

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document was signed electronically at the time and date indicated, which may be materially different from its entry on the record.



Dated: 11:36 AM March 18, 2019


Russ Kendig
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:)	CHAPTER 13
)	
NELLIE ROBIN DAVIS,)	CASE NO. 17-61089
)	
Debtor.)	JUDGE RUSS KENDIG
)	
)	
)	ORDER DENYING DEBTOR'S
)	MOTION TO BORROW/REFINANCE

On March 1, 2019, Debtor filed a motion to borrow money to refinance the existing mortgages on her residence. No objections were filed. For the reasons that follow, the court **DENIES** the motion.

Debtor filed a chapter 13 case on May 12, 2017. In her schedules, she listed ownership of residential real estate at 1126 Fairlane Ave., S.W. in Canton, Ohio. She valued the property at \$136,900 and now contends the property is worth \$143,100. She owes two mortgages on the property. Ditech Financial LLC holds the first mortgage and filed a claim for \$102,168. The interest rate on the mortgage is 5.5%. As of May 10, 2018, the monthly mortgage payment, including escrow, is \$947. She was current on the mortgage as of filing.

PNC Bank holds the second mortgage. It did not file a proof of claim. At filing, Debtor stated she owed \$34,150 on the mortgage. Her chapter 13 plan indicates the monthly payment is \$426. She was current as of filing.

As of filing, Debtor's combined debt on the house was approximately \$136,318. In Exhibit B to the refinance motion, she estimates she now owes \$128,000. Her combined monthly mortgage payments are \$1,373.

Debtor's stated purpose in refinancing is to reduce the interest rate and lower her monthly payments. She is going to borrow \$146,520 at 4.75% to pay the existing mortgages. The monthly principal and interest payment is \$764, plus an estimated \$255 per month for escrow, for a total of \$1,019.¹ Closing costs are \$7,861. She will receive \$8,659 at closing. None of the refinance loan will be paid to the chapter 13 plan.

According to Exhibit B, Debtor has fifteen years remaining on her thirty year Ditech loan. She does not provide term information for the PNC loan. The new loan is a thirty year loan.

Upon review of the facts, the court concludes that the motion to refinance is not in Debtor's best interest, nor is it in the best interest of the unsecured creditors. The following is a non-exclusive list of reasons this is a bad deal.

1. This will over-encumber the house. Although the current equity may be minimal, Debtor will owe more on the house than it is worth after the refinancing.
2. The refinancing does not make financial sense. With the current mortgages, Debtor will pay approximately:

Ditech:	$\$772 \times 180 \text{ months} =$	\$138,960
PNC:	$\$426 \times 88 \text{ months}^2 =$	<u>\$ 37,488</u>
		\$176,448

With the new mortgage, Debtor will pay:

Signature: $\$764 \times 360 \text{ months} = \$275,040$

The refinancing will cost Debtor almost \$100,000. The interest rate reduction will not benefit her over the long term.

3. Debtor has not explained what she will do with the \$8,659 she receives at closing, none of which is earmarked for the unsecured creditors.

¹ Exhibit B provides a figure of \$1,120.

² This figure was determined using an online calculator that interpolates the term based on the known loan data. Even if this is incorrect, Debtor's Exhibit B says the balance on the loan is \$31,000. Using that figure, without interest, results in a total payout of \$170,000, costing Debtor even more.

4. The closing costs are unreasonably high. It will take years to recoup the savings from the interest rate reduction against the outlay for the closing costs.
5. Debtor's case will complete in just over one year, leaving her with an additional \$600 per month.
6. Reducing her monthly expenses will increase Debtor's monthly disposable income. What she saves in the refinancing would be available to increase the plan payments.

In light of the above, the motion to refinance is **DENIED**.

It is so ordered.

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