

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. _____

Declaring Certain Tax Foreclosed Property (Tax Account No. R144815) Subject to Waste and Ordering the Tax Collector to issue a Deed to the County

The Multnomah County Board of Commissioners Finds:

- a. On or about September 21, 2011, in the Multnomah County Circuit Court, Case No 1108-10399, Judgment in favor of Multnomah County and against certain properties more particularly described in the Judgment, was entered in an action filed by the County pursuant to ORS Chapter 312 to collect all delinquent tax liens on said real property subject to foreclosure.
- b. Since the entry of the Judgment, the County determined that certain properties amongst those covered by said Judgment may be subject to waste (the “subject properties”).
- c. After providing notice to the owners, interested parties and any occupants of the subject properties, in compliance with ORS 312.122 and Multnomah County Code (MCC) §§ 7.420-7.426, the Director of the County’s Department of County Management or other appropriate person under MCC§ 7.422 (collectively referred to as the “Director”), held individual hearings to determine whether any of the subject properties should be deeded to the County early as provided by ORS 312.122 (1).
- d. One of the properties subject to the determination of waste and proposed early deed to the County is more particularly described as follows: Lot 45 - 48, Block 12, Darlington (“the Property”).
- e. After the hearing held on October 18, 2012, the Director found that the Property is subject to waste and recommends that the redemption period be reduced and the Property be deeded early to the County as provided at ORS 312.122 and MCC§ 7.426. A copy of the Director’s Expedited Redemption and Forfeiture Hearing Findings and Recommendation is attached as Exhibit 1.
- f. The Property is subject to waste as provided under ORS 312.122, ORS 312.180 and MCC§ 7.422.

The Multnomah County Board of Commissioners Orders:

1. The Director’s Expedited Redemption and Forfeiture Hearing Findings and Recommendation attached as Exhibit 1 is hereby adopted and the Property is determined to be subject to waste.
2. After the expiration of a shortened redemption period of 30 days from the date of this Order, unless the Property is sooner redeemed by a person or entity qualified to redeem as provided in paragraph 4 below, any rights of possession the owner may have in the Property are forfeited.
3. After the expiration of the 30 day redemption period, the County’s Tax Collector is directed to execute and the County Chair is authorized to accept, the Tax Foreclosure Deed conveying the Property to the County in substantial conformance with the Tax Foreclosure Deed attached as Exhibit 2.
4. During the shortened redemption period after the date of this Order, the Property may be redeemed by any person or entity that appears in the records of the County to have a lien or other interest in the Property.

5. All rights of redemption with respect to the Property shall terminate on the execution of the Tax Foreclosure Deed to the County.

ADOPTED the 29th day of November, 2012.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Jeff Cogen, Chair

REVIEWED:

JENNY M. MORF, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:
Joanne Fuller, Director, Dept. of County Management

**EXPEDITED REDEMPTION AND FORFEITURE
HEARING FINDINGS AND RECOMMENDATION**

PROPERTY OWNER: TOSI, JOSEPH M.

ADDRESS: 5705 SE Lexington St., Portland, OR 97206

TAX ACCOUNT NUMBER: R144815

TAX FORECLOSURE CASE HISTORY: Multnomah County Circuit Court Case # 1108-10399
Judgment Date: 9/21/2011

STATUTORY REDEMPTION PERIOD EXPIRATION: 9/20/2013

DATE OF HEARINGS: 8/6/12 at 10:30 AM, 8/20/12 at 10:30 AM, 10/18/12 at 9:30 AM

HEARINGS OFFICER: Gary Bartholomew

APPEARING AT HEARINGS: For Multnomah County: Sally Brown, Karla Hartenberger, Tracie McClements;
For Owner/Interested Party: Joseph M. Tosi, Owner (8/6/12 and 8/20/12) and Garrett W. Crawshaw, Attorney, Bar #06235, appeared on behalf and representing two lien holders, Robert F. McCullough and Karen A. Tosi during all three dates the hearing was continued. Mr. McCullough and Ms. Tosi did not attend on any of the dates the hearing was continued. Mr. Tosi did not appear at the final date the hearing was held on October 18, 2012.

SUMMARY OF EVIDENCE AND TESTIMONY PRESENTED:

For Multnomah County: The County witnesses presented photographic evidence and oral testimony showing extensive peeling and failure of the exterior paint of the improvements thereby exposing wood siding and window frames to the elements; failing of the garage roof; rotting and deteriorating porch covering; gutters in poor condition; holes punctured in several interior walls; missing plumbing and electrical components. Finally, initially there was evidence of some overgrown vegetation and previous complaint of tall grass and weeds, but it appears that the conditions in outdoor area were later addressed. These cited conditions on the whole, show the deterioration of the improvements at the property and to a lesser extent that the outdoor area is not properly maintained..

For Owner/Interested Party: Mr. Tosi agreed that the conditions with respect to the porch and exterior paint were as presented by the County. He stated that although he had not performed repairs that these conditions existed when he acquired possession of the property in 2005. He also explained in regards to the condition of the plumbing and electrical facilities, that in 2008 the pipes had burst and that the electrical wiring was very old and was a fire hazard, and he had removed it. And he had then attempted repairs that resulted in the holes in the walls. He then stopped this work due to changes in the economy and his domestic relationship. He stated that the current conditions were the same as in 2008 and hadn't gotten any worse. Mr. Crawshaw did not testify.

FINDINGS: The property suffers from waste as defined in ORS 312.122, ORS 312.180 and Multnomah County Code 7.423 in the following particulars:

1. The evidence and testimony presented by the County established that the improvements at the property were deteriorated including exterior and interior conditions..
2. The owner has caused this deterioration of the improvements at the property by failing to address the above cited conditions or by literally causing the deterioration of the improvement by starting internal demolition work and not completing it.
3. Mr. Tosi did not dispute and in fact admitted the evidence and testimony by the County as to waste. Mr. Tosi stated that some of the exterior conditions existed when he acquired the property, but that is not a denial that those same conditions cause the property to be subject to waste,
4. Mr. Tosi's failure to make repairs exposes the property to continued wasting and deterioration. Although Mr. Tosi attempted some interior repairs, he did not complete them and left the property in a state of semi-demolition (e.g. holes in the walls, removal of electrical and plumbing components). These defective conditions have contributed to depreciation in value of the property.

5. Mr. Tosi has either directly caused or otherwise permitted the deterioration of the improvements at the property.

RECOMMENDATION: That the Board of County Commissioners:

1. Affirm that the Property is subject to waste;
2. Declare that the owner's right of possession is forfeited; and
3. Direct the Tax Collector to deed the property to the County after expiration of a period of 30 days if not sooner redeemed. (ORS 312.122, Multnomah County Code 7.426).

Until a change is requested, all tax statements shall be sent to the following address:
(Grantees) MULTNOMAH COUNTY TAX COLLECTOR
501 SE HAWTHORNE BLVD
PORTLAND OR 97214

After recording return to:
(Grantor) MULTNOMAH COUNTY SPECIAL PROGRAMS
501 SE HAWTHORNE BLVD
PORTLAND OR 97214

MULTNOMAH COUNTY
TAX FORECLOSURE DEED

The parties to this deed are Randy P. Walruff, as the Tax Collector for Multnomah County, Oregon, Grantor, and Multnomah County, a political subdivision of the State of Oregon (the County), Grantee.

A Judgment in favor of the County and against property described in Exhibit A attached hereto; (hereinafter “the Property”) was entered on or about September 21, 2011, in an action filed pursuant to ORS Chapter 312 in the Multnomah County Circuit Court (Case No 1108-10399). The County brought this action to foreclose the liens for delinquent taxes against all the properties shown on the 2011 Multnomah County foreclosure list, which included the Property. Upon entry of the Judgment in the above referenced action, the Circuit Court ordered that the several properties be sold to the County for the respective amounts of taxes and interest for which the properties are liable. A certified copy of the Judgment containing the list of properties ordered to be sold was delivered to Randy P. Walruff at the Multnomah County Division of Assessment, Recording and Taxation.

The Property was the subject of a forfeiture and expedited redemption proceeding as provided under ORS 312.122 and Multnomah County Code §§ 7.420-7.426. By Multnomah County Board Order No.____, the Multnomah County Board of Commissioners directed this Tax Foreclosure Deed for the Property be executed after 30 days from the date of said Order.

Now, therefore as authorized under ORS 312.200; I, Randy P. Walruff, as Tax Collector, conveys to Multnomah County all right title and interest in certain real property located in Multnomah County, Oregon; and more particularly described in Exhibit A attached hereto together with all tenements, hereditments and appurtenances thereto belonging or appertaining, to have and to hold unto the County, its successors and assigns from every right or interest of any person in such premises.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424,

Dated this _____ day of November, 2012

**RANDY P. WALRUFF, TAX COLLECTOR,
MULTNOMAH COUNTY, OREGON**

Randy P. Walruff, Tax Collector

STATE OF OREGON)
)
COUNTY OF MULTNOMAH)

This instrument was acknowledged before me on this _____ day of November 2012 by Randy P. Walruff as Tax Collector for Multnomah County, Oregon.

Tamara Meier
Notary public for Oregon
My commission expires 11/7/2014

ACCEPTED: Multnomah County approves and accepts this conveyance.

Jeff Cogen, Chair of the Multnomah County Board

Reviewed:
JENNY M. MORF, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Matthew O. Ryan, Assistant County Attorney

EXHIBIT "A" TO TAX FORECLOSURE DEED

Legal Description:

Lot 45 - 48, Block 12, Darlington

Tax Account Number: R144815