

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FILED
U.S. DISTRICT COURT
SAVANNAH, GA.

2011 MAR 10 AM 10:37

CLERK *B. West*
SO. DIST. OF GA.

SAVANNAH-CHATHAM COUNTY FAIR)
HOUSING COUNCIL, INC. and UNITED)
STATES OF AMERICA,)

Plaintiffs,)

v.)

CASE NO. CV406-096

GENESIS DESIGNER HOMES, LLC;)
GENESIS REAL ESTATE GROUP, LLC;)
STONELAKE HOMEOWNERS)
ASSOCIATION; THOMAS & HUTTON)
ENGINEERING CO.; MALPHRUS)
CONSTRUCTION CO., INC.; RICHARD)
A. FITZER, III; and HIGHLANDS)
CROSSING HOMEOWNERS')
ASSOCIATION, INC.,)

Defendants.)

O R D E R

Before the Court is Plaintiff United States' Response to the Court's Request for a Remedial Plan, which contains notice to the Court, for the first time, that Defendant Genesis Designer Homes, LLC "on March 2, 2011 filed for bankruptcy." (Doc. 333 at 3.)

Following receipt of this information, the Court has independently verified that Defendant Genesis Designer Homes, LLC filed a Voluntary Chapter Seven Bankruptcy Petition in the United States Bankruptcy Court for the Southern District of

Georgia, Savannah Division on March 1, 2011.¹ (Bankr. S.D. Ga. 11-40467, Doc. 1.) The instant action is listed in Schedule F to that petition as a contingent, unliquidated, and disputed unsecured nonpriority claim of an undetermined amount. (Id. at 29.)

The filing of that petition operates as a stay, applicable to all entities, of

the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title.

11 U.S.C. § 362(a)(1); see 3 Collier on Bankruptcy ¶ 362.02 (2010) ("The stay is effective automatically and immediately upon the filing of a bankruptcy petition, whether voluntary, joint or involuntary."). As a consequence, this litigation is automatically stayed. See Id. ¶ 362.03 (noting that litigation pending when the bankruptcy case is commenced is stayed automatically and that the "nondebtor party has an obligation to notify the court in which the litigation is pending that the action is stayed and to take any other action necessary to assure that the action does not continue").

¹ An examination of the record in the bankruptcy proceeding reveals that the petition was filed one day prior to the date indicated by the government.

Accordingly, this case is **STAYED**. The Clerk of Court is **DIRECTED** to mark this case as **ADMINISTRATIVELY CLOSED** for statistical purposes. The Plaintiffs are directed to notify this Court within thirty days how they intend to proceed, specifically addressing the possibility of pursuing this action against some or all other Defendants. Defendants will be permitted fourteen days to file any response. Should any party desire relief from stay, it must, of course, file an appropriate motion showing sufficient cause for such action.

SO ORDERED this 10th day of March 2011.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA