

see pertinent copies attached

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Nebraska Judicial Branch

Case Summary

In the District Court of Sarpy County
 The Case ID is CI 11 0000530
 Equifunding, Inc. v. Peachtree Properties
 The Honorable Stefanie Martinez, presiding.
 Classification: Foreclosure-Other
 Filed on 03/24/2011
 This case is Closed as of 05/15/2012
 It was disposed as Tried to Court

Parties/Attorneys to the Case

Party	Attorney
Plaintiff ACTIVE Equifunding, Inc.	Martin P Pelster 2120 S. 72nd St Ste 1200 Omaha NE 68124 402-391-6777
Defendant ACTIVE Peachtree Properties, L.L.C. % William Torczon, Registered Agent 5120 S. 50th Court Omaha NE 68117	
Defendant ACTIVE City of Papillion % City Clerk 122 East Third Street Papillion NE 68046	Michael N Schirber 11515 S 39th Street Ste 102 Bellevue NE 68123 402-592-2800
Defendant ACTIVE S I D 268 of Sarpy County	Brian C Doyle 11440 W Center Rd Ste C Omaha NE 68144 402-334-0700
Defendant ACTIVE Sarpy County, Nebraska % Deb Houghtaling, County Clerk 1210 Golden Gate Drive Papillion NE 68046	
Defendant ACTIVE John Doe	
Defendant ACTIVE Mary Doe	
Defendant ACTIVE Lot 72 Villas at Creekside Sarpy Co Lot 72 Villas at Creekside Sarpy Co owes \$338.00	
Trustee ACTIVE American National Bank % Highest Officer or Managing Agent 8990 W. Dodge Road Omaha NE 68114	Clay M Rogers 8712 West Dodge Rd Suite 400 Omaha NE 68114 402-392-0101

Judgment Information

On 05/15/2012 judgment of District Court Costs were entered for \$338.00
 Balance due is \$338.00
 The judgment creditor is Equifunding, Inc.
 The judgment debtor is Lot 72 Villas at Creekside Sarpy Co

Court Costs Information

Incurred By	Account	Date	Amount
Plaintiff	Petition	03/24/2011	\$35.00
Plaintiff	Filing Fee - State	03/24/2011	\$5.00
Plaintiff	Automation Fee	03/24/2011	\$8.00
Plaintiff	NSC Education Fee	03/24/2011	\$1.00
Plaintiff	Dispute Resolution Fee	03/24/2011	\$0.75
Plaintiff	Indigent Defense Fee	03/24/2011	\$3.00
Plaintiff	Uniform Data Analysis Fee	03/24/2011	\$1.00
Plaintiff	J.R.F.	03/24/2011	\$6.00
Plaintiff	Filing Fee-JRF	03/24/2011	\$2.00
Plaintiff	Legal Aid/Services Fund	03/24/2011	\$5.25
Plaintiff	Complete Record	03/24/2011	\$15.00
Plaintiff	Service Fees	05/04/2011	\$5.88
Plaintiff	Service Fees	05/03/2011	\$5.88
Plaintiff	Service Fees	05/04/2011	\$5.88
Plaintiff	Service Fees	05/04/2011	\$5.88
Plaintiff	Publishing Fees	07/01/2011	\$101.98

Financial Activity

No trust money is held by the court
No fee money is held by the court

Payments Made to the Court

Receipt	Type	Date	For	Amount
352263	check	03/24/2011	Equifunding, Inc.	\$82.00
			Petition	\$35.00
			Filing Fee - State	\$5.00
			Automation Fee	\$8.00
			NSC Education Fee	\$1.00
			Dispute Resolution Fee	\$.75
			Indigent Defense Fee	\$3.00
			Uniform Data Analysis	\$1.00

Receipt	Type	Date	For	Amount
			J.R.F.	\$6.00
			Filing Fee-JRF	\$2.00
			Legal Aid/Services Fun	\$5.25
			Complete Record	\$15.00

Register of Actions

05/16/2012 Proof of Service
This action initiated by party Equifunding, Inc.
Decree of Foreclosure sent to parties on 05/14/2012
Image ID 000296038D59

05/15/2012 Decree of Foreclosure
This action initiated by David K Arterburn
Image ID 000295574D59

05/15/2012 Order
This action initiated by David K Arterburn
Order re: Partial Summary Judgment
Image ID 000295571D59

05/14/2012 Hearing
Arguments made/PLF's Motn-Summary Judgement-sustained/Order signed/Motn-

Partial Summary Judgment-granted/Order signed/Hrg of 7/16/12-CANCELED

05/03/2012 Amended Notice of Hearing
This action initiated by party S I D 268 of Sarpy County
Defs Motion for Partial Summary Judgment hearing 05/14/12 @ 3:30pm #6
Image ID N12124XFKD59

05/01/2012 Amended Notice of Hearing
This action initiated by party Equifunding, Inc.
Amended Hearing is set for 5/14/12 at 3:30pm #6
Image ID 000293491D59

04/11/2012 Order-Hearing
This action initiated by David K Arterburn
Case set for Status hearing: 7/16/12 3:30pm/
Image ID 000287390D59

04/11/2012 Trial/Hearing Scheduled
Case set for Status hearing: 7/16/12 3:30pm/Order-Hearing signed

12/06/2011 Hearing Date Cancelled
By agreemtn of the parties thru counsel, Hrg this date is cancelled to be
reset by the parties at a later date
Image ID 000269962D59

11/29/2011 Motion-Summary Judgment
This action initiated by party S I D 268 of Sarpy County
Motion for Partial Summary Judgment Hearing 12/05/11 @ 3:30pm #6
Image ID N11333D5JD59

11/22/2011 Motion-Summary Judgment

This action initiated by party Equifunding,Inc.

Hearing 12/05/2011 @ 3:30pm #6
Image ID 000269254D59

07/01/2011 Affidavit-Publication
This action initiated by party Equifunding,Inc.
Publication Fees: \$101.98
Image ID 000246895D59

06/06/2011 Notice Filed
This action initiated by party Equifunding,Inc.
Notice and Affidavit of Service Via Publication
Image ID 000242909D59

05/23/2011 Order-Service by Publication
This action initiated by David K Arterburn
Image ID 000240418D59

05/20/2011 Affidavit
This action initiated by party Equifunding,Inc.
Affidavit of Martin P. Pelster
Image ID 000240542D59

05/20/2011 Motion-Service by Publication
This action initiated by party Equifunding,Inc.
Image ID 000240545D59

05/17/2011 Answer
This action initiated by party S I D 268 of Sarpy County
Answer of SID 268
Image ID N11137044D59

05/04/2011 Voluntary Appearance

This action initiated by party S I D 268 of Sarpy County
Image ID 000237855D59

05/04/2011 Return Summons/Alias Summons
The document number is 00100530
Served 03/29/2011, Certified Mail
Signed by Sandy Mills
Image ID 000237790D59

05/04/2011 Return Summons/Alias Summons
The document number is 00100529
Served 03/29/2011, Certified Mail
Image ID 000237789D59

05/04/2011 Return Summons/Alias Summons
The document number is 00100527

Served 03/28/2011, Certified Mail
Signed by Darlene Torc
Image ID 000237792D59

05/03/2011 Return Summons/Alias Summons
The document number is 00100528
Served 03/29/2011, Certified Mail
Image ID 000237793D59

04/19/2011 Answer
This action initiated by party American National Bank
Image ID 000235100D59

04/11/2011 Response
This action initiated by party City of Papillion
Image ID 000233630D59

03/24/2011 Affidavit
This action initiated by party Equifunding, Inc.
Image ID 000230702D59

03/24/2011 Summons Issued on Sarpy County, Nebraska
The document number is 00100530

03/24/2011 Summons Issued on City of Papillion
The document number is 00100529

03/24/2011 Summons Issued on American National Bank
The document number is 00100528

03/24/2011 Summons Issued on Peachtree Properties, L.L.C.
The document number is 00100527

03/24/2011 Praecipe-Summons/Alias
This action initiated by party Equifunding, Inc.
Issue Summons to Peachtree Properties, American National Bank, City of
Papillion, Sarpy County Nebraska by Cert Mail
Image ID 000230699D59

03/24/2011 Complaint-Praecipe
This action initiated by party Equifunding, Inc.
Image ID 000230693D59

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING, INC.,

Plaintiff,

vs.

PEACHTREE PROPERTIES, L.L.C.; AMERICAN
NATIONAL BANK, TRUSTEE; CITY OF
PAPILLION; SANITARY AND IMPROVEMENT
DISTRICT NO. 268 OF SARPY COUNTY;
SARPY COUNTY, NEBRASKA; JOHN DOE and
MARY DOE, REAL NAMES UNKNOWN; and
ANY AND ALL PERSONS WHO HAVE OR
CLAIM SOME LIEN UPON OR INTEREST IN
THE REAL ESTATE DESCRIBED BELOW,

Defendants.

CASE NO. CI 11-530

COMPLAINT

(Equity)

Carol Homan
SARPY DISTRICT COURT

11 MAR 24 AM 10:23

FILED
SARPY COUNTY
DISTRICT COURT

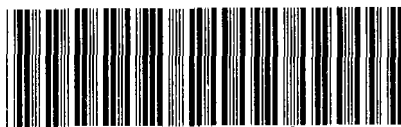
Plaintiff complains of the Defendants and each of them and for its cause of action, alleges:

1. The Plaintiff, Equifunding, Inc., is the owner and holder of Tax Sale Certificate No. 7878 which was purchased from the Sarpy County Treasurer at public sale on or about March 6, 2008. A copy of Tax Sale Certificate No. 7878 is attached hereto as Exhibit "A", and incorporated herein by this reference, and constitutes a first and superior lien on the following described real estate in Sarpy County, Nebraska, to wit:

Lot 72, Villas at Creekside, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

2. The following named persons have or claim some lien upon or interest in the above described real estate of this cause of action, but their interest or lien, if any, is inferior, junior and subject to the lien of this Plaintiff, to wit:

Peachtree Properties, L.L.C., appears to be the record owner of the property;



000230693D59

American National Bank, Trustee, by virtue of a Deed of Trust recorded April 15, 2005 at Instrument No. 2005-12035 of the Records of Sarpy County, Nebraska;
City of Papillion, by virtue of an Assessment recorded on August 20, 2009 at Instrument No. 2009-27569 of the Records of Sarpy County, Nebraska;
Sanitary and Improvement District No. 268 of Sarpy County, by virtue of a Notice of Special Assessment recorded on February 25, 2011 at Instrument No. 2011-05770 of the Records of Sarpy County, Nebraska;
Sarpy County, Nebraska, by virtue of a Weed Assessment recorded October 18, 2010 at Instrument No. 2010-28729.

3. Taxes for the years set out in said certificate were duly and lawfully assessed and levied and became delinquent on the real estate described in said certificate and that said real estate was duly advertised and sold at public auction on or about March 6, 2008, for the amount of said taxes, interest and charges thereon and said Certificate No. 7878 was issued by the Sarpy County Treasurer as provided by law.

4. Subsequent taxes were duly and lawfully assessed and levied on said properties and may have been purchased by the Plaintiff and are now a lien thereon.

5. Said certificate has not been redeemed, nor have the subsequent taxes been paid or any part thereof and there is due thereon to the Plaintiff, the owner of said certificate, the amount of the certificate with interest at 14 percent per annum from the several dates of delinquency thereof; that Plaintiff has a first and paramount lien on the properties subject to the certificate for the total amount of said items and the Plaintiff is entitled to foreclosure thereof; and that the interest, if any, of each and all of Defendants herein in and to said real estate is junior, subject and inferior to the Plaintiff's interest.

6. Plaintiff has reason to believe that there are persons who have or that there are persons who claim or appear to have some interest in, right or title to, or lien upon, the above described real estate, and that the ownership of, interest in, rights or title to, or lien upon such property of such persons does not appear of record in or by their respective names in Sarpy County, Nebraska, and that the Plaintiff and its attorney or attorneys after diligent investigation and inquiry, are unable to ascertain and do not know the names or whereabouts, if in this state, or the residence or places of abode of such persons; and for such reason the herein described parcels of real estate have been made and are party defendants in this action and also all persons having or claiming any interest in said real estate, real names unknown.

7. The Defendants, John Doe and Mary Doe, his wife, real names unknown, are tenants in possession of certain of said real estate and as such claim some interest therein.

8. The Defendants named herein appear to be the owners of the record title to the premises herein described or claim an interest in said property pursuant to a judgement lien or otherwise.

9. Upon information and belief, none of the Defendants involved in this action or being otherwise named, designated, or referred to in this action, are or within three months last past engaged in the military or naval service of the United States and are thereby entitled to the benefits of the Soldiers and Sailors Civil Relief Act of 1940, as amended.

10. Plaintiff is entitled to an attorney's fee for its attorney of record herein as provided by law in the amount of ten percent of the amount due it, to be taxed as costs in this case.

WHEREFORE, Plaintiff prays that an accounting may be taken on the amount due and owing it under and by virtue of said tax sales certificate, interest, costs and attorney fees and the lien thereon be adjudged and decreed to be first and superior lien upon the aforesaid premises; that the

Defendants or some of them be ordered and directed to pay this Plaintiff said sums as aforesaid and in default of such payments for 20 days from the entry of this decree, that said premises be sold for the satisfaction of said lien provided by law; that the right, title, interest, lien and claim of the Defendants and each of them be determined, found and decreed to be subsequent, junior and inferior to the lien of this Plaintiff, that upon the sale of the premises that the purchasers thereof take a good and indefeasible title to said real estate so purchased and be placed in possession thereof; that the Defendants and each of them be foreclosed of all right, title, interest, lien, claim and equity of redemption in and to said real estate; that this Plaintiff recover its costs herein expended, including attorney's fees authorized by statute; and for such other relief as the Court may deem just and equitable.

DATED this 23rd day of March, 2011.

EQUIFUNDING, INC., Plaintiff

By: Martin P. Pelster
Martin P. Pelster, #19223
Of CROKER, HUCK, KASHER, DeWITT,
ANDERSON & GONDERINGER, L.L.C.
2120 South 72nd Street, Suite 1200
Omaha, Nebraska 68124
(402) 391-6777
Attorneys for Plaintiff

00437601.DOC

Original

COUNTY TREASURER'S CERTIFICATE OF TAX SALE - PUBLIC

Cert. No.: 7878
 Parcel No: 011587903
 Amount : 8,122.55
 Fee (+) : 10.00
 Total : 8,132.55

State of Nebraska

County of Sarpy

I, Rich James, Sarpy Cty Treasurer,
 of the County of Sarpy in the State of Nebraska, do hereby certify
 that the following described Real Estate in said County and State, to wit:

LOT 72 VILLAS AT CREEKSIDE (6.495 AC)

was on the 6th day of March, 2008 , duly sold by me in the manner
 provided by law, at PUBLIC sale, at my office, for the delinquent
 taxes for the years : , 2006 , amounting to Eight Thousand One Hundred
 Thirty-Two Dollars And Fifty-Five Cents including penalty thereon, and
 costs allowed by law to FIRST UNITED FINANCIAL LIMITED PARTNERSHIP, AGT
 EQUIFUNDING for the sum of Eight Thousand One Hundred Thirty-Two
 Dollars And Fifty-Five Cents being highest and best bidder for same.
 And I further certify that unless redemption is made of said real
 estate in the manner provided by law, the said FIRST UNITED FINANCIAL
 LIMITED PARTNERSHIP, AGT EQUIFUNDING heirs or assigns will be entitled
 to a deed therefor on and after the 6th day of March, 2011 on
 surrender of this certificate and in compliance with the provisions of
 the law governing this sale.

IN WITNESS WHEREOF, I have hereunto set my hand this
 28th day of August, 2008.

Rich James, Sarpy Cty Treasurer, Trea

(seal)

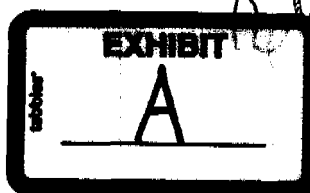
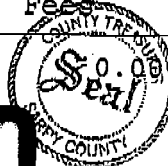
By _____

PO BOX 980

EAST LANSING/MI 48826-

OWNER'S NAME PEACHTREE PROPERTIES LLC			
WHEN REDEEMED MO/DAY/YR	BY WHOM REDEEMED	AMOUNT PAID	REDEMPTION MONEY
REDEMPTION #	TAX DEED GIVEN	REMARKS	

Year	Date	Subsequent Taxes Paid Amount	Fees	Total
2007	08/28/2008	10305.55	0.00	10305.55



Assignment of Certificate of Sale


For a valuable consideration paid to me, the receipt of which is acknowledged, I do by these presents assign, transfer and set over to:

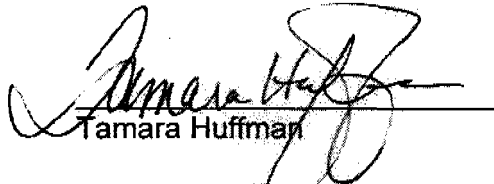
Name: Equifunding, Inc.
PO Box 980
East Lansing, MI 48826

all claim, right, title and interest in and to the certificate of purchase number 2008-7878, for the 2006,2007,2008,2009 taxes in the county of Sarpy, State of Nebraska. In witness whereof I have hereunto set my hand and seal this December 1, 2010.

Signed in the presence of:

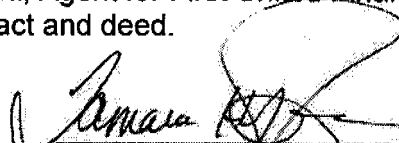

Monica Ball


Andrew Wahl, Agent
First United Financial, Limited Partnership


Tamara Huffman
State of Michigan)

)ss.
County of Ingham)

On the 1st December 2010, personally appeared before me, a Notary Public in and for said County, the above named Andrew Wahl, Agent for First United Financial and acknowledged the same to be his/her free act and deed.


Tamara Huffman, Notary Public
Eaton County, Michigan
Acting in Ingham County, Michigan
My Commission Expires: 9-17-2013

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING, INC.,

Plaintiff,

vs.

PEACHTREE PROPERTIES, L.L.C.,
AMERICAN NATIONAL BANK,
TRUSTEE; CITY OF PAPILLION;
SANITARY AND IMPROVEMENT
DISTRICT NO. 268 OF SARPY
COUNTY; SARPY COUNTY,
NEBRASKA; JOHN DOE and
MARY DOE, REAL NAMES
UNKNOWN; and ANY AND ALL
PERSONS WHO HAVE OR CLAIM
SOME LIEN UPON OR INTEREST IN
THE REAL ESTATE DESCRIBED
BELOW,

Defendants.

CASE NO. CI 11-530

RESPONSE OF
CITY OF PAPILLION

Carol M. Hansen
CLERK DISTRICT COURT

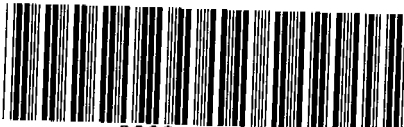
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FILED
SARPY COUNTY
DISTRICT COURT

COMES NOW the City of Papillion, a municipal corporation in the State of Nebraska, and for its response to the Complaint filed by the Plaintiff, alleges and stats as follows:

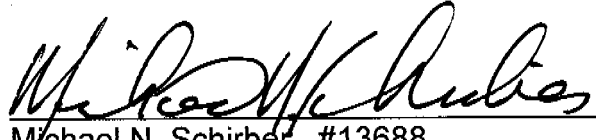
1. Admits paragraph 1, 2, 3, 4, 5, 6, 7, 8, and 9.
2. Denies paragraph 10.
3. For an affirmative response, the Defendant, City of Papillion, shows that the City of Papillion should recover payments for its special assessments pursuant to Neb. Rev. Stat. § 77-1917.01 and Neb. Rev. Stat. § 47-1907.

WHEREFORE, this Defendant prays the Court for an order setting off to the City of Papillion a judgment in the amount equal to the special assessments.



000233630D59

CITY OF PAPILLION, Defendant



Michael N. Schirber #13688
SCHIRBER & WAGNER, L.L.P.
1243 Golden Gate Drive
Papillion, NE 68046
(402) 592-2800
Attorney for Defendant

CERTIFICATE OF SERVICE

Pursuant to Neb. Ct. R. Pldg. § 6-1105(b), the undersigned certifies that on this 7 day of April, 2011, this document was served by the means indicated on the parties or counsel of record. Where service is by facsimile or email, the undersigned certifies that the counsel or party so served has designated a facsimile number or email address in accordance with Neb. Ct. R. Pldg. § 6-1111(a).

By: ☒ (X) U.S. Mail, postage prepaid ☐ () Facsimile Transmission
☐ () Hand Delivery ☐ () Overnight Courier
☐ () U.S. Mail, postage prepaid, ☐ () Email
Return Receipt Requested

Martin P. Pelster
CROKER, HUCK, KASHER, DeWITT,
ANDERSON & GONDERINGER, L.L.C.
2120 South 72nd Street, Suite 200
Omaha, Nebraska 68124


SCHIRBER & WAGNER, L.L.P.

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING, INC.,

CASE NO. CI11-530

Plaintiff,

vs.

ANSWER OF
AMERICAN NATIONAL BANK,
TRUSTEE

PEACHTREE PROPERTIES, L.L.C.
AMERICAN NATIONAL BANK,
TRUSTEE; CITY OF PAPILLION;
SANITARY AND IMPROVEMENT
DISTRICT NO. 268 OF SARPY
COUNTY; SARPY COUNTY,
NEBRASKA; JOHN DOE and MARY
DOE, REAL NAMES UNKNOWN; and
ANY AND ALL PERSONS WHO HAVE
OR CLAIM SOME LIEN UPON OR
INTEREST IN THE REAL ESTATE
DESCRIBED BELOW,

Defendants.

COMES NOW the Defendant, American National Bank, Trustee,
and for its Answer to the Complaint filed by Plaintiff, states
and alleges, as follows:

1. Defendant American National Bank, Trustee is without
sufficient information to admit or deny paragraph 1 and
therefore denies same.

2. Defendant American National Bank, Trustee admits so
much of paragraphs 2 of the Plaintiff's Complaint alleging that
this Defendant claims an interest in the real estate described
Plaintiff's Complaint but denies each and every other allegation
in the paragraph of Plaintiff's Complaint except for those

Calvin H. Hensley
CLERK DISTRICT COURT

11 APR 19 AM 11:12

FILED
SARPY COUNTY
DISTRICT COURT



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allegations of fact that may be deemed admissions against the interests and rights of Plaintiff and places Plaintiff on strict proof relative to the same.

3. Defendant American National Bank, Trustee denies each and every other allegation in paragraphs 3, 4, 5, 6, and 7 of Plaintiff's Complaint except for those allegations of fact that may be deemed admissions against the interests and rights of Plaintiff and places Plaintiff on strict proof relative to the same.

4. Defendant American National Bank, Trustee admits so much of paragraph 8 of the Plaintiff's Complaint alleging that this Defendant claims an interest in the real estate described in Plaintiff's Complaint but denies each and every other allegation in the paragraph of Plaintiff's Complaint except for those allegations of fact that may be deemed admissions against the interests and rights of Plaintiff and places Plaintiff on strict proof relative to the same.

5. Defendant American National Bank, Trustee admits paragraphs 9 of the Plaintiff's Complaint.

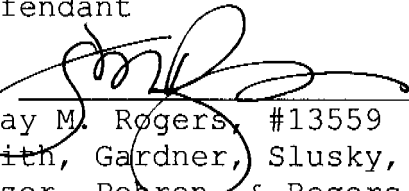
6. Defendant American National Bank, Trustee denies each and every allegation in paragraph 10 of Plaintiff's Complaint except for those allegations of fact that may be deemed admissions against the interests and rights of Plaintiff and places Plaintiff on strict proof relative to the same.

7. Defendant American National Bank, Trustee affirmatively states that Plaintiff's Complaint fails to state claims for which relief can be granted.

8. Defendant American National Bank, Trustee affirmatively states that it reserves the right to assert further affirmative defenses should discovery reveal facts supportive of the same.

WHEREFORE, Defendant American National Bank, Trustee prays that Plaintiff's Complaint be dismissed at Plaintiff's cost; and for such other and further relief the Court deems just and equitable.

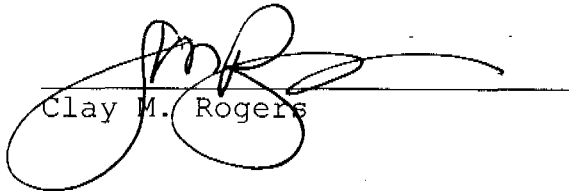
American National Bank, Trustee
Defendant

By 
Clay M. Rogers, #13559
Smith, Gardner, Slusky,
Lazer, Pohren, & Rogers, LLP
8712 West Dodge Rd., Suite 400
Omaha, NE 68114
402.392.0101
Attorneys for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 10 day of April, 2011, the foregoing instrument was sent, by First Class United States Mail, postage prepaid, to the following named parties:

Martin P. Pelster
Croker, Huck, Kasher, DeWitt,
Anderson & Gonderinger, L.L.C.
2120 South 72nd St., Suite 1200
Omaha, NE 68124


Clay M. Rogers

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING, INC.,)	Case No. CI 11-530
)	
Plaintiff)	ANSWER
)	OF
vs.)	SANITARY AND IMPROVEMENT
PEACHTREE PROPERTIES, L.L.C.;)	DISTRICT NO. 268
)	
AMERICAN NATIONAL BANK,)	
)	
TRUSTEE; CITY OF PAPILLION;)	
)	
SANITARY AND IMPROVEMENT)	
)	
DISTRICT NO. 268 OF SARPY COUNTY;)	
)	
SARPY COUNTY, NEBRASKA; JOHN)	
)	
DOE and MARY DOE, REAL NAMES)	
)	
UNKNOWN; and ANY AND ALL)	
)	
PERSONS WHO HAVE OR CLAIM SOME)	
)	
LIEN UPON OR INTEREST IN THE REAL)	
)	
ESTATE DESCRIBED BELOW,)	
)	
Defendant)	
)	
)	

COMES NOW, the Defendant, Sanitary and Improvement District No. 268 of Sarpy County, hereinafter referred to as "SID #268", by and through its attorney, Brian C. Doyle, does answer the Plaintiff's Complaint as follows:

1. Defendant denies each and every allegation contained therein except those specifically admitted herein or which constitute a statement against Plaintiff's interest.
2. Defendant is without sufficient knowledge to admit or deny Paragraph 1 of Plaintiff's First Amended Complaint and therefore denies the same.
3. Defendant denies each and every allegation in Paragraph 2 of Plaintiff's Complaint except that Defendant admits that it has levied a special assessment against the property legally described as: Lot 72, Villas at Creekside, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

4. Defendant denies Paragraphs 3, 4, 5, 6, 7, 8, 9, and 10 of Plaintiff's Complaint

WHEREFORE, the Defendant prays for an order dismissing Plaintiff's Complaint with costs being awarded to the Defendant.

AFFIRMATIVE DEFENSES

1. Plaintiff is barred by law from extinguishing the special assessment of a Sanitary and Improvement District through foreclosure proceedings of a tax sale certificate. Nev. Rev. Stat. §77-1902.

WHEREFORE, the Defendant prays for an order dismissing Plaintiff's Complaint with costs being awarded to the Defendant.

Dated this 17 day of May, 2011

By: /s/Brian C. Doyle

Brian C. Doyle (#23001)
Fullenkamp, Doyle & Jobeun
11440 West Center Road
Omaha, Nebraska 68144
(402) 334-0700
Fax: (402)-334-0815
brian@fdjlaw.com
Attorney for said Defendant
Sanitary and Improvement
District No. 268

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy was sent this 17 day of May, 2011 by United States Mail to the following Parties:

Martin P. Pelster
2120 S. 72nd St., Suite 1200
Omaha, NE 68124-2323

/s/Brian C. Doyle

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING,

Plaintiff,

vs.

PEACHTREE PROPERTIES, L.L.C.; AMERICAN)
NATIONAL BANK, TRUSTEE; CITY OF)
PAPILLION; SANITARY AND IMPROVEMENT)
DISTRICT NO. 268 OF SARPY COUNTY; SARPY)
COUNTY, NEBRASKA; JOHN DOE and MARY)
DOE, REAL NAMES UNKNOWN; and ANY AND)
ALL PERSONS WHO HAVE OR CLAIM SOME)
LIEN UPON OR INTEREST IN THE REAL)
ESTATE DESCRIBED BELOW,)

Defendants.)

CASE NO. CI 11 530

**AFFIDAVIT OF
MARTIN P. PELSTER**

2011 MAY 20 AM 10:50

FILED
SARPY COUNTY
DISTRICT COURT

Martin P. Pelster
CLERK DISTRICT COURT

STATE OF NEBRASKA)

) ss.

COUNTY OF DOUGLAS)

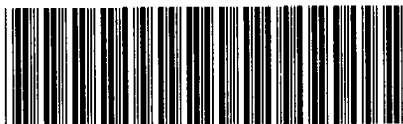
Martin P. Pelster, being first duly sworn under oath, deposes and states as follows:

1) Affiant is an attorney licensed to practice law in the State of Nebraska and is a member with the law firm of Croker, Huck, Kasher, DeWitt, Anderson & Gonderinger, L.L.C., 2120 South 72nd Street, Suite 1200, Omaha, Nebraska, 68124, and that said firm represents Equifunding, ("Plaintiff"), which is the holder and owner of Sarpy County Tax Sale Certificate No. 7878, and Affiant makes this Affidavit for and on behalf of Plaintiff.

2) This is an action to foreclose the county treasurer's certificate of tax sale and subsequent tax liens.

3) Plaintiff and Affiant, after diligent investigation and inquiry, are unable to ascertain and do not know the whereabouts, if in the state, or the residence of John and Mary Doe, real name or names unknown, named as Defendants in this action.

4) There are persons who have, or there are persons who claim or appear to have, some interest in, right or title to, or lien upon the following described properties, to wit:



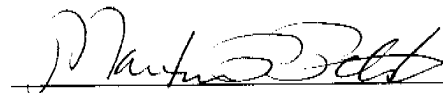
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Lot 72, Villas at Creekside, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska

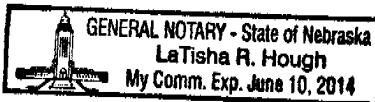
involved in the above entitled action, and that the ownership of, interest in, rights or title to, or lien upon such property of such persons, does not appear of record, in or by their respective names, in the county wherein such property is situated; and that the Plaintiff and Affiant after diligent investigation and inquiry, were unable to ascertain and do not know the names or whereabouts, if in the state, or the residence of such persons.

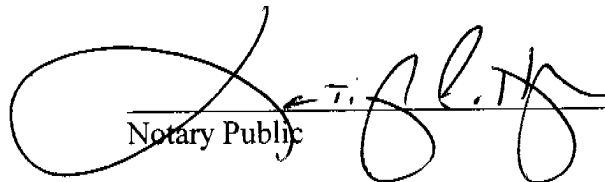
5) This Affidavit is based upon Affiant's personal knowledge and I am competent to testify about the matters herein. This Affidavit is made in support of Plaintiff's motion for an order authorizing service by publication.

FURTHER AFFIANT SAITH NOT.


Martin P. Pelster, #19223

SUBSCRIBED AND SWORN to before me this 19th day of May, 2011.




Notary Public

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING, INC.,

Plaintiff,

vs.

PEACHTREE PROPERTIES, L.L.C.;
AMERICAN NATIONAL BANK, TRUSTEE;
CITY OF PAPILLION; SANITARY AND
IMPROVEMENT DISTRICT NO. 268 OF
SARPY COUNTY; SARPY COUNTY,
NEBRASKA; JOHN DOE and MARY DOE,
REAL NAMES UNKNOWN; and ANY AND
ALL PERSONS WHO HAVE OR CLAIM
SOME LIEN UPON OR INTEREST IN THE
REAL ESTATE DESCRIBED BELOW,

Defendants.

CASE NO. CI 11 530

**MOTION FOR
SUMMARY JUDGMENT**

FILED
SARPY COUNTY
DISTRICT COURT
11 NOV 22 AM 11:46
Cheryl K. Hensley
CLERK OF DISTRICT COURT

COMES NOW the Plaintiff, Equifunding, Inc., pursuant to Neb. Rev. Stat. § 25-1331 to 25-1336, and moves the Court to enter summary judgment on Plaintiff's Complaint in favor of the Plaintiff for the reason that there is no genuine issue as to any material fact and Plaintiff is entitled to summary judgment as a matter of law. In further support of this motion, Plaintiff directs the Court's attention to the Affidavit of Martin P. Pelster dated November 21, 2011, a true and correct copy of which is attached hereto and by this reference incorporated herein.

WHEREFORE, Plaintiff respectfully requests that the Court sustain this motion, enter summary judgment in Plaintiff's favor, enter a decree and order of sale for the property described in Plaintiff's Complaint, award costs of the action to Plaintiff, including attorney's fees pursuant to Neb. Rev. Stat. § 77-1909 and grant such other and further relief as the Court may deem just and equitable.



DATED this 21 day of November, 2011.

EQUIFUNDING, INC., Plaintiff

By: Martin P. Pelster
Martin P. Pelster, #19223
Of CROKER, HUCK, KASHER, DeWITT,
ANDERSON & GONDERINGER, L.L.C.
2120 South 72nd Street, Suite 1200
Omaha, Nebraska 68124
(402) 391-6777
Attorneys for Plaintiff

NOTICE OF HEARING

Please take notice that Plaintiff's Motion for Summary Judgment will be called for hearing before the Honorable David K. Arterburn in the Sarpy County District Court, 1210 Golden Gate Drive, Suite 3141, Courtroom No. 6, Papillion, Nebraska, on the 5th day of December, 2011, commencing at 3:30 p.m., or as soon thereafter as counsel may be heard.

EQUIFUNDING, INC., Plaintiff

By: Martin P. Pelster
Martin P. Pelster, #19223
Of CROKER, HUCK, KASHER, DeWITT,
ANDERSON & GONDERINGER, L.L.C.
2120 South 72nd Street, Suite 1200
Omaha, Nebraska 68124
(402) 391-6777
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing was sent via first class United States mail, postage prepaid, on the 21 day of November, 2011, to the following:


Peachtree Properties, L.L.C.
c/o William Torczon, Registered Agent
5120 S. 50th Court
Omaha, NE 68117

American National Bank, Trustee
c/o Clay M. Rogers
8712 West Dodge Road, Suite 400
Omaha, NE 68114

City of Papillion
c/o Michael N. Schirber
1243 Golden Gate Drive
Papillion, NE 68046

Sanitary and Improvement District No. 268 of Sarpy County
c/o Brian Craig Doyle
11440 W. Center Road, #C
Omaha, NE 68144

Sarpy County, Nebraska
c/o Deb Houghtaling, County Clerk
1210 Golden Gate Drive
Papillion, NE 68046



Martin P. Pelster

00461501.DOC

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING, INC.,

Plaintiff,

vs.

PEACHTREE PROPERTIES, L.L.C.;
AMERICAN NATIONAL BANK, TRUSTEE;
CITY OF PAPILLION; SANITARY AND
IMPROVEMENT DISTRICT NO. 268 OF
SARPY COUNTY; SARPY COUNTY,
NEBRASKA; JOHN DOE and MARY DOE,
REAL NAMES UNKNOWN; and ANY AND
ALL PERSONS WHO HAVE OR CLAIM
SOME LIEN UPON OR INTEREST IN THE
REAL ESTATE DESCRIBED BELOW,

Defendants.

CASE NO. CI 11 530

**AFFIDAVIT OF
MARTIN P. PELSTER**

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

COMES NOW the Affiant, Martin P. Pelster, who, under oath, deposes and states as follows:

1) Affiant is an attorney licensed to practice in the State of Nebraska and is a shareholder in the law firm of Croker, Huck, Kasher, DeWitt, Anderson & Gonderinger, L.L.C. which is counsel to the Plaintiff, Equifunding, Inc., in the above captioned matter.

2) Attached hereto as Exhibit "A" is the title search completed by Omaha Title & Escrow, Inc., a registered abstracter, establishing that the only parties with an interest in the property described in Plaintiff's Complaint are those which are set forth in the Complaint.

3) All of said Defendants have been properly served in this matter.

4) Attached hereto as Exhibit "B" is a true and correct copy of Sarpy County Treasurer's Certificate of Tax Sale No. 7878 (including all receipts for subsequent taxes paid by Equifunding, Inc.), which establishes that the certificate was purchased by Plaintiff from the Sarpy County Treasurer at a sale on or about March 6, 2008.

5) As of the date of this Affidavit said certificate has not been redeemed and, therefore, pursuant to the statutes of the State of Nebraska, Plaintiff has a first and paramount lien on the property subject only to general real estate taxes lawfully assessed against said property.

6) As of December 5, 2011, the amount of principal, interest and fees due and owing on Sarpy County Treasurer's Certificate of Tax Sale No. 7878 is \$60,318.85.

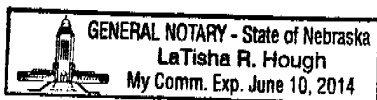
7) In addition to court costs of record in the amount of \$213.00 (\$82.00 - filing fee, \$101.98 - publication, \$5.50 - Register of Deeds, and \$23.52 - service of process), Plaintiff has incurred costs in completing and updating title reports in the amount of \$125.00.

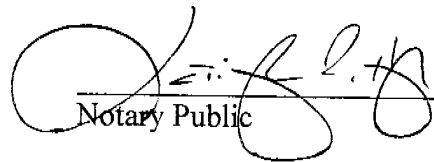
8) This Affidavit is based upon Affiant's personal knowledge and Affiant is competent to testify to the matters set forth herein. This Affidavit is made in support of Plaintiff's Motion for Summary Judgment.

FURTHER AFFIANT SAITH NOT.


Martin P. Pelster

SUBSCRIBED and sworn to before me this 21st day of November, 2011.




Notary Public

00461502.DOC

Omaha Title & Escrow Inc.
13915 Gold Circle
Omaha, NE 68144

10 YEAR TITLE CERTIFICATE

This Title Certificate is a contract between the undersigned as a Nebraska Licensed and Registered Abstracter and the "Customer" as named below only.

There shall be **NO ASSIGNMENT** of the **LIMITED ASSURANCES** made herein by this contract to any other party.

The consideration for this contract is the information set forth below and furnished by the undersigned together with the fee charged by the undersigned for this service to be performed by Title Certificate **DOES NOT DO**, and Second as to what this certificate **DOES DO**, as explained as follows:

- (1) This Certificate is not an abstract of title in that it is not a complete compilation of all facts of record relative to the property, nor is it a complete chain of title search, and it is not an opinion on the title nor is it a policy of title insurance.
- (2) This Certificate does provide **limited** information and reports **limited** title facts relative to the property only as specifically set on in the following paragraphs, in each of which the introductory words identify what particular information **only**, is given by the undersigned in this Certificate.
- (3) This Certificate reports **limited** information of record **only over** the last 10 years in the chain of title to the date and time set forth below.

File: OT120031PR

CUSTOMER: Croker, Huck, Kasher, Dewitt, Anderson & Gonderinger

The following reflects the status of the property listed below in the Register of Deeds Office of Sarpy County, NE.

PROPERTY BEING LEGALLY DESCRIBED AS FOLLOWS:

Lot 72, Villas at Creekside, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska

THE PERIOD OF TIME THIS OWNER AND ENCUMBRANCE SEARCH COVERS IS:
FROM THE LAST DEED OF RECORD:

Deed Type:	Warranty Deeds
Date Recorded:	April 15, 2005
Instrument No:	2005-12033 and 2005-12034

THRU TO THE CURRENT EFFECTIVE DATE OF RECORDS:

Being the date the Register of Deeds Office of said County is certified through as to the indexing records:

Current Effective Date: March 16, 2011, at 8:00 AM



THE GRANTEE NAME ON THE DEED REFLECTED IS:

Peachtree Properties, L.L.C.

UNRELEASED MORTGAGES AND/OR DEEDS OF TRUST:

Deed of Trust dated April 14, 2005 recorded April 15, 2005 at Instrument Number 2005-12035 of the Records of Sarpy County, NE, executed by Peachtree Properties, L.L.C., in favor of American National Bank, as Trustee and Beneficiary, securing the principal amount of \$2,000,000.00. (and other property)

Modification Agreement dated February 6, 2009 recorded February 13, 2009 at Instrument Number 2009-03745 of the Records of Sarpy County, NE, wherein the above Deed of Trust was modified.

Notice of Commencement recorded April 15, 2005 at Instrument Number 2005-12036 of the Records of Sarpy County, NE, no duration stated. (and other property)

Hazardous Substances Certificate and Indemnity Agreement dated April 14, 2005 recorded April 21, 2005 at Instrument Number 2005-12781 of the Records of Sarpy County, NE. (and other property)

Deed of Trust dated May 19, 2006 recorded May 22, 2006 at Instrument Number 2006-16942 of the Records of Sarpy County, NE, executed by Peachtree Properties, L.L.C., in favor of American National Bank, as Trustee and Beneficiary, securing the principal amount of \$2,405,334.00. (and other property)

Modification Agreement dated February 6, 2009 recorded February 13, 2009 at Instrument Number 2009-03746 of the Records of Sarpy County, NE, wherein the above Deed of Trust was modified.

Notice of Upaid Weed Control Assessment in the amount of \$575.00 recorded August 20, 2009 at Instrument Number 2009-27569 of the Records of Sarpy County, NE.

Resolution recorded April 23, 2010 at Instrument Number 2010-10125 of the Records of Sarpy County, NE, \$100.00 due for fire hydrant obstruction clean up.

Notice of Unpaid Weed Control Assessment in the amount of \$375.00 recorded October 18, 2010 at Instrument Number 2010-28729 of the Records of Sarpy County, NE.

Request for Notice and Notice of Special Assessment dated February 25, 2011 recorded February 25, 2011 at Instrument Number 2011-05770 of the Records of Sarpy County, NE. (and other property)

FINANCING STATEMENTS IN THE OFFICE OF THE REGISTER OF DEEDS INDEXED AGAINST THE ABOVE REFERENCED PROPERTY

None appearing of record at date hereof.

TAX LIENS, STATE AND FEDERAL

None appearing of record at date hereof.

JUDGEMENTS & LAW SUITS PENDING IN DISTRICT COURT

None appearing of record at date hereof.

THE REAL ESTATE HEREIN DESCRIBED IS SUBJECT TO COVENANTS, EASEMENTS, AGREEMENTS, CONDITIONS AND RESTRICTIONS OF RECORD, IF ANY.

UNPAID TAXES CERTIFIED TO THE OFFICE OF THE COUNTY TREASURER AT DATE HEREOF:

Tax Key Number: 011-587-903; 2010 Taxes due and payable in the year 2011 billed as follows: \$10,559.54 Total; First half is due and will become delinquent April 1, 2011; Second half is due and will become delinquent August 1, 2011. Prior years are paid unless otherwise stated.

ASSESSED VALUE OF THE PROPERTY HEREIN DESCRIBED CERTIFIED TO BY THE OFFICE OF THE COUNTY ASSESSOR (CLERK) AT DATE HEREOF:

LAND:

\$398,920.00

IMPROVEMENT(S): \$0.00
TOTAL ASSESSED VALUE: \$398,920.00

Miscellaneous Special Assessments levied July 24, 2009 for the amount of \$575.00, payable in 1 installments.

Miscellaneous Special Assessments levied September 3, 2008 for the amount of \$212,175.46, payable in 10 installments.

This Property is located within the boundaries of Sanitary & Improvement District #268.

Tax Sale held March 6, 2008 at Certificate Number 7878, wherein tax certificates were issued on the above parcel for non-payment of special assessments and/or real estate taxes.

If you have any questions, please do not hesitate to call us at 402-452-3810 and ask for the Title Department. Please reference Title Certificate File OT120031PR .

Sincerely,



Jill M. Kussman
Nebraska Registered Abstracter

OriginalCOUNTY TREASURER'S CERTIFICATE OF TAX SALE - PUBLIC

Cert. No.: 7878
 Parcel No: 011587903
 Amount : 8,122.55
 Fee (+) : 10.00
 Total : 8,132.55

State of Nebraska
 County of Sarpy

I, Rich James, Sarpy Cty Treasurer,
 of the County of Sarpy in the State of Nebraska, do hereby certify
 that the following described Real Estate in said County and State, to wit:

LOT 72 VILLAS AT CREEKSIDE (6.495 AC)

was on the 6th day of March, 2008, duly sold by me in the manner
 provided by law, at PUBLIC sale, at my office, for the delinquent
 taxes for the years : , 2006, amounting to Eight Thousand One Hundred
 Thirty-Two Dollars And Fifty-Five Cents including penalty thereon, and
 costs allowed by law to FIRST UNITED FINANCIAL LIMITED PARTNERSHIP, AGT
 EQUIFUNDING for the sum of Eight Thousand One Hundred Thirty-Two
 Dollars And Fifty-Five Cents being highest and best bidder for same.
 And I further certify that unless redemption is made of said real
 estate in the manner provided by law, the said FIRST UNITED FINANCIAL
 LIMITED PARTNERSHIP, AGT EQUIFUNDING heirs or assigns will be entitled
 to a deed therefor on and after the 6th day of March, 2011 on
 surrender of this certificate and in compliance with the provisions of
 the law governing this sale.

IN WITNESS WHEREOF, I have hereunto set my hand this
 28th day of August, 2008.

Rich James, Sarpy Cty Treasurer, Trea

(seal)

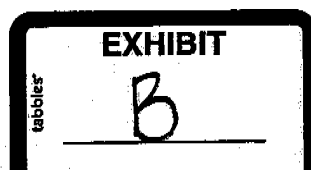
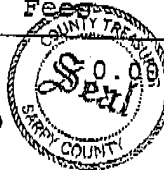
By _____

PO BOX 980

EAST LANSING/MI 48826-

OWNER'S NAME PEACHTREE PROPERTIES LLC			
WHEN REDEEMED MO/DAY/YR	BY WHOM REDEEMED	AMOUNT PAID	REDEMPTION MONEY
REDEMPTION #	TAX DEED GIVEN		REMARKS

Year	Date	Subsequent Taxes Paid Amount	Fees	Total
2007	08/28/2008	10305.55		10305.55



IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING, INC.,)	Case No. CI 11-530
)	
Plaintiff)	Motion for Partial Summary Judgment
)	
vs.)	
)	
PEACHTREE PROPERTIES, L.L.C.;)	
)	
AMERICAN NATIONAL BANK,)	
)	
TRUSTEE; CITY OF PAPILLION;)	
)	
SANITARY AND IMPROVEMENT)	
)	
DISTRICT NO. 268 OF SARPY COUNTY;)	
)	
SARPY COUNTY, NEBRASKA; JOHN)	
)	
DOE and MARY DOE, REAL NAMES)	
)	
UNKNOWN; and ANY AND ALL)	
)	
PERSONS WHO HAVE OR CLAIM SOME)	
)	
LIEN UPON OR INTEREST IN THE REAL)	
)	
ESTATE DESCRIBED BELOW,)	
)	
Defendant)	
)	
)	

COMES NOW, the Defendant, Sanitary and Improvement District Number 268 of Sarpy County, Nebraska (“SID #268”), pursuant to Neb. Rev. Stat. § 25-1330, et seq. and hereby moves the Court for summary judgment against the Plaintiff, and in favor of the Defendant's in the above-captioned action. In support of said motion, Plaintiff represents to the Court that there is no genuine issue of material fact and Defendant is entitled to judgment as a matter of law based upon the complete files and records of this action, and upon such further documentary evidence as may be allowed at the time of hearing. In support of Defendant’s Motion it states as follows:

1. Defendant SID #268 levied special assessment on the property that is subject to this foreclosure action on September 3, 2008.
2. Plaintiff is barred by law from extinguishing the special assessment of a Sanitary and Improvement District through foreclosure proceedings of a tax sale certificate. Nev. Rev. Stat. § 77-1902.

WHEREFORE, the Defendant's ask the court to grant summary judgment in favor of the Defendant and against Plaintiff and to further affirm that the foreclosure proceedings do not affect the special assessment levied by Defendant SID #268 and such other relief as the Court deems just and equitable.

Dated this 29th Day of November, 2011

By: /s/Brian C. Doyle

Brian C. Doyle (#23001)
Fullenkamp, Doyle & Jobeun
11440 West Center Road
Omaha, Nebraska 68144
(402) 334-0700
Fax: (402)-334-0815
brian@fdjlaw.com
Attorney for said Defendant
Sanitary and Improvement
District No. 268

NOTICE OF HEARING

Please take notice that the Defendant's Motion for Summary Judgment will be called for hearing before the Honorable David K. Arterburn in the Sarpy County District Court, 1210 Golden Gate Drive, Courtroom No. 6, Papillion, Nebraska on the 5th day of December, 2011, commencing at 3:30p.m. or as soon thereafter as counsel may be heard.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy was sent this 29 day of November, 2011 by United States Mail to the following Parties:

Martin P. Pelster
2120 S. 72nd St., Suite 1200
Omaha, NE 68124-2323

Peachtree Properties. L.L.C.
c/o William Torczon, Registered Agent
5120 S. 50th Court
Omaha. NE 68117

American National Bank. Trustee
c/o Clay M. Rogers
8712 West Dodge Road, Suite 400
Omaha, NE 68114

City of Papillion
c/o Michael N. Schirber
1243 Golden Gate Drive
Papillion, NE 68046

Sarpy County, Nebraska
c/o Deb Houghtaling. County Clerk
1210 Golden Gate Drive
Papillion, NE 68046

/s/Brian C. Doyle

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING, INC.,

Plaintiff

vs.

PEACHTREE PROPERTIES, L.L.C.;

AMERICAN NATIONAL BANK,

TRUSTEE; CITY OF PAPILLION;

SANITARY AND IMPROVEMENT

DISTRICT NO. 268 OF SARPY COUNTY;

SARPY COUNTY, NEBRASKA; JOHN

DOE and MARY DOE, REAL NAMES

UNKNOWN; and ANY AND ALL

PERSONS WHO HAVE OR CLAIM SOME

LIEN UPON OR INTEREST IN THE REAL

ESTATE DESCRIBED BELOW,

Defendant

) Case No. CI 11-530

) ORDER

FILED
SARPY COUNTY
DISTRICT COURT
12 MAY 15 AM 11:01
Clerk of District Court

On May 14, 2012 a hearing was held on the Defendant Sanitary and Improvement District No. 268 of Sarpy County ("SID #268") Motion for Partial Summary Judgment. Plaintiff appeared by counsel, Martin Pelster. Defendant SID #268 appeared by counsel, Brian Doyle. No objection to the Defendant SID #268's Motion for Partial Summary Judgment was made. Evidence was offered and received by the Court. The Court makes the following findings:

1. Plaintiff filed its Complaint on March 24, 2011. Defendant SID #268 filed its Answer May 17, 2011 alleging that Neb.Rev.Stat. § 77-1902 precludes the Plaintiff from extinguishing the special assessment of SID #268. Defendant SID #268 filed its Motion

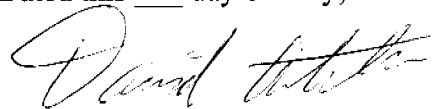


for Partial Summary Judgment on November 29, 2011.

2. There is no genuine issue of material fact with respect to the Defendant SID #268's special assessment lien which was levied on September 3, 2008 against the real property subject of this action.
3. There is no dispute that the Plaintiff owns a tax sale certificate for the real property in question, or that he is within the statutory time frame to foreclose on that tax certificate.
4. That Neb.Rev.Stat. § 77-1902 provides that special assessments levied by a Sanitary and Improvement District are not extinguished during the foreclosure of a tax certificate, as long as the special assessment has not been offered for sale by the county treasurer.
5. The special assessment of SID #268 has not been previously offered for sale by the county treasurer.

IT IS THEREFORE ORDERED AND ADJUDGED, Defendant's Motion for Partial Summary Judgment is granted. Plaintiff's foreclosure proceedings shall not extinguish the special assessments levied by the Defendant SID #268.

Dated this 14th day of May, 2012.



District Judge

Prepared and submitted by:
Brian C. Doyle (#23001)
Fullenkamp, Doyle & Jobeun
11440 West Center Road
Omaha, Nebraska 68144
(402) 334-0700
Fax: (402)-334-0815
brian@fdjlaw.com

Attorney for said Defendant Sanitary and Improvement District No. 268

Title: EQUIFUNDING, INC., v. PEACHTREE PROPERTIES, L.L.C., AMERICAN NATIONAL BANK, TRUSTEE

DATE

JUDGE'S MINUTES

JAN A.D. 2011

January A.D. 2012

4/11/2012 ✓ On the Court's own motion, case is set for a status hearing on July 16, ✓
2012, at 3:30 p.m. Notice of Hearing signed.

JA, Judge

5/14/2012 ✓ Plaintiff appears by Martin Pelster. Defendant American National Bank
appears by Clay Rogers. Defendant SID #268 appears by Brian Doyle.
Matter comes on for hearing on summary judgment motion filed by
plaintiff and partial summary judgment motion filed by Defendant SID
#268. Evidence adduced. Motions argued and submitted. There being
no objection by any of the parties, motion for summary judgment by
plaintiff is sustained. Order signed and entered. Motion for partial
summary judgment by SID #268 sustained. Order signed and entered.

Status hearing set for 7/16/12 @ 3:30 pm is cancelled.

JA, Judge

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING, INC.,

Plaintiff,

vs.

PEACHTREE PROPERTIES, L.L.C.;
AMERICAN NATIONAL BANK, TRUSTEE;
CITY OF PAPILLION; SANITARY AND
IMPROVEMENT DISTRICT NO. 268 OF
SARPY COUNTY; SARPY COUNTY,
NEBRASKA; JOHN DOE and MARY DOE,
REAL NAMES UNKNOWN; and ANY AND
ALL PERSONS WHO HAVE OR CLAIM
SOME LIEN UPON OR INTEREST IN THE
REAL ESTATE DESCRIBED BELOW,

Defendants.

CASE NO. CI 11 530

DECREE OF FORECLOSURE

FILED
SARPY COUNTY
DISTRICT COURT
12 MAY 15 AM 11:01
Clerk District Court

NOW on this 14th day of May, 2012, this matter came on for hearing on Plaintiff's Motion for Summary Judgment and the Motion for Partial Summary Judgment filed by Defendant, Sanitary and Improvement District No. 268 of Sarpy County, Nebraska ("SID 268"). The Plaintiff, Equifunding, Inc., appeared by and through counsel. The Defendant Sanitary and Improvement District No. 268 of Sarpy County ("SID #268") appeared by and through counsel. No other party appeared in person or by an attorney. This matter was then submitted upon the pleadings and exhibits introduced. The Court finds that all parties to this action were properly served and given proper notice of hearing. The Court finds that all Defendants are in default of pleading or appearances herein, except as stated herein, and such is entered on the record and Plaintiff is entitled to an entry of a decree of foreclosure against the Defendants named, designated or referred to in the Complaint. The Court further finds that the right, title, and interest of each of the Defendants including, but not limited to Defendant SID 268, are wholly junior and inferior to the lien of the Plaintiff; that the taxes as set forth below were duly levied and assessed against the real estate by the proper authorities, and became and are delinquent on the real estate; that the real estate was duly and legally advertised for sale by the Treasurer of



000295574D59

Sarpy County, Nebraska, and the real estate was duly sold to the Plaintiff for the amount alleged in the tax sale certificate, and the certificate was duly issued by the County Treasurer to the Plaintiff; that Plaintiff is the holder and owner of the tax sale certificates and no part thereof has been paid; that as of May 14, 2012, there is due Plaintiff the following amounts of taxes, fees and interest for the years as set forth:

CERTIFICATE NUMBER 7878

[Lot 72, Villas at Creekside, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska]

Taxes (2008)	Interest to 5/14/12	Treasurer Fees
\$39,969.31	\$17,021.16	\$10.00
 <u>Court Costs</u>		
\$23.52	Service	
\$101.98	Publication	
\$82.00	Filing Fees	
\$5.50	Register of Deeds	
<u>\$125.00</u>	Title Reports	
\$338.00		
 <u>Totals</u>		
\$39,969.31	Taxes	
\$17,021.16	Interest	
\$10.00	Treasurer Fees	
<u>\$338.00</u>	Court Costs	
\$57,338.47	Total	
<u>\$ 5,733.85</u>	(10% atty fee)	
\$63,072.32		

The Court further finds that, despite the Court's finding that SID #268's special assessment lien is junior and inferior to Plaintiff's lien, in the event the subject real estate is sold

to satisfy Plaintiff's lien, it will be sold subject to Defendant SID #268's junior and inferior lien, which lien will not be extinguished by this foreclosure action

That Plaintiff is entitled to interest at the rate of 14% per annum on the unpaid taxes from the date hereof; that Plaintiff is entitled to recover the costs of this action as set forth above, together with an attorney fee pursuant to Neb. Rev. Stat. §77-1909, in the amount of 10% of the principal, interest and costs for said cause of action; that all of the proceedings had with reference to taxes and tax sale certificates were duly, regularly and legally had and done by the proper officials; and that the Plaintiff is entitled to a foreclosure of its lien.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

That there is due the Plaintiff as against the real estate the amounts as herein set forth, with interest at 14% per annum from the date herewith, together with the costs of this action and Plaintiff's attorney fees; that in default of the payment of these sums for a period of twenty (20) days from the entry of this decree that the real estate be sold as upon execution and the proceeds of the sale shall be applied:

1. In payment of the costs and attorney fees awarded.
2. To the satisfaction of the lien of the Plaintiff as found due with interest thereon.
3. The surplus, if any, to be paid into the Court for the use of the remaining Defendants or some of them, as are legally entitled to the same.

That the subject property shall be sold subject to Defendant SID #268's junior and inferior special assessment lien, which lien shall not be extinguished by this foreclosure action.

That upon redemption of any real estate included herein from the sale thereof by the Sheriff, made by the owners or other persons having a legal interest in the property, these persons redeeming the same pay, as a part of the costs, the sum of 14% per annum interest on the amount bid and subsequent taxes paid if any from the dates the sums are paid for the use of the bidder or the bidder's assigns, to be paid by the bidder at the time the bid is refunded and all costs and fees incurred since the entry of this Decree including all sheriff's fees.

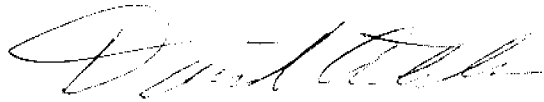
That the purchaser or purchasers of the herein described real estate pay all taxes which may have accrued during the pendency of this action or which may thereafter be levied against the parcels purchased by them as the same shall fall due; that upon the expiration of the period allowed by law for the redemption of these tracts and parcels of land by the owner thereof or

parties having a legal interest therein, the purchaser or purchasers make a showing that such taxes accruing during pendency of this action have been paid.

That the Defendants and each of them, except Defendant SID #268, be foreclosed and forever barred of any and all claims upon interest or estate in, right or title to, or lien upon or equity of redemption in or to the herein described real estate, and that upon a showing having been made that all subsequent taxes have been paid by the purchaser and upon confirmation of the sale as provided by law, that the purchaser or purchasers thereof, take a good and indefeasible title to the real estate so purchased, subject to the lien of Defendant SID #268 and be placed in possession of the same.

Dated this 14th day of May, 2012.

BY THE COURT:



District Court Judge

Prepared and Submitted by:

Martin P. Pelster #19223
CROKER, HUCK, KASHER, DeWITT,
ANDERSON & GONDERINGER, L.L.C.
2120 South 72nd Street, Suite 1200
Omaha, Nebraska 68124
(402) 391-6777
Attorneys for Plaintiff

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Title: EQUIFUNDING, INC., v. PEACHTREE PROPERTIES, L.L.C., AMERICAN NATIONAL BANK, TRUSTEE

DATE

JUDGE'S MINUTES

JAN A.D. 2011

January A.D. 2012

4/11/2012 ✓ On the Court's own motion, case is set for a status hearing on July 16, ✓
2012, at 3:30 p.m. Notice of Hearing signed.

MA, Judge

5/14/2012 ✓ Plaintiff appears by Martin Pelster. Defendant American National Bank
appears by Clay Rogers. Defendant SID #268 appears by Brian Doyle.
Matter comes on for hearing on summary judgment motion filed by
plaintiff and partial summary judgment motion filed by Defendant SID
#268. Evidence adduced. Motions argued and submitted. There being
no objection by any of the parties, motion for summary judgment by
plaintiff is sustained. Order signed and entered. Motion for partial
summary judgment by SID #268 sustained. Order signed and entered.

Status hearing set for 7/16/12 @ 3:30 pm is cancelled.

MA, Judge

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING, INC.,

Plaintiff,

vs.

PEACHTREE PROPERTIES, L.L.C.;
AMERICAN NATIONAL BANK, TRUSTEE;
CITY OF PAPILLION; SANITARY AND
IMPROVEMENT DISTRICT NO. 268 OF
SARPY COUNTY; SARPY COUNTY,
NEBRASKA; JOHN DOE and MARY DOE,
REAL NAMES UNKNOWN; and ANY AND
ALL PERSONS WHO HAVE OR CLAIM
SOME LIEN UPON OR INTEREST IN THE
REAL ESTATE DESCRIBED BELOW,

Defendants.

CASE NO. CI 11 530

PROOF OF SERVICE

FILED
SARPY COUNTY
DISTRICT COURT
2012 MAY 16 11:13

The undersigned hereby certifies that the Decree of Foreclosure dated May 14, 2012, a true and correct copy of which is attached hereto, was sent by regular United States mail, postage prepaid, on the 15th day of May, 2012, to the following parties:

Peachtree Properties, L.L.C.
c/o William Torczon, Registered Agent
5120 S. 50th Court
Omaha, NE 68117

American National Bank, Trustee
c/o Clay M. Rogers
8712 West Dodge Road, Suite 400
Omaha, NE 68114


City of Papillion
c/o Michael N. Schirber
1243 Golden Gate Drive
Papillion, NE 68046

Sanitary and Improvement District No. 268 of Sarpy County
c/o Brian Craig Doyle
11440 W. Center Road, #C
Omaha, NE 68144



Sarpy County, Nebraska
c/o Deb Houghtaling, County Clerk
1210 Golden Gate Drive
Papillion, NE 68046

EQUIFUNDING, INC., Plaintiff

By: 
Martin P. Pelster, 19223
Of CROKER, HUCK, KASHER, DeWITT,
ANDERSON & GONDERINGER, L.L.C.
2120 South 72nd Street, Suite 1200
Omaha, Nebraska 68124
(402) 391-6777
Attorneys for Plaintiff

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IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EQUIFUNDING, INC.,

Plaintiff,

vs.

PEACHTREE PROPERTIES, L.L.C.;
AMERICAN NATIONAL BANK, TRUSTEE;
CITY OF PAPILLION; SANITARY AND
IMPROVEMENT DISTRICT NO. 268 OF
SARPY COUNTY; SARPY COUNTY,
NEBRASKA; JOHN DOE and MARY DOE,
REAL NAMES UNKNOWN; and ANY AND
ALL PERSONS WHO HAVE OR CLAIM
SOME LIEN UPON OR INTEREST IN THE
REAL ESTATE DESCRIBED BELOW,

Defendants.

CASE NO. CI 11 530

DECREE OF FORECLOSURE

SIGNED COPY

NOW on this 14th day of May, 2012, this matter came on for hearing on Plaintiff's Motion for Summary Judgment and the Motion for Partial Summary Judgment filed by Defendant, Sanitary and Improvement District No. 268 of Sarpy County, Nebraska ("SID 268"). The Plaintiff, Equifunding, Inc., appeared by and through counsel. The Defendant Sanitary and Improvement District No. 268 of Sarpy County ("SID #268") appeared by and through counsel. No other party appeared in person or by an attorney. This matter was then submitted upon the pleadings and exhibits introduced. The Court finds that all parties to this action were properly served and given proper notice of hearing. The Court finds that all Defendants are in default of pleading or appearances herein, except as stated herein, and such is entered on the record and Plaintiff is entitled to an entry of a decree of foreclosure against the Defendants named, designated or referred to in the Complaint. The Court further finds that the right, title, and interest of each of the Defendants including, but not limited to Defendant SID 268, are wholly junior and inferior to the lien of the Plaintiff; that the taxes as set forth below were duly levied and assessed against the real estate by the proper authorities, and became and are delinquent on the real estate; that the real estate was duly and legally advertised for sale by the Treasurer of

Sarpy County, Nebraska, and the real estate was duly sold to the Plaintiff for the amount alleged in the tax sale certificate, and the certificate was duly issued by the County Treasurer to the Plaintiff; that Plaintiff is the holder and owner of the tax sale certificates and no part thereof has been paid; that as of May 14, 2012, there is due Plaintiff the following amounts of taxes, fees and interest for the years as set forth:

CERTIFICATE NUMBER 7878

[Lot 72, Villas at Creekside, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska]

Taxes (2008)	Interest to 5/14/12	Treasurer Fees
\$39,969.31	\$17,021.16	\$10.00
<u>Court Costs</u>		
\$23.52	Service	
\$101.98	Publication	
\$82.00	Filing Fees	
\$5.50	Register of Deeds	
<u>\$125.00</u>	Title Reports	
\$338.00		
<u>Totals</u>		
\$39,969.31	Taxes	
\$17,021.16	Interest	
\$10.00	Treasurer Fees	
<u>\$338.00</u>	Court Costs	
\$57,338.47	Total	
<u>\$ 5,733.85</u>	(10% atty fee)	
\$63,072.32		

The Court further finds that, despite the Court's finding that SID #268's special assessment lien is junior and inferior to Plaintiff's lien, in the event the subject real estate is sold

to satisfy Plaintiff's lien, it will be sold subject to Defendant SID #268's junior and inferior lien, which lien will not be extinguished by this foreclosure action

That Plaintiff is entitled to interest at the rate of 14% per annum on the unpaid taxes from the date hereof; that Plaintiff is entitled to recover the costs of this action as set forth above, together with an attorney fee pursuant to Neb. Rev. Stat. §77-1909, in the amount of 10% of the principal, interest and costs for said cause of action; that all of the proceedings had with reference to taxes and tax sale certificates were duly, regularly and legally had and done by the proper officials; and that the Plaintiff is entitled to a foreclosure of its lien.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

That there is due the Plaintiff as against the real estate the amounts as herein set forth, with interest at 14% per annum from the date herewith, together with the costs of this action and Plaintiff's attorney fees; that in default of the payment of these sums for a period of twenty (20) days from the entry of this decree that the real estate be sold as upon execution and the proceeds of the sale shall be applied:

1. In payment of the costs and attorney fees awarded.
2. To the satisfaction of the lien of the Plaintiff as found due with interest thereon.
3. The surplus, if any, to be paid into the Court for the use of the remaining Defendants or some of them, as are legally entitled to the same.

That the subject property shall be sold subject to Defendant SID #268's junior and inferior special assessment lien, which lien shall not be extinguished by this foreclosure action.

That upon redemption of any real estate included herein from the sale thereof by the Sheriff, made by the owners or other persons having a legal interest in the property, these persons redeeming the same pay, as a part of the costs, the sum of 14% per annum interest on the amount bid and subsequent taxes paid if any from the dates the sums are paid for the use of the bidder or the bidder's assigns, to be paid by the bidder at the time the bid is refunded and all costs and fees incurred since the entry of this Decree including all sheriff's fees.

That the purchaser or purchasers of the herein described real estate pay all taxes which may have accrued during the pendency of this action or which may thereafter be levied against the parcels purchased by them as the same shall fall due; that upon the expiration of the period allowed by law for the redemption of these tracts and parcels of land by the owner thereof or

parties having a legal interest therein, the purchaser or purchasers make a showing that such taxes accruing during pendency of this action have been paid.

That the Defendants and each of them, except Defendant SID #268, be foreclosed and forever barred of any and all claims upon interest or estate in, right or title to, or lien upon or equity of redemption in or to the herein described real estate, and that upon a showing having been made that all subsequent taxes have been paid by the purchaser and upon confirmation of the sale as provided by law, that the purchaser or purchasers thereof, take a good and indefeasible title to the real estate so purchased, subject to the lien of Defendant SID #268 and be placed in possession of the same.

Dated this ____ day of _____, 2012.

BY THE COURT:



District Court Judge

Prepared and Submitted by:

Martin P. Pelster #19223
CROKER, HUCK, KASHER, DeWITT,
ANDERSON & GONDERINGER, L.L.C.
2120 South 72nd Street, Suite 1200
Omaha, Nebraska 68124
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Attorneys for Plaintiff

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