

Filing # 188205261 E-Filed 12/18/2023 09:30:06 AM

IN THE COUNTY COURT
IN AND FOR INDIAN RIVER COUNTY, FLORIDA

VERO BEACH HIGHLANDS
PROPERTY OWNERS' ASSOCIATION,
INC., a Florida not for profit corporation,

Case No.: 312023CC001261
Judge: Robyn E. Stone

Plaintiff,

vs.

FREDERICK H. BUTLER, JUDY L. BUTLER,
UNKNOWN SPOUSE OF FREDERICK H. BUTLER,
UNKNOWN SPOUSE OF JUDY L. BUTLER,
OLIPHANT FINANCIAL, LLC,
CAPITAL ONE BANK (USA), N.A.,
UNKNOWN TENANT IN POSSESSION #1,
AND UNKNOWN TENANT IN POSSESSION #2,

Defendants.

_____ /

FINAL JUDGMENT OF FORECLOSURE

This action was heard before the Court on the 18th day of December 2023 on Plaintiff's Motion for Summary Final Judgment of Foreclosure, including a Hearing to Tax Attorneys' Fees and Costs and on the evidence presented and being otherwise duly advised in the premises,

IT IS ORDERED AND ADJUDGED that:

1. **Motion Granted.** There is no dispute of material facts and Plaintiff is entitled to entry of Final Judgment.
2. **Value of Claim.** At the initiation of this action Plaintiff estimated the amount in controversy of the claim to be **\$1,300.00**. The Court identifies the actual value of the claim to be **\$1,923.82**, as set forth below. No additional filing fee is required.
3. **Amounts Due.** Plaintiff, VERO BEACH HIGHLANDS PROPERTY OWNERS' ASSOCIATION, INC., whose mailing address is 625 Highland Drive SW, Vero Beach, Florida 32962, is due:

Assessments	\$1,406.25
Interest (18%)	484.96
Association Collection Costs	32.61

Attorneys' Fees

Finding as to reasonable flat fees	\$1,350.00	
Finding as to reasonable number of attorney hours		
For Charles W. McKinnon	0.1	
Finding as to reasonable hourly rate:	\$325.00	
Finding as to reasonable number of attorney hours		
for Lisa R. Hamilton:	17.8	
Finding as to reasonable hourly rate:	\$310.00	
Finding as to reasonable number of legal assistant hours		
for Sheila Jensen:	2.7	
Finding as to reasonable hourly rate:	\$125.00	
Finding as to reasonable number of legal assistant hours		
for Karen Dixon:	2.5	
Finding as to reasonable hourly rate:	\$100.00	7,488.00

Court and Collection Costs

Court Filing Fees		332.17
Summons Fees		80.00
Foreclosure Sale Fees		140.00
Service of Process		478.65
Recording Fees (Claim of Lien)		10.00
Title Search		100.00
Non-Military Search Fees		100.00
Expert Witness Report and Affidavit Fee		325.00
Certified Mailings		16.68
Other Collection Costs (postage, photocopies, research, courier, etc.)		608.88
TOTAL:		\$ 11,603.20

4. **Interest.** The total amount in paragraph 3 shall bear interest from this date forward at the prevailing statutory rate of interest.

5. **Lien on Property.** Plaintiff holds a lien for the total sum superior to all claims or estates of Defendants, (with the exception of any assessments that are superior pursuant to Section 718.116, or 720.3085 Florida Statutes) on the following described property in Indian River County, Florida:

Lot 8, Block 120, Vero Beach Highlands, Unit 4, according to the map or plat thereof, as recorded in Plat Book 8, Page 38, of the Public Records of Indian River County, Florida.

Property Address: 1426 25th Street SW, Vero Beach, Florida 32962.

6. **Sale of Property.** If the total sum with interest at the rate described in paragraph 3 and all costs accrued subsequent to this judgment are not paid, the Clerk of this Court shall sell the property at public sale on January 23, 2024, to the highest bidder for cash, except as prescribed in paragraph 7, by electronic sale at www.indian-river.realforclose.com beginning at 10:00 a.m.,

in accordance with Section 45.031 Florida Statutes. **The public sale shall not be postponed or canceled without a court order. All orders postponing or canceling the sale must be filed with the Clerk of Court no later than 5:00 p.m. five (5) business days before the sale date. Counsel for plaintiff must be certain that all sale and Clerk fees are paid and that the original proof of Publication is filed no less than five (5) business days before the sale date. Failure to timely file the original Proof of Publication of the Notice of Sale and pay the sale and Clerk fees will stop the sale. Additionally, the failure of plaintiff's counsel to pay the sale fee and properly and timely publish the Notice of Sale may result in sanctions against the plaintiff, plaintiff's counsel individually, and the law firm representing plaintiff.** Any electronic sale by the Clerk shall be in accordance with the written administrative policy for electronic sales published by the Clerk at the official website for the Clerk and posted in the public areas of the Clerk's offices.

7. **Costs.** Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the Clerk if plaintiff is not the purchaser of the property for sale, provided, however, that the purchaser of the property for sale shall be responsible for the documentary stamps payable on the Certificate of Title. If plaintiff is the purchaser, plaintiff shall file an affidavit within 5 business days and the Clerk shall credit plaintiff's bid with the total sum with post-judgment interest and costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full. The Clerk shall receive the service charge imposed in Section 45.031, Florida Statutes.

8. **Distribution of Proceeds.** On filing the Certificate of Title, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of plaintiff's costs; second, documentary stamps affixed to the Certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 3 from this date to the date of the sale; and by retaining any remaining amount pending further order of this Court.

9. **Right of Redemption.** On filing the Certificate of Sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the Notice of Lis Pendens shall be foreclosed of all estate or claim in the property, except as to claims or rights under Chapter 718 or Chapter 720, Florida Statutes, if any.

10. **Right of Possession.** Upon filing of the Certificate of Title, the person named on the Certificate of Title shall be let into possession of the property. If any Defendant or tenant remains in possession of the property, an Order Granting the Motion for Writ of Possession shall be entered without further notice or hearing, subject to the purchaser's compliance with Section 83.561, Florida Statutes.

11. **Jurisdiction Retained.** Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a deficiency judgment, writs of possession and such supplemental relief or judgments as may be appropriate.

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED

TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THE FINAL JUDGMENT. IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, IF ANY, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU FAIL TO FILE A TIMELY CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, INDIAN RIVER COUNTY CLERK OF THE CIRCUIT COURT, 2000 16TH AVENUE, VERO BEACH, FLORIDA 32960, WITHIN 10 DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT FLORIDA RURAL LEGAL SERVICES, MONDAY THROUGH FRIDAY AT 1-888-582-3410 TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT FLORIDA RURAL LEGAL SERVICES AT 1-888-582-3410 FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED in Vero Beach, Florida, Indian River County, Florida, this 18th day of December, 2023.

12/18/2023 09:04:28
2023 CC 001261

eSigned by NICOLE MENZ 12/18/2023 09:04:28 +V19aR8

**Nicole P. Menz, for
ROBYN E. STONE
County Court Judge**

Copies furnished through Clerk's Eportal to:

Lisa R. Hamilton, Esq.
McKinnon & Hamilton, PLLC

lhcwmlaw@bellsouth.net

Copies furnished by Plaintiff's Attorney to:

Mr. Frederick H. Butler
1426 25th Street SW
Vero Beach, Florida 32962

Mrs. Judy L. Butler
1426 25th Street SW
Vero Beach, Florida 32962

Oliphant Financial, LLC,
C/O URS Agents, LLC, As Registered Agent
3458 Lakeshore Drive
Tallahassee, Florida 32312

Capital One Bank (USA), N.A.
P.O. Box 60599
City of Industry, CA 91716-0599