

IN THE COURT OF COMMON PLEAS, MONTGOMERY COUNTY OHIO
CIVIL DIVISION

FILED
COURT OF COMMON PLEAS

2020 JUL 23 PM 2:00

CIVIL PRIVATE SELLING OFFICER - ORDER OF SALE

TAX EASE OHIO LLC
PLAINTIFF

CASE NUMBER: 2017 CV 00407

VS.

AMERICAN EQUITY FUNDING INC et al
DEFENDANT

The State of Ohio, County of Montgomery, ss:

To SHAUGHN T DAILY, Greeting:

You are hereby commanded, in pursuance of an order of the Common Pleas Court, within and for the County of Montgomery, and State of Ohio, made at the MAY Term thereof, in the case **2017 CV 00407**, to proceed without delay and cause to be advertised, and to sell according to law, the following described Real Estate, to-wit:

121-125 W PARKWOOD DRIVE, AYTON, OH 45405

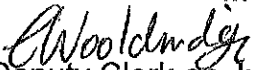
SEE ATTACHED LEGAL DESCRIPTION

and that your proceedings in the premises you make known to our said Common Pleas Court, within and for the County of Montgomery, according to law, and have you then and there this writ.

July 23, 2020

Mike Foley, Clerk

Montgomery County Clerk of Courts


Prepared by , Deputy Clerk on July 23, 2020.

ABB/MM
16-02144
R72 07103 0038
07/20/2020

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO
Civil Division

TAX EASE OHIO, LLC : CASE NO. 2017 CV 00407
Plaintiff : Tax Certificate Foreclosure
- vs - :
AMERICAN EQUITY FUNDING, INC., ET : JUDGE MARY KATHERINE
AL : HUFFMAN
Defendants : PRAECIPE FOR ORDER OF SALE
: (Tax Certificate Foreclosure)

To the Clerk of Courts:

Please issue an Order of sale to Shaughn T. Daily, at 5254 Ridge Avenue, Cincinnati, OH 45213, the court authorized Private Selling Officer ("PSO"), returnable according to law, directing the PSO to advertise, without appraisal, and sell the following property:

PREMISES COMMONLY KNOWN AS: 121-125 W Parkwood Drive,
Dayton, OH 45405
PERMANENT PARCEL NUMBER: R72 07103 0038
MINIMUM BID: \$ 35,386.10

Legal Description attached hereto as Exhibit "A."

Respectfully submitted,

/s/ Mark M. Schonhut

David T. Brady (0073127)
Suzanne M. Godenswager (0086422)
Austin B. Barnes III (0052130)
Mark M. Schonhut (0093698) *ms*
Jeffrey A. Panehal (0090293)
1213 Prospect Avenue, Suite 300
Cleveland, OH 44115
Telephone: 216-373-1001
Facsimile: 216-373-1002
Email: abarnes@sandhu-law.com
Attorneys for Plaintiff

Exhibit A

Legal Description

File Number: 83084

Situated in the City of Dayton, County of Montgomery and State of Ohio:

Being Lot Numbered 40023 of the Consecutive numbers of Lots on the revised plat of the said City of Dayton, Ohio.

Also, the following described real estate: Situate in the County of Montgomery and State of Ohio, and City of Dayton, and being a triangular strip of Real estate off the east side of Lot No. 40024 of the revised and consecutive numbers of lots of the plat of said City of Dayton, described as follows:

Beginning at the southeast corner of said lot;

Thence with the east line of said lot 117.4 feet to the northwest corner of said lot and face of concrete wall witnessed by a mark cut in the same;

Thence with the north line of said lot and north face of concrete wall northwesterly 11.9 feet to the northwest corner of said wall;

Thence southwesterly 121.35 feet to the place of beginning. Subject to all legal highways.

Permanent Parcel Numbers: R72-07103-0038 and R72-07103-0043
More commonly known as: 121-123 W. Parkwood Drive, Dayton, OH 45405

Prior Deed: Instrument No. 2019-06081327

DH
16-02144
R72 07103 0038
05/22/2017

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO
Civil Division

TAX EASE OHIO, LLC	:	CASE NO. 2017-CV-00407
<i>Plaintiff</i>	:	
- vs -	:	JUDGE MARY KATHERINE
	:	HUFFMAN
	:	
AMERICAN EQUITY FUNDING, INC., ET	:	<u>JUDGMENT ENTRY AND DECREE</u>
AL	:	<u>OF FORECLOSURE</u>
<i>Defendants</i>	:	
	:	
	:	

This cause came to be heard and was submitted to the Court upon the Complaint, Plaintiff's Motion for Default Judgment, the Answer of Defendant Montgomery County Treasurer, and the evidence.

FINDINGS OF FACT:

1. The Court finds that all necessary parties have been served with summons according to law and are properly before the Court.
2. The Court finds that the Defendant American Equity Funding, Inc. is in default of Answer or any other response to the Complaint and has by reason thereof confessed the allegations of the Complaint to be true, and that said Defendant is forever barred from asserting any right, title, claim or interest in and to the premises described herein.

3. The Court finds there may be due to the Treasurer of Montgomery County, Ohio, taxes, accrued taxes, assessments, penalties and interest on the premises described herein, the exact amount of said taxes, accrued taxes, assessments, penalties and interest are unascertainable at this time, but will be determined at the time of the judicial sale of said premises and be set forth and paid pursuant to R.C. §5721.39(A)(4) and (D)(3).

4. The Court finds that certain Tax Certificates (more specifically identified below) have been duly purchased by the Plaintiff and that the Plaintiff is the vested "certificate holder" as the term is defined in R.C. §5721.30(C) of the Ohio Revised Code. The Court further finds that the "certificate redemption price" as defined at R.C. §5721.30(E) appearing to be due on each certificate is due and unpaid. That pursuant to R.C. 5721.32(E) the delinquent taxes that make up the certificate purchase price have been transferred to the Plaintiff, and that by virtue of R.C. §5721.35(A) the first lien previously held by the State of Ohio and its taxing districts under R.C. §5721.20 is vested in the Plaintiff. The Court finds that the Plaintiff is entitled to foreclosure of its lien interests pursuant to R.C. §5721.37(F).

5. The Court finds that pursuant to R.C. §5721.37(F), the tax certificate purchased by the certificate holder is presumptive evidence in all Courts and in all proceedings, of the amount and validity of the taxes, assessments, charges, penalties by the Court and added to such principal amount, and interest appearing due and unpaid and of their nonpayment.

6. The Court further finds that the Plaintiff is the vested holder of the following Tax Certificates:

- a. Tax Certificate No. 2013-0000000595
- b. Tax Certificate No. 2015-0000000485
- c. Tax Certificate No. 2016-0000000815

7. The Court finds that there is due to the Plaintiff on the above-referenced Tax Certificates the following sum:

- a. \$1,595.26, in principal on Certificate No. 2013-0000000595 plus simple interest accruing on the first day of the month at 18.00% per year from October 7, 2013, to the date of the filing of the Notice of Intent to Foreclose, and then at 18% thereafter, and costs, less payments of \$114.73; plus
- b. \$3,786.16 in principal on Certificate No. 2015-0000000485 plus simple interest accruing on the first day of the month at 18% per year from October 2, 2015, and costs; plus
- c. \$757.07 in principal on Certificate No. 2016-0000000815 plus simple interest accruing on the first day of the month at 17.50% per year from December 19, 2016, and costs; plus
- d. The amount paid under division (B)(2) of O.R.C. §5721.37, in the amount of \$2,217.49 plus interest at the rate of 18.00% per annum beginning on the day Plaintiff filed its Notice of Intent to foreclose under O.R.C. §5721.37(A); plus

e. to the Plaintiff's Attorney, \$570.00, as title work costs incurred in this proceeding, court filing costs and reasonable attorney's fees of the certificateholder's attorney in the amount of \$1,960.00 which are hereby taxed as costs.

8. The Court finds that the Tax Certificates held by the Plaintiff constitute a first and valid lien against Permanent Parcel Number R72 07103 0038 and R72 07103 0043 , commonly known as 121-125 W Parkwood Drive, Dayton, OH 45405. (See full legal description attached hereto as Exhibit A).

9. The Court further finds that there is no just reason for delay in entering judgment herein.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED:

A. That the within action shall proceed according to Chapter 5721.30, et seq. of the Ohio Revised Code;

B. It is further **ORDERED** that unless, prior to the Confirmation of Sale of the certificate parcel under these foreclosure proceedings, there is tendered to the county treasurer the sums hereinabove found to be due to Plaintiff, there shall be no further equity of redemption; that said liens and said equity of redemption in and to the subject parcel shall be foreclosed; except that with respect to any lien of the United States, the United States shall have the right to redeem within the time period provided by 28 U.S.C. §2410(c); that an order of Sale shall issue to the Sheriff directing him, without appraisal, to advertise and separately sell said parcel at public sale in the manner provided by law for the sale of real property on execution and according to R.C. §5721.39, for not less than the sum specified herein. If the court authorizes a private selling

officer to sell the real estate, then the sale must proceed in accordance with R.C. §2392.152 and/or §5721.39.

If this is a residential property and the property remains unsold after the first auction, then a second auction shall be held and the property shall be sold to the highest bidder without regard to the minimum bid requirement in §2329.20 of the Revised Code. This auction shall be held no earlier than seven days and not later than thirty days after the first auction.

If there is a bidder at the second or subsequent sales, the judgment creditor and the first lien holder have the right to redeem the property within fourteen days of the sale, by paying the purchase price to the Clerk of Court. Upon timely payment, the court will proceed as described in R.C. §2329.31 with the redeeming party considered the successful purchaser at sale.

C. It is further **ORDERED** that after said sale has been completed, a deed will be conveyed to the purchaser and a Writ of Possession of said property be issued.

D. It is further **ORDERED** that if the property remains twice unsold for want of bidders, the Sheriff or private purchaser is to certify this fact upon the record and the parcel shall be ordered forfeited to the certificate holder, pursuant to R.C. §5721.40.

E. It is further **ORDERED** that if the Certificate Parcel is sold, Plaintiff shall prepare and submit to the Court an Entry of Confirmation of sale and Order of Distribution specifying how the proceeds from sale shall be applied.

The Court further finds there is no just cause for delay.

IT IS SO ORDERED

Date

Judge Mary Katherine Huffman

Civ. R. 58(B):

To the Clerk of Courts:

Please serve all parties not in Default for failure to appear with
Notice of Judgment and its date of entry upon the journal.

Submitted by:

/s/ Andrew M. Tomko

David T. Brady (0073127)

Suzanne M. Godenswager (0086422)

Andrew M. Tomko (0090077)

Austin B. Barnes III (0052130)

Brian S. Gozelanczyk (0090858)

Attorneys for Plaintiff

Submitted to:

Submitted 5/22/2017

Michele Phipps

Daniel McConnell, Jr.

301 West Third Street, 5th Floor

Dayton, OH 45422

Attorneys for Montgomery County Treasurer

Exhibit A

Legal Description

File Number: 63094

Situated in the City of Dayton, County of Montgomery and State of Ohio:

Being Lot Numbered 40023 of the Consecutive numbers of Lots on the revised plat of the said City of Dayton, Ohio.

Also, the following described real estate: Situate in the County of Montgomery and State of Ohio, and City of Dayton, and being a triangular strip of Real estate off the east side of Lot No. 40024 of the revised and consecutive numbers of lots of the plat of said City of Dayton, described as follows:

Beginning at the southeast corner of said lot;

Thence with the east line of said lot 117.4 feet to the northeast corner of said lot and face of concrete wall witnessed by a mark-out in the same;

Thence with the north line of said lot and north face of concrete wall northwesterly 14.9 feet to the northwest corner of said wall;

Thence southwesterly 121.35 feet to the place of beginning. Subject to all legal highways.

Permanent Parcel Numbers: R72-07103-0038 and R72-07103-0043
More commonly known as: 121-125 W. Parkwood Drive, Dayton, OH 45405

Prior Deed: Instrument No. 2010-00081327



General Division
Montgomery County Common Pleas Court
41 N. Perry Street, Dayton, Ohio 45422

Type: Judgment Entry and Foreclosure Decree
Case Number: 2017 CV 00407
Case Title: TAX EASE OHIO LLC vs AMERICAN EQUITY FUNDING INC

So Ordered

Mary H. Huffman