



ORDERED in the Southern District of Florida on August 31, 2015.

A handwritten signature in black ink, appearing to read "Erik P. Kimball".

Erik P. Kimball, Judge
United States Bankruptcy Court

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

In re:

Case No. 13-35141-EPK

**PALM BEACH
COMMUNITY CHURCH, INC.,**

Chapter 11

Debtor.
_____ /

ORDER ON ADMINISTRATIVE EXPENSE FOR 2014 REAL PROPERTY TAX

THIS MATTER came before the Court for hearing on August 27, 2015 upon the *Motion to Invoke Jurisdiction to Determine Effect of Debtor's Filings, Confirmed Plan and Order Approving Sale of Debtor's Property on Debtor's Undisclosed, Post-Confirmation State Court Action to Recover a Paid Undisputed Administrative Exepense* [sic] [ECF No. 255] (the "Motion to Invoke Jurisdiction") filed by Gary R. Nikolits as Property Appraiser for Palm Beach County, Florida (the "Property Appraiser), the *Expedited Motion to Reconsider Allowance of Claim* [ECF No. 259] (the "Motion to Reconsider") filed by Palm Beach Community Church, Inc. (the "Debtor"), and the *Expedited Objection to Claim 3-2 Filed by the Palm Beach County Tax Collector* [ECF No. 261] (the "Objection") filed by the Debtor.

The Motion to Invoke Jurisdiction, Motion to Reconsider, and Objection all relate to the claim of the Palm Beach County Tax Collector (the "Tax Collector") for real property taxes for the year 2014 on certain vacant land formerly owned by the Debtor. That claim is more fully presented in proof of claim number 3-2 filed in this case. The real property was sold pursuant to this Court's *Order Confirming Debtor's Third Plan of Reorganization* [ECF No. 236] and *Order Approving Sale of Property Pursuant to Confirmed Plan of Reorganization* [ECF No. 238]. The claim of the Tax Collector was paid in full at closing in order to permit transfer to the purchaser of clear title to the property. The Debtor has challenged the determination of the Property Appraiser with regard to the right of the Debtor to religious use exemption under state law by filing an action in the Florida state courts against, *inter alia*, the Property Appraiser and the Tax Collector. The Debtor seeks a refund of a substantial portion of the 2014 real estate taxes it previously paid. For various reasons, the Property Appraiser requests an order of this Court to the effect that the Debtor may not pursue the Florida state court action.

Because it arose during this chapter 11 case, the claim of the Tax Collector for 2014 real estate taxes is an administrative expense. This Court has made no determination with regard to the amount of the Tax Collector's administrative expense. No order of this Court is *res judicata* with regard to the amount owing to the Tax Collector for 2014 real property taxes.

The Debtor did not waive the right to challenge the determination of the Property Appraiser with regard to the religious use exemption by paying the claim of the Tax Collector at closing of the sale of the related property. Indeed, Florida law specifically permits the property owner challenging an assessment of real estate taxes after they have been paid.

Because the determination of the proper amount owing for 2014 real estate taxes is a matter routinely addressed by the Florida state courts, a proceeding is already pending to address the same, and no party will be prejudiced by permitting the Tax Collector's administrative expense to be liquidated in the Florida state courts rather than in this Court, the interests of justice and the interest of comity with the State courts militate in favor of abstention.

In addition to the foregoing, at the hearing the Court made detailed findings of fact and conclusions of law on the record, which are incorporated in full here.

Accordingly, it is ORDERED AND ADJUDGED as follows:

1. Pursuant to 28 U.S.C. § 1334(c)(1), the Court abstains from determining the amount of the claim of the Tax Collector against the Debtor for 2014 real estate taxes.

2. To the extent necessary, the Debtor, the Property Appraiser, the Tax Collector, and any other party or parties necessary under applicable non-bankruptcy law for the determination thereof, hereby are granted relief from the automatic stay under 11 U.S.C. § 362 to liquidate the amount of the 2014 real estate taxes owing by the Debtor, to finality in the courts of the State of Florida.

3. The amount determined by final order of a Florida court of competent jurisdiction to be payable by the Debtor on account of 2014 real estate taxes shall be deemed an allowed administrative expense in this case and shall be payable pursuant to this Court's *Order Confirming Debtor's Third Plan of Reorganization* [ECF No. 236] and the plan confirmed thereby. If the Debtor has overpaid such administrative expense, the Debtor may pursue a refund through appropriate action under Florida law.

5. Except as specifically ordered herein, all other relief requested in ECF No. 255, ECF No. 259, and ECF No. 261 is DENIED.

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Copies furnished to:

Aaron Wernick, Esq.

Aaron Wernick, Esq. is directed to serve a conformed copy of this order on all appropriate parties and file a certificate of service with the Court.