

WFG Underwriting Bulletin



To: All WFG Policy-Issuing Agents; All WFG Title Examiners, Title Officers, and Escrow Officers
From: WFG Underwriting
Date: November 13, 2023
Bulletin No. NB-2023-14
Subject: MV Realty Releases – Bankruptcy Court Approval

In Bankruptcy, the debtor in possession may use, sell, or lease property of the estate in the ordinary course of its business, without prior approval, unless the court orders otherwise. *11 U.S.C. § 363(c)*. If the intended sale or use is outside the ordinary course of its business, the debtor must obtain permission from the court.

Given the unique business model of MV Realty and their “homeowner benefits agreements,” there was some question as to whether releasing or subordinating of the listing agreements fell within the “ordinary course of business” for a real estate brokerage.

We reached out to counsel for MV Realty and encouraged them to seek a “comfort order” specifically authorizing the Debtor-in-Possession to release or subordinate the instruments recorded by MV Realty in various states.

Those orders were granted on November 9, 2023 and copies are linked here:

[MV Realty Order on Release](#)

[MV Realty Order on Subordination](#)

It is important to note that the Bankruptcy Court made no finding or ruling with regard to the validity, extent, or enforceability of the homeowner benefit agreements and related documents. Those challenges are ongoing.

Consistent with prior bulletins, if your search reveals MV Realty claiming an interest, lien or other right with regard to your property, it must be released before insuring a sale transaction.

In insuring a mortgage without a sale, an exception must be taken for the MV Realty agreements and the lender must acknowledge the exception in writing. If the lender declines to acknowledge the exception in writing, the MV Realty interests must be released from the property or subordinated to the new loan.

The releases or subordinations should then be recorded in the land records. WFG is NOT requiring that certified copies of the Bankruptcy Court order be recorded in connection with each release or subordination.

If you have any questions relating to this or other bulletins, please contact your WFG Underwriter.

NOTE: The information contained in this Bulletin is intended solely for the use of employees of WFG National Title Insurance Company, its title insurance agents and approved attorneys. Disclosure to any other person is expressly prohibited unless approved in writing by the WFG National Title Insurance Company’s Underwriting Department.

The Agent may be held responsible for any loss sustained as a result of the failure to follow the standards set forth above.