VIRGINIA: IN THE CIRCUIT COURT OF RAPPAHANNOCK COUNTY

COUNTY OF RAPPAHANNOCK, VIRGINIA,
COMPLAINANT

v. **CL13-185**

10 acres more or less; and,

The Successors-in-Interest of
Nick Carey, deceased; et als.,
DEFENDANTS

DECREE CONFIRMING REPORT OF COMMISSIONER AND AUTHORIZING SALE

1. THIS CAUSE is before this Court upon:

   a. the Complaint, and the exhibits thereto, filed on 11 September 2013 by the County of Rappahannock pursuant to §58.1-3965 *et seq.*, of the Code of Virginia requesting the sale of real estate to pay delinquent taxes;

   b. a Motion to Appoint a Guardian ad Litem, an Order Appointing Guardian ad Litem entered 2 January 2014, the Answer of the Guardian ad Litem, Melissa N. Cupp, Esq., filed on 13 January 2014, and the Report Of The Guardian ad Litem for Parties Unknown And Persons Under Disabilities;

   c. an Order of Publication entered on 11 September 2013 and published in the Rappahannock News on 19 and 26 September 2014;

   d. a Motion for Decree of Reference filed on 22 November 2013, and a Decree of Reference entered on 26 November 2013 appointing Arthur L. Goff, Esq. to serve as Commissioner in Chancery;

6-14
NC

6/17/14
PHL
Scan
P/O

A COPY TESTE:
Margaret R. Ralph, Clerk
By [signature] Dep. Clk.

e. a Pre-Trial Order entered on 5 March 2014;

f. the Report of The Commissioner in Chancery and a Notice of Filing of The Report of the Commissioner in Chancery, both filed on 16 May 2014.

2. Based upon the foregoing, the Court finds that:

a. The Report of The Commissioner in Chancery was filed on 16 May 2014, with proper notice, that there have been no objections or exceptions filed or taken thereto, and that more than 10 days have passed since the Report was filed; and,

b. The said Report approves the sale of the property to which this cause pertains, as requested by the Complainant, and all necessary legal prerequisites to such sale have been satisfied.

3. And it appearing the Report of The Commissioner in Chancery filed on 16 May 2014 is in proper form, and that 10 days have passed since its filing without any objections or exceptions having been filed or taken, said Report is **approved, ratified, confirmed, and adopted** by the Court.

4. And said Report of The Commissioner in Chancery having been approved as stated above, and the Court having found the Complainant is entitled to the relief it has requested, to wit: the sale of the subject property (the Property) in order to satisfy its tax lien, the Court

ORDERS:

5. that the property that is the subject of this cause be sold, and that pursuant to §58.1-3969 of the Code of Virginia,

Peter H. Luke, Esq., Counsel for Complainant, is appointed Special Commissioner to sell said real estate at public auction. As allowed by §54.1-601 of the Code of Virginia, he is authorized, but not required, to conduct any auction himself, without the use of a licensed auctioneer, if he determines a sale in such a manner is most advantageous, for which service he shall be paid an hourly rate approved by this Court and not a percentage or commission.

6. The Special Commissioner shall announce the sale in the manner he believes will bring the best price, which may include advertisement in newspapers published in surrounding jurisdictions, and such cost shall be allowed as an expense of sale.

7. With respect to such sale, the winning bidder shall, upon acceptance of the winning bid, sign a binding memorandum of sale and tender a deposit to the Special Commissioner in the amount of $10,000 in the form of a certified or cashier's check payable to the Clerk of the Circuit Court for Rappahannock County. Provided, if the winning bidder is the County of Rappahannock, a check drawn on its General Fund shall be sufficient. The Special Commissioner shall deposit such check with the Clerk of this Court, and upon approval of the sale, it shall be a credit against the purchase price. If the sale is not approved, the deposit shall be returned. If the sale is approved, but the winning bidder then fails to complete the purchase within the time prescribed, the deposit shall be forfeited and the Special Commissioner may also pursue any remedies allowed by law. The proceeds of sale shall be held by the Clerk of this Court to be distributed only upon further order of this Court. The winning bidder should be prepared to go to settlement and pay the

balance of the purchase price within 30 days of approval of the sale by the Court.

8. Upon Court approval of the sale, the Property shall be conveyed by Special Warranty Deed free and clear of all liens, the tax lien of the County of Rappahannock having priority over all other liens against the Property, and no other liens having been reported by the Commissioner in Chancery. It shall be the responsibility of the bidders to satisfy themselves before the auction as to matters of title, survey, zoning, building codes and any other factors that might affect a proposed use of the Property. The Property shall be sold "as is," and without representation it is fit for any particular use. Upon notice to the Special Commissioner, he may give prospective bidders permission to go upon and inspect the Property, but they do so **at their own risk**, and they shall do nothing that will damage the Property or in any way reduce its value before the auction.

9. Upon conducting the sale by auction, the Special Commissioner shall report to this Court and obtain the approval of this Court before conveying the Property or making any distribution of the proceeds of sale. **Any sale shall be contingent upon Court approval.**

10. It appearing that no money will actually come into the hands of the Special Commissioner, bond is not required under §8.01-96 *et seq.* of the Code of Virginia.

Enter: 16th June 2014

Herman A. Whisenant, Judge

I ask for this:

Peter H. Luke

Peter H. Luke (VSB 12867)
County Attorney
Counsel for Complainant
P.O. Box 6
Washington, Virginia 22747
540-675-5339
540-675-3698 fax

SEEN AND AGREED:

Melissa N. Cupp

Melissa N. Cupp, Guardian ad Litem