

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

IN RE:

DANIEL R. NEWMAN AND  
CHRISTINE L. NEWMAN

CASE NO.: DK12-04949  
CH. 7

Debtor(s)/

NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST

**TRUSTEE'S MOTION FOR SALE OF REAL PROPERTY**  
**FREE AND CLEAR OF LIENS UNDER § 363 WITH**  
**COURTROOM AUCTION**

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 July 22, 2015 at 10:00 a.m. at the United States Bankruptcy Court, U.S. Courthouse and Federal Building, 410 West Michigan, Room 114, Kalamazoo, Michigan.

You or your attorney may wish to file a response explaining your position. Such response should be **received** at least seven 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 Cody H. Knight, Esq. For service of notice and motion upon the matrix. Court to serve Buyer's List.. (June 29, 2015-kt)

June 29, 2015

DANIEL M. LAVILLE  
CLERK OF BANKRUPTCY COURT



\_\_\_\_\_  
/s/  
BY: Kathleen Trapp, 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.miw.uscourts.gov](http://www.miw.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 THE MATTER OF:

DANIEL R. NEWMAN AND  
CHRISTINE L. NEWMAN,

Debtors.

Case No.: 12-04949  
Chapter 13 – Filed: 05/23/2012  
Converted to Chpt. 7 – 12/10/2013

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**TRUSTEE’S MOTION FOR SALE OF REAL PROPERTY FREE AND CLEAR OF  
LIENS UNDER § 363 WITH COURTROOM AUCTION**

NOW COMES Stephen L. Langeland, Trustee (“Trustee”), by and through his attorneys, Rayman & Knight, and for his Motion for Sale of Real Property Free and Clear of Liens Under § 363 With Courtroom Auction (“Motion”), hereby states as follows:

**JURISDICTION**

1. That jurisdiction over this case and proceeding exist in this Court under 28 U.S.C. §1334(a) and (b) and by reference from the District Court in accordance with 28 U.S.C. §157(a). Determination of this Motion is a core proceeding, as defined in 28 U.S.C. §157(b), arising under the United States Bankruptcy Code (11 U.S.C. §101 *et seq.*, “Bankruptcy Code”). Venue of this Motion is properly placed in this Court pursuant to 28 U.S.C. §1409(a).

**BACKGROUND**

2. That on May 23, 2012 Daniel R. Newman and Christine L. Newman (“Debtors”) filed a Chapter 13 Bankruptcy which was converted to a Chapter 7 proceeding on December 10, 2013.

3. That the Trustee is the duly appointed and acting Trustee with respect to the above-captioned matter.

4. The Trustee has received an offer from Florian Realty Development, LLC (“Purchaser”), to purchase certain real estate commonly known as 9050 Second Street, Baroda,

Michigan (“Real Estate”), for the sum of \$35,000.00 pursuant to the attached Vacant Land Buy and Sell Agreement (“Agreement”). (See, Exhibit “A”).

5. The Purchaser is not an insider and the purchase price was reached by negotiations between the Purchaser and the estate’s realtor, Judy Bibbings of Keller Williams.

6. The Trustee seeks authority from the Court to sell the Real Estate pursuant to 11 U.S.C. §363(b)(1) of the Bankruptcy Code for \$35,000.00

7. The sale shall be on an “AS IS” basis with no representations or warranties from the Trustee of any kind or nature.

8. The sale of the Property shall be sold free and clear of all liens, encumbrances, and/or claims therein in accordance with 11 U.S.C. §363(f), with said liens, encumbrances, and/or claims attaching to the sale proceeds in the same order of validity, rank, and priority as now exists.

9. Any party interested in purchasing the Property **must appear at the hearing scheduled for this Motion** and be prepared to bid in increments of \$1,000.00 with the opening bid at \$40,000.00 and provide sufficient evidence of ability to close. The Trustee reserves the right to accept the best offer, which may not be the highest and the Trustee will seek authority to seek a back-up bidder.

10. That *ad valorem* taxing authorities have liens for unpaid real estate taxes. These creditors shall be paid in full at closing and, as such, the sale may be free and clear of their liens pursuant to 11 U.S.C. § 363(f)(3).

11. Michigan Department of Treasury has a lien on the Property with a secured claim of approximately \$19,000.00. Through this sale and others, it is believed that it will be paid in full, as such, the sale may be free and clear of its liens pursuant to 11 U.S.C. § 363(f)(3).

12. Your Trustee believes it will obtain the affirmative consent of the Michigan

Department of Treasury and, further, to the extent it does not object to the sale, it should be deemed to have consented to the sale. *See, FutureSource LLC v. Reuters Ltd.*, C.A.7 (Ill.) 2002, 312 F.3d 281, certiorari denied 123 S.Ct. 1769, 538 U.S. 962, 155 L.Ed.2d 513; *see also, Veltman v. Whetzal*, 93 F.3d 517, 520 (8th Cir.1996); *contra, see In re Roberts*, 249 B.R. 152, 154-57 (Bankr.W.D.Mich.2000). As such, the Trustee may sell the Real Estate, pursuant to 11 U.S.C. § 363(f)(2).

13. The Michigan Department of Treasury could be compelled to accept a money satisfaction of their lien rights, such as in a Chapter 11 proceeding. As such, the Trustee may sell the Real Estate, pursuant to 11 U.S.C. § 363(f)(5).

14. The sale of the Real Estate is in the best interests of the estate and this Motion should be approved.

15. As the Purchaser desires to close as soon as possible, the Trustee submits that it is appropriate to waive the provisions of Federal Rules of Bankruptcy Rule 6004(h).

**WHEREFORE**, your Trustee prays:

A. That this Court authorizes the sale of the Real Estate to Purchaser or to a higher bidder;

B. That the Trustee is authorized to execute a Trustee's Deed and such other conveyance documents including Bills of Sale in conformance with the terms contained herein and in the Agreement;

C. That the Trustee be authorized, without further Order of this Court, to pay any lienholders and other costs and expenses needed in order for closing to take place in accordance with this Motion, including the realtor's commission;

D. That the Court order that the sale of the Real Estate shall be free and clear of liens, with liens attaching to proceeds, pursuant to 11 U.S.C. § 363(f);

E. That this Court waive the provisions of Federal Rules of Bankruptcy Rule 6004(h); and

F. For all other relief that this Court finds just and equitable.

**RAYMAN & KNIGHT**  
Attorneys for Trustee

Dated: June 29, 2005

By: \_\_\_\_\_/s/\_\_\_\_\_  
Cody H. Knight (P64811)

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