

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

IN RE:

MICHAEL LYNN HOLMAN
ROSEMARIE ELLEN HOLMAN
Debtor(s)/

CASE NO.: DT08-02495

NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST

TRUSTEE'S MOTION FOR APPROVAL OF SALE OF REAL PROPERTY

Please take notice that the above-referenced motion has been filed with the Bankruptcy Court. **Your rights may be affected. You should read these papers carefully and discuss them with your attorney. (If you do not have an attorney, you may wish to consult one.)**

If you want the court to consider your views on this matter, attend the hearing scheduled for November 24, 2009 at 10:00 a.m. at the United States Bankruptcy Court, **3249 Racquet Club Dr., Logan Place West, Off South Airport Road, Traverse City, Michigan.**

You or your attorney may wish to file a response explaining your position. Such response should be **received** at least five business days prior to the scheduled hearing. A copy should also be served upon the party who has filed the motion and to his/her attorney.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Notice returned to James W. Boyd for service. Court to serve buyers' list. (October 28, 2009-jh)



October 28, 2009

DANIEL M. LAVILLE
CLERK OF BANKRUPTCY COURT

/s/

BY: Jessie Hesselink, Deputy Clerk

NOTICE IS HEREBY GIVEN that the court may, in its discretion, orally continue or adjourn the above hearing on the record in open court. If this occurs, parties in interest will not be given further written notice of the new hearing date. If an entity is not present at the originally scheduled hearing, information regarding the time, date and place of an orally continued or adjourned hearing may be accessed through the Bankruptcy Court's web site (www.miwb.uscourts.gov) provided the person has a PACER login and password, or by visiting the Clerk's Office of the United States Bankruptcy Court located at One Division Avenue North, 2nd Floor, Grand Rapids, Michigan 49503. Information about a PACER login and password may be obtained by either calling PACER service center between 8:00 a.m. and 5:00 p.m. Monday through Friday, CST at (800) 676-6856 or via its web site at <http://pacer.pcs.uscourts.gov>.

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

In re:

MICHAEL L. and ROSEMARIE E. HOLMAN,

Debtors.

Case No. DT08-02495

Chapter 7

_____ /

TRUSTEE'S MOTION FOR APPROVAL OF SALE OF REAL PROPERTY

James W. Boyd, the duly appointed Chapter 7 Trustee in this matter, states as follows:

1. The Debtors filed a petition for relief pursuant to Chapter 7 of the Bankruptcy Code on March 25, 2008.
2. The Trustee intends to sell real property which is property of the bankruptcy estate. The property to be sold consists of approximately sixty-nine acres legally described as:

The North ½ of the Southeast 1/4 of Section 3, Township 23 North, Range 10 West, Colfax Township, Wexford County, Michigan EXCLUDING a part of the Southeast 1/4 of Section 3, T23N, R10W more fully described as commencing at the East 1/4 corner of said Section 3; thence S00°00'00" E along the East line of said Section 250.00 feet to the point of beginning; thence continuing S00°00'00" along said East line 330.00 feet; thence S89°49'38" W parallel with the East-West 1/4 line of said Section 1320.00 feet; thence N00°00'00" W parallel with said East line 330.00 feet; thence N89°49'38" E parallel with said East-West 1/4 line 1320.00 feet to said East line and point of beginning.

3. The Trustee has received an offer of \$82,000 from Kurt and Karen Wilczewski of Howell, Michigan, and he intends to sell the property for that amount. Sale of the property is subject to the receipt of higher bids prior to or at the hearing to be set by the Bankruptcy Court.

4. If the sale to the proposed purchasers does not close for any reason, the Trustee may proceed with a sale to an alternative purchaser without further Court approval provided the purchase price is not less than \$82,000.

5. To the best of the Trustee's knowledge, information and belief, the proposed purchasers have no association with the Debtors or any other party in interest.

6. The Trustee's realtor initially placed the property value in the range of \$100,000 to \$140,000. The Trustee listed the property for sale at \$143,500 in August, 2008; reduced it to \$120,000 in November, 2008; and reduced it to \$112,000 in August 2009. Two offers were received prior to the existing offer in which the offerors did not accept the Trustee's counter offers of \$85,000. Due to the length of time the property has been on the market and the present market conditions, the Trustee believes the current offer reflects the fair market value of the property, and that the sale of the property is in the best interests of the bankruptcy estate.

7. The acreage to be sold is part of an existing 80-acre parent parcel which also contains the Debtors' residence and ten acres.

8. Closing of the sale is contingent upon the approval of appropriate governmental and municipal authorities of the division of the subject 69 acres from the parent parcel. Citizens Bank, the mortgagee, has agreed to take any and all necessary steps to apply for the division and shall assume all related fees and costs. If Citizens Bank fails to obtain approval of the division on or before 30 days from the date of the order approving this motion, the Trustee may take steps to do so and may offset the amount payable to Citizens at the closing of the sale with the related fees and expenses for achieving the division.

9. Upon approval of the sale, the following disbursements shall be deducted from the sale proceeds and paid without further order of the Court:

a. Normal closing costs of sale, including title insurance, settlement costs, recording fees, real property taxes, transfer taxes, survey costs, etc.

b. Commission of 8% will be paid to realtor Donna Tommas of ReMax Central.

c. Pursuant to the consent of Citizens Bank, Citizens Bank shall be paid \$47,000 in full satisfaction of the amount due pursuant to its mortgage against the real property and all accrued interest and charges, as reduced if necessary for land division costs pursuant to Paragraph 8.

d. Remaining funds will be paid to the bankruptcy estate.

10. The property shall be sold "AS IS, WHERE IS," without representation or warranty, expressed or implied, of any kind, nature or description, including, without limitation, any warranty of title or of merchantability, useability, or of fitness for any particular purpose.

11. This sale shall be conducted pursuant to Section 363 of the Bankruptcy Code, and the property shall be sold free and clear of all liens, interests, and encumbrances. To the extent that any such liens, interests, or encumbrances exist, the same shall attach to the proceeds of the sale in their present order, rank, and priority.

12. Any person with an interest in the property or who desires additional information may contact James W. Boyd at (231) 947-7900.

The Trustee requests of this Court as follows:

- a. To approve the *Trustee's Motion for Approval of Sale of Real Property*;
- b. To allow disbursements upon closing of the sale as set forth herein;
- c. To provide such other relief as is just and equitable.

Dated: October 27, 2009

/s/ James W. Boyd

James W. Boyd (P32977)
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(231) 947-7900