Opinion Title: 10/05/2011 UNPUBLISHED In re Colon, 10-25669, Judge Thurman.
Body: The Court denied a homeowner's association's ("HOA") motion for relief from the automatic stay in a chapter 13 case, finding that postpetition HOA assessments were dischargeable under § 1328(a) where the debtors had vacated the property more than one year prior to filing bankruptcy and surrendered the property to the secured lienholder who failed to foreclose after relief from stay was granted. Despite the fact that the debtors were listed on the title to the property, the Court found that they had no consequential interest in the property that measured up to rights to exercise ownership and control. The Court held that postpetition HOA assessments meet the definition of "claim" under § 101(5) and "claims" can be provided for in chapter 13 plans. See In re Turner, 101 B.R. 751 (Bankr. D. Utah 1989). Furthermore, § 523(a)(16), which excepts HOA postpetition assessments from discharge, does not apply to a discharge under § 1328(a).
File: 555.pdf [1]
Judge: Judge William T. Thurman [2]
Date: Wednesday, October 5, 2011

Source URL: https://www.utb.uscourts.gov/opinions/opinion-555#comment-0

Links
[1] https://www.utb.uscourts.gov/sites/default/files/opinions/555.pdf
[2] https://www.utb.uscourts.gov/content/judge-william-t-thurman