

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

FILED
COURT OF COMMON PLEAS

2020 JUL 22 PM 2:45

CIVIL PRIVATE SELLING OFFICER - ORDER OF SALE

TAX EASE OHIO LLC
PLAINTIFF

CASE NUMBER: 2015 CV 04320

VS.

ANTHONY J. DIGIORGIO JR 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 **2015 CV 04320**, to proceed without delay and cause to be advertised, and to sell according to law, the following described Real Estate, to-wit:

3250 SHEFFIELD ROAD, DAYTON, OH 45449

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 22, 2020

Mike Foley, Clerk

Montgomery County Clerk of Courts

Aboldndgc
Prepared by , Deputy Clerk on July 22, 2020.

MS/MM
18-01654
K48 00513 0014
07/20/2020

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

TAX EASE OHIO, LLC
Plaintiff

- vs -

ANTHONY J. DIGIORGIO, JR, ET AL
Defendants

: CASE NO. 2015 CV 04320
: Tax Certificate Foreclosure
:
: JUDGE DENNIS J. LANGER
:
: 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: 3250 Sheffield Road, Dayton, OH 45449
PERMANENT PARCEL NUMBER: K48 00513 0014
MINIMUM BID: \$ 84,727.74

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) *h* ;
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

Situate in the City of West Carrollton, County of Montgomery, State of Ohio and being Lot Numbered Two Thousand Nine Hundred Twenty Nine (2929) of the consecutive numbers of lots on the revised plat Of the City of West Carrollton.

MS/MM
18-01654
K48 00513 0014
07/20/2020

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

TAX EASE OHIO, LLC : CASE NO. 2015 CV 04320
Plaintiff : Tax Certificate Foreclosure
- vs - :
: JUDGE DENNIS J. LANGER
ANTHONY J. DIGIORGIO, JR, ET AL :
Defendants : PRAECIPE FOR ORDER OF SALE
: (Tax Certificate Foreclosure)

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Email: abarnes@sandhu-law.com

Attorneys for Plaintiff

ELECTRONICALLY FILED
COURT OF COMMON PLEAS
Wednesday, October 5, 2016 4:38:51 PM
CASE NUMBER: 2015 CV 04320 Docket ID: 30109158
GREGORY A BRUSH
CLERK OF COURTS MONTGOMERY COUNTY OHIO

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

TAX EASE OHIO LLC

VS.

ANTHONY J. DIGIORGIO, JR et al

CASE NO. 2015 CV 04320

JUDGE DENNIS J. LANGER

You are hereby notified that a Order: Default Judgment has been filed with the Clerk of Common Pleas Court on 10/05/2016.

Pursuant to Ohio Civil Rule 58 (B) you are notified that a judgment has been filed that may be a final appealable order.

Under Ohio Appellate Rule 4(A) you shall file your notice of appeal within either:

- 30 days from the entry of judgment or order being appealed OR
- 30 days of service of the notice of judgment and its entry if service was not made within the 3 day period in Ohio Civil Rule 58 (B).

If you intend to appeal the judgment of the trial court, you must file your notice of appeal with the clerk of the trial court. Please refer to 2nd District Court of Appeals Local Appellate Rule 2 concerning the \$100 deposit. Please refer to Ohio Appellate Rule 3 (D) for a detailed description of the content of the notice of appeal.

Appellate Rules Online:

Ohio: www.sconet.state.oh.us/LegalResources/Rules

Local: www.mcoho.org/SecondDistrictAppeals/rules.cfm

You may reference the case and view the document online at

www.clerk.co.montgomery.oh.us/pro

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

TAX EASE OHIO, LLC,

CASE NO. 2015 CV 04320

Plaintiff,

JUDGE DENNIS J. LANGER

v.

ANTHONY J. DIGIORGIO, JR., et al.,

Defendants.

JUDGMENT ENTRY AND DECREE IN FORECLOSURE

THIS CAUSE was submitted to the Court and heard upon the Complaint of Plaintiff, Tax Ease Ohio, LLC, the Motion for Default Judgment and Summary Judgment, and the evidence, and it appearing to the Court that service on Defendant Anthony J. Digiorgio, Jr., was obtained by publication on February 9, 2016; that service by certified mail was obtained on Susan M. Digiorgio on September 28, 2015; that service by certified mail was obtained on Citizens National Bank Of Southwestern Ohio on August 28, 2015; but each failed to plead or otherwise defend. Defendant, Civista Bank, successor by merger to The Citizen's National Bank of Southwestern Ohio, was granted its Motion to Set Aside Default Judgment and Assert Interest in Property on July 28, 2016 and filed an Answer on August 2, 2016; there is no genuine issue as to any material fact alleged by the aforesaid Defendant. This Court finds as follows:

The Court finds that Anthony J. Digiorgio, Jr., is the owner of the real estate identified by Parcel No. K48 00513 0014 (See Exhibit "B" attached to Plaintiff's Motion for Default Judgment, Summary Judgment and Decree in Foreclosure).

The Court finds that Tax Ease Ohio, LLC is the holder of Tax Certificate No. 2012-0000000121, 2012-0000000528 and 2013-0000000356 on the real estate described in Exhibit

“B” of Plaintiff’s Motion for Default Judgment, Summary Judgment and Decree in Foreclosure. As provided in Section 5721.38(B) of the Ohio Revised Code, the redemption price is now calculated to be Thirteen Thousand Ninety-Two and 10/100 Dollars (\$13,092.10), in principal, on Certificate No. 2012-0000000121, with interest at the rate of 17.5000% per annum, from June 13, 2012, and Two Thousand Five Hundred Sixty-Two and 86/100 (\$2,562.86), in principal, on Certificate No. 2012-0000000528, with interest at the rate of 18.0000% per annum, from October 5, 2012, and Three Thousand One Hundred Fifty-Four and 14/100 (\$3,154.14), in principal, on Certificate No. 2013-0000000356, with interest at the rate of 18.0000% per annum, from October 7, 2013, and costs, plus Five Thousand Forty-Six and 25/100 (\$5,046.25) paid to the Montgomery County Treasurer on or about April 21, 2015, with interest at the rate of 18% per annum.

That the Court finds that all necessary parties to this proceeding have been served with summons according to law and are properly before the Court; that the Defendants, Anthony J. Digiorgio, Jr. and Susan M. Digiorgio, are in default of answer or other response to the Complaint and has by reason thereof confessed the allegations of the Complaint to be true, and are forever barred from asserting any right, title or interest in or to the premises described herein to the extent allowed by law.

The Court finds that there is no genuine issue as to any material fact asserted by Defendant, Civista Bank, successor by merger to The Citizen’s National Bank of Southwestern Ohio, and therefore Plaintiff is entitled to judgment as a matter of law. The Court finds that there may be due to the Treasurer of Montgomery County, Ohio, taxes, accrued taxes, assessments, penalties and interest on the premises hereinafter described, as shown on the County Treasurer’s tax duplicate, the exact amount being unascertainable at the present time, but which amount will

be determined at the time of the Sheriff's Sale of said premises for which amount the Montgomery County Treasurer has a good and valid lien on the subject premises pursuant to Revised Code Section 5721.10.

That the Court finds that certain Tax Certificates (more specifically identified below) have been duly purchased by the Plaintiff and that the Plaintiff is the "Certificate Holder" as that term is defined in ORC Sec. 5721.30(C). The Court further finds that the "Certificate Redemption Price" as defined at ORC Sec 5721.30(F) appearing to be due on each Certificate is due and unpaid, and that by virtue of ORC 5721.35(A) the first lien previously held by the state and its taxing districts under ORC Sec 5721.10 is vested in the Plaintiff. The Court finds that the plaintiff is entitled to foreclosure of its lien interests. (See, ORC 5721.37(F).)

The Court further finds that there is due and owing the fees and costs incurred in this proceeding including the sum of Nine Hundred Sixty and 00/100 Dollars, (\$960.00), for the title reports filed herein, which sum is taxed as costs, and filing fees, and the attorney's fees of Plaintiff's counsel in the sum of One Thousand Nine Hundred Seventy-Five and 00/100 Dollars, (\$1,975.00). The Court further finds that the Tax Certificates held by the Plaintiff constitute a first and valid lien against Parcel Number(s) K48 00513 0014 commonly known as 3250 Sheffield Road, Dayton, OH 45449 (See full legal description attached to Plaintiff's Motion for Default Judgment, Summary Judgment and Decree in Foreclosure as Exhibit "B").

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that Tax Ease Ohio, LLC has the first and best lien on the premises, and that the within action shall proceed according to Chapter 5721 of the Ohio Revised Code.

It is further **ORDERED** that unless:

- Prior to the confirmation of a sale of the certificate parcel under foreclosure

proceedings, there is tendered to the county treasurer the sum of the following amounts:

- An amount equal to the total of the certificate redemption prices of all Tax Certificates respecting that parcel plus the sum of taxes, assessments, penalties, charges, and interest charged against the parcel that have become due and payable since the date the last Certificate was sold;
- And costs and fees of this proceeding;

there shall be no further equity of redemption; that said lien and said equity of redemption in and to the subject parcel shall be foreclosed; that an Order of Sale shall issue to the Sheriff of Montgomery County, Ohio 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 Section 5721.39 of the Ohio Revised Code and the applicable Rules of the Montgomery County Common Pleas Court, for not less than the total amount of the findings herein which shall constitute the "MINIMUM BID"; AND THAT THE Sheriff make due return to this Court, for further proceedings under law.

It is further **ORDERED** that upon the Confirmation of Sale, the proceeds thereof shall be applied by the Sheriff (pursuant to ORC 5721.39) as follows:

- (A) The fees and costs incurred in this proceeding, including \$960.00 for title reports and costs and \$1,975.00 for plaintiff's attorney's fees;
- (B) To the Plaintiff the sum of the amounts found due for the certificate redemption prices of all the Tax Certificates sold against the parcel, namely, Thirteen Thousand Ninety-Two and 10/100 Dollars (\$13,092.10), in principal, on Certificate No. 2012-0000000121, with interest at the rate of 17.5000% per

annum, from June 13, 2012, and Two Thousand Five Hundred Sixty-Two and 86/100 (\$2,562.86), in principal, on Certificate No. 2012-0000000528, with interest at the rate of 18.0000% per annum, from October 5, 2012, and Three Thousand One Hundred Fifty-Four and 14/100 (\$3,154.14), in principal, on Certificate No. 2013-0000000356, with interest at the rate of 18.0000% per annum, from October 7, 2013;

- (C) To the Plaintiff the sum of the amounts found due on the Notice of Intent to Foreclose attached to Plaintiff's Complaint as "Exhibit A," namely, plus Five Thousand Forty-Six and 25/100 (\$5,046.25) paid to the Montgomery County Treasurer on or about April 21, 2015, with interest at the rate of 18% per annum;
NO PERSONAL MONEY JUDGMENT IS BEING SOUGHT AGAINST ANY PARTY TO THIS ACTION. ONLY IN REM RELIEF IS BEING SOUGHT.
- (D) To the Montgomery County Treasurer any amount due for taxes, assessments, charges, penalties, and interest not covered by the Tax Certificate Holder's payment including all taxes, assessments, charges, penalties and interest payable subsequent to the entry of the finding and prior to the transfer of the deed of the parcel to the purchasers following Confirmation of Sale;
- (E) To Defendant, Civista Bank, successor by merger to The Citizen's National Bank of Southwestern Ohio, any amount due on the mortgage including payments, charges, penalties, and interest;
- (F) Sheriff to hold any balance.

It is further **ORDERED** that upon the sale of the within described premises and the Confirmation of Sale thereof, the Sheriff of Montgomery County, Ohio shall issue a Deed in

accordance with law.

It is further **ORDERED** that such taxes and special assessments, or installments of special assessments, and any other assessments, which are not legally due and payable according to law at the time of the Confirmation of Sale, shall be abated or removed from the tax duplicates and records in the Offices of the Auditor and Treasurer of Montgomery County, Ohio.

It is further **ORDERED** that unless said parcel is previously redeemed pursuant to 5721.38 of the Ohio Revised Code, upon filing of the entry of Confirmation of Sale, the title to said parcel shall be incontestable in the purchaser, and shall be free and clear of all liens and encumbrances, except such easements and covenants of record running with the land as were created prior to the time the taxes or assessments, for the nonpayment of which said parcel is sold at foreclosure, became due and payable.

If the property remains twice unsold for want of bidders, the Sheriff is to certify this fact upon the record and the parcel shall be ordered forfeited to the Certificate Holder. (ORC Sec. 5721.40).

It is further **ORDERED** that, except as otherwise hereinabove provided, any Defendant parties owning or claiming any right, title or interest in, or lien upon said parcel, together with such who may have a right of dower, shall be and they are hereby forever barred from asserting any right, title or interest in said parcel to the extent allowed by law.

THIS IS A FINAL APPEALABLE ORDER, AND THERE IS NO JUST CAUSE FOR DELAY FOR PURPOSES OF CIV. R. 54. PURSUANT TO APP. R. 4, THE PARTIES SHALL FILE A NOTICE OF APPEAL WITHIN THIRTY (30) DAYS.

JUDGE DENNIS J. LANGER

Judgment Prepared by:

/s/ Robert M. Sellards

Robert M. Sellards (Ohio Bar #0091486)
**NELSON MULLINS RILEY &
SCARBOROUGH LLP**
949 Third Avenue, Suite 200
Huntington, West Virginia 25701
Phone: (304) 526-3500
Fax: (304) 526-3851

**COUNSEL FOR PLAINTIFF,
TAX EASE OHIO, LLC**

CERTIFICATE OF SERVICE

Copies of the Foregoing have been sent by ordinary U.S. Mail by the Clerk of Court to the following parties or their counsel of record:

Robert M. Sellards (Ohio Bar #0091486)
NELSON MULLINS RILEY & SCARBOROUGH LLP
949 Third Avenue, Suite 200
Huntington, West Virginia 25701
Phone: (304) 526-3500
Fax: (304) 526-3851
Counsel for Tax Ease Ohio, LLC

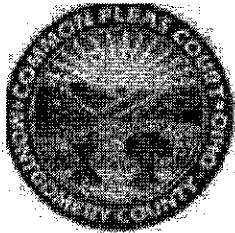
Jeffrey J. Madison, Esq.
Dennis J. Morrison, Esq.
LANE ALTON
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*Counsel for Defendant Civista Bank
fdba The Citizens National Bank of Southwestern Ohio*

Susan M. Digiorgio
1531 Wardmier Road
Dayton, OH 45459

Michele Phipps, Esq.
Assistant Prosecuting Attorney
Montgomery County Prosecutor's Office
301 West Third Street
Dayton, Ohio 45422
Counsel for Defendant Carolyn Rice, Treasurer of Montgomery County, Ohio

Anthony J. Digiorgio, Jr.
ADDRESS UNKNOWN

Clerk of Court



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

Type: Order: Default Judgment
Case Number: 2015 CV 04320
Case Title: TAX EASE OHIO LLC vs ANTHONY J. DIGIORGIO

So Ordered

A handwritten signature in black ink, appearing to read "Dennis J. Pender".