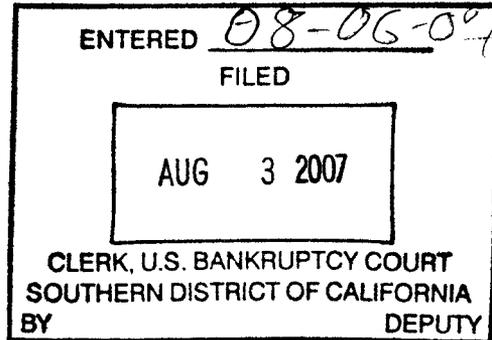


1 WRITTEN DECISION - NOT FOR PUBLICATION



9 UNITED STATES BANKRUPTCY COURT

10 SOUTHERN DISTRICT OF CALIFORNIA

11 In re ) Case No. 06-04052-B7

12 RICHARD A. LARSEN, ) R.S. No. MBR-1

13 Debtor. ) ORDER ON SOUTHWEST BUILDERS,

14 ) INC. AND SYSTEMS ONE

15 ) ACQUISITION/DEVELOPMENT, INC.

16 ) MOTION FOR RELIEF FROM STAY

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21 This case was begun as an involuntary petition filed by

22 unsecured creditors on December 1, 2006. After an order for

23 relief was entered, a Chapter 7 trustee was appointed, and debtor

24 filed schedules through counsel.

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26

1           The Dederich creditors were granted relief from stay as to  
2 the Lone Jack property. Two weeks later these Movants filed  
3 their motion, asserting there was no equity in the property and  
4 there was no attempt to reorganize by the debtor. The Dederichs  
5 opposed the motion, asserting that Movants had additional  
6 collateral through an affiliate of debtor and should be required  
7 to marshal its collateral. Creditor Braun also opposed relief on  
8 the theory that if Braun succeeded in setting aside a foreclosure  
9 Movants had conducted on one piece of the collateral posted by  
10 the affiliate then more value might be preserved for the estate.  
11 The Court raised questions about the possibility of success in  
12 that proceeding based on In re Pecan Groves of Arizona, 951 F.2d  
13 242 (9<sup>th</sup> Cir. 1991); In re Franck, 19 F.3d 1440 (9<sup>th</sup> Cir. 1994).

14           During the hearing on Movants' motion, it appeared that many  
15 of the interested parties thought a mediation might be useful.  
16 The Court took the matter under submission to consider that idea.  
17 Meanwhile, the Chapter 7 trustee has been silent on the motion,  
18 apparently conceding there is no value in the Lone Jack property  
19 for the benefit of unsecured creditors no matter who winds up  
20 foreclosing on it.

21           The Court believes mediation, somewhere, may be useful for  
22 these competing secured creditors. However, the Court will not  
23 order it here. There is no value in the Lone Jack property for  
24 the estate, there is no equity in it, and it is not necessary for  
25 a reorganization. The Dederichs are in a curious position,  
26 having sought and obtained relief from stay while contending they

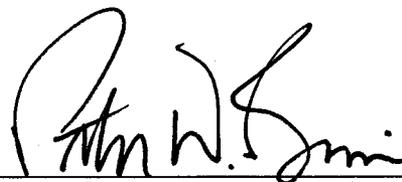
1 are senior to these Movants. As noted, the Dederichs argued for  
2 marshaling, but they have made no showing by competent evidence  
3 of the value of the collateral posted by the affiliate of the  
4 debtor or the Movants' position would be protected while  
5 requiring them to resort to other collateral before looking to  
6 the Lone Jack property.

7 In the last analysis, the battle over the Lone Jack property  
8 is one between several secured creditors, in which the bankruptcy  
9 estate has asserted no interest whatsoever. Their issues of  
10 priority are governed by state law, and they can go fight it out  
11 there if they need to. No bankruptcy purpose is advanced by  
12 doing so here.

13 Accordingly, Movants' motion for relief from stay to pursue  
14 its interests in the Lone Jack property shall be, and hereby is  
15 granted.

16 IT IS SO ORDERED.

17 DATED: AUG - 3 2007

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19 

20 PETER W. BOWIE, Chief Judge  
21 United States Bankruptcy Judge  
22  
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