

COMMON PLEAS COURT
ALLEN COUNTY, OHIO

2009 MAR 10 AM 10:43

CLERK: JUDY BURLEY

IN THE COURT OF COMMON PLEAS OF ALLEN COUNTY, OHIO

In the Matter of :

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Judgment Entry

Local Rules of Court

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Amendments to Local Rules of Court
(Allen County, Ohio)
And
NOTICE

Pursuant to Rule 5(A)(1)&(2) of the Rules of Superintendence for the Courts of Ohio (Local Rules) the Court has determined that there is an immediate need for amending Local Rule 3.07 as it concerns Procedures for Judicial Sales of Real Estate, without prior notice.

It is noted however, that the new amended Rule 3.07 has been previously referred to the Real Estate Committee of the Allen County Bar Association on or about January 1, 2009 and there has been no complaint or dispute relative to the proposed change.

Therefore, the attached amendment (3.07(F) – Sheriff Procedures for Judicial Sales of Real Estate) supersedes and replaces all prior Local Rules relative thereto.

Notice and opportunity for comment is provided for 30 days, however. Notice shall be published by posting in: (1) Allen County Recorder's Office, (2) Allen County Clerk of Court's Office, (3) Allen County Sheriff's Office and dissemination to all Allen County bar members to their respective e-mail addresses.

A copy of the new amended Rule shall be filed with the Clerk of the Ohio Supreme Court forthwith.


Comment shall extend to April 13, 2009. Comments shall be directed to the undersigned judges personally, by regular U.S. Mail or by e-mail at rwarren@allencountyohio.com; jreed@allencountyohio.com or mstaley@allencountyohio.com.

IT IS SO ORDERED.

Dated: 3/10/09


RICHARD K. WARREN, Judge


JEFFREY L. REED, Judge


MATT C. STALEY, Judge

3.07(F) Sheriff Procedures for Judicial Sales of Real Estate

1. Property Description Approval Form

The Allen County Engineer Tax Map Office, by means of the Allen County Property Description Approval Form, must first approve all legal descriptions of properties in foreclosure.

- a. The Property Description Approval Form must be filled out completely prior to submission.
- b. The Tax Map Office will review all legal descriptions submitted for approval and affix a red stamp of approval on each approved description. All descriptions not meeting the Allen County Tax Map office Standards Governing Conveyances will be returned for corrections.
- c. Original “red stamped” legal descriptions and the Property Description Approval Form, are required to be submitted, and attached to the documents filed with the Clerk of Courts, for the following steps in the foreclosure process:
 - 1) Original Complaint
 - 2) Praecipe for Order for Sale
 - 3) All “Alias” filings of Praecipes for Order of Sale
- d. For the Judgement Entry Ordering Sale, The Entry Confirming Sale and the Sheriff’s Deed, a copy of the “red stamped” legal description and Property Description Approval Form attached to the documents when filed will be acceptable.
- e. Any of the above documents filed with the Court of Common Pleas or the Allen County Sheriff’s Office that do not have the appropriate and legible Property Description Approval Form and approved legal description, as described above, will be returned unprocessed.

2. Bid and Deposit

- a. In every judicial sale of real estate, the Sheriff shall require from the bidder, a deposit in the form of a certified check, money order or cash, in the amount of 5% of the appraised value of the property. The deposit shall be no less than \$750, or more than \$15,000. Some Treasurer Tax Sales may have a lower minimum deposit as determined by the Sheriff’s Office.
- b. The lienholder shall be required to pay a deposit of 1% of appraised value with a minimum of \$250 and a maximum of \$2,500. Law firm checks will be accepted from lienholder bidders.
- c. All bids are required to be tendered at the time that the officer conducting the sale accepts the bid.
- d. If such deposit is not tendered at that time, the bidding will be re-opened immediately, starting with the next highest bid, if still available, and continuing until a sale is made to a bidder who meets the requirements of this rule regarding deposits.
- e. The deposit will be used for the costs associated with the Sheriff recording the deed on behalf of the purchaser. The balance of the deposit not required for recording purposes will be applied to the purchase price, or in the case of a plaintiff purchase, to the costs and taxes of the case or refunded.

3. Purchaser Information Form

- a. All successful bidders are required to present a completed Purchaser Information Form at the time that the deposit is paid. Failure to provide the required information will result in the bidding being re-opened immediately, starting with the next highest bid, if still available, and continuing until a sale is made to a bidder who meets the requirements of this rule regarding the purchaser information.
- b. The Purchaser Information Form will be made a part of the court record upon the Sheriff's return of the Order of Sale.

4. Confirmation of Sale

Counsel shall prepare and submit to the Court an Entry Confirming Sale no later than 30 days from the date of the sale.

- a. Prior to filing the Entry Confirming Sale, the plaintiff will contact the Allen County Treasurer's Office to obtain the pro-rated amount of real estate taxes.
- b. The required plaintiff deposit will be referenced in the Entry Confirming Sale as to the payment of recording fees, transfer tax and conveyance fees, the sheriff's associated deed recording costs of \$75 and whether the balance is to be applied to the court costs and taxes or refunded to the plaintiff attorney.
- c. If a third party purchased the property, no reference to their deposit need be made, as the balance of the deposit, after recording costs have been deducted, will be applied to the purchase price.

5. Deed

- a. Within 7 days of filing the Entry Confirming Sale, the attorney shall prepare and present a Sheriff's Deed to the Sheriff for approval along with a check for the balance of any money remaining due.
- b. To save costs, a short form deed is acceptable provided it complies with ORC §2329.36.
- c. The deed must include a copy of the "red stamp" approved legal description per Rule 3.07(F)(1), and a completed Conveyance Form or Exemption Conveyance Form.
- d. The Sheriff, after proofing the deed, shall sign the same. If errors are found, the deed will be returned for correction.
- e. The attorney will include a self addressed and stamped envelope for return of the deed after recording.
- f. The Sheriff will record the deed within 14 business days after receiving full payment of all money due.