

The Real [Bankruptcy] Estate: *Bankruptcy Must Knows* for Real Estate Professionals

56th Annual Mortgage Lending and Servicing Institute
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11 U.S.C. § 363(h)



Your client: but, my condo!

363(h): “our” condo



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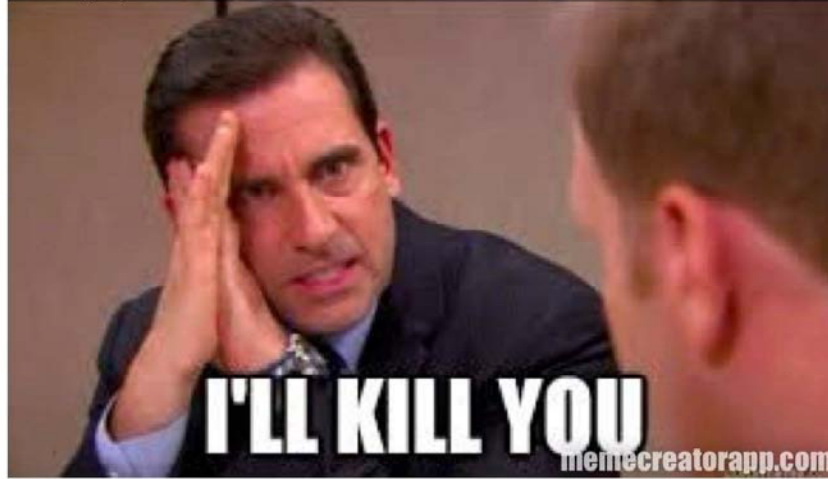
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- **(h)** Notwithstanding subsection (f) of this section, the trustee may sell both the estate's interest, under subsection (b) or (c) of this section, and the interest of any co-owner in property in which the debtor had, at the time of the commencement of the case, an undivided interest as a tenant in common, joint tenant, or tenant by the entirety, only if--
 - **(1)** partition in kind of such property among the estate and such co-owners is impracticable;
 - **(2)** sale of the estate's undivided interest in such property would realize significantly less for the estate than sale of such property free of the interests of such co-owners;
 - **(3)** the benefit to the estate of a sale of such property free of the interests of co-owners outweighs the detriment, if any, to such co-owners; and
 - **(4)** such property is not used in the production, transmission, or distribution, for sale, of electric energy or of natural or synthetic gas for heat, light, or power.

Bar Dates



Your client: I got a notice of bankruptcy filing in the mail but I'm going to foreclose anyway...
362(a):



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- **(a)** Except as provided in subsection (b) of this section, a petition filed under [section 301](#), [302](#), or [303](#) of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of—
 - [Collection efforts as outlined 11 U.S.C. §§ 362(a)(1)—(8)]
 - Applies to nearly everything—very limited exceptions

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