

United States Bankruptcy Court  
District of Delaware

CHIEF JUDGE BRENDAN LINEHAN SHANNON



824 N. MARKET STREET  
WILMINGTON, DE 19801  
(302) 252-2915

December 2, 2016

Stephan J. Holfeld, Esquire  
Holfeld & Becker  
1217 King Street  
Wilmington, DE 19801

Kristi J. Doughty, Esquire  
McCabe, Weisberg & Conway, P.C.  
1407 Foulk Road, Suite 102  
Wilmington, DE 19803

Re: Daniel B. Warman & Dawn R. Warman, Case No. 12-10811 (BLS)  
Adversary Proceeding No. 16-50029 (BLS)

Dear Counsel:

Before the Court is the threshold question of the proper date for valuation in a dispute regarding real property located at 288 Berwick Lane, Dover, Delaware (the "Property"). The Court is in receipt of parties' letter submissions and appraisal reports [Docket No: 13, 14].

Citizens Bank, N.A. f/k/a RBS Citizens Bank, N.A. s/b/m CCO Mortgage Corporation (the "Defendant") acknowledges this Court's decision in *DiMauro* establishing a bright-line rule that the petition date is the operative date for valuing residential property for the purpose of determining whether a junior mortgage is completely unsecured and thus subject to strip-off. Creditor urges this Court, however, to distinguish the instant facts from *DiMauro* because this Debtor's case was re-opened for the sole purpose of stripping the junior lien; alternatively, Creditor argues that the principle of laches prevents the use of the petition date as the operative date for valuation.

The Court respectfully disagree on both points. First, the reasons outlined in *DiMauro* support the application of the bright-line rule to the instant facts. Second, while the long delay in commencing this proceeding is regrettable, the Court is not satisfied that the equitable doctrine of laches operates here to prevent the application of *DiMauro* to the present facts.

In light of this guidance, the Court notes that it is in receipt of only one appraisal report relevant to the operative date for valuation from the parties [Docket No. 13]. The Court requests that parties be available for a status conference on December 20, 2016 at 10:00 a.m. at the Court's regular Chapter 13 calendar.

Very truly yours,

  
Brendan Linehan Shannon  
Chief United States Bankruptcy Judge

BLS/jmw

cc: Michael B. Joseph, Esquire  
Chapter 13 Trustee