

05-1788-CD
Glenn Haby vs Clfd Co. Tax Claim

Glenn Haby vs CCTCB
05-1788-CD

TIMOTHY E. DURANT
ATTORNEY AT LAW
201 NORTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-1711

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

GLENN HABYL

Petitioner

vs.

**CLEARFIELD COUNTY TAX CLAIM
BUREAU**

Respondent

No. 05-1788-CD

Type of Pleading: Petition To
Disapprove Proposed Private
Sale of Clearfield County
property identified by Tax
Map No. 128-D02-001-
00142-00-21 now mapped as
128-C02-001-00142-00-21

Filed on behalf of
Petitioner:

OPCler
Glenn Habyl

to C/A

Counsel of Record for
Petitioner:

TIMOTHY E. DURANT, ESQ.
Pa. I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

Filed by:

Timothy E. Durant
Timothy E. Durant, Esquire

FILED

NOV 15 2005

013-2014

William A. Shaw

Prothonotary/Clerk of Courts

3 (sent to ATT)

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

GLENN HABYL

Petitioner

vs.

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Petitioner:

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William A. Shaw

Prothonotary/Clerk of Courts

3 years to Attn

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

GLENN HABYL

Petitioner

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* No. 05-

-CD

vs.

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**CLEARFIELD COUNTY TAX CLAIM
BUREAU**

Respondent

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NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within **twenty (20) days** after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint and for any other claims or relief requested by the Petitioners. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
North Second Street
Clearfield, PA 16830
(814) 765-2641 Ext. 5982

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

GLENN HABYL

Petitioner

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No. 05-

-CD

vs.

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**CLEARFIELD COUNTY TAX CLAIM
BUREAU**

Respondent

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PETITION TO DISAPPROVE PROPOSED PRIVATE SALE OF
CLEARFIELD COUNTY TAX MAP No. 128-D02-001-00142-00-21
now mapped as No. 128-C02-001-00149-00-21

NOW, comes the Petitioner, Glenn Habyl, by and through his Attorney, Timothy E. Durant, Esquire, and sets forth as follows:

1. Petitioner **GLENN HABYL** is an adult individual residing at 3115 Russell Avenue, Parma, Ohio 44134.
2. Petitioner is the current record owner of the parcel of land described as Lot 142 Section 1 of the Treasure Lake Sub-Division of Sandy Township, Clearfield County, PA the Tax Map Number for which is set out above.
3. An unknown party has proposed a private sale at the Clearfield County Tax Claim Bureau of a parcel of land in Sandy Township, Clearfield County known as Tax Map No. 128-D02-001-00142-00-21 now mapped as Tax Map No. 128-C02-001-00149-00-21 described as Lot 142 Section 1 of the Treasure Lake Sub-Division assessed to Glenn Habyl.
4. The proposed sale price is \$350.00 for the parcel.

5. Real estate taxes for the years of 2002 and 2003 and a portion of the real estate taxes for the year of 2004 on the above referenced property are unpaid and delinquent.

6. Said property was offered at the 2004 Upset Tax Sale in September 2004 but no bid equal to the Upset Sale price was obtained and the property remained unsold.

7. On or about September 23, 2005 a bid of \$350.00 was made and accepted by the Tax Claim Bureau for the purchase of the said property under §613 "Private Sale" of Act 542 of the 1947 "Real Estate Tax Law".

8. Sale of said property has been scheduled and advertised for Monday, November 21, 2005 at 9:00 a.m.

9. Petitioner had suffered severe illness for several years and for that reason had not been paying attention to the financial details of his life and for that reason he allowed his tax obligations to become delinquent.

10. Petitioner believes the proposed sale price of \$350.00 is insufficient.

11. Petitioner is ready, willing and able to pay his entire delinquency of \$635.44 to reclaim his title to this parcel.

12. Upon learning of the proposed private sale petitioner attempted to pay his tax delinquency in full but this offer was refused by Mary Ann Wesdock, Director of the Tax Claim Bureau.

13. Attached hereto as Exhibit "A" is the published Notice of tax sale in the Clearfield Legal Journal on October 7, 2005.

14. Petitioner is prepared to pay in excess of \$635.44 for

the aforesaid property if an auction is necessary.

WHEREFORE, Petitioner respectfully requests this Honorable Court:

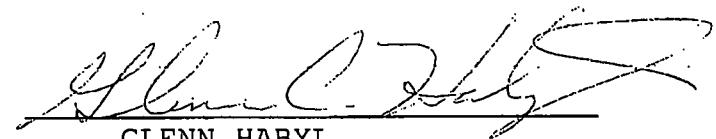
- a. Disapprove the sale, and
- b. Enter a Rule Returnable for either written reply or personal appearance upon the unknown bidder to show cause why the aforesaid parcel of ground should not be sold to Glenn Habyl for accrued taxes penalties and interest within 30 days of the return date, and
- c. Direct the Tax Claim Bureau to notify the unknown bidder of this return date, and
- d. Direct that if the unknown bidder responds to the Rule and is also willing to pay the full tax delinquency of \$635.44 then the Clearfield County Tax Claim Bureau shall schedule, notify the parties and hold an auction style bid of the property between and among the parties to these proceedings, and
- e. Such other relief as the Court may deem appropriate.

Dated: November 15, 2005


Timothy E. Durant
Attorney for Petitioner

ACKNOWLEDGMENT

Petitioner verifies that the statements made in this Petition are true and correct. Petitioner understands that false statements herein are made subject to the penalties of 18 Pa. C. S. §4904, relating to unsworn falsification to authorities.


GLENN HABYL

Dated: November 15, 2005

TAX SALE

Notice is hereby given of the proposed private sale by the Clearfield County Tax Claim Bureau on a parcel of land in SANDY TOWNSHIP known as Map # 128-C03-C15-00370-00-21 NOW MAPPED AS 128-C02-015-00370-00-21 and described as: L 370 SECTION 15 and assessed to: RESORT LAND CORP.

Sale will be held on NOVEMBER 21, 2005 at 9:00 AM in the Tax Claim Bureau 230 E. Market Street, Clearfield. The property will be sold free and clear of all tax claims and tax judgments. A bid of \$1,000.00 has been received and accepted by the Bureau. Any party not satisfied with the accepted sale price must, within forty-five days of this notice, petition the Court of Common Pleas to disapprove the sale.

Clearfield County Tax Claim Bureau, 230 E. Market Street, Suite 121, Clearfield PA 16830.

ADV: Sept. 23, 2005 & Oct. 7, 2005

TAX SALE

Notice is hereby given of the proposed private sale by the Clearfield County Tax Claim Bureau on a parcel of land in SANDY TOWNSHIP known as Map # 128-D02-001-00142-00-21 NOW MAPPED AS 128-C02-001-00142-00-21 and described as: L 142 SECTION 1 and assessed to: GLENN HABYL.

Sale will be held on NOVEMBER 21, 2005 at 9:00 AM in the Tax Claim Bureau 230 E. Market Street, Clearfield. The property will be sold free and clear of all tax claims and tax judgments. A bid of \$350.00 has been received and accepted by the Bureau. Any party not satisfied with the accepted sale price must, within forty-five days of this notice, petition the Court of Common Pleas to disapprove the sale.

Clearfield County Tax Claim Bureau, 230 E. Market Street, Suite 121, Clearfield PA 16830.

ADV: Sept. 23, 2005 & Oct. 7, 2005.

NOTICE OF RETURN OF TAX SALE

BY CLEARFIELD COUNTY
TAX CLAIM BUREAU

Notice is hereby given that the Clearfield County Tax Claim Bureau made a return to the Court of Common Pleas of Clearfield County of the sale of properties for delinquent taxes, held on September 16, 2005 in accordance with the provisions of the Real Estate Tax Sale Law. P.S. 5860.101 et seq., as amended and supplemented and that the Court of Common Pleas of Clearfield County, by Order dated September 29, 2005 and filed at 2005-1487- CD, confirmed Nisi said Return of Sale.

Objections or exceptions thereto may be filed by any owner or lien creditor in the office of the Prothonotary within thirty (30) days after the date of the Return. Otherwise, the Return will be confirmed absolute.

In case no objections or exceptions are filed to any such Sale within thirty (30) days after the date of the Return, a Decree Absolute confirming the same will be entered as of course by the Prothonotary.

2005 UPSET TAX SALE

OWNER/MAP #	CLAIM #	DESCRIPTION	PURCHASE PRICE JUHI, INC
HAWKINS, BOBBY GENE & HAWKINS, JOAN C. 001-M14-000-00003	2003-000022	BRISBIN BORO 2.25 A	
HOOK, ROBERT G. & HOOK, BARBARA E. 002-A13-000-00018	2003-000087	BURNSIDE BORO TRAILER & 1.15 A	BLUE SKY
KEITH, CATHERINE A. 004-4-K08-246-00004	2003-000450	CLEARFIELD BORO-4TH WARD H & 2L 9-10	BLUE SKY
SAVAGE, JAMES L. & SAVAGE, DOROTHY A. 007-1-020-000-06340	2003-000782	DUBOIS CITY-1ST WARD H & L 120 QUARRY AVE.	BLUE SKY
SAVAGE, JAMES L. & SAVAGE, DOROTHY A. 007-1-020-000-06341	2003-000783	G & L	BLUE SKY

Exhibit "A"

FILED

NOV 15 2005

William A. Shaw
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

GLENN HABYL

Petitioner

vs.

**CLEARFIELD COUNTY TAX CLAIM
BUREAU**

Respondent

No. 05-1788 -CD

CERTIFICATE OF SERVICE

I, Michael Luongo, verify that on November 15, 2005 I did hand deliver one (1) certified copy of the Petitioner's **PETITION TO DISAPPROVE PROPOSED PRIVATE SALE OF CLEARFIELD COUNTY TAX MAP No. 128-D02-001-00142-00-21 now mapped as No. 128-C02-001-00149-00-21 and ORDER.** Said Petition was hand delivered to the person in charge at the office of the Clearfield County Tax Claim Bureau which is located at 230 E. Market Street, Clearfield, PA 16830.

I understand that false statements herein are made subject to the penalties of 18 PA. C.S. §4904, relating to unsworn falsification to authorities.

Michael Luongo
Michael Luongo

Dated: November 15, 2005

FILED *cc Atty Durant*
O/10:17 cm
NOV 16 2005 *JK*

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: PROPERTY OF GLENN HABYL, * NO. 05-1788-CD
TAX MAP NO. 128-D02-001-00142-00-21, *
NOW MAPPED AS TAX MAP *
NO. 128-C02-001-00149-00-21 *

ORDER

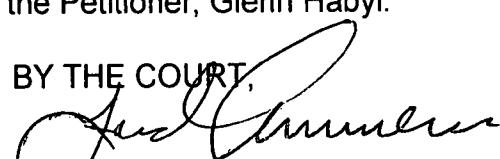
NOW, this 18th day of November, 2005, upon consideration of the
foregoing Petition, it is hereby ORDERED that:

1. A Rule is issued upon the Respondent to show cause why the Petitioner is not entitled to the relief requested;
2. The private tax sale scheduled for November 21, 2005 at 9:00 a.m. in the Tax Claim Bureau, 230 E. Market Street, Clearfield, Pennsylvania, 16830, is STAYED until final determination of Petitioner's claims for relief in the foregoing Petition;
3. The Respondent shall file an Answer to the Petition within twenty (20) days of service upon the Respondent;
4. The Petition shall be decided under Pa. R.C.P. 206.7;
5. An evidentiary hearing on disputed issues of material fact shall be held on the 4th day of January, 2006 at 2:30 p.m. in Courtroom No. 1, of the Clearfield County Courthouse, Clearfield, Pennsylvania;
6. Notice of the entry of this Order shall be provided to the Tax Claim Bureau by Timothy Durant, Esquire, counsel for the Petitioner, Glenn Habyl.

FILED *acc Atty Durant*
0185301 ILC Tax claim
NOV 21 2005 *BS*

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

GLENN HABYL

Petitioner

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No. 05-1788-CD

vs.

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**CLEARFIELD COUNTY TAX CLAIM
BUREAU**

Respondent

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CERTIFICATE OF SERVICE

I, Michael Luongo, verify that on November 21, 2005 I did hand deliver one (1) copy of the **ORDER** in response to Petitioner's PETITION TO DISAPPROVE PROPOSED PRIVATE SALE OF CLEARFIELD COUNTY TAX MAP No. 128-D02-001-00142-00-21 now mapped as No. 128-C02-001-00149-00-21. Said Order was hand delivered to the person in charge at the office of the Clearfield County Tax Claim Bureau which is located at 230 E. Market Street, Clearfield, PA 16830.

I understand that false statements herein are made subject to the penalties of 18 PA. C.S. §4904, relating to unsworn falsification to authorities.

Michael Luongo
Michael Luongo

Dated: November 21, 2005

FILED

NOV 21 2005 (6)
O/ 12:15pm
William A. Shaw
Prothonotary/Clerk of Courts
no 6/c

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FILED 300
01/17/2014 Atty/Kesner
DEC 01 2005 (S)
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: PROPERTY OF GLENN HABYL : No. 05-1788-CD
TAX MAP NO. 128-D02-001-00142-00-21 :
NOW MAPPED AS TAX MAP :
NO. 128-C02-001-00149-00-21 :

ANSWER OF CLEARFIELD COUNTY TAX
CLAIM BUREAU TO PETITION TO DISAPPROVE
PRIVATE SALE

TO: The Honorable Fredric J. Ammerman, President Judge

AND NOW COMES, the Clearfield County Tax Claim Bureau ("Bureau") by Kim C. Kesner, Esquire and files this Answer to the Petition to Disapprove Private Sale as directed by this Court's Rule to Show Cause dated November 18, 2005.

1. Admitted.

2. Admitted.

3. It is admitted that the proposed purchaser is Alfonso Banal, Jr. of 1468 Treasure Lake, DuBois, PA, 15801

4. Admitted.

5. Admitted.

6. Admitted.

7. It is admitted that Alfonso Banal, Jr. made an offer to purchase the subject assessment at private sale under the provisions of the Real Estate Tax Sale Law which was accepted by the Clearfield County Tax Claim Bureau on July 5, 2005.

8. Admitted.

9. The Tax Claim Bureau is without sufficient knowledge or information to form a belief as to the truth of the averments contained in Paragraph 9 and therefore, proof at hearing is requested.

10. Petitioner's subjective belief on the sufficiency of the proposed sale price is irrelevant and immaterial. The averments contained in Paragraph 10 of the Petition are in adequate as a matter of law to support further proceedings.

11. The averments contained in Paragraph 11 are irrelevant and immaterial. Petitioner's offer to pay the tax delinquency as a matter of law provides no basis for this Court to disapprove the proposed sale. Getson v. Somerset County Tax Claim Bureau, 696 A.2d 903 (Pa. Cmwlth. 1997); Mehalic v. Westmoreland County Tax Claim Bureau, 534 A.2d 157 (Pa. Cmwlth. 1987).

12. As a matter of law, the Tax Claim Bureau was precluded from accepting the amount of delinquent taxes from the owner or redeeming the assessment to the owner. Getson v. Somerset County Tax Claim Bureau, 696 A.2d 903 (Pa. Cmwlth. 1997)

13. Admitted.

14. The averments contained in Paragraph 14 require no response. By way of further answer, the Tax Claim Bureau avers that this Court and the exercise of its discretion should not allow the Petitioner the opportunity of redeeming the subject assessment by bidding against the proposed purchaser.

WHEREFORE, the Clearfield County Tax Claim Bureau respectfully requests your Honorable Court to dismiss the Petition to Disapprove Private Tax Sale.

Respectfully submitted,

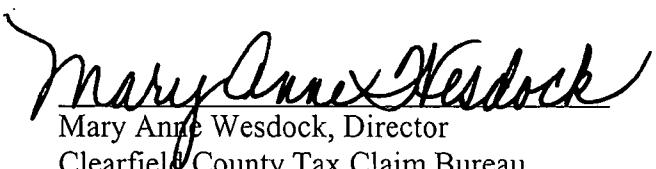


Kim C. Kesner, Esquire
Solicitor – Clearfield County
23 North Second Street
Clearfield, PA 16830

VERIFICATION

I, Mary Anne Wesdock, verify that I am the Director of the Clearfield County Tax Claim Bureau, and as such am authorized and empowered to make this Verification, and that the statements made in this Answer are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 , relating to unsworn falsification to authorities.

Date: 11/30/2005


Mary Anne Wesdock

Mary Anne Wesdock, Director
Clearfield County Tax Claim Bureau

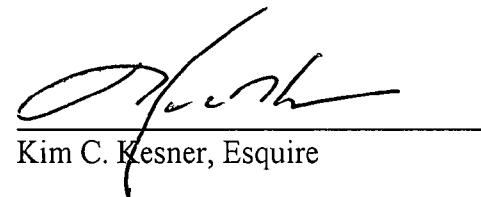
CERTIFICATE OF SERVICE

AND NOW, I do hereby certify that on the 1st day of December, 2005, I caused to be served a true and correct copy of the Answer of the Clearfield County Tax Claim Bureau to the Petition to Disapprove Private Tax Sale on the following and in the manner indicated below:

By United States Mail, First Class,
Postage Prepaid, Addressed as Follows:

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830

Date: 12-1-2005



Kim C. Kesner, Esquire

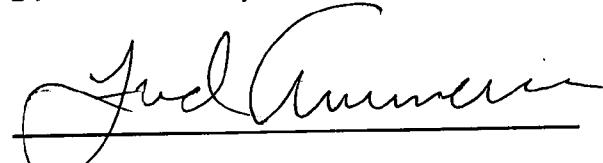
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: PROPERTY OF GLENN :
HABYL, TAX MAP NO. : No. 05-1788-CD
128-D02-001-00142-00-21 :

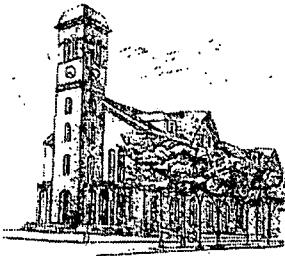
O R D E R

NOW, this 4th day of January, 2006, following evidentiary hearing on the Petition to Disapprove Proposed Private Tax Sale, it is the ORDER of this Court that counsel supply the Court with proposed Order within no more than five (5) days from this date.

BY THE COURT,


President Judge

FILED 2006 Atty Durst
01/06/2006 1CC Atty Kesner
JAN 06 2006
1CC Tax Claim
William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 11/6/06

 You are responsible for serving all appropriate parties.

 The Prothonotary's office has provided service to the following parties:

 Plaintiff(s)/Attorney(s)

 Defendant(s)/Attorney(s)

 Other

X Special Instructions:

Copies were sent to Attorneys Durant and Kesner,
as well as the Tax Claim office.

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

GLENN HABYL

Petitioner

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No. 05- 1788 -CD

vs.

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**CLEARFIELD COUNTY TAX CLAIM
BUREAU**

Respondent

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FILED 3cc
01/11/584 Atty
JAN 12 2006 Durant

William A. Shaw
Prothonotary/Clerk of Courts

OR D E R

AND NOW, this 12th day of January 2006, this matter having come before This Court on January 4, 2006 for evidentiary hearing on Petitioner's Petition To Disapprove Proposed Private Sale and the bidder, Alfonso Banal, Jr. having not appeared, based upon the Petition, stipulations, evidence and testimony of the Petitioner this Court has determined in accordance with 72 P.S. §5860.613(a) that it is just and proper to disapprove the proposed private sale.

It is hereby ordered and decreed in accordance with 72 P.S. §5860.613(a) as follows:

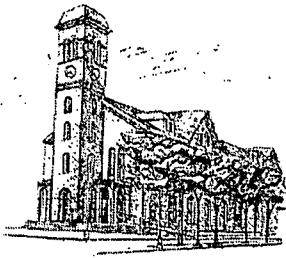
1. The proposed private sale to Alfonso Banal, Jr. for a bid of \$350.00 is disapproved.
2. The Clearfield County Tax Claim Bureau shall not sell the property assessed as Tax Map No. 128-D02-001-00142-00-21 now mapped as Tax Map No. 128-C02-001-00149-00-21 described as Lot 142 Section 1 of the Treasure Lake Sub-Division for less than the price of \$835.00 plus the payment of all 2005 real estate taxes levied in Clearfield County upon said parcel and unpaid.
3. If Petitioner, Glenn Habyl, is the only one who agrees to pay this minimum price, the Clearfield County Tax Claim Bureau is hereby authorized to sell the property to Petitioner.
4. If no private sale can be arranged, the subject property shall be sold at a public judicial sale under the act in 72 P.S. §5860.612.
5. If more than one party agrees to pay this minimum price, the Clearfield County Tax

Claim Bureau is hereby authorized to conduct an auction-style bid of the property among the parties to the proceedings.

BY THE COURT



FREDRIC J. AMMERMAN
President Judge



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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Sincerely,

William A. Shaw
Prothonotary

DATE: 11/21/06

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions: