

FILED

2016 DEC 13 PM 2:40

STACEY KEMP  
COUNTY CLERK  
COLLIN COUNTY, TEXAS  
BY: [Signature] DEPUTY

NOTICE OF ASSESSMENT LIEN SALE

STATE OF TEXAS §  
  §  
COUNTY OF COLLIN §

WHEREAS, on or about January 4, 2016, a Notice of Lien was filed in the Deed Records of Collin County, Texas, covering the real property herein described concerning default in the payment of the indebtedness owing by Jacqueline M. Brye, the present owner of said real property, to Birmingham Homeowners' Association (the "Association"); and

WHEREAS, the said Jacqueline M. Brye has continued to default in the payment of her indebtedness to the Association and the same is now wholly due, and the Association, acting by and through its duly authorized agent, intends to sell the herein described property to satisfy the present indebtedness of said owners to the Association;

NOW, THEREFORE, notice is hereby given that on Tuesday, January 3, 2017, between 10 o'clock a.m. and 4 o'clock p.m., the Association will sell said real estate at the southwest entrance of the Jack Hatchell Collin Administrative Building located at 2300 Bloomdale Road, McKinney, TX 75071, Collin County, Texas, to the highest bidder for cash, subject to all superior liens and encumbrances of record. The earliest time at which said sale will begin will be 10:00 o'clock a.m., and the sale will take place not later than three (3) hours after that time.

Said real estate is described as follows:

Lot 18, Block E, of Birmingham Farms, Phase 14A, and a replat of Birmingham Farms, Phase 2A, Lots 15 thru 23 Block J, an Addition to the City of Wylie, Collin County, Texas, according to the Plat thereof recorded in Volume P, Page 654 of the Plat Records, Collin County, Texas. (617 Hanceville Way)

WITNESS my hand this 13 day of December, 2016

BIRMINGHAM HOMEOWNERS' ASSOCIATION

By: [Signature]  
Jason R. Reed, Substitute Trustee  
Riddle & Williams, P.C.  
3710 Rawlins Street, Suite 1400  
Dallas, Texas 75219

The within notice was posted by me on the 13 day of DECEMBER, 2016, at the Collin County Courthouse in Collin, Texas.

[Signature]

CAUSE NO. 366-03425-2016

IN RE: ORDER FOR FORECLOSURE	§	IN THE DISTRICT COURT OF
CONCERNING	§	
	§	
617 Hanceville Way	§	COLLIN COUNTY, TEXAS
Wylie, TX 75098	§	
	§	
UNDER TEX. R. CIV. PROC. 736	§	
	§	
AND JACQUELINE M. BRYE	§	366TH JUDICIAL DISTRICT

ORDER FOR FORECLOSURE

On August 10, 2016, the Application for Foreclosure under Tex. R. Civ. Proc. 736 in the above-entitled cause of action was presented to the Court. **Birmingham Homeowners' Association** (the "Association"), Petitioner herein, seeks an order pursuant to Tex. R. Civ. Proc. 736 to foreclose the Association's assessment lien against 617 Hanceville Way, Wylie, Texas 75098, and further described as follows:

Lot 18, Block E, of Birmingham Farms, Phase 14A, and a replat of Birmingham Farms, Phase 2A, Lots 15 thru 23 Block J, an Addition to the City of Wylie, Collin County, Texas, according to the Plat thereof recorded in Volume P, Page 654 of the Plat Records, Collin County, Texas. (617 Hanceville Way) (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 has 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:

Jacqueline M. Brye  
617 Hanceville Way  
Wylie, Texas 75098

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 Birmingham (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 IV of the Declaration.
5. Article IV, Section 4.13 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 IV, Section 4.13 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 IV, Section 4.2 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 July 11, 2016, Respondent is 22 months in default in her obligations to the Association for a total of Three Thousand Three Hundred and Nineteen Dollars and Eighty One Cents (\$3,319.81).
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 November 20, 2015.
11. A Notice of Lien was filed on or about January 4, 2016, at Document No. 20160104000005600 in the office of the County Clerk of COLLIN, Texas, and Respondent was notified of same by letter dated January 4, 2016.
12. The Association afforded Respondent thirty (30) days to cure the default pursuant to the January 4, 2016, 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 12/8/2016

  
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JUDGE PRESIDING