

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT**

In re:

SUCCESS VILLAGE APARTMENTS,
INC.,

Debtor.

Chapter 11

Case No. 24-50624 (JAM)

Re: ECF No. 12

CITY OF BRIDGEPORT, TOWN OF
STRATFORD, THE SOUTHERN
CONNECTICUT GAS COMPANY AND THE
UNITED ILLUMINATING COMPANY,

Movants,

v.

SUCCESS VILLAGE APARTMENTS, INC.,

Respondent.

**ORDER GRANTING (I) MOTION TO DETERMINE AUTOMATIC STAY DOES NOT
APPLY AND (II) MOTION FOR RELIEF FROM AUTOMATIC STAY; AND
(III) TAKING MOTION TO DISMISS UNDER ADVISEMENT**

On September 9, 2024, the City of Bridgeport, the Town of Stratford (together with the City of Bridgeport, the “Municipalities”), The Southern Connecticut Gas Company, and The United Illuminating Company (together with The Southern Connecticut Gas Company, the “Utilities” and the Utilities together with the Municipalities, the “Movants”) filed a Joint Motion to Dismiss, or in the alternative, Determine that the Automatic Stay Does Not Apply and for Relief from the Automatic Stay (the “Motion,” ECF No. 12). On September 12, 2024, an Order entered scheduling a hearing on the Motion and requiring Success Village Apartments, Inc. (the “Debtor”) to file a written response to Motion on or before September 17, 2024. (ECF No. 23.) The Debtor filed an untimely objection to the Motion on September 18, 2024 (the “Objection,” ECF No. 32).

A hearing on the Motion was held on September 19, 2024. Counsel for the Movants, counsel for the Debtor, and counsel for the Office of the United States Trustee (the “UST”) appeared at the hearing. During the hearing, the Court listened to the arguments of the Movants, the Debtor, and the UST. Several exhibits were introduced into evidence. The Debtor did not dispute the majority of the Movants’ allegations or object to the admission of the majority of the

Movants' exhibits. The Debtor presented no evidence to support its assertions in the Objection. Additionally, the UST informed the Court, the Movants, and the Debtor that substantially all of the Debtor's assets, namely, the 924 Cooperative Residential Units and the real property in Bridgeport and Stratford, Connecticut on which they are located, are significantly underinsured.

At the conclusion of the hearing, after consideration of the Motion, the Objection, the arguments of the parties during the hearing, and upon review of the record of the Debtor's case and the exhibits admitted into evidence during the hearing, the Court announced its ruling on the record. The ruling was immediately effective as of 5:30 p.m. on September 19, 2024, with respect to the Municipalities and immediately effective as of 5:33 p.m. on September 19, 2024, with respect to the Utilities. The Court then informed the Movants, the Debtor, the UST, and all in attendance that a written Order would enter on September 20, 2024 memorializing the Court's ruling. Therefore, it is hereby

ORDERED: With respect to the relief sought in the Motion by the City of Bridgeport and the Town of Stratford, in accordance with the plain language of 11 U.S.C. § 362(b)(4), effective as of 5:30 p.m. on September 19, 2024, the Motion is **GRANTED** and the automatic stay provided in 11 U.S.C. § 362(a) does not apply and has never applied to the City of Bridgeport and Town of Stratford's action pending in the Connecticut Superior Court, *City of Bridgeport v. Success Village Apartments, Inc.*, Docket No. FBT-CV24-6137211-S (the "Municipality Receivership Proceeding") because the City of Bridgeport and the Town of Stratford are exercising their police and regulatory powers in the Municipality Receivership Proceeding, *see, e.g., SEC v. Brennan*, 230 F.3d 65, 71 (2d Cir. 2000) ("... the purpose of the 362(b)(4) exception to the automatic stay is to prevent a debtor from 'frustrating necessary governmental functions by seeking refuge in bankruptcy court.'") (citing *City of N.Y. v. Exxon Corp.*, 932 F.2d 1020, 1024 (2d Cir. 1991)), and any stay of this Order provided in Fed. R. Bankr. P. 4001(a)(3) is waived and overruled; and it is further

ORDERED: With respect to the relief sought in the Motion by The Southern Connecticut Gas Company and The United Illuminating Company, in accordance with 11 U.S.C. § 362(d)(1), effective as of 5:33 p.m. on September 19, 2024, the Motion is **GRANTED** because cause exists to allow The Southern Connecticut Gas Company and The United Illuminating Company to continue the action pending in the Connecticut Superior Court styled *The Southern Connecticut Gas Company v. Success Village Apartments, Inc.*, Docket No. FBT-CV24-6136752-S (the "Utility Receivership Proceeding" and together with the jointly administered Municipality Receivership Proceeding, the "Jointly Administered Receivership Proceedings"), including, but not limited to: (i) the trial in the Jointly Administered Receivership Proceeding had commenced and had proceeded for three days and, after the Movants had rested their case in chief, the Debtor filed a Chapter 11 Petition in this Court to stop that trial from further proceeding; (ii) numerous health code and safety violations have been issued regarding the Debtor's operation of the Success Village Apartments, which have had a negative impact on the residents of the Success Village Apartments and which directly relate to their daily health and safety; (iii) the Debtor admits that it owes the Utilities more than \$1,300,000.00 yet has less than \$6,000.00 in funds in its bank account, *see* Schedule A/B, ECF No. 31, at 2, 4; and (iv) the Debtor admits that the boilers that would deliver the utility services to the tenants are not operating, and have not been operating properly since "the last heating season," Hr'g at 3:37–3:39 p.m., *see, e.g., In re Sonmax*

Indus., Inc., 907 F.2d 1280, 1286 (2d Cir. 1990). Under the extraordinary circumstances of the Debtor's case, including the issues related to the health and safety of the residents of Success Village Apartments, the stay provided in Fed. R. Bankr. P. 4001(a)(3) of this Order granting The Southern Connecticut Gas Company and The United Illuminating Company relief from the automatic stay is hereby waived and overruled; and it is further.

ORDERED: With regard to the remaining relief sought in the Motion, namely, dismissal of the Debtor's Chapter 11 case, the Court takes the relief seeking dismissal under advisement.

Dated at Bridgeport, Connecticut this 20th day of September, 2024.

Julie A. Manning
United States Bankruptcy Judge
District of Connecticut

