

IN THE CIRCUIT COURT OF GARLAND COUNTY, ARKANSAS
CIVIL DIVISION

FILED

2007 DEC 3 AM 9 07

CITY OF HOT SPRINGS, ARKANSAS

VS

NO. CV 2007-537-III

PLAINTIFF
GARLAND CO. CIRCUIT CLERK

BY



BRYAN NEBEL and the OWNER(S) and/or
OCCUPANT(S) OF 735 QUAPAW AVENUE,
HOT SPRINGS, ARKANSAS

DEFENDANTS

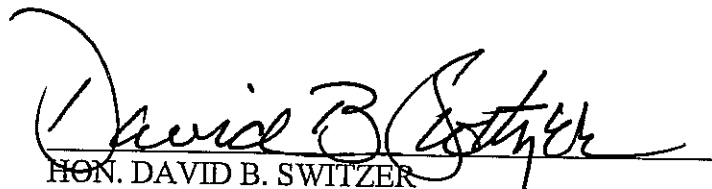
ORDER SETTING ASIDE COMMISSIONER'S SALE

On this day this matter comes before the Court for consideration of the Plaintiff's Motion to Set Aside Commissioner's Sale, from which the Court finds the following:

1. This matter came before the Court for hearing on July 3, 2007.
2. From the testimony and evidence received by the Court, the Court found that the subject property is a threat to the health, safety, and welfare to the occupants thereof and the citizens of the City of Hot Springs, Arkansas.
3. The Court entered its Order Abating Nuisance on July 18, 2007, which ordered the subject property sold at a Commissioner's Sale, and further Ordered that in the event said property was not sold, that the City of Hot Springs was ordered to raze the structures thereon, and thereupon place a lien for the cost incurred for same.
4. Upon Notice properly served upon the record mortgage holder, Ocwen Loan Servicing, LLC ("Ocwen") the Commissioner's Sale was scheduled for November 14, 2007, at 11:00 a.m.
5. Notice of said Commissioner's Sale was duly published according to law, and was so held on November 14, 2007 at 11:00 a.m.
6. Prior to opening up the bids, the acting Commissioner permitted Plaintiff's counsel to announce and disclose the fact that any sale would be subject to an outstanding mortgage in favor of Ocwen, in the approximate sum of \$85,000.
7. After the aforementioned announcement and disclosure of the existing mortgage, the acting Commissioner opened the sale for bids. There were no bids or offers.

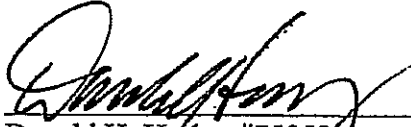
8. The Commissioner's Report of Sale reflected that the Plaintiff, City of Hot Springs, was the purchaser in the amount of the disclosed mortgage amount.
9. Upon review of this matter, it is apparent that the Commissioner interpreted the Plaintiff's disclosure of the mortgage as a bid in that amount, which is not unusual in a normal foreclosure sale.
10. However, the Commissioner's Sale ordered in this case was for the limited purpose of abating the nuisance found to exist by the Court.
11. The mortgage holder, Ocwen, did not, and has not, sought a foreclosure sale.
12. The City of Hot Springs, has not, and has no intention to, assume the interest of the mortgage holder, Ocwen, and therefore could not, and did not, bid an interest in Ocwen's mortgage.
13. Based upon the foregoing, it is hereby ordered that the Commissioner's Sale conducted on November 14, 2007, and the Report of Sale thereon, together with the Order of Confirmation and subsequent Commissioner's Deed should be, and hereby is, set aside and held for naught.
14. Further that the Court hereby appoint the Clerk of the Court to serve as Commission for the purpose of conducting another Commissioner's Sale and providing notice as required by law, and which shall be held on January 2, 2008, at 11:00, A.m.
15. The terms of such a Commissioner's Sale shall be consistent with the Court's previous rulings and Order entered on July 18, 2007.

IT IS SO ORDERED.

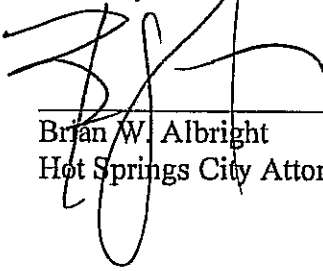

HON. DAVID B. SWITZER
GARLAND COUNTY CIRCUIT JUDGE

DATE: DEC - 3 2007

Approved as to form and content:



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Mitchell, Williams, Selig,
Gates & Woodyard, P.L.L.C.
Attorneys for Ocwen Loan Servicing, LLC



Brian W. Albright
Hot Springs City Attorney