

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 01-2058

In re: Midland Marina, Inc.,

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Debtor

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City of Sioux City, Iowa,

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Appellant,

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Appeal from the United States
Bankruptcy Appellate Panel
for the Eighth Circuit

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v.

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[UNPUBLISHED]

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Midland Marina, Inc.,

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Appellee.

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Barbara Stuart, U.S. Trustee.

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Submitted: November 15, 2001

Filed: December 5, 2001

Before BYE and BEAM, Circuit Judges, and GOLDBERG,¹ Judge.

PER CURIAM.

¹The Honorable Richard W. Goldberg, Judge, United States Court of International Trade, sitting by designation.

The City of Sioux City, Iowa appeals from a decision of the Eighth Circuit Bankruptcy Appellate Panel (BAP) affirming the bankruptcy court's² dismissal of Midland Marina, Inc.'s Chapter 11 bankruptcy. Sioux City also appeals the BAP's determination that the dismissal rendered moot Sioux City's pending appeal, in which the City challenged the bankruptcy court's failure to have Midland Marina immediately surrender certain nonresidential property under 11 U.S.C. § 365(d)(4).

We agree with the reasoning expressed in the BAP's published decision, City of Sioux City v. Midland Marina, Inc. (In re Midland Marina, Inc.), 259 B.R. 683 (B.A.P. 8th Cir. 2001), and affirm under 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

²The Honorable William L. Edmonds, United States Bankruptcy Judge for the Northern District of Iowa.