

CAUSE NO. 380-01038-2016

IN RE: ORDER FOR FORECLOSURE § IN THE DISTRICT COURT OF
CONCERNING §
§
2501 Heads And Tails Lane § COLLIN COUNTY, TEXAS
McKinney, TX 75071 §
§
UNDER TEX. R. CIV. PROC. 736 §
§
AND JULIAS FLORES § 380TH JUDICIAL DISTRICT

ORDER FOR FORECLOSURE

On **March 9, 2016**, the Application for Foreclosure under Tex. R. Civ. Proc. 736 in the above-entitled cause of action was presented to the Court. **Sandy Glen Homeowners Association, Inc.** (the "Association"), Petitioner herein, seeks an order pursuant to Tex. R. Civ. Proc. 736 to foreclose the Association's assessment lien against 2501 Heads And Tails Lane, McKinney, Texas 75071, and further described as follows:

Lot 19, Block H, of Sandy Glen Addition, Phase III, an Addition to the City of McKinney, Collin County, Texas, according to the map or plat thereof; recorded in Volume P, Page 334, of the Map Records of Collin County, Texas (2501 Heads And Tails Lane) (hereinafter the "Property").

The Court finds that the Association's Application for Foreclosure complies with Rule 736.1 of the Tex. R. Civ. Proc. and was properly served in accordance with Rule 736.4 of the Tex. R. Civ. Proc. The Court further finds that Respondent(s) have not previously filed a response, and the return of service has been on file with the clerk of the Court for at least 10 days before the date of this Order. The Court finds that the name and last known address of each respondent is as follows:

Julias Flores
2501 Heads And Tails Lane
McKinney, Texas 75071

Pursuant to Rule 736.7 of the Tex. R. Civ. Proc., all facts alleged in the Application for Foreclosure and supported by the affidavit of material facts constitute prima facie evidence of the truth of the matters alleged. The Court further finds as follows:

1. This proceeding is brought in the county in which all or part of the real property encumbered by the lien sought to be foreclosed is located.
2. The Association is governed by the Declaration of Covenants, Conditions and Restrictions for Sandy Glen (the "Declaration"), as corrected and supplemented from time to time.
3. The Property is subject to and governed by the Declaration.
4. By virtue of Respondent's acquisition of the Property, Respondent agreed to and became obligated by the Declaration to pay to the Association all assessments for the expense of administration, maintenance, upkeep and repair of the Community as assessed in accordance with the Declaration, as more particularly shown in Article VIII of the Declaration.
5. Article VIII, Section 8 (a) of the Declaration creates an assessment lien against the Property to secure payment of assessments and other charges pursuant to Tex. R. Civ. Proc. 735.1(c) and Tex. Prop. Code 209.0092.
6. Article VIII, Section 8 (b) of the Declaration further provides that the Association may foreclose its assessment lien by appropriate judicial or non-judicial proceedings.
7. During the period of Respondent's ownership, Respondent has been assessed maintenance fees in a non-discriminatory manner based on Respondent's ownership of the Property.

8. Article VIII, Section 8 (b) of the Declaration and Texas Property Code 5.006 provide for recovery of attorney's fees and expenses incurred in the collection of delinquent assessments.
9. As of February 1, 2016, Respondent is 36 months in default in his/her obligations to the Association for a total of Two Thousand Seven Hundred and Twenty Two Dollars and Fifty Seven Cents (\$2,722.57).
10. Respondent has been notified of the amounts due and unpaid attributed to Respondent's failure to pay the assessments and other charges by notice letter dated October 2, 2015.
11. A Notice of Lien was filed on or about December 4, 2015 at Instrument No. 20151204001521060 in the office of the County Clerk of COLLIN, Texas, and Respondent was notified of same by letter dated December 4, 2015.
12. The Association afforded Respondent thirty (30) days to cure the default pursuant to the December 4, 2015 letter, and such opportunity to cure the default has expired.
13. Prior to filing this Application, the Association performed all actions required under applicable law and the terms of the Declaration required prior to foreclosing the Association's assessment lien against the Property.

THE COURT THEREFORE GRANTS the Association's Application for Foreclosure under Tex. R. Civ. Proc. 736.

IT IS THEREFORE ORDERED that the Association may proceed with a foreclosure of its assessment lien on the Property under the terms of the Association's Declaration and Texas Property Code Section 51.002; and

IT IS FURTHER ORDERED that the Association shall send Respondent a copy of this Order with the notice of foreclosure sale sent to Respondent; and

IT IS FURTHER ORDERED that the Association may communicate with Respondent and all third parties as may be reasonably necessary to conduct the foreclosure sale of the Property.

SIGNED ON 5/19/2016.

/s/ BENJAMIN N. SMITH
JUDGE PRESIDING