

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

IN RE:

JAMES L. SPOOR
JOY E. SPOOR

CASE NO.: DK08-06061
CH. 7

Debtors./

NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST

**TRUSTEE'S MOTION FOR AUTHORITY TO SELL REAL
PROPERTY AT COURTROOM AUCTION FREE AND CLEAR
OF LIENS PURSUANT TO 11 U.S.C. §363**

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 15, 2016 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 8, 2016-kt)

June 8, 2016

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.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 THE MATTER OF:

James L. and Joy E. Spoor

Debtors.

Case No.: 08-06061
Chapter 13 – Filed: 7/10/2008
Converted – Chapter 11: 11/25/2008
Converted – Chapter 7: 01/09/2015

**MOTION FOR AUTHORITY TO SELL REAL PROPERTY AT COURTROOM
AUCTION FREE AND CLEAR OF LIENS PURSUANT TO 11 U.S.C. § 363**

NOW COMES Steven L. Langeland, Trustee (“Trustee”), by and through his attorneys, Rayman & Knight, and for his Motion for Authority to Sell Real Property at Courtroom Auction Free and Clear of Liens Pursuant to 11 U.S.C. § 363 (“Motion”), says 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).

2. This matter is a core proceeding within the meaning of 28 U.S.C. §157(b)(2) (A), (N) & (O).

3. The authority upon which this Motion is based are §§105, and 363 of Title 11 of the Bankruptcy Code, Fed. R. Bankr. P. 6004 and L.B.R. 6004.

BACKGROUND

4. On July 10, 2008 (“Petition Date”) the Debtors filed for relief under Chapter 13 of the Bankruptcy Code which case was converted to proceedings under Chapter 11 on November 25, 2008 and was converted to Chapter 7 on January 9, 2015.

5. The Trustee is the duly appointed and acting Chapter 7 Trustee in this proceeding.
6. Prior to conversion to Chapter 7, the Debtors proposed a Plan to liquidate much of their real property.
7. The Debtors' bankruptcy estate consisted of approximately 29 separate parcels of real estate and the Trustee has sold a significant portion of the real estate for a total sale price, including the buyer's premium, of \$1,078,220.00.

RELIEF REQUESTED

8. This Motion will seek to sell the Debtors' interest in real estate which is co-owned with the proposed purchaser, which is legally described as follows:

The Southwest ¼ of the Southeast ¼ of section 35, T4S, R8W, Athens Township, Calhoun County. Tax ID # 02-035-011-00. ("Real Estate").

9. The Real Estate appears to be landlocked as shown on the attached map¹.
10. The Trustee requests that this Court enter an Order which:
 - a. Approves a sale, pursuant to §363(b)&(f) of the Bankruptcy Code, of the Debtors' Real Estate.
 - b. Eliminates the 14-day stay contained in Fed. R. Bankr. P. 6004; and
 - c. Provides that all liens, claims or encumbrances in the Real Estate to be sold, including all security interests, shall attach to sale proceeds in the same rank and priority
11. Your Trustee believes that the sale of the Debtors' Real Estate, pursuant to the terms herein, is in the best interests of the estate and its creditors.
12. Due to time constraints, your Trustee would request that the 14-day stay contained in Fed. R. Bankr. P. 6004 be waived.

¹ See, Exhibit "A".

LIEN HOLDERS

13. The sale of the Real Estate shall be deemed free and clear of liens pursuant to 11 U.S.C. §363(f). The sale may be free and clear of the liens of the following secured creditors, which claims are known to have made claims against the real estate of the Debtors: Michael D. Dyer; Internal Revenue Service; State of Michigan Dept. of Treasury; MMV Spoor Mortgage Holders, LLC; KMMV Spoor Mortgage Investors, LLC; Deutsche Bank; Banker's Trust/Ocwen Mortgage and Calhoun County Treasurer ("Lien Holders") for the reasons described herein.

14. The Trustee expects he may obtain the affirmative consent of other Lien Holders and, further, to the extent Lien Holders do not object to the sale, each has been 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 Debtors' Real Estate, pursuant to 11 U.S.C. § 363(f)(2).

15. The Real Estate may be sold free and clear of the claims of Lien Holders, pursuant to 11 U.S.C. § 363(f)(3). Pursuant to 11 U.S.C. § 506(a), the value of the Lien Holders' liens is limited to the value of its collateral. As the value of the collateral will be determined by the sale, and as each creditor had the right to credit bid, pursuant to credit bid, the Trustee may sell the Debtors' Real Estate, pursuant to 11 U.S.C. § 363(f)(3). (*See generally, In re Becker Indus., Inc.*, 63 B.R. 474 (Bankr. S.D.N.Y. 1986) and *In re Terrance Gardens park P'ship*, 96 B.R. 707 (Bankr. W.D. Tex. 1989).

16. Each of the Lien Holders is compelled to accept a money satisfaction of their lien rights, such as a Chapter 11 proceeding. As such, the Trustee may sell the Debtors' Real Estate,

pursuant to 11 U.S.C. § 363(f)(5).

17. The Real Estate may be sold free and clear of the claims of Lien Holders, 11 U.S.C. § 363(f)(3), as each have been paid in full from the previous sales, and should any dispute arise with respect to the same, the sale may be free and clear of liens pursuant to 11 U.S.C. § 363(f)(4).

18. The Real Estate may be sold free and clear of the claims of the Lien Holders, pursuant to 11 U.S.C. § 363(f)(2)(3)(4)&(5).

19. The sale shall be deemed free and clear of liens pursuant to 11 U.S.C. §363(f), with the purchaser taking the estate's interest in the property being sold free and clear of any liens and encumbrances with such liens and encumbrances attaching to the sale proceeds in the same rank, validity and priority as existed as of the date of the Petition.

20. That the proposed sale, pursuant to this Motion, is in the best interests of the estate and its creditors.

AUCTION PROCSS

21. That the sale of the Real Estate shall be "As Is, Where Is", with the Trustee making no representations, warranties, statements or promises with respect to the same, including, but not limited to, description, fitness for purpose, merchantability, quantity, the conditions or the quality of any matter or thing whatsoever, with any and all conditions and warranties expressed or implied by law being deemed not to apply to the sale of the property. The buyer shall take the Real Estate with all of its faults.

22. The Trustee has received an offer from Freeman and Anita Riddle ("Purchaser"), to purchase the Real Estate for the sum of \$20,000.00 pursuant to the attached Agreement to Purchase Real Estate ("Agreement"). (See, Exhibit "B"). The Trustee is only selling the

Debtors' interest in the Real Estate. Any party purchasing the property will not own the Real Estate in fee simple.

23. The Purchaser is not an insider and the purchase price was reached by negotiations between the Purchaser and the Trustee.

24. The Trustee seeks authority from the Court to sell the Real Estate pursuant to §363(b)(1) of the Bankruptcy Code for \$20,000.00.

25. The sale shall be on an "AS IS" basis with no representations or warranties from the Trustee of any kind or nature, except as contained in the Agreement.

26. Any party interested in purchasing the Real Estate **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 \$22,500.00 and provide sufficient evidence of ability to close. Any party purchasing the Real Estate must be willing to sign an agreement, which is consistent with the Agreement. 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.

27. Closing of the sale shall take place as soon as is practicable after the auction which shall be held no later than 30 days after such sale.

28. Any prospective purchaser may purchase title insurance but it will be at their own additional expense.

CONCLUSION

29. The auction process is expected to begin immediately. As such, the Trustee submits that it is appropriate to waive the provisions of Federal Rules of Bankruptcy Procedure 6004(h).

30. The sale of the Real Estate is in the best interests of the estate, the Debtors have

consented to the sale of the Real Estate and this Motion should be approved.

WHEREFORE, your Trustee prays:

A. That this Court enter an Order authorizing the sale of the Real Estate on the terms and conditions set forth herein;

B. That the Court enter an Order authorizing the sale of the Real Estate free and clear of liens pursuant to 11 U.S.C. §363(f) with all liens attaching to proceeds; these liens shall include but not be limited to the liens of the Lien Holders;

C. That the Trustee be authorized to execute a Trustee's Deed in conformance with the terms herein;

D. That the Trustee be authorized to accept a back-up bidder;

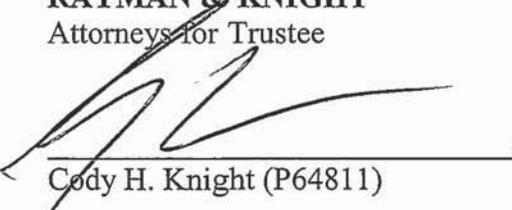
E. That the Court enter an Order waiving the 14-day stay contained in Fed. R. Bankr.

P. 6004; and

F. That this Court order such other relief as it finds just and equitable.

RAYMAN & KNIGHT
Attorneys for Trustee

Dated: June 6, 2016

By: 

Cody H. Knight (P64811)

BUSINESS ADDRESS:
141 E. Michigan Avenue, Suite 301
Kalamazoo, MI 49007
Telephone: (269) 345-5156

Calhoun County, MI

Athens Township
T4S R8W

02-035-011-00

02-035-001-00

001-02

02-035-001-01

02-035-004-01

02-035-010-00

02-035-003-00

02-035-009-00

02-035-011-00



This map was compiled for tax administration purposes only. It is not intended as a duplication of, nor as a substitute for, a property survey.

1 inch = 400 feet

Exhibit
A

exhibitaddress.com #185

UNITED STATES BANKRUPTCY COURT
IN THE WESTERN DISTRICT OF MICHIGAN

IN THE MATTER OF:

James L. and Joy E. Spoor
Debtors.

Case No.: 08-06061
Chapter 13 – Filed: 7/10/2008
Converted – Chapter 11: 11/25/2008
Converted – Chapter 7: 1/09/2015

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AGREEMENT TO PURCHASE REAL ESTATE

SELLER: Stephen L. Langeland, Trustee in Bankruptcy for
James L. and Joy E. Spoor; Case No. 08-06061

PURCHASER: Freeman and Anita Riddle

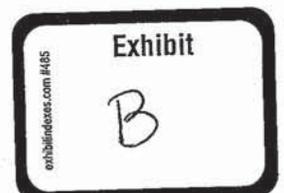
The Seller is the Bankruptcy Trustee in the above-captioned matter. This Agreement is subject to Bankruptcy Court approval and may be modified should it be in the best interests of the estate to do so.

1. This Agreement relates to the above-captioned Debtors' interest in real estate which is co-owned with the Purchaser, which is legally described as follows:

The Southwest ¼ of the Southeast ¼ of section 35, T4S, R8W, Athens Township, Calhoun County. Tax ID # 02-035-011-00. ("Real Estate").

2. The purchase price is \$20,000.00 subject to competitive bidding.
3. The sale is subject to Bankruptcy Court approval.
4. Title to the Real Estate will be transferred by the Trustee's execution of a "Trustee's Deed" without warranty.

5. The sale of the Real Estate, including improvements and fixtures hereto or located thereon, shall be made on an "AS IS, WHERE IS" basis as of the date of the Sale Order, without representation or warranty, express or implied, of any kind, nature or description, or of merchantability, habitability, use, ability or ⁽ⁱ⁾fitness for any purpose. The Trustee shall not be required to inspect or test or report on the condition of the property, or the operability of the property, or the existence of any possible defects in the property.



6. The sale of the Real Estate shall be free and clear of liens, claims, encumbrances, and/or interest of any creditor and/or interest attaching to the sale proceeds and the Sale Order shall operate as a discharge of same.

7. Since all liens and encumbrances will be discharged, the Trustee shall have no obligation to furnish an abstract of title and should Purchaser desire title insurance, same may be purchased at their own expense.

8. The 2015 and 2016 taxes shall be the responsibility of the Purchaser and the Seller shall contribute the delinquent taxes in the approximate amount of \$4,466.60 described in the attached summary.

9. Closing shall occur 30 days from an order approving the sale of the Real-Estate.

Dated: May 16 - 16

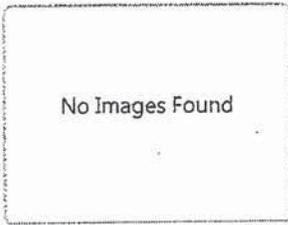
Freeman E. Riddle Jr.
Freeman E. Riddle Jr. Purchaser

Dated: _____

Stephen L. Langeland (P32583) on behalf of
Seller: Stephen L. Langeland, Trustee and not in his
individual capacity.

W DRIVE SOUTH/VACANT ATHENS, MI 49011 (Property Address)

Parcel Number: 02-035-011-00



Property Owner: SPOOR, JAMES & JOY (SPENCER)

Summary Information

> Assessed Value: \$53,900 | Taxable Value: \$52,888

Owner and Taxpayer Information

Owner: SPOOR, JAMES & JOY (SPENCER), 310 S. CAPITAL, ATHENS, MI 49011. Taxpayer: SEE OWNER INFORMATION.

Amount Due

Delinquent Taxes: \$6,450.52

Legal Description

ATHENS TWP/T4S R8W, SEC 35: SW1/4 SE1/4 (40 AC).

Recalculate amounts using a different Payment Date

You can change your anticipated payment date in order to recalculate amounts due as of the specified date for this property.

Enter a Payment Date 5/27/2016

Recalculate

Tax History

**Note: On March 1 at 12:00 AM, local taxes become ineligible for payment at the local unit.

Table with columns: Year, Season, Total Amount, Total Paid, Last Paid, Total Due. Rows show tax history from 2009 to 2015, including delinquent taxes and village fees.

2009	Winter	\$262.83	\$0.00		-	** Read Note Above
2009	Summer	\$163.46	\$0.00		-	** Read Note Above
2008	Winter	\$249.79	\$249.79	01/22/2009	\$0.00	
2008	Summer	\$147.72	\$147.72	08/21/2008	\$0.00	
2008	Village	\$0.00	\$0.00		\$0.00	
2007	Winter	\$243.91	\$243.91	01/31/2008	\$0.00	
2007	Summer	\$144.38	\$144.38	08/07/2007	\$0.00	
2006	Winter	\$257.20	\$257.20	12/12/2006	\$0.00	
2006	Summer	\$117.30	\$117.30	07/11/2006	\$0.00	
2005	Winter	\$266.30	\$266.30	12/27/2005	\$0.00	
2005	Summer	\$92.31	\$92.31	07/26/2005	\$0.00	
2004	DIQ. Taxes	\$289.89	\$289.89	03/28/2005	\$0.00	
2004	Winter	\$276.09	\$0.00		-	** Read Note Above
2004	Summer	\$71.54	\$71.54	11/30/2004	\$0.00	
2003	DIQ. Taxes	\$393.75	\$393.75	11/29/2004	\$0.00	
2003	Winter	\$275.16	\$0.00		-	** Read Note Above
2003	Summer	\$60.01	\$118.59	11/29/2004	\$0.00	
2002	DIQ. Taxes	\$400.10	\$400.10	02/27/2004	\$0.00	
2002	Winter	\$331.98	\$400.10	02/27/2004	\$0.00	
2001	DIQ. Taxes	\$759.24	\$759.24	02/27/2004	\$0.00	
2001	Winter	\$325.17	\$759.24	02/27/2004	\$0.00	
2000	DIQ. Taxes	\$688.02	\$688.02	02/24/2003	\$0.00	
2000	Winter	\$275.02	\$688.02	02/24/2003	\$0.00	
1999	DIQ. Taxes	\$685.00	\$685.00	03/22/2002	\$0.00	
1998	DIQ. Taxes	\$443.79	\$443.79	02/24/2003	\$0.00	
1998	Winter	\$264.51	\$443.79	02/24/2003	\$0.00	
1997	DIQ. Taxes	\$427.37	\$427.37	04/25/2001	\$0.00	
1996	DIQ. Taxes	\$400.15	\$400.15	04/28/2000	\$0.00	
1995	DIQ. Taxes	\$371.54	\$371.54	05/03/1999	\$0.00	
1994	DIQ. Taxes	\$355.26	\$355.26	04/22/1998	\$0.00	
1993	DIQ. Taxes	\$780.28	\$780.28	04/30/1997	\$0.00	
1989	DIQ. Taxes	\$430.86	\$430.86	08/22/1990	\$0.00	
1988	Winter	\$418.38	\$510.43	08/22/1990	\$0.00	
1987	Winter	\$415.68	\$415.68		\$0.00	

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