

Tax Liens Sold On Homeless Shelter Property

The company that wants to evict a homeless shelter from Midtown is scrambling to prevent private tax-lien buyers from swooping in and foreclosing on the property before a trial next month resolves whether the company properly owns the deed.

Premium Funding Solutions, which claims to own the homeless shelter site at Peachtree and Pine streets, has asked a Fulton County judge to halt any possible attempts by InVesta Services LLC of Georgia and Tassa Enterprises LLC to foreclose on five tax liens they've purchased from the office of Fulton County Tax Commissioner Arthur Ferdinand since May 2012.

The petition noted that Premium Funding, which acquired the title to the property in 2011, has been unable to commence dispossessory proceedings against the shelter, collect rent or pay taxes pending the trial's outcome.

Premium Funding's attorney, **Richard Robbins**, said he and his client were surprised to learn recently that Ferdinand had been selling the liens, and that he doesn't think Superior Court Judge Craig Schwall and the special master he appointed to oversee the litigation, Strickland Brockington Lewis partner Frank Strickland, were aware of it either.

"That's one reason we filed the lawsuit. We found out about the sale of the liens after the fact," Robbins said. "We were astonished. We think the judge has been pretty clear that he wants to maintain the status quo."

Robbins said that his client hasn't been able to pay taxes because the litigation over the property's ownership has allowed the Metro Atlanta Task Force for the Homeless' shelter to remain without paying any rent.

"We're not getting income from the property, and [the Task Force] is allowed to stay there, and they're not paying any taxes" because charitable organizations are exempt.

Next month's trial will assess the Task Force's claim that lost its ownership of the building to Premium Funding through an illegal conspiracy.

"It seems antithetical to me to allow the same county to be charging us taxes as if we're a for-profit company when we're not generating any profits because of the county [court's] orders," Robbins said. "It's a rather insane situation, and we hope the judge puts a stop to it."

Attached to the petition are copies of five lien transfers: two to Tassa totaling \$70,805, and three to InVesta totaling \$71,690.

Neither Premium Funding nor the trust it acquired the property title from were sent notices of the lien sales as required by law, according to the petition.

Fulton County Attorney R. David Ware, whose office will presumably represent Ferdinand, said he was unaware of the petition until the *Daily Report* provided him a copy. He said he hadn't been able to analyze the issues it raises.

Steven Hall, the Baker Donelson Bearman Caldwell & Berkowitz partner who has been representing the Task Force free of charge for nearly five years, said he was also unaware of the tax liens, but he offered an explanation.

He noted in an email that Premium Funding, "who claims to own the property," is obligated to pay taxes because it is a for-profit entity. "Therefore, when it got its alleged title to the property in 2011, the tax bill started running. I surmise from the pleading that [Premium Funding] got a bill but decided not to pay the tax. The bill did not come to the Task Force because it is not the current record title holder. Indeed, if it was, there would be no bill. [Premium Funding]'s failure to pay the tax is certainly inconsistent with its claim to ownership."

The legal dispute over the property began in 2010, although the downtown shelter was roiled by financial problems and targeted by civic leaders and some city officials as a nuisance well before that.

An anonymous donor gave the 1921-vintage United Motors Service Building to the Task Force in 1997, and it provides shelter for what the organization has estimated as between 350 and 700 homeless people on any given day.

In 2001 the Task Force borrowed \$900,000 against the property to renovate it. The Task Force was never able to pay off the notes, and, in 2009, it entered into a forbearance agreement with the loans' holders: the Institute for Community Economics Inc., and Mercy Lending, an organization sponsored by an order of Catholic nuns.

According to court filings, the Task Force owed principal balances of \$574,115 to the Institute and \$248,148 to Mercy, exclusive of accrued interest, costs and attorney fees. The agreements gave the Task Force until Feb. 28, 2010, to pay off the notes.

In January 2010 a newly formed entity, Ichthus Community Trust, and a co-trustee, The Benevolent Community Investment Co., bought the notes for a reported \$900,000. Three months later, Ichthus foreclosed on the Task Force. Ichthus filed a dispossessory action in Magistrate Court and a civil suit in Superior Court accusing the Task Force and its director, Anita Beaty, of denying inspectors entry to the property and jeopardizing Ichthus' ability to obtain insurance for it.

In June 2010 the Task Force filed its own suit against both trusts and Ichthus' business manager, Manny Fialkow—plus Central Atlanta Progress and the Atlanta Downtown Improvement District. It accused the defendants of conspiring to prevent the Task Force from being able to repay its loans, therefore leading to its foreclosure and possible eviction. The Task Force claimed the defendants engaged in racketeering, intentional interference with business relations, libel and slander, and it asked the court to enjoin any efforts to have the Task Force evicted.

In December 2010, the Task Force added Premium Funding as a defendant.

Schwall refused to allow Ichthus' dispossessory to proceed. Ichthus then defaulted on its loan, and in February 2011, it transferred the property's deed to Premium Funding, from which Ichthus had borrowed its money.

The parties have been locked in litigation ever since. A 2011 mediation failed, and in February 2012 Schwall granted Premium Funding's request to file a dispossessory to evict the shelter. The Task Force appealed, and last March the Georgia Court of Appeals overturned the order, finding that Schwall should have allowed it to present evidence concerning possible "irreparable harm" before granting the dispossessory order.

In June Premium Funding again filed a request for a dispossessory. In August, Strickland, the special master, released a "Proposed Findings of Fact and Conclusions of Law" opposing the motion. Strickland noted that the trial was slated for November and that "Judge Schwall has made clear that he would hold in abeyance [Premium Funding]'s request ... until after the jury trial resolved all the issues, including the issue of title to the Property."

On Sept. 6, Schwall signed an order adopting Strickland's recommendations and again denying the dispossessory request.

Premium Funding's new petition asks the court to enjoin InVesta and Tassa from initiating any foreclosure proceedings until the disputes over the property's title and dispossessory are fully adjudicated.

Otherwise, it said, "there is an imminent threat that the property will be foreclosed upon and sold to a third party while [Premium]'s hands are tied by the [Task Force] and this Court."

A staff member at InVesta said the company's president, Buddy Ramsey, was unavailable this week. A staff member at Tassa agreed to forward an email query to her superiors, but no response had been received by press time.

The case is *Premium Funding Solutions v. InVesta Services of Ga.*, No. 2013CV237089.