

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE: § Chapter 11  
2518 CLEBURNE HOUSING LLC, § Case No. 23-32106  
DEBTOR. §  
§

**SUBCHAPTER V TRUSTEE’S EMERGENCY MOTION  
TO SCHEDULE STATUS CONFERENCE**

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**BLR 9013 NOTICE:** This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.

An Emergency Hearing is requested no later than March 5, 2024.

Emergency relief has been requested. If the court considers the motion on an emergency basis, then you will have less than 21 days to answer. If you object to the requested relief or if you believe that the emergency consideration is not warranted, you should file an immediate response.

Represented parties should act through their attorney .

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TO THE HONORABLE EDUARDO V. RODRIGUEZ,  
CHIEF UNITED STATES BANKRUPTCY JUDGE:

Tom A. Howley, the Subchapter V Trustee (“Trustee”), respectfully moves this Court for an order scheduling a status conference to determine the status and delay relating to the sale, the filing of a final decree and the substantial consummation of the plan.

In support of this motion, the Trustee represents as follows:

## **I. JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue is appropriate pursuant to 28 U.S.C. § 1408.

2. Tom A. Howley is the duly appointed Subchapter V Trustee for the Southern District of Texas (the “Subchapter V Trustee”) appointed on June 7, 2023.

## **II. FACTUAL BACKGROUND**

3. 2518 Cleburne Housing LLC (the “Debtor”) filed its voluntary petition for relief under chapter 11, subchapter V of the Bankruptcy Code on June 5, 2023.<sup>1</sup> The U.S. Trustee for the Southern District of Texas (the “US Trustee”) appointed Tom Howley to serve as the Trustee in this case.<sup>2</sup>

4. The U.S. Trustee commenced a first meeting of creditors on July 11, 2023, at which the debtor’s representative appeared and testified. The meeting of creditors was concluded the same day.

5. On September 5, 2023, the Debtor timely filed its Subchapter V Plan.<sup>3</sup>

6. On November 14, 2023, the Court entered an order Granting Debtor’s Motion to Sell Property.<sup>4</sup>

7. On December 5, 2023, the Court entered an order Confirming Subchapter V Plan of Reorganization.<sup>5</sup> The consummation of the plan was entirely dependent upon a closing of the sale of the Debtor’s real estate. At the confirmation hearing, Debtor’s counsel stated that the sale

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<sup>1</sup> Doc. No. 1. All “Doc. No.” references herein are to the current bankruptcy proceeding, case number 23-32106, unless otherwise stated.

<sup>2</sup> Doc. No. 4.

<sup>3</sup> Doc. No. 21.

<sup>4</sup> Doc. No. 58.

<sup>5</sup> Doc. No. 71.

should occur by the of 2023 (but obviously no guarantee), subject to customary closing conditions. Debtor's counsel also stated on the record, when prompted by the Trustee, that Debtor's counsel would provide timely updates on the status of the closing of the sale.

8. On December 5, 2023, the Court entered Order Post Confirmation<sup>6</sup> which among other things required the Debtor's to file a final decree and to provide notice of substantial consummation no later than 14 days from the effective date of the confirmed plan.

9. On February 21, 2024 a Notice of Default<sup>7</sup> was filed by Shellpoint Mortgage Servicing. This was surprising since no material updates have been provided. Further, the Debtor has not paid monthly retainer payments to the Trustee for over five months since the Debtor preferred to pay in a lump sum once the sale closed.

### **III. RELIEF SOUGHT**

12. The Trustee seeks an order scheduling a status conference in this case to determine the status of the sale, the Debtor's response to the notice of default and an update on the Debtor's cash position and ability to catch up on Trustee monthly retainer payments which are required by prior court order under Docket No. 6.

### **IV. BASIS FOR RELIEF**

13. Cause exists to schedule a status conference for the purpose of determining the delay of the sale and the Debtor's ability to effectuate the plan. The Trustee has conferred with the US Trustee and the US Trustee agrees that a status conference is warranted.

14. Emergency relief is requested because there is a current lack of clarity on the path and direction forward in this case given the delay and the recent notice of default. Accordingly, the

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<sup>6</sup> Doc. No. 72.

<sup>7</sup> Doc. No. 79.

Trustee requests the Court's emergency consideration and hearing on this motion.

WHEREFORE, the Trustee respectfully requests that this Court enter an order scheduling a status conference and all further relief as may be equitable and just.

Dated: February 26, 2024

Respectfully Submitted,

**HOWLEY LAW PLLC**

By: /s/ Tom A. Howley  
Tom A. Howley  
Subchapter V Trustee

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing to be served upon the parties listed below by United States Mail, first class, postage prepaid or by ECF transmission on February 26, 2024.

/s/ Tom A. Howley  
Tom A. Howley

DEBTOR: (By mail)  
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