

IN THE COMMON PLEAS COURT
DELAWARE COUNTY, OHIO

ORDER OF SALE

(R.C. §§ 2329.152 and 2329.01-2329.61)

FIFTH THIRD BANK, NATIONAL ASSOCIATION,
Plaintiff

Case No: 22 CV E 04 0195

vs.

Judge: DAVID M GORMLEY

TARRY L TAYLOR,

PIN: 618-142-05-021-000

Defendant

THE STATE OF OHIO,

To the Sheriff of Delaware County, Ohio or Private Selling Officer:

On JUNE 8 2022 the Delaware County Common Pleas Court ordered, adjudged, and decreed that an order of sale be issued to the Sheriff of this County or Private Selling Officer, directing him/her to sell as upon execution the following described lands and tenements ("Judgment"):

PIN: 618-142-05-021-000

Address: 510 SOUTH STREET
ASHLEY OH 43003

See Attached Judgment and Legal Description.

You are hereby commanded to carry out said Judgment. You shall advertise and expose to sale the above described real estate, in conformity with the Judgment and statutes regulating sales on execution. You shall apply the proceeds of such sale in satisfaction of said Judgment, with costs and interest, as specified in the Judgment and subsequent Order of Confirmation. You shall make return of your proceedings to the Court within sixty (60) days from the date of this Order of Sale and bring this order with you.

If the real estate is ordered to be sold by a Private Selling Officer, the cost of the appraisal required by R.C. § 2329.17 and the cost of the advertisement required by R.C. § 2329.26 shall be taxed as costs in the case. Additionally, the fee charged by the Private Selling Officer and all costs incurred by the Private Selling Officer, other than the costs described in (a) and (b) above, shall be taxed as costs in the case up to an amount equal to one and one-half per cent (1.5%) of the sale price of the real estate. (See R.C. § R.C. § 2329.152(D)(1)). Pursuant to R.C. § 2329.152(D)(2), the Private Selling Officer shall file with the Court an itemized report of all appraisal, publication, marketing, and other expenses of a sale conducted under R.C. § 2329.152 and all fees charged by the Private Selling Officer for marketing the real estate or conducting the sale of the real estate, including the fee charged by the title agent or title insurance company for administrative services, if applicable, and title, escrow, and closing services.

WITNESS my signature as Clerk and the seal of the Court on this JUNE 17 2022.

NATALIE FRAVEL
DELAWARE COUNTY CLERK OF COURTS

By Deputy Clerk:



IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO

Fifth Third Bank, National Association

Plaintiff,

vs.

Tarry L. Taylor, et al.

Defendants.

Case No. 22 CV E 04 0195

Judge David M. Gormley

Parcel Number(s): 618-142-05-021-000

**PRAECIPE FOR ORDER FOR
SALE TO BE CONDUCTED BY
PRIVATE SELLING OFFICER**

To the Clerk of Courts: Please issue an **Order of Sale** to Cynthia Schillig, the court authorized Private Selling Officer ("PSO"), returnable according to law, directing the PSO to **advertise and sell** the following property:

Street Address: 510 South Street, Ashley, OH 43003

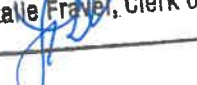
Parcel Number: 618-142-05-021-000


Legal Description: PLEASE SEE ATTACHED APPROVED LEGAL DESCRIPTION.

Respectfully submitted,

/s/ Carla M. Allen

Carla M. Allen (0100929)
Angela D. Kirk (0075177)
Matthew P. Curry (0078306)
Ann Marie Johnson (0072981)
Michael E. Carleton (0083352)
Justin M. Ritch (0085358)
Richard J. Sykora (0093134)
Kyle E. Timken (0071381)
Manley Deas Kochalski LLC

Common Pleas Court
Delaware, Co., Ohio
I hereby certify the within be a true
copy of the original on file in this office
Natalie Fravel, Clerk of Courts
By  Deputy



22-006915_CBH

P. O. Box 165028
Columbus, OH 43216-5028
Telephone: 614-220-5611
Fax: 614-220-5613
Email: cmallen@manleydeas.com
Attorney for Plaintiff

EXHIBIT A

Legal Description:

Situate in the County of Delaware in the State of Ohio and in the Village of Ashley:

Being Lot 233 in J.A. Scheble's Second Addition to the Village of Ashley, Ohio as the same are numbered and delineated on the plat thereof, of record in Plat Book 3, Page 71, Recorder's Office, Delaware County, Ohio.

Parcel Number(s): 618-142-05-021-000

Property Address: 510 South Street, Ashley, OH 43003

Deed Reference Number: dated November 23, 2007, filed December 4, 2007, recorded as Official Records Volume 820, Page 1349, Delaware County, Ohio records

IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO

Fifth Third Bank, National Association
Plaintiff,

vs.

Tarry L. Taylor, et al.

Defendants.

Case No. 22 CV E 04 0195

Judge David M. Gormley

Parcel Number(s): 618-142-05-021-
000

**JUDGMENT ENTRY AND DECREE
IN FORECLOSURE**

This matter is before the Court on Plaintiff's Motion for Default Judgment. The real property that is the subject of this foreclosure action (the "Property") is as follows:

Situate in the County of Delaware in the State of Ohio and in the Village of Ashley:

Being Lot 233 in J.A. Scheble's Second Addition to the Village of Ashley, Ohio as the same are numbered and delineated on the plat thereof, of record in Plat Book 3, Page 71, Recorder's Office, Delaware County, Ohio.

The Court finds that the Delaware County Treasurer has filed an Answer claiming an interest in the Property. The Court finds that such interest is senior in priority to the mortgage held by Plaintiff.

In response to the Motion for Default Judgment, the Court finds that Tarry L. Taylor; Renee L. Taylor; Jane Doe, Name Unknown, the Unknown Spouse of Tarry L. Taylor (if any); John Doe, Name Unknown, the Unknown Spouse of Renee L. Taylor (if any); and Midland Funding LLC have been served with a Summons and Complaint, but are in default for failure to file an Answer or other responsive pleading. The Court finds the failure to deny the allegations contained in the Complaint result in them being admitted pursuant to Rule 8(D) of the Ohio

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Rules of Civil Procedure and that the Court has relied upon the failure to deny the allegations in the Complaint. As a result, with respect to such defendants, the Court hereby grants Plaintiff's Motion for Default Judgment and enters judgment in favor of Plaintiff for the relief sought by Plaintiff in its Complaint.

The Court finds that State of Ohio, Department of Taxation has filed an Answer claiming an interest in the Property. The Court finds that such interest is inferior and junior in priority to the mortgage held by Plaintiff. Such interest shall transfer to the proceeds of the sale of the Property, and all defendants who have filed an Answer claiming an interest in the Property shall have the right to seek payment from the proceeds of the sale of the Property. Such interest shall be released from the title to the Property upon confirmation of the sale to ensure that the buyer obtains title to the Property free and clear of all interests.

The Court further finds that Tarry L. Taylor executed the promissory note referenced in the Complaint (the "Note") and therefore promised, among other things, to make monthly payments on or before the date such payments were due. The Court further finds that the sums due under the Note were accelerated in accordance with the terms of the Note and Mortgage. The Court further finds that Tarry L. Taylor and Renee L. Taylor executed and delivered the mortgage referenced in the Complaint (the "Mortgage"), that the Mortgage secures the amounts due under the Note.

The Court finds that the Note and Mortgage are in default because payments required to be made under the Note and Mortgage have not been made. The Court further finds that the conditions of the Mortgage have broken, the break is absolute, and Plaintiff is entitled to have the equity of redemption and dower of the current title holders foreclosed.

Plaintiff was the real party in interest when it filed its Complaint and has maintained the requisite standing at all times material to this action.

The Court finds that the original obligations of the Note and Mortgage have been modified by agreement of the parties ("Loan Modification").

The Court further finds that there is due to Plaintiff on the Note principal in the amount of \$94,223.52 plus interest on the principal amount at the rate of 3.375% per annum from April 1, 2020. The Court further finds that there is due on the Note all late charges imposed under the Note, all advances made for the payment of real estate taxes and assessments, property preservation, and insurance premiums, and all costs and expenses incurred for the enforcement of the Note and Mortgage, except to the extent the payment of one or more specific such items is prohibited by Ohio law.

As a result, the Court hereby enters judgment for the amount due on the Note in favor of Plaintiff and against Tarry L. Taylor.

The Court finds that the Mortgage was recorded with the County Recorder and is a valid and subsisting first mortgage on the Property. The Court further finds that the parties to the Mortgage intended that it attach to the entire fee simple interest in the Property. The Mortgage is, however, junior in priority under Ohio law to the lien held by the County Treasurer to secure the payment of real estate taxes and assessments. All amounts payable under Section 323.47 of the Ohio Revised Code shall be paid from the proceeds of the sale before any distribution is made to other lien holders.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that unless the sums found to be due to Plaintiff are fully paid within three (3) days from the date of the entry of this

decree, the equity of redemption of the defendant title holders in the Property shall be foreclosed and the Property shall be sold free of the interests of all parties to this action. In addition, an order of sale shall issue directing the appraisal, advertisement, and sale of the Property according to the law and the orders of this Court. If the court authorizes a private selling officer to sell the Property and the Plaintiff elects to use a private selling officer, then the sale must proceed in accordance with O.R.C. §2329.152. Otherwise, the Property is to be sold by the Sheriff, and he is to report his proceedings to the Court.

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

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

Notice of the time and place of the sale of the Property shall be given to all persons who have an interest in the Property according to the provisions of Section 2329.26 of the Ohio Revised Code.

Following the sale of the Property, the proceeds shall be distributed in the following order of priority:

- First, the Clerk of Courts shall be paid for all costs of this action.

- Second, the Delaware County Treasurer shall be paid for all unpaid taxes, assessments, interest, and penalties on the Property.
- Third, the Private Selling Officer shall be paid for costs and fees related to the sale of the Property as set forth in O.R.C. § 2329.152.
- Fourth, Plaintiff shall be paid principal in the amount of \$94,223.52, plus interest on the principal amount at the rate of 3.375% per annum from April 1, 2020, all advances made for the payment of real estate taxes and assessments and insurance premiums, and all costs and expenses incurred for the enforcement of the Note and Mortgage, except to the extent the payment of one or more specific such items is prohibited by Ohio law.
- Fifth, State of Ohio, Department of Taxation shall be paid an amount determined by further order of the Court.
- Sixth, the balance of the proceeds, if any, shall be held pending further order of the Court.

There is no just reason for delay in entering Judgment as aforesaid.

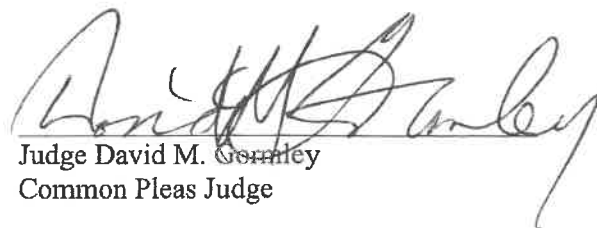
IT IS SO ORDERED.

**THIS IS A FINAL APPEALABLE ORDER.
THERE IS NO JUST CAUSE FOR DELAY.**

The Clerk is ordered to serve upon all parties not in default to appear, notice of the judgment and date of entry upon the journal within three days of journalization.

Direction to Clerk:

Pursuant to Civ.R.58(B), you are to serve notice of this judgment and its date of


Judge David M. Gormley
Common Pleas Judge

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entry upon the journal to all parties not in default for failure to appear in a manner prescribed by Civ.R. 5(B) within three days of the judgment's entry upon the journal, and note the service in the appearance docket.

Approved:

/s/ Kyle E. Timken

Carla M. Allen (0100929)
Angela D. Kirk (0075177)
Matthew P. Curry (0078306)
Ann Marie Johnson (0072981)
Michael E. Carleton (0083352)
Justin M. Ritch (0085358)
Richard J. Sykora (0093134)
Kyle E. Timken (0071381)
Manley Deas Kochalski LLC
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Telephone: 614-220-5611
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Attorney for Plaintiff
MDK File Number 22-006915

circulating for approval

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circulating for approval

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22-006915_WC

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Delaware, OH 43015
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Email: tlane@co.delaware.oh.us

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IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO

.....
Fifth Third Bank, National Association

Plaintiff,

vs.

Tarry L. Taylor, et al.

Defendants.

Case No. 22 CV E 04 0195

Judge David M. Gormley

Parcel Number(s): 618-142-05-021-000

**ORDER TO APPOINT PRIVATE
SELLING OFFICER**

This matter is before the Court on the Motion of Plaintiff, Fifth Third Bank, National Association ("Plaintiff") to Appoint a Private Selling Officer pursuant to ORC § 2329.152. The Court finds Cynthia Schillig is a resident of Ohio, a licensed auctioneer pursuant to ORC § 4707.01, *et. seq.*, and a licensed real estate broker or real estate salesperson pursuant to ORC § 4735.01, *et. seq.* The Court finds the Motion to be well-taken and **GRANTS** Plaintiff's request.

Therefore, it is hereby **ORDERED, ADJUDGED** and **DECREED**:

1. Plaintiff is authorized to use Cynthia Schillig as the Private Selling Officer ("PSO") for the purpose of conducting the sale of the real property commonly known as 510 South Street, Ashley, OH 43003 ("Property").
2. The PSO shall advertise the Property in a newspaper of general circulation for a minimum of three (3) consecutive weeks pursuant to O.R.C. §§ 2329.26-2329.27 and may place the Property with the area Multiple Listing Service (MLS) if the PSO is a member of the area MLS. The PSO may perform additional advertisement related to the sale of the Property, including, but not limited to, online advertisement, social media

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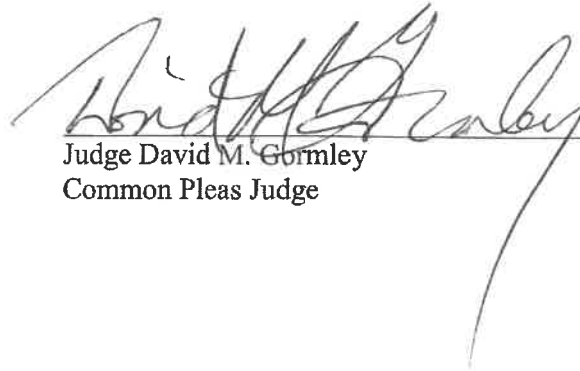
FSOPSO

advertisement, and direct marketing to potential purchasers. The PSO may perform additional advertisement related to the sale of the Property, including, but not limited to, online advertisement, social media advertisement, listing with the local Multiple Listing Service (MLS), and direct marketing to potential purchasers.

3. The PSO may hold an open house or photograph the interior of the Property pursuant to ORC § 2329.272 if the Property is not occupied and was previously secured and within the control of the Plaintiff.
4. The PSO shall sell the Property in accordance with the applicable sections of O.R.C. §§ 2329.01 to 2329.61.
5. The PSO shall engage the services of a duly licensed title agent or title company to provide title, escrow, and closing services related to the sale of the Property, which may also provide additional administrative services to the PSO.
6. The PSO shall not be required to provide or obtain an Agency Disclosure Statement and Residential Property Disclosure Form related to the sale of the Property.
7. The PSO shall execute a deed of conveyance to the purchaser (or purchaser's designee) of the Property and cause the deed to be recorded on behalf of the purchaser.
8. In the event the Property is purchased by a third party, the third party purchaser shall pay to the PSO a Buyer's Premium as established by the terms of sale.

9. The PSO shall file with the court an itemized report that includes the costs incurred for appraisal, publication, marketing, and any other expenses; and the fees charged by the PSO related to the sale of the Property. The costs and fees related to the sale of the Property are to be taxed as costs to the case as set forth in O.R.C. § 2329.152.

IT IS SO ORDERED.



Judge David M. Gormley
Common Pleas Judge

IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO

.....
Fifth Third Bank, National Association

Plaintiff

vs.

Tarry L. Taylor, et al.

Defendants.

Case No. _____

Judge _____

Parcel Number(s): 618-142-05-021-000

**NOTICE OF FILING OF
STATEMENT OF ACCEPTABILITY
OF LEGAL DESCRIPTION FOR
TRANSFER PURPOSES**

Attached hereto is a copy of a Statement of Acceptability of Legal Description for
Transfer Purposes in reference to the above captioned case.

Respectfully submitted,

/s/ Carla M. Allen

Carla M. Allen (0100929)
Angela D. Kirk (0075177)
Matthew P. Curry (0078306)
Ann Marie Johnson (0072981)
Michael E. Carleton (0083352)
Justin M. Ritch (0085358)
Richard J. Sykora (0093134)
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Fax: 614-220-5613
Email: cmallen@manleydeas.com
Attorney for Plaintiff

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CLERK OF COURTS - DELAWARE COUNTY, OH - COMMON PLEAS COURT

22 CV E 04 0195 - GORMLEY, DAVID M

FILED: 04/19/2022 04:42 PM

IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO

Fifth Third Bank, National Association

Plaintiff,

vs.

Tarry L. Taylor, et al.

Defendants.

Case No. _____

Parcel Number(s): 618-142-05-021-000

**STATEMENT OF
~~(ACCEPTABILITY)~~ (NON-
ACCEPTABILITY) OF LEGAL
DESCRIPTION FOR TRANSFER
PURPOSES**

I hereby certify that the description of the premises hereinafter set forth and listed in the Delaware County Engineer's Office as standing in the names of Tarry L. Taylor and Renee L. Taylor is acceptable (non-acceptable) to this office for purposes of transfer.

A copy of the Legal Description is attached hereto as Exhibit "A".

Dated: 4-12-2022



Delaware County Engineer IN WITNESS WHEREOF

By: Rob Lectka

EXHIBIT A

Legal Description:

Situate in the County of Delaware in the State of Ohio and in the Village of Ashley:

Being Lot 233 in J.A. Scheble's Second Addition to the Village of Ashley, Ohio as the same are numbered and delineated on the plat thereof, of record in Plat Book 3, Page 71, Recorder's Office, Delaware County, Ohio.

Parcel Number(s): 618-142-05-021-000

Property Address: 510 South Street, Ashley, OH 43003

Deed Reference Number: dated November 23, 2007, filed December 4, 2007, recorded as Official Records Volume 820, Page 1349, Delaware County, Ohio records