9006 of a separately filed Motion to Approve Sale of Real Property; the Court having reviewed the Motion and finding that time is of the essence and cause exists for shortening notice; and the Court being otherwise duly advised in the premises;

**IT IS HEREBY ORDERED:**

1. The Trustee is authorized to shorten notice of his separate Motion to Approve Sale of Real Property.
2. The hearing on the Trustee's Motion to Approve Sale of Real Property shall be conducted on June 16, 2015 at 1:30 p.m. at the U.S. Bankruptcy Court, One Division Avenue North, 3<sup>rd</sup> Floor, Courtroom B, Grand Rapids, Michigan 49503.
3. A copy of this Order shall be served with the Motion to Approve Sale of Real Property on the creditor matrix and all parties in interest.

**END OF ORDER**

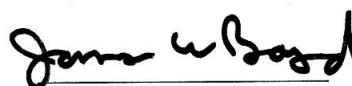
**Prepared by and return for service to:**

Jeff A. Moyer (P44671)  
The Bankruptcy Group, Inc.  
1547 Godfrey Ave. S.W.  
Wyoming, MI 49509  
(616) 724-1890

**IT IS SO ORDERED.**

Dated June 1, 2015



  
James W. Boyd  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
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**MOTION TO APPROVE SALE OF REAL PROPERTY**

NOW COMES Chapter 7 Trustee Jeff A. Moyer, by and through his attorneys, The Bankruptcy Group, Inc., and states as his Motion to the Court the following:

1. Patricia E. Dawes (“Dawes” or “Debtor”) filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code on January 9, 2015.
2. Jeff A. Moyer is the duly-appointed, qualified and acting Trustee in the Chapter 7 case.
3. Included among the assets in this bankruptcy estate is the Debtor’s interest in certain real property located in the Township of Grand Haven, County of Ottawa, and State of Michigan, commonly known as 12608 Broadmoor Place #62, Grand Haven, Michigan 49417 (the “Property”). The Property is legally described as:

Unit 62, The Homes of Hunters Woods Condominium, according to the Master Deed recorded in Liber 3426, Page 551, Ottawa County Records and designated as Ottawa County Condominium Subdivision Plan No. 310, with rights in general common elements and limited common elements as set forth in the Master Deed as described in Act 59 of the Public Acts of 1978, as amended.

Parcel No.: 70-07-14-229-047

4. The Trustee has received an offer to purchase this Property from Louis E. Prieskorn. Upon information and belief, Louis E. Prieskorn is not related to the Trustee or his counsel, the Bankruptcy Judge who might approve such sale, nor any person affiliated with the Office of the United States Trustee.
5. The terms of the offer are as follows:

a. **Property.** The subject of the proposed sale is the real property commonly known as 12608 Broadmoor Place #62, Grand Haven, Michigan 49417 (“Property”).

b. **Purchaser.** The proposed purchaser ("Purchaser") of the Property is Louis E. Prieskorn.

c. **Price.** The sale price for the Property is a cash price of One Hundred Eighty Three Thousand Five Hundred Dollars (\$183,500.00), which will include payment of any accrued real estate taxes, and will also pay off the underlying mortgage held by the Debtor.

d. **Realtor.** By means of this motion, the Trustee is also ratifying the pre-petition realtor’s listing contract based on the realtor’s below-market commission rate.

e. **Exemption.** The Debtor has agreed to voluntarily reduce her allowed §522(d)(1) exemption in the Property by \$2,706.77, to \$17,380.23 to ensure a “carve-out” of the sale proceeds to the estate.

6. Out of the sale proceeds, the following proposed amounts are to be disbursed at the time of closing on such sale to the following parties:

a. Payoff the mortgage indebtedness in full due to Fifth Third Mortgage Company in the estimated amount of \$149,595.14.

b. Payment of realtor’s commission (\$8,810.00). The realtor has voluntarily agreed to reduce her sale’s commission to \$8,810.00 to facilitate this sale and ensure a “carve-out” to the estate.

c. Payment of standard closing costs (\$1,581.53) and miscellaneous recording costs (\$1,603.10) customarily attributable to the seller.

d. Estimated prorated payment (\$730.00) of the real property taxes.

e. Payment to the bankruptcy estate (\$3,800.00) as a “carve-out” of the sale proceeds for the benefit of the estate.

f. Payment to the Debtor (\$17,380.23) of her agreed reduced exemption in the Property.

Proposed sale distribution:

Sale price:	\$183,500.00
Payoff of mortgage	\$149,595.14
Realtor’s commission	\$ 8,810.00

Other standard closing costs	\$ 1,581.53
Recording costs	\$ 1,603.10
Estimated payment of real property taxes	\$ 730.00
Payment to Debtor of her allowed, reduced exemption	\$ 17,380.23
“Carve-out” of sale proceeds to bankruptcy estate	\$ 3,800.00

7. To the extent the Debtor is able to reduce the fees listed as part of Fifth Third Bank’s payoff amount, that reduction will accrue to the Debtor’s benefit. To the extent property taxes, standard and ordinary closing costs and any other expenses of the sale are greater than those anticipated, those additional expenses will likewise reduce the net going to the Debtor at closing, such that, in any case, the estate will receive a minimum amount of \$3,800.00.

8. The Trustee is seeking approval of this offer free and clear from all liens, interests or claims in accordance with §363(f) except for any claims for back real estate taxes or other liens or assessments directly related to the Property itself as identified in Paragraph 3. above. The sale will be subject to any such claims arising out of, or asserted against the Property itself. Any other party holding a lien, interest or claim against the Property shall have such lien, interest or claim terminated and removed from the Property, and it shall attach to the proceeds with the same validity, rank and priority as such lien, interest or claim has with regard to the Property. Further, the Property shall be sold on an “as is” and “where is” basis. No warranty whatsoever is being made as to the usability, fitness for a particular purpose, zoning, suitability, inhabitability, environmental quality, chain of title, or any other matter. The Trustee is specifically making no warranties or representations whatsoever regarding this Property. The identified Purchaser or any other proposed Purchasers, are entirely responsible for viewing the Property, determining its suitability and value, and calculating its or their bid.

9. This sale shall be subject to the approval of the United States Bankruptcy Court for the Western District of Michigan. Based upon the Purchaser’s mortgage rate-lock expiring and therefore needing to close as soon as possible, the Trustee requests the 14-day appeal period be waived. Such closing date shall be determined by the Trustee and Purchaser and/or successful high bidder, and may be extended only in writing by the mutual agreement of the Purchaser and/or successful high bidder, and the Trustee.

10. If approved, all costs and expenses incurred by the Trustee, including all administrative and legal expenses of the Bankruptcy Estate relating to the sale of this Property as well as the statutory commission and all other expenses of the sale shall be charged against the

carve-out being paid to the estate. Such expenses shall be a first claim against the sale proceeds in accordance with §506(c).

11. The Trustee believes that approval of the sale as outlined above is in the best interests of the estate and that it should be approved.

12. Any objections to this Motion and sale must be made in writing, and shall be filed with the U.S. Bankruptcy Court for the Western District of Michigan, One Division Avenue North, Room 200, Grand Rapids, Michigan 49503, with a copy served upon Chapter 7 Trustee Jeff A. Moyer, P.O. Box 337, Grandville, Michigan 49468-0337. Any objections must be filed prior to and served no later than the date of the appeal period for approval of the sale expiring.

13. The Trustee further requests that this property be noticed out to the Buyers List for review, consideration and possible further bids.

14. The Trustee shall solicit and accept additional bids on the Property. Any other interested potential Purchasers must contact the Trustee 2 days prior to any hearing set by the Court. Any additional bids must be cash bids, on these same terms, with the first successive bid in the amount of \$185,000.00 and bids to be in increments of at least \$500.00 thereafter. No other offer on any other terms shall be considered.

WHEREFORE, the Trustee, Jeff A. Moyer, requests the Court enter an Order granting the following relief:

A. Authorize Chapter 7 Trustee Jeff A. Moyer to sell the Property free and clear of all non-property related liens, interests or claims as outlined above, and

B. Grant such other, further or different relief as may be just and equitable under the circumstances.

Respectfully submitted,

**THE BANKRUPTCY GROUP, INC.**  
Attorneys for Trustee Jeff A. Moyer

Dated: May 29, 2015

By:   
Jeff A. Moyer (P44671)  
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