

# **Bond Case Briefs**

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## **BANKRUPTCY - ARIZONA**

### **In re Sunnyslope Housing Ltd. Partnership**

**United States Court of Appeals, Ninth Circuit - April 8, 2016 - F.3d - 2016 WL 1392318 - 16  
Cal. Daily Op. Serv. 3779**

Creditor appealed from bankruptcy court order valuing its secured interest at \$3.9 million and sought a stay.

The United States District Court for the District of Arizona affirmed the bankruptcy court's determinations and declined to grant creditor a stay. Creditor appealed, and debtor cross-appealed and moved to dismiss on the ground of equitable mootness.

The Court of Appeals held that:

- Appeal from district court order affirming bankruptcy court's order was not equitably moot, and
- Affordable housing restrictive covenants did not apply to limit the value of creditor's secured claim.

Appeal from district court order affirming bankruptcy court's order valuing creditor's secured interest at \$3.9 million and declining to grant creditor a stay was not equitably moot. Although creditor did not appeal the denial of the stay to Court of Appeals, creditor filed two separate notices of appeal which made plain its intent to pursue the matter on appeal, and unraveling of the plan would not have a negative effect on innocent third parties not before the court.

Affordable housing restrictive covenants did not apply to limit the value of creditor's secured claim, given that all of the restrictive covenants were derived from positions that were junior and expressly subordinated to creditor's loan, and if there were a foreclosure sale, there was no doubt that the restrictive provisions would be swept away.