

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

SAFE HARBOUR HEALTH
CARE PROPERTIES, LTD.

Case No. 00-12896 K

Debtor

NOTICE OF HEARING AND ORDER DIRECTING APPEARANCE
BY ERIE, CHAUTAUQUA AND WYOMING COUNTIES

This Order and Notice address the matter of property tax deficiencies on the following properties, as of June 5, 2000.

3600 Harlem Road, Cheektowaga, NY, County of Erie, \$1.16 million in unpaid taxes

423 Baker Street, Jamestown, NY, County of Chautauqua, \$806,000 in unpaid taxes

283 North Main Street, Warsaw, NY, County of Wyoming, \$474,000 in unpaid taxes

These properties are owned by Debtor Safe Harbour Health Care Properties, Ltd., and are each occupied by a tenant, Manor Oak Skilled Nursing Facilities, Inc. Manor Oak is not a debtor in this Court. (It was a debtor in this Court from 4/22/95 to 7/31/98.) It seems to be an entity separate and apart from Safe Harbour Health Care Properties, Ltd., separate and apart from one Robert Bradley, Sr., (who previously owned the properties) and separate and apart from one David Knoll (who is described below), although various “insider” relationships clearly have existed at various points in time among some of these persons and entities.

Debtor Safe Harbour Health Care Properties, Ltd. filed a Chapter 11 case in this Court on June 5, 2000, to address a supposed inability to pay the real property taxes, which taxes

stretch back ten years or more to a time when Robert R. Bradley, Sr. owned those properties.

The Chief Executive Officer of Debtor Safe Harbour Health Care Properties, Ltd. is David R. Knoll. He is a former affiliate of Robert Bradley, Sr. and of Manor Oak Skilled Nursing Facilities, Inc. David R. Knoll has informed this Court that since Safe Harbour Health Care Properties, Ltd. acquired the real estate from Robert R. Bradley, Sr., at least \$700,000 in rents have been paid to Safe Harbour Health Care Properties, Ltd. by the tenant Manor Oak Skilled Nursing Facilities, but that none of that money was used to pay real property taxes; it was used for other supposed business purposes.

This Court converted Safe Harbour's Chapter 11 case to a Chapter 7 liquidation case, over the objection of the Debtor and David R. Knoll on December 31, 2001. Since that time, David R. Knoll has acquired a pre-existing mortgage on the above cited lands. He now seeks permission from this Court to foreclose his mortgage on these lands that are owned by Safe Harbour Health Care Properties, Ltd., of which he is still Chief Executive Officer. He argues that "the three properties are in imminent danger of In Rem tax foreclosures and public sales, which actions will wipe out [his] property rights in the Mortgage." (Paragraph 5 of Document 63.)

During the two years that Safe Harbour Health Care Properties, Ltd. has been before this Court, only one of the three counties (that being the County of Chautauqua) has sought permission of this Court to proceed with a tax foreclosure. That permission was granted in April, 2002, but, apparently, tax foreclosure has not yet occurred. The counties of Erie and Wyoming have taken no steps in this Court to enforce their tax liens other than to file proofs of

claim in this Court requesting payment.

The Chapter 7 Trustee in this case has determined that there are no assets from which he can generate monies to pay any creditors in this case.

Said David R. Knoll is not represented by an attorney here. Because of that fact and the fact that the United States Department of Justice's United States Trustee has not taken a position on this matter, the Court, on its own initiative, hereby provides meaningful notice of the issues presented by said David R. Knoll's request.

It is now ORDERED that the counties of Chautauqua, Erie, and Wyoming, shall appear through legal counsel, and all other parties in interest in this case, as well as all parties who have appeared in this case and all attorneys who have appeared in this case are invited to appear, at a hearing on **September 17, 2002 at 2:00 p.m.** to consider said David R. Knoll's request for leave to commence a foreclosure action in State Court against the properties owned by this Debtor, of which he remains Chief Executive Officer, and which Debtor owns land on which real property taxes have remained uncollected for more than ten years.

SO ORDERED.

Dated: Buffalo, New York
August 27, 2002

/s/ Michael J. Kaplan

Michael J. Kaplan, U.S.B.J.