

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF MONROE

RECEIVED

IN THE MATTER OF:

THE NOTICE OF FORECLOSURE OF TAX LIENS BY THE COUNTY OF MONROE IN THE CITY OF ROCHESTER AND THE TOWNS OF BRIGHTON; CHILI; CLARKSON; GATES; GREECE; HAMLIN; HENRIETTA; IRONDEQUOIT; MENDON, INCLUDING VILLAGE OF HONEOYE FALLS; OGDEN, INCLUDING VILLAGE OF SPENCERPORT; PARMA, INCLUDING VILLAGE OF HILTON; PENFIELD; PERINTON, INCLUDING VILLAGE OF FAIRPORT; PITTSFORD, INCLUDING VILLAGE OF PITTSFORD; RIGA, INCLUDING VILLAGE OF CHURCHVILLE; RUSH; SWEDEN, INCLUDING VILLAGE OF BROCKPORT; WEBSTER, INCLUDING VILLAGE OF WEBSTER; WHEATLAND, INCLUDING VILLAGE OF SCOTTSVILLE; AND EAST ROCHESTER, INCLUDING VILLAGE OF EAST ROCHESTER, PURSUANT TO THE PROVISIONS OF THE MONROE COUNTY IN REM TAX FORECLOSURE ACT AND THE RESOLUTION OF THE MONROE COUNTY LEGISLATURE DESIGNATED AS RESOLUTION NO. 146, OF THE MINUTES OF THE PROCEEDINGS OF SAID MONROE COUNTY LEGISLATURE FOR THE YEAR OF 2017.

LIST OF DELINQUENT PROPERTIES REFERRED TO HEREIN WAS FILED IN MONROE COUNTY CLERK'S OFFICE ON THE 7<sup>th</sup> DAY OF APRIL, 2017.

IN REM ACTION NO. 142

2017 AUG -7 PM 1:40

MONROE COUNTY CLERK

**JUDGMENT OF  
FORECLOSURE AND  
SALE**

**Index No. 2017-3627**

Upon the List of Delinquent Taxes and Properties (the "List") duly verified and duly filed in this action, pursuant to the County of Monroe In Rem Tax Foreclosure Act, being §905 of the Laws of 1962 (the "Act"), in the Office of the Clerk of the County of Monroe on the 7<sup>th</sup> day of April, 2017, and upon the public notice of foreclosure herein and due proof that such notice was duly published after the filing of such List, once a week for six (6) successive weeks in The Daily Record and the Rochester Business Journal, newspapers duly designated for that purpose by the Deputy County Attorney, Counsel, of the County of Monroe, and upon due proof of the due posting of such notice of foreclosure and of the

due mailing thereof to the owners of the properties affected thereby, and upon the Affidavit of Robert Franklin, Chief Financial Officer for the County of Monroe, sworn to on the 2nd day of August, 2017, together with all exhibits annexed thereto and made a part thereof, showing that more than twenty (20) days have expired since the last day for redemption as stated in the said notice of foreclosure and that no answer has been filed or served, and upon the Affidavit of Mark A. Costello, Esq., sworn to July 31, 2017,

**NOW**, on motion of Boylan Code LLP, as Tax Foreclosure Attorney for the County of Monroe on all properties subject of this action, and upon the finding of this Court that there has been due compliance by the County of Monroe with the in rem provisions of the Act, said finding having been made upon the due and adequate proof before this Court, it is

I. **ORDERED, ADJUDGED AND DECREED** that the List be and the same hereby is amended so as to exclude therefrom and remove from this action the real property parcels set forth in Exhibit "A" hereto, because: (a) those parcels have either been redeemed by payment or installment agreement; (b) the owner or the parcel may be protected by the automatic stay provided by Section 362 of the United States Bankruptcy Code; (c) the parcels are owned by government entities; (d) the relevant tax lien has been cancelled; or (e) of other reasons allowed under the Act.

II. **ORDERED, ADJUDGED AND DECREED** that as to the remaining real property parcels that are set forth in Exhibit "B" ("Premises") hereto:

1. The County of Monroe is the owner and holder of good and valid tax liens against the Premises in the amounts shown in the List, together with interest thereon, and that, excepting liens for unpaid City taxes held by the City of Rochester and Village taxes held by a village or any other third-party who owns and holds a City of Rochester tax lien or Village tax lien, said liens are paramount to all other liens and tax liens and certificates of sale or encumbrances thereon and are payable as first liens upon

the Premises described to the County of Monroe in the inverse order of their dates of levy; and further

2. The amount owing to the County of Monroe upon said respective tax liens and liens of certificates of sale held and owned by the County of Monroe and owing and unpaid upon these premises as shown in the List, together with interest thereon, and that the County of Monroe is entitled to have herein the sum of \$6,015.26 hereby adjudged to the County of Monroe for costs and disbursements in this action, \$61,100 for attorneys' fees, together with the sum of \$200.00, hereby adjudged to the County of Monroe pursuant to Section 22 of the Act, with interest thereon from the date hereof to be apportioned as approved by Section 22 of the Act, as well as such sums as are expended pursuant to said Section 22 for additional title searches, and the costs of publication, mailing and posting of the Notice of Sale hereafter incurred to effect the terms of this Judgment; and further

3. These premises, the serial numbers of which are set forth in Exhibit "B", or as much thereof as may be sufficient to raise the amount due the County of Monroe for principal, interest and penalties upon the tax liens or certificates of sale set forth in the List filed herein, including subsequently accrued tax liens with interest thereof and all expenses of the sale, and the costs of this action, owing on each serially numbered parcel as sold, and which may be sold separately or as otherwise directed herein without material injury to the parties interested, be sold according to law, in one or more sales, held in the County Office Building, 39 West Main Street, in the City of Rochester, County of Monroe and State of New York, under the direction of Kevin Tubiolo, Senior Delinquent Tax Collector, the Referee appointed by this Court for that purpose, and such County representatives as Mr. Tubiolo may designate to assist him in conducting such sale; that said Referee give public and proper notice of the time and place of such sale according to the provisions of the Act; that, on the day specified in the notice of sale, the Referee herein

above appointed shall cause the commencement of such public sales and shall continue the same, if required, from day to day, excepting and omitting Saturdays, Sundays and public or legal holidays, each parcel so described by serial number or as otherwise directed herein shall be offered for sale; that the Referee may specify a minimum opening bid amount for one or more parcels, which amount shall not exceed such sum owing to the County of Monroe on said tax liens and certificates of sales, together with current taxes and interest on each such parcel or parcels sold, and which minimum opening bid amount shall not be a bid by or on behalf of the County of Monroe unless so specified by the Referee; that the Referee may revise or eliminate any minimum opening bid amount with respect to one or more parcels without prejudice to bids thenceforth or thereafter made and accepted with respect to other parcels; that the said Referee execute to the purchaser or purchasers deed or deeds of the premises sold; that out of the proceeds of said sale after deducting the amount of the lawful advertising expenses and other costs of such sale and paying to the County of Monroe, or its Tax Foreclosure Attorney, the amount of its costs, disbursements and other sums and adjudged sums as apportioned, the Referee making such sale shall pay from the proceeds thereof, so far as possible, all unpaid County of Monroe taxes and assessments owing to the County of Monroe which are liens upon the property sold but which have become such subsequent to the filing of the List in this action with interest thereon, and redeem the property sold to the County of Monroe from any sales for unpaid taxes and assessments which may have been had subsequent to the filing of such List with interest thereon, all in the inverse order of the dates of levy of said unpaid taxes; that said Referee next pay from the balance of said proceeds all taxes and assessments due the County of Monroe which are liens upon the lands sold and represented by the List filed in this action in the inverse order of the dates of levy of said unpaid taxes with interest to the time of such sale; and out of the balance of the proceeds thereafter remaining, if any, to pay such other tax liens with interest thereon as may be of

record in the Office of the Director of Finance of the County of Monroe affecting the lands sold represented by the List filed herein in their order of priority as hereinbefore determined; and to take receipt therefor and, in the event such sale shall result in a surplus as to any piece or parcel of land offered at such sale, said Referee shall report such surplus to the Court and, upon subsequent direction of the Court, shall deposit such surplus in trust with the Office of the Director of Finance of the County of Monroe for the benefit of any and all parties who may be entitled to any or all such surplus monies; and that the purchase or purchasers at such sale be let into possession of such premises so sold on production of said Referee's Deed thereto; and further

4. In the event the County of Monroe shall become the purchaser of any or all of these parcels at the public sales herein described, said Referee shall not require the County of Monroe to pay in cash the entire amount of its bid at such sale, but said Referee shall execute and deliver to the County of Monroe or its designee or assignee a deed to the premises sold and shall set off against and deduct from the amount of the said bid of the County of Monroe the costs and disbursements of this action as allowed and apportioned by law against the premises purchased with interest thereon from the date hereof, together with the amount of the tax liens owing to the County of Monroe with interest and penalties thereon to the date of sale, to the extent of said bid, all of which shall be allowed to the County and applied by the Referee accordingly; and, in the event of such purchase of any of the properties herein by the County of Monroe, as provided herein, the Director of Finance of the County of Monroe, upon receipt of a certified copy of this Judgment of Foreclosure and Sale, is hereby ORDERED AND DIRECTED, in addition to the decretal provisions of this Judgment below, to cancel and satisfy upon the books in his office all taxes and assessments, tax liens and liens of certificates of sale of the County of Monroe that are and have become liens upon the premises purchased by the County of Monroe subsequent to this Judgment of Foreclosure and Sale; and further

5. In the event the County of Monroe shall become the purchaser of any premises at the public sales herein described and located within any of the Villages within the County of Monroe, that, upon receipt of a certified copy of the final Judgment of Foreclosure and Sale, the Village Clerks are hereby ORDERED AND DIRECTED to cancel and satisfy upon their records all taxes and assessments, tax liens and liens of certificates of sale, including all taxes to them or their assigns which represent said taxes owing to said respective Villages; and further

6. The Referee shall take the receipt of the County of Monroe or its Deputy County Attorney for the amounts paid as hereinbefore directed and deposit any surplus in the manner directed herein; and further

7. The Director of Finance of the County of Monroe, upon a receipt of a certified copy of this Judgment of Foreclosure and Sale, shall cancel and satisfy upon the books in his office all taxes and assessments, tax liens and liens of certificates of sale of the County of Monroe that are liens upon and against the property described herein, prior to this Judgment of Foreclosure and Sale, and also shall cancel and satisfy upon the books in his office liens upon and against the premises herein described after the application of the proceeds of sale as aforesaid; and further

8. These premises comprising lots, parts of lots and parcels of land, separately assessed and serially numbered with certain descriptive factors, as by the statute provided and as elsewhere directed in this Judgment, are the same premises hereinafter directed to be sold and are fully described and identified by the serial number of each said lot, part of lot or parcel of land and street address, appearing adjacent to each such serial number, and such descriptions are deemed under Section 25 of the Act to be the same descriptions of the lots and parcels as are contained in the List herein filed; and such same descriptions as herein below provided are hereby directed to be the descriptions to be used and published in the public notice of sale of the parcels contained

in the List; and each such lot, part of lot or parcel of land shall be sold by the Referee in the numerical order of such serial numbering, individually and separately excepting as otherwise directed herein; or as determined by the Referee, by each said serial number and the pertinent street address, as such descriptions are hereinafter directed, unless any such individually serially numbered lot, combination of lots or parcel as additionally described is redeemed by law prior to noon of the day preceding the day of the commencement of the sale or is withdrawn from this Judgment as herein provided; and further

9. Unless otherwise ordered herein, the descriptions used by the Referee in the deeds to the parcels purchased herein shall be those as set forth in the List filed herein, but shall nevertheless add further parameters of description and necessary words of conveyance to conform to the customary practice used in the transfer of lots and parcels in the State of New York, employing therein, if required, any such additional information contained as to each serially numbered parcel in the List filed in this action and as otherwise directed herein, and such Referee's Deed shall further contain the serial number of the lot, combination of lots or parcel purchased for further identification; and further

10. Each of the account numbers, representing respectively the parcel described by each such serially numbered parcel or parcels in the descriptions hereinafter directed to be employed in the published notice of sale, is placed therein in each instance for the convenience of the records of the County of Monroe to transpose the parcel represented by serial number to its corresponding tax account number, but is not an essential part of the description and may be omitted by the Referee in the conduct of the sale; and further

11. The remaining parcels to be sold as hereinbefore directed are set forth in the List and Exhibit "B" and described as follows:

ALL OF THE LOTS, PARTS OF LOTS AND PARCELS OF LAND, situate in the City of Rochester and the towns of Brighton; Chili; Clarkson; Gates Greece; Hamlin; Henrietta; Irondequoit; Mendon, including Village of Honeoye Falls; Ogden; including Village of Spencerport; Parma, including Village of Hilton; Penfield; Perinton, including Village of Fairport; Pittsford, including Village of Pittsford; Riga, including Village of Churchville; Sweden, including Village of Brockport; Webster, including Village of Webster; Wheatland, including Village of Scottsville; and East Rochester, County of Monroe and State of New York, located in various subdivisions, as the same are laid out on maps thereof filed in the Monroe County Clerk's Office, which said lots, parts of lots and parcels of land are affected by the within action and described by serial numbers and additional legal descriptions and allocated by such serial numbers in the respective subdivisions;

AND ALSO OTHER PARCELS OF LAND, situate in the City, Towns and Villages aforesaid in the County of Monroe and State of New York, affected by this action not contained in subdivisions but described individually in the serial numbers containing any map or deed reference.

TOGETHER WITH ANY RIGHT, TITLE OR INTEREST to the land lying in the bed of any street, highway or strip of land, as they now exist, formerly existed or are presently proposed, included in front of or adjoining the lots and premises herein described by serial numbers and additional descriptions all as shown on the maps and descriptions aforesaid; and it is further

III. **ORDERED, ADJUDGED AND DECREED** that each of the parcels herein be sold subject to:

- (a) Any state of facts an accurate survey may show and subject to any facts an inspection of the premises would reveal;
- (b) Building or tract restrictions or regulations;



(c) Violations of record, if any, now or hereafter against the premises and any fines, charges or assessment arising therefrom;

(d) Easements, covenants, agreements, reservations and restrictions of record, if any, insofar as the same may be in force and effect;

(e) Rights of tenants and/or occupants in possession, if any;

(f) Security Agreements, conditional bills of sale and chattel mortgages, if any;

(g) The right of the United States of America to redeem within 120 days from the date of sale;

(h) The amount of any unpaid water, sewer, Pure Water, electric, natural gas or other utility charge heretofore or hereafter levied, assessed or accrued against or with respect to such parcel;

(i) The lien or liens of unpaid City of Rochester taxes, assessments, water and sewer rents, if any, whether held by the City of Rochester or by assignment to third parties, including American Tax Funding, LLC and Cheswold (TL) LLC and those parties' assignees, EB 1Eminy LLC and EB 2Eminy LLC; and

(j) The lien or liens of any unpaid 2017/2018 School Tax and the lien or liens of the 2017 Town and County Tax, and the liens of all real property taxes and assessments accruing thereafter; and it is further

**IV. ORDERED, ADJUDGED AND DECREED** that, should the Referee offer any parcel for sale as above ordered which parcel is not purchased for the minimum bid amount specified by the Referee, such parcels may be allowed to be struck down by the City of Rochester or any other municipality in which such premises are situate for an amount to be agreed upon between the County of Monroe and such City or municipality pursuant to the Act and otherwise as permitted by law, which amount need not equal or exceed such minimum bid amount specified; and it is further

V. **ORDERED, ADJUDGED AND DECREED** that the conveyance by the Referee of the parcels herein described shall vest the purchaser with an estate in fee simple absolute, subject to those matters herein described, and all persons including the State, infants, incompetents, absentees and nonresidents, persons in prison and all other persons or corporations, whether under disability or not, who may have had any right, title, interest, claim, lien or equity of redemption in, to or upon such parcel of land shall be forever barred and foreclosed of all such right, title, interest, claim, lien or equity of redemption; and it is further

VI. **ORDERED, ADJUDGED AND DECREED** that any of the parcels designated by the serial numbers appearing on Exhibit "B" hereto may, at the discretion of the Referee or the Tax Foreclosure Attorney, be withdrawn from Exhibit "B" and not be sold pursuant to this Judgment; and it is further

VII. **ORDERED, ADJUDGED AND DECREED** that the Referee shall determine whether the parcels set forth on Exhibit "B" shall be sold in one or more sales, and the Referee shall further determine those parcels to be included in any such sale and, in the event the Referee shall elect to hold more than one sale, such additional sales shall be held hereunder without further application; and it is further

IX. **ORDERED, ADJUDGED AND DECREED** that, in the event no bid shall be made at the foreclosure sale for a parcel of real property subject of this action, the sale shall be deemed to be held open for 90 days following such foreclosure sale date so that the County of Monroe or a third party bidder may be free to enter a bid for the same during said 90-day time period and sold pursuant to the terms of this Judgment with closing to occur thereafter at such date as is convenient to the bidder and the County of Monroe or at such time as County of Monroe dictates if not fewer than 30 days after notifying such bidder that the County of Monroe has accepted the bidder's bid as the high bid; if any bid is received within such 90-day period, the County of Monroe shall have the option of

accepting such bid and transferring title to such bidder before the end of such 90-day period or awaiting further bids during such 90-day period; in the event the amount bid for a property by a party other than the County of Monroe during such 90-day period is less than the total taxes, fees and expenses allowed by this Judgment of Foreclosure and Sale, the County shall have the right to reject such bid and permit the property subject of such bid to remain unsold.

ENTER:

August 7, 2017

  
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Hon. John J. Ark, Justice of the Supreme Court

# **EXHIBIT A**

**(Please see list posted on County website)**