

CITY COUNCIL AGENDA ITEM

TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney *LB*
Nicole F. MacMillan, Assistant City Attorney *NM*
DATE: June 16, 2015
SUBJECT: Dandu and Moustan v. City of Troy, et al. Lawsuit

The City of Troy is joined with the Oakland County Treasurer's Office as defendants in the attached lawsuit filed by Mr. Dandu and Mr. Moustan. Mr. Dandu purchased a foreclosed property (1369 E. Wattles Road) in August 2014, and Mr. Moustan purchased the property from him in October 2014. Through the lawsuit, the Plaintiffs are seeking the removal of a past due water bill lien in the amount of \$14,039.71, since this bill represents charges incurred prior to their acquisition of the property.

This case has been assigned to Oakland County Circuit Court Judge Denise Langford Morris, who signed the initial order foreclosing on the property on February 26, 2014. Plaintiffs argue that the order granting the requested foreclosure extinguished all claims prior to this date. The complaint requests declaratory and injunctive relief.

The following proposed resolution authorizes our office to defend the City's interest in this matter. Please let us know if you have any questions about this new lawsuit.

PROPOSED RESOLUTION:

RESOLVED, that the City Attorney is hereby authorized and directed to represent the City of Troy in any and all claims and damages in the matter of *Dandu and Moustan v. City of Troy and Oakland County Treasurer* (Oakland County Circuit Court Case No. 2015-147152-CZ). The City Attorney is also authorized to pay necessary costs and fees in the defense of the action.

This case has been designated as an eFiling case. To review a copy of the Notice of Mandatory eFiling visit www.oakgov.com/clerkrod/efiling.

Approved, SCAO

Original - Court
1st copy - Defendant

2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT 6TH JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT	CASE NO. 2015-147152 - CZ
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Court address: 1200 N. Telegraph Road, Dept. 404, Pontiac, MI 48341-0404
Court telephone no. (248) 858-1000

Plaintiff's name(s), address(es), and telephone no(s).
Simon Dandu, 1334 Larayne Dr., Troy, MI 48085
and
Ioan Gavril Mosuta, 319 Balhaven Dr., Troy, MI 48085

Defendant's name(s), address(es), and telephone no(s).
v
City of Troy
500 W. Big Beaver Road
Troy, MI 48084

Plaintiff's attorney, bar no., address, and telephone no.
Robert J. Cucco (P35046)
74 W. Long Lake Road, Suite 203
Bloomfield Hills, MI 48304
(248) 647-8899

SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:
1. You are being sued.
2. YOU HAVE 21 DAYS after receiving this summons to file a written answer with the court and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued JUN 03 2015	This summons expires AUG 19 2015	Court clerk Lisa Brown
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*This summons is invalid unless served on or before its expiration date.
This document must be sealed by the seal of the court.

COMPLAINT Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.

Family Division Cases
 There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
 An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.
The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Bar no.
------------	---------

General Civil Cases
 There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
 A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.
The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
------------	-------	---------

VENUE

Plaintiff(s) residence (include city, township, or village) Oakland County, MI	Defendant(s) residence (include city, township, or village) Oakland County, MI
Place where action arose or business conducted: Oakland County, MI	

05/20/2015
Date
Signature of attorney/plaintiff: **ROBERT J. CUCCO**

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

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This case has been designated as an eFiling case. To review a copy of the Notice of Mandatory eFiling visit www.oakgov.com/clerkrod/efiling.

STATE OF MICHIGAN
IN THE OAKLAND COUNTY CIRCUIT COURT

SIMON DANDU and IOAN GAVRIIL MOSUTAN,

Plaintiffs,

Vs.

2015-147152-CZ

JUDGE LANGFORD MORRIS

Case No.

CZ

Hon.

THE CITY OF TROY, a Michigan Municipality and
THE OAKLAND COUNTY TREASURER'S OFFICE,
A Governmental Entity.

Defendants.

ROBERT J. CUCCO (P35046)
Attorney for Plaintiffs
74 W. Long Lake Road, Suite 203
Bloomfield Hills, MI 48304
(248) 647-8899
rc@cucconc.com

There is no prior, pending or resolved civil
action arising out of the transaction or occurrence
alleged in this Complaint between the parties.


Robert J. Cucco (P35046)

VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

NOW COME the Plaintiffs, Simon Dandu ("Dandu") and Ioan Gavril Mosutan ("Mosutan"), collectively "Plaintiffs", and for their Verified Complaint for Declaratory Judgment and Injunctive Relief against the City of Troy ("Troy") and the Oakland County Treasurer's Office ("OCTO"), collectively "Defendants", states as follows:

1. Plaintiff Dandu is the original Purchaser of real property from the Oakland County Treasurer's Office (at a Tax Sale), described as:

T2N, R11E, Sec 14 Supervisor's Plat of Square Acres Sub Part of Lot 34 Beg at SW Lot Cor, Th N 00-38-30 W 150 Ft, Th E 95 Ft, Th S 00-38-30 E 150 Ft, Th W 95 Ft to Beg 2-26-01 Fr 007 12-13-02 Corr

Commonly known as 1369 East Wattles Rd., Troy, MI 48085

Parcel I.D. No. 88-20-14-376-012 ("Property")

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2. Plaintiff Mosutan is the current Titleholder to the Property pursuant to a Quit Claim Deed from Plaintiff Dandu, dated October 23, 2014.

3. The Defendant Troy is a Michigan Municipality with governmental offices located at 500 W. Big Beaver Road, Troy, MI 48084.

4. The Defendant OCTO, Andrew Meisner, Treasurer, is a County Government with offices at 1200 N. Telegraph Road, Building 12E, Dept. 479, Pontiac, MI 48341.

5. Venue is proper in this Court because all parties are residents or conduct business and the Property is located in Oakland County, Michigan.

6. This Court has jurisdiction over the parties in this cause because all parties are residents or conduct business in Oakland County, this claim concerns Property in Oakland County, and this is a claim by a property owner and taxpayer against the governmental entities within the Court's jurisdiction.

COUNT I
DECLARATORY RELIEF

7. On or about May 14, 2013, the Oakland County Treasurer's Office filed a Petition to Foreclose upon various real properties pursuant to the General Property Tax Act ("GPTA"), being MCL 211.1 et seq.

8. This Honorable Court, by Judge Denise Langford Morris in Case No. 13-134052-CZ, entered a Judgment of Foreclosure, on February 26, 2014, regarding various properties including the subject Property. See *Exhibit A* attached hereto and made a part hereof. The Judgment of Foreclosure included specific language regarding the extinguishment of various liens and interests in the Property by virtue of the Judgment pursuant to the GPTA. See *Exhibit A*.

9. On or about August 19, 2014, the Plaintiff Dandu submitted an Offer to Purchase the Property to the Oakland County Treasurer's Office for the sum of One Hundred Thirteen Thousand Dollars (\$113,000.00), which offer was accepted and executed by the Oakland County Treasurer's Office. See *Exhibit B* attached hereto and made a part hereof.

10. After payment of the Purchase Price, Plaintiff Dandu received a "Deed Pursuant to Act 129 of 1999" from the Defendant OCTO, dated September 26, 2014. See *Exhibit C* attached hereto and made a part hereof.

11. At the time of the foreclosure sale and transfer of title to Plaintiff Dandu, the City of Troy claimed that water and sewer charges were due from the prior owner of Fourteen Thousand Thirty-Nine Dollars and 71/100 (\$14,039.71) and One Thousand Four Hundred Three Dollars and 97/100 (\$1,403.97) ("Water Charges").

12. Plaintiff Dandu visited the City of Troy Offices and was advised that the water charges were still due and had been transferred to the tax rolls for the Defendant Troy.

13. When the Water Charges (then converted to City taxes) remained unpaid, the Defendant Troy sent the delinquent tax account to OCTO for collection.

14. On or about October 23, 2014, the Plaintiff Dandu transferred the Property to the Plaintiff Mosutan by Quit Claim Deed. See *Exhibit D* attached hereto and made a part hereof.

15. On or about November 3, 2014, this attorney was retained by Plaintiffs and wrote a letter to the City of Troy, citing MCL 211.78(m)(13) of the GPTA, as grounds for extinguishing all water and sewer charges as of the December 31st immediately succeeding the sale, transfer or retention of the Property, e.g., December 31, 2014. See *Exhibit E* attached hereto and made a part hereof.

16. The GPTA at MCL 211.78(m)(12) (formerly MCL 211.78(m)(13)) states as follows:

"(12) For property sold under this section, transferred to this state under subsection (1), a City, Village or Township under subsection (6) or retained by a foreclosing governmental unit under subsection (7), all liens for costs of demolition, safety repairs, debris removal, or sewer or water charges due on the property as of the December 31 immediately succeeding the sale, transfer, or retention of the property are cancelled effective on that December 31. This subsection does not apply to liens recorded by the Department of Environmental Quality under this Act or the Land Bank Fast Track Act, 203PA 258, MCL 124.7512124.774." *Emphasis added.*

17. When the City of Troy failed to respond to the Plaintiffs' November 3, 2014 request to extinguish and cancel the water and sewer charges, Plaintiffs again confirmed that

the water and sewer charges had been transferred to the tax rolls and had been forwarded to the Oakland County Treasurer's Office because they were delinquent.

18. Plaintiffs then sent a subsequent letter, dated March 17, 2015, to the City of Troy Treasurer's Office and the Troy City Attorney's Office demanding that the water and sewer charges be removed from the account within ten (10) days of the date of the correspondence. See *Exhibit E* attached hereto and made a part hereof.

19. The City of Troy again failed to respond to the March 17, 2015 demand for extinguishment of the water and sewer charges in any fashion and, at this point in time, the water and sewer charges remain as a charge against the Property and are pending tax foreclosure by the Oakland County Treasurer's Office.

20. Under these facts, there is an actual controversy between the parties because of their disagreement and adverse positions with regard to their rights and obligations under MCL 211.78(m)(12). Moreover, Plaintiffs have no relief except for this Court's declaration of the parties rights and obligations with regard to the water and sewer charges and their ultimate foreclosure as a tax lien.

21. This Court has the power under MCR 2.605 to adjudicate the matters at issue and enter its Judgment declaring the rights of all parties to this action; in order to guide Plaintiffs future conduct and to avoid a second foreclosure of the Property solely because of the existence of the unauthorized water and sewer charges.

22. This Court's determination will also resolve the conflict between the Plaintiffs as taxpayers and the Defendants as tax collectors and will preserve Plaintiffs' legal rights with respect to the extinguishment of the water and sewer charges.

WHEREFORE, Plaintiffs, Simon Dandu and Ioan Gavril Mosutan, request a declaration from this Court, pursuant to MCR 2.605, that the Michigan General Property Tax Act requires the extinguishment of the water and sewer charges currently totaling Seventeen Thousand Two Hundred Thirty Dollars and 63/100 (\$17,230.63) from the tax rolls and records of the City of Troy and the Oakland County Treasurer's Office and that tax foreclosure of the subject Property based upon the unauthorized water and sewer charges is not warranted.

COUNT II
INJUNCTION

23. Plaintiffs repeat and reiterate Paragraphs 1 through 22 as though fully set forth herein.

24. The Defendant Troy has transferred the alleged tax liability of Plaintiffs (regarding the water and sewer charges) to Defendant OCTO for the purpose of tax lien foreclosure.

25. If during the pendency of this case, the OCTO proceeds with foreclosure based upon this erroneous tax lien, then Plaintiffs will have no adequate remedy at law because their Property will be sold based upon an erroneous interpretation of the GPTA and they will be forced to purchase the Property a second time from a tax lien foreclosure.

26. Plaintiffs have a high likelihood of prevailing on the merits because the statute clearly requires extinguishment of water and sewer charges after a foreclosure sale and purchase. Moreover, a Michigan Attorney General Opinion interpreting the General Property Tax Act and the relevant provision to this cause of action exists as Attorney General Opinion 7258.

27. The comparative injury from the grant or denial of an injunction is greater for the Plaintiffs because if the Defendants foreclose upon the Property they will take Plaintiffs' Property through foreclosure without a basis in law.

28. Conversely, Defendant Troy must correct its processing of foreclosed property through the GPTA so that future purchases of tax properties in the City of Troy are not stifled and so that other individuals and businesses purchasing tax foreclosed property in the City of Troy are not subject to the same misinterpretation of the GPTA.

WHEREFORE, Plaintiffs, Simon Dandu and Ioan Gavril Mosutan, request that this Honorable Court issue preliminary and permanent injunctions, pursuant to MCR 3.310, to enjoin any potential or actual tax foreclosure sale of the Property pending the disposition of this case and to further enjoin the City of Troy from acting in violation of the GPTA.

"I DECLARE THAT THE STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE AND BELIEF."



Simon Dandu

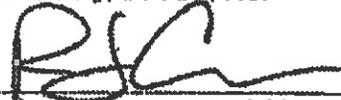
"I DECLARE THAT THE STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE AND BELIEF."



Ioan Gavril Mesutan

Respectfully submitted,

ROBERT J. CUCCO, P.C.



Robert J. Cucco (P35046)
Attorney for Plaintiffs
74 W. Long Lake Road, Suite 203
Bloomfield Hills, MI 48304
(248) 647-8899
www.rjcuccopc.com

Dated: May 20, 2015

OAKLAND COUNTY 13-134052-CZ
JUDGE D. LANGFORD MORRIS
OAKLAND CTYT v NONE

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

In the matter of the Petition of the Treasurer of the County of Oakland, Michigan,
for the foreclosure of certain lands for unpaid taxes.

Case No. 13-134052-CZ
HON. DENISE LANGFORD MORRIS

WILLIAM J. MANN (P 26559)
Assistant Corporation Counsel
Attorney for Petitioner
1200 N. Telegraph Road
Pontiac, MI 48341-1032
(248) 858-0556

RECEIVED FOR FILING
OAKLAND COUNTY CLERK
2014 MAR -4, PM 2:25
BY: DEPUTY CLERK

At a session of this Court, held at the Court House in the City of Pontiac
on the 26th day of February, A.D. 2014

Present: Hon. DENISE LANGFORD MORRIS, Circuit Court Judge.

JUDGMENT OF FORECLOSURE

This matter was initiated with the filing of a Petition on May 16, 2013. The
Petition identified parcels of property forfeited to the Oakland County Treasurer
under MCL 211.78g for the tax years 2011, and for prior years' taxes permitted
by statute. The petition set forth the amount of the unpaid delinquent taxes,
interest, penalties, and fees for which each parcel of property was forfeited. The
Petition sought a judgment in favor of petitioner, Oakland County Treasurer, for
the forfeited unpaid delinquent taxes, interest, penalties, and fees listed against
each parcel of property. The Petition further sought a judgment vesting absolute
title to each parcel of property in the petitioner, without right of redemption, as to

EXHIBIT A

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parcels of property not redeemed on or before March 31, 2014, or in a contested case within 21 days after the entry of a judgment foreclosing the property.

Before the date of the hearing on the Petition, petitioner filed with the clerk of the court proof of service of the notice of show cause hearing and notice of foreclosure hearing, proof of publication, and proof of personal visit, as required by MCL 211.78k(1), for each parcel to be foreclosed upon.

A hearing on the Petition and objections thereto was held on February 26, 2014 at which time all parties interested in the forfeited properties were given an opportunity to be heard.

The Court finds that those parties entitled to notice and an opportunity to be heard have been provided that notice and opportunity.

THEREFORE, IT IS ORDERED:

(a) The amount of forfeited delinquent taxes, interest, penalties, and fees set forth in the list of foreclosed property attached to this Judgment is valid and a judgment of foreclosure is entered in favor of petitioner against each parcel of property, separately, for payment of the amount set out against the parcel.

(b) Fee simple title to each parcel foreclosed upon in this Judgment will vest absolutely in petitioner, subject to the limitations of paragraphs (c) and (d), below, without any further rights of redemption, if all forfeited delinquent taxes, interest, penalties, and fees foreclosed against the parcel are not paid to the County Treasurer on or before March 31, 2014, or in a contested case within 21 days of the entry of a judgment foreclosing the property.

(c) All liens against each parcel, including any lien for unpaid taxes or special assessments, except future installments of special assessments and

liens recorded by the State or the petitioner pursuant to the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.101, et seq., are extinguished, if all forfeited delinquent taxes, interest, penalties, and fees foreclosed against the parcel, plus any additional interest required by statute, are not paid to the County Treasurer on or before March 31, 2014, or in a contested case within 21 days of the entry of a judgment foreclosing the property.

(d) All existing recorded and unrecorded interests in each parcel are extinguished except: (1) a visible or recorded easement or right-of-way, (2) private deed restrictions, (3) restrictions or other governmental interests imposed pursuant to the Natural Resources and Environmental Protection Act, *supra*, (4) interests of a lessee or an assignee of a lessee under an oil or gas lease recorded before the date of filing of the Petition in this action, and (5) interests preserved under § 1(3) of the dormant minerals act, 1963 PA 42, MCL 554.291(3), if all forfeited delinquent taxes, interest, penalties, and fees foreclosed against the parcel, plus any additional interest required by statute, are not paid to the County Treasurer on or before March 31, 2014, or in a contested case within 21 days of the entry of a judgment foreclosing the property.

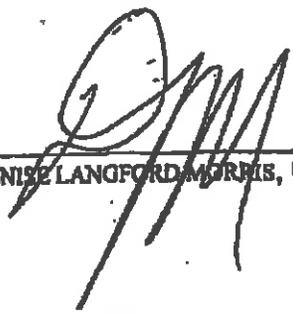
(e) Petitioner has good and marketable fee simple title to each parcel, subject to the limitations of paragraphs (c) and (d), above, if all forfeited delinquent taxes, interest, penalties, and fees foreclosed against the parcel, plus any additional interest required by statute, are not paid to the County Treasurer on or before March 31, 2014, or in a contested case within 21 days of the entry of a judgment foreclosing the property.

(f) Current taxes including those that have not become a lien on the land as of the date of foreclosure are not extinguished by this Judgment.

(g) Properties set forth in the petition which were not listed in this Judgment because of lack of service or because of objections sustained at the Administrative Show Cause Hearing, shall continue to accrue interest, penalties and fees at the statutory rate as set forth in 1893 PA 206, as amended, and 1965 PA 380, as amended.

(h) This is a final order with respect to each parcel affected by this Judgment and unless appealed pursuant to MCL 211.78k(7) or canceled pursuant to MCL 211.78k(9) shall not be modified, stayed, or held invalid after March 31, 2014.

IT IS FURTHER ORDERED this Judgment resolves the last pending claim and closes the case.



DENISE LANGFORD MORRIS, Circuit Court Judge

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OFFER TO PURCHASE FORECLOSED REAL ESTATE
BY AUTHORITY OF PUBLIC ACT 123 OF 1999

Sale #: 2014-000956

Bidder #: 1835-4978

The Oakland County Treasurer became the title owner of certain parcels of real estate as a result of the forfeiture and foreclosure of land for unpaid taxes and a judgment of the Oakland County Circuit Court dated February 26, 2014. This property is being offered for sale pursuant to MCL 211.78 (m).

PURCHASER

**SIMON DANDU
1334 LARAYNE DR
TROY MI 48065**

COPY

The undersigned hereinafter designated as the purchaser hereby, offers and agrees to purchase land and premises situated in the City of Troy in Oakland County, Michigan described as follows:

88 20-14-378-042

T2N, R11E, SEC 14 SUPERVISOR'S PLAT OF SQUARE ACRES SUB PART OF LOT 34 BEG AT SW LOT COR, TH N 00-38-36 W 150 FT, TH E 95 FT, TH S 00-38-30 E 150 FT, TH W 95 FT TO BEG 2-26-01 FR 007 12-17-02 CORR

also known as: 1388 E WATTLES RD

together with all improvements and appurtenances, including all lighting fixtures, shades, venetian blinds, curtain rods, drapery hardware, storm windows and doors, screens, awnings, and antenna, if any, if they are located on the premises; subject to existing restrictions of record, easements for public utilities, and driveways and zoning ordinances, and to pay the sum of \$113,000.00. In addition to the amount listed, all current year taxes including any penalties, administrative fees, interest, new and continued special assessments added in current year, ie: Weed cutting, debris removal, demolition charges, water bills, etc., are the full responsibility of the purchaser.

The purchaser accepts the premises in its present "as-is" condition, and releases the Seller, also its officers, employees and agents and the County of Oakland from all liability whatsoever arising from any condition of the premises, whether now known or subsequently discovered, including but not limited to all claims based on environmental contamination of the premises.

Purchaser shall receive a deed for the subject property pursuant to Public Act 123 of 1999. Purchaser shall not receive a Seller's Disclosure Statement pursuant to Act 92 of 1993 because the disclosure requirements do not apply as set forth in MCL 565.953 (3)(c) as amended.

If purchaser is desirous of obtaining title insurance he or she shall do so at his or her own expense. Purchaser shall pay all recording fees.

Dated: August 19, 2014

IN THE PRESENCE OF:

Purchaser

The foregoing offer is accepted and the Seller agrees to sell said premises upon the terms stated.

By the execution of this instrument, Seller acknowledges the receipt of a copy of this agreement.

IN THE PRESENCE OF:

Andrew E. Meisner Simon Dandu

Seller
Andrew E. Meisner

EXHIBIT

B

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0194807

LIVER 47482 PAGE 890
\$19.00 DEED - COMBINED
\$ 00 REASSURANCE
16/09/2014 16:48:15M RECEIPT 899868
PAID RECORDED - OAKLAND COUNTY
LARA ROOMS, CLERK/REGISTER OF DEEDS

DEED PURSUANT TO ACT 123 OF 1999

The grantor, Andrew E. Meisner, Oakland County Treasurer, whose address is 1200 N. Telegraph Road, Building 12E, Dept. 479, Pontiac, Michigan 48341, conveys in fee simple interest to SIMON DARDU

whose address is: 1334 LARAYNE DR
TROY, MI 48065

the following described premises situated in the CITY of Troy
County of Oakland and State of Michigan.

T2N, R11E, SEC 14 SUPERVISOR'S PLAT OF SQUARE ACRES SUB PART OF LOT 34 BEG AT SW LOT COR, TH N 00-38-30 W 150 FT, TH E 95 FT, TH S 00-38-30 E 150 FT, TH W 95 FT TO BEG 2-26-01 FR 007 12-13-02 CORR

Parcel Number: 20-14-376-042

for the sum of \$113000.00
subject to easements and building restrictions of record and those enumerated special assessments and liens set forth in MCL 211.78k(5)(c), as amended.
This transfer is exempt pursuant to MCL 207.505(h)(i) and MCL 207.528(h)(i)

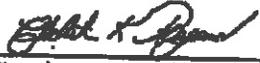
Dated this 26th day of SEPTEMBER 2014



Andrew E. Meisner
Oakland County Treasurer

State of Michigan
County of Oakland

The foregoing instrument was acknowledged before me this 26th Day of SEPTEMBER 2014
By Andrew E. Meisner, Oakland County Treasurer



Elizabeth K. Raymond
Notary Public Oakland County, Michigan, Acting in Oakland County
My Commission expires: October 14, 2017

Instrument drafted by:
Chief - Tax Administration
Oakland County Treasurer's Office
1200 N. Telegraph Road, Bldg. 12E Dept. 479
Pontiac, MI 48341

When recorded return to: Grantee
Send subsequent tax bills to: Grantee

EXHIBIT C

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RECEIVED
OAKLAND COUNTY
REGISTER OF DEEDS

OCT 23 AM 10:18

204245
LIBER 47529 PAGE 863
\$12.00 DEED - COMBINED
\$4.00 REDEMPTION
10/23/2014 10:14:06 A.M. RECEIPT# 106035
PAID RECORDED - OAKLAND COUNTY
LISA BRINN, CLERK/REGISTER OF DEEDS

QUIT CLAIM DEED - Statutory Form
M.C.L. 565.152

KNOW ALL PERSONS BY THESE PRESENTS: That Simon Dandu MARIED
whose address is 1334 Larayne St Troy MI 48065

Quit Claim(s) to Ioan Gavril Mesutan
whose address is 319 Belhaven Troy MI 48065

the following described premises situated in the
County of Oakland of
and State of Michigan, to-wit:

see attacement.

Commonly known as: 1369 E. Wattle Rd Troy MI 48065

for the full consideration of 1\$1,000

Tax I.D. Number: 20-14-376-042

Dated this 23 day of OCT. 2014

Signed by: Simon D.

Simon Dandu

(2)
R
E

STATE OF MICHIGAN

COUNTY OF Oakland

OK - AN

The foregoing instrument was acknowledged before me this 23rd day of October 2014

by Simon Dandu

My commission expires

August 1 2020

Drafted by Dandu Simon

Heinda Chambers

Notary Public Oakland County, Michigan

Business Address 1334 Larayne St Troy MI 48065

After recording return to: _____
Counter Customer

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act.

Heinda Chambers
Notary Public, Oakland County, Michigan
Acting in Oakland County
My Commission Expires August 1, 2020

EXHIBIT D

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(88) 20-14-376-042

CVT:	City of Troy	PIN:	(88) 20-14-376-042
Status:	Active	Parcel Type:	Land
Add Date:	2/26/2001	Delete Date:	
		Last Activity:	10/18/2014 5:19:36 AM

Description	
1	T2N, R11E, SEC 14
2	SUPERVISOR'S PLAT OF
3	SQUARE ACRES SUB
4	PART OF LOT 34
5	BEG AT SW LOT COR,
6	TH N 00-38-30 W 150 FT,
7	TH E 95 FT,
8	TH S 00-38-30 E 150 FT,
9	TH W 95 FT
10	TO BEG
11	2-26-01 FR 007
12	12-13-02 CORR

Parent(s)	Delete Date	Child(ren)	Add Date
FR 007	2/26/2001		

Information			
Primary Mailing Address	Site Address Indicator	Addressee(s)	Address
■		★Ioan Gavril Mosutan	319 Belhaven Dr Troy MI 48085-4794
	🏠	★Ioan Gavril Mosutan	1369 E Wattles Rd Troy MI 48085-4952

Address Info Legend

- = Primary Mailing
- 🏠 = Primary Site
- 🏡 = Extra Site
- ★ = Primary
- ◆ = Secondary
- = Care Of
- ⊙ = Other
- Black = Individual
- Brown = Organization
- Green = Trust

S.D.

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LAW OFFICES
ROBERT J. CUCCO
PROFESSIONAL CORPORATION
74.WEST LONG LAKE RD., SUITE 203
BLOOMFIELD HILLS, MICHIGAN 48304-2775

TELEPHONE
(248) 647-8899
E-mail: rc@cuccopc.com

FACSIMILE
(248) 645-1128

November 3, 2014

City of Troy Treasurer's Office
500 W. Big Beaver Road
Troy, MI 48084

Re: Simon Dandu, Owner of 1369 E. Wattles Road, Troy, MI
PIN 88-20-14-376-042
Taxpayer: 1369 Wattles, LLC

Dear Treasurer:

Please be advised that my client purchased the above referenced property at a foreclosure sale conducted by Oakland County and pursuant to a judgment of Foreclosure, dated February 26, 2014 which is attached as *Exhibit A*. I am also attaching my client's Offer to Purchase Foreclosed Real Estate by Authority of Public Act 123 of 1999 ("Act") and his receipt for payment of the Purchase Price of One Hundred Thirteen Thousand Dollars (\$113,000.00). See *Exhibits B* and *C*. We are awaiting a Deed from Oakland County pursuant to the Purchase Agreement, Judgment, and payment by Purchaser.

My client delivered a Status Report from your office dated September 25, 2014 which shows sewer and water liabilities that attached to the prior owner and were current through September 16, 2014. See *Exhibit D*. We investigated further and found that the matter had been transferred to Oakland County and, as of September 2, 2014, Oakland County shows no monies due through 2013 for taxes, interest, and fees because of the County land sale. See *Exhibit E*.

Pursuant to MCL 211.78(m)(13), after a sale of property by a County pursuant to the Act, "... all liens for costs of demolition, safety repairs, debris removal, or sewer and water charges due on the property as of the December 31 immediately succeeding the sale, transfer, or retention of the property are cancelled".

Therefore, any liens for sewer and water charges from the City of Troy are cancelled through December 31, 2014.

Please correct your records accordingly. If you require a copy of the Deed from the County to the Purchaser, please advise and I will see that one is delivered upon our receipt of same. If there are any questions or comments, please contact this writer and,

EXHIBIT

E

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in either event, please confirm that all of the water and sewer charges through December 31, 2014 are cancelled on the subject property.

Respectfully,



Robert J. Cucco

RJC/kel
Enclosures

Cc: Simon Dandu (w/encl)

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LAW OFFICES
ROBERT J. CUCCO
PROFESSIONAL CORPORATION
74 WEST LONG LAKE RD., SUITE 203
BLOOMFIELD HILLS, MICHIGAN 48304-2775

TELEPHONE
(248) 647-8899
E-mail: rc@rjcuccopg.com

FACSIMILE
(248) 645-1128

March 17, 2015

Certified Mail
Return Receipt Requested

City of Troy Treasurer's Office
500 W. Big Beaver Road
Troy, MI 48084

Susan Lancaster
Assistant City Attorney
500 W. Big Beaver Road
Troy, MI 48084

Re: Simon Dandu, Owner of 1369 E. Wattles Road, Troy, MI
PIN 88-20-14-376-042
Taxpayer: 1369 Wattles, LLC

Dear Treasurer and Ms. Lancaster:

On November 3, 2014, I sent correspondence to your office regarding a tax foreclosure sale purchase of the referenced property at 1369 E. Wattles Road, Troy, MI. A copy is attached. In that correspondence I requested that the City cancel water and sewer charges on the Property as of December 31st immediately succeeding the sale pursuant to MCL 211.78(m)(13). I originally attached a copy of the Judgment of Foreclosure, dated February 26, 2014, as well as a Status Report from the City of Troy, dated September 25, 2014 (post purchase), and a Status Report from the Oakland County Treasurer's Office. The Status Report from the City of Troy indicates unpaid sewer and water charges of Fourteen Thousand Thirty-Nine Dollars and 71/100 (\$14,039.71) (at a minimum). All water and sewer charges were terminated and extinguished prior to December 31, 2014 pursuant to MCL 211.78(m)(13). Therefore, these water and sewer charges should have been eliminated.

When I visited your office on January 13, 2015, the City Treasurer's Office advised that they would not cancel the water and sewer charges against the Property. I met with Susan Lancaster on that date and she advised that the City has a different interpretation of the statute pursuant to contacts that she had had with the Oakland County Treasurer's Office, Delinquent Tax Supervisor, Christie Howard. Ms. Lancaster provided me with Ms. Howard's phone number and I had contact with Laura Schmidt in the Delinquent Tax Office. Ms. Schmidt advised me that the County could not and would not advise a municipality on this issue as it was up to the City of Troy (and not the County) to make a determination regarding the water and sewer charges to the prior Owner. Therefore, the "ball is back in your court".

On behalf of my client I have done extensive research and I have determined that the City of Detroit assigns an employee to cancel water and sewer bills after foreclosure sales. That is a single employee dedicated to this sole task.

EXHIBIT F

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Indeed, my research has disclosed a very recent Attorney General Opinion, dated May 6, 2011, Opinion No. 7258, that is right on point with this scenario. In this Opinion, Bill Schuette, Attorney General, analyzes municipality arguments and contrasts them with the provisions of the General Property Tax Act and specifically unpaid water and sewer charges. Delinquent Property Taxes are subject to forfeiture and foreclosure under Section 78 through 78(o) of the GPTA, MCL 211.78-211.78(o). I am attaching a copy of that Attorney General Opinion to this correspondence for your ready reference. My client's scenario with the City of Troy is exactly the same as the scenario described in this Attorney General Opinion, except that (up to this point) the water and sewer utility has not been disconnected or refused by the City of Troy. However, the analysis by Attorney General Schuette is otherwise applicable to our facts. Specifically, MCL 211.78(k)(5) provides that all liens against the Property and other interests in the Property are cancelled when the tax delinquent Property is foreclosed. In fact, the Circuit Court Judgment of Foreclosure contains these exact provisions at Paragraphs (c) and (d). Moreover, Attorney General Schuette speaks specifically about MCL 211.78(m)(13), now 211.78(m)(12) as extinguishing all water and sewer charges through December 31st of the year of foreclosure, e.g., December 31, 2014.

When I left the Troy City Offices on January 13, 2015, I was told that the water and sewer charges had been transferred to the tax rolls for this Property. Therefore, it appears that the City of Troy is insisting on the recovery of the water and sewer charges against the former owner from my client, the tax foreclosure purchaser. The referenced statutes do not permit the City of Troy to seek recovery of these water and sewer charges in this fashion. Please be advised that we are prepared to seek Declaratory Relief and/or Writ of Mandamus from the Oakland County Circuit Court if I do not receive written confirmation that all water and sewer charges against this Property have been extinguished and deleted from the City of Troy tax rolls within ten (10) days of the date of this correspondence. I anticipate your prompt response.

Respectfully,



Robert J. Sacco

RJC/kel
Enclosures

Cc: Simon Dandu (w/encl.)

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SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>1. Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>2. Print your name and address on the reverse so that we can return the card to you.</p> <p>3. Attach this card to the back of the mailpiece, or on the front if space permits.</p>	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee <i>X. Diane Newman</i></p>
<p>1. Article Addressed to: CITY OF TROY TREASURER'S OFFICE 500 W. BIG BEAVER ROAD TROY, MI 48064</p>	<p>B. Received by (Printed Name) <i>IRENE NEWMAN</i></p> <p>C. Date of Delivery <i>5/20/15</i></p>
	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>
<p>2. Article Number (Transfer from service label)</p>	<p>E. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>
<p>PS Form 3811, July 2013</p>	<p>4. Restricted Delivery? (One Fee) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>7014 2120 0003 6900 0912 Domestic Return Receipt</p>

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Mail to
 City of Troy Treasurer's Office
 500 W. Big Beaver Road
 Troy, MI 48064

SENDER - COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p> <input checked="" type="checkbox"/> Complete Steps 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. </p>	<p> A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee <i>X Irene Newman</i> </p> <p> B. Received by (Printed Name) IRENE NEWMAN </p> <p> C. Date of Delivery 5/20/15 </p> <p> D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below: </p>
<p> 1. Article Addressed to: SUSAN LANCASTER ASSISTANT CITY ATTORNEY 500 W. BIG BEAVER RD. TROY, MI 48064 </p>	<p> 3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery </p> <p> 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes </p>
<p> 2. Article Number (Transfer from service label) </p>	<p> 7014 2120 0003 6900 0429 </p>
<p> PS Form 3811, July 2013 Domestic Return Receipt </p>	

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Restricted Delivery Fee (Enclosure Not Required)	
Total Package & Fees	\$

Sent to
Susan Lancaster - Assistant City Attorney
 or PO Box No. *500 W. Big Beaver Bl.*
 Troy, MI 48064

6900 0429 0003 2120 1470