

RULE NUMBER 15

REAL ESTATE SALE PROCEEDINGS

A. In action for the marshaling and foreclosure of liens, and the judicial sale of real estate, or any action involving title to real estate, counsel for the party requesting such marshaling, foreclosure and/or judicial sale of real estate shall prepare and file with the Clerk of Courts a preliminary judicial report. A final judicial report shall be filed in the proceeding at least ten days prior to the date of judgment. The cost of such judicial report shall be taxed as part of the costs of the proceeding.

B. In every action wherein a judicial sale of real estate is contemplated by the complaint or subsequent pleadings, the party praying for said sale or the attorney for the party praying for said sale shall endorse thereon the following certification:

“The undersigned hereby certifies to the Common Pleas Court that an examination of the public records of Hardin County, Ohio, has been made to determine the ownership of the subject real estate and all parties who may claim an interest therein, and that, in the opinion of the undersigned, all parties have been named as parties to this action,” stating as exceptions any interested party not so named.

C. Upon any decree subsequently issued which orders the sale of real estate, the party or attorney having requested said sale shall further certify: “the undersigned hereby certifies to the Common Pleas Court that the examination of title to the subject real estate has been extended to

_____, to determine if any parties have acquired any interest therein subsequent to said previous examination and said examination discloses that, in the opinion of the undersigned, there are no such parties except parties to whom the doctrine of lis pendens applies,” also stating as further exceptions any such party not subject to lis pendens. Such certification shall also advise the Court that all necessary parties have been properly served and are before the Court.

D. Any proposed Judgment Entry of Foreclosure/Order of Sale of real estate shall contain the following language relating to access to the subject property:

“It shall be the responsibility of the attorney for the party who is prosecuting this foreclosure action to provide a key to the premises or to make other suitable arrangements with the Hardin County Sheriff’s Department for access to the property for appraisal purposes. The Court hereby ORDERS, ADJUDGES AND DECREES that the party who is prosecuting this foreclosure action and the Hardin County Sheriff’s Department should be and they hereby are authorized to use all reasonable means necessary or appropriate to gain access to the property for appraisal purposes, including but not limited to the retention of a locksmith. Expenses for gaining access to the property shall be taxed as costs.” The Hardin County Sheriff’s Department shall not be required to initiate the appraisal process until such time as the attorney delivers the key or makes such suitable arrangements for the appraisers to view the premises

E. The Clerk shall not be requested to prepare Orders of Sale. Said Orders shall be typed by the attorney requesting the sale and filed with the Clerk, which Order shall contain the following minimal information: full legal description or the full property address and a summary of the property description which includes information on where to obtain the full legal description, with the permanent parcel number(s), amount due, interest due and date to which interest will continue to accrue. Said order of sale shall also be accompanied by the Hardin County Sheriff's Property Description Approval Form.

F. When satisfactory arrangements have been made for the appraisers to view the premises as set forth above, the Sheriff shall cause the appraisal to be completed within fourteen (14) days thereafter.

G. Upon completion of the appraisal as required by law, the appraisers shall submit their findings on an appraisal report prescribed by the Court. The Sheriff shall cause the original of such report to be filed with the Court with a copy to be retained by the Sheriff. The Sheriff shall appoint three disinterested free holders as appraisers, as required by law. The appraisers shall each receive \$50.00 per parcel appraised in each case as compensation.

H. All sales of real estate on order of this Court shall be conducted by the personnel of the Sheriff's Office, who by this rule have a standing Order to hire an auctioneer, with the costs of the auctioneer to be taxed as costs in each case handled by said auctioneer. Said fee ordinarily shall not exceed \$50.00 per parcel offered, or a maximum of \$100.00 for the sale of all parcels in each suit.

I. The Sheriff, deputy or party conducting the sale shall, prior thereto, announce that any purchasers shall have thirty (30) days from the date of sale to obtain an examination of title to said real estate. Should examination disclose the title so purchased to be unmarketable by reason of any defect in the proceedings or the existence of any interest not disclosed in either of the certifications described above, said purchaser may, within the thirty (30) day period after the sale, notify the Court thereof by written motion requesting that said sale be set aside. If the Court, upon hearing thereof, finds said title to be unmarketable, the Court shall refuse to confirm said sale. The Court may, however, fix a reasonable time, not to exceed ninety (90) days, within which such defects may be corrected. A purchaser may waive any part or all of the thirty (30) day period by signing the confirmation entry, but no confirmation entry not approved by the purchaser shall be filed until said period has expired.

J. Taking of bids shall not cease until 5 minutes after the Sheriff positively and publicly identifies the highest bidder. If no further bids are received he shall accept the highest bid, always announcing that the sale is subject to confirmation by the Court.

K. On all sales of real estate to third party purchasers, the sheriff shall require from the purchaser as soon as a bid is accepted, identifying information from purchaser(s) and a deposit of a certified or cashier's check payable to the sheriff, or cash, for 10% of the amount bid. Said deposit shall be applied to conveyance fees, recording fees, and the sheriff's administrative cost, and any balance thereafter shall be applied to the purchase price of the real estate. Should the deposit be insufficient to meet costs, the purchaser must pay the difference to the sheriff at the time the confirmation entry approving the sale is filed. No deed will be filed or released until all costs are paid in full.

On sales to the plaintiff, the sheriff shall require from the plaintiff as soon as a bid is accepted, a deposit of a certified or cashier's check payable to him, or cash, in the amount of \$1,000.00 which shall be applied to conveyance fees, recording fees, and the sheriff's administrative cost, and any balance thereafter shall be refunded to the plaintiff. Should the deposit be insufficient to meet costs, the plaintiff must pay the difference to the sheriff at the time the confirmation entry approving the sale is filed. No deed will be filed or released until all costs are paid in full.

L. By the Monday following the date of the sale, the sheriff shall make his return to the court. The sale will be confirmed the following Monday unless objections are filed by an interested party. No confirmation of any sale by the Sheriff or by any master commissioner or receiver appointed by the Court shall be entered within one (1) week following such sale unless consented to by all parties involved in such suit.

M. The Sheriff shall keep a copy of these rules conspicuously posted at the place where he conducts sales, and shall call attention thereto before receiving bids. The Sheriff, in the advertisement of sale shall insert a notice that the full purchase price shall be paid within thirty days from the date of sale, and upon the second Monday following the sale the balance shall bear interest at the legal rate until paid.

N. In cases wherein property was purchased by the Plaintiff, sufficient costs, as determined by the Clerk of Courts, shall be deposited with the Sheriff before the Sheriff shall issue the deed thereon.

O. In the event the purchaser does not pay to the Sheriff the entire amount due on the purchase price of the premises within said thirty days, he/she shall be in contempt, and the Sheriff shall immediately cause a citation to issue commanding the purchaser to appear before the Judge of the Common Pleas Court having such matters in charge and show cause why he/she should not be punished. If found guilty, the Court, in fixing the penalty, shall take into consideration the costs of readvertising and all the expenses and losses necessarily incurred by reason of the delay and resale of the premises.

P. A Judgment Entry Confirming Sale, Ordering Deed and Distribution of Sale Proceeds shall be filed within thirty (30) days of the real estate sale.

Q. The Judgment Entry Confirming Sale, Ordering Deed and Distribution of Sale Proceeds shall include payment of the conveyance fee by the sheriff to the Hardin County Auditor to be paid from the sale deposit at the customary rate of \$4.00 per/thousand dollars of the sale price and \$.50 for each parcel.

R. The Judgment Entry Confirming Sale, Ordering Deed and Distribution of Sale Proceeds shall include payment for real estate taxes, penalties and assessments accrued and payable up to the date of the confirmation entry, which amount can be an estimated amount for the current tax year as calculated by reference to the current tax figures. In other words, taxes, etc. are payable from the proceeds of sale up to, and including, the date on which the confirmation entry is filed.

S. Any proposed Confirmation/Order of Distribution Entry shall contain the following certification:

"The undersigned hereby certifies to the Common Pleas Court that all proceedings herein have been in accordance with all applicable law and statutes in such cases provided."

T. Plaintiff shall prepare and provide to the sheriff a deed for the premises within seven (7) days of receipt of the confirmation entry.

U. The sheriff shall be responsible for paying conveyance fees, filing of the deed and paying deed recording fees, and delivery of the deed to the purchaser.

V. Procedures not covered in these rules shall be in accordance with applicable Ohio Revised Code Sections and Ohio Rules of Procedure.