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FILED  
WILLIAMSON COUNTY

CIRCUIT COURT THE CIRCUIT COURT FOR WILLIAMSON COUNTY, TENNESSEE

AT FRANKLIN  
2009 MAY - 6 AM 11:32

ULUS OSBORN, HERBERT )  
OSBORN, LUTHER OSBORN, )  
JO MARIE OSBORN BAXTER, )  
MARTHA SUE OSBORN VERGON, )  
and MABEL SULLIVAN, )

Petitioners, )

v. )

EFFIE LEE OSBORN, EARLENE )  
MORGAN, GAYLE HOLT, )  
WILLIAM HENRY (RUFUS) )  
OSBORN, ROBERT THOMAS )  
OSBORN, JESSEE JAMES OSBORN, )  
WALTER HERSCHEL OSBORN, )  
DAVID FULTON OSBORN, )  
ELIZABETH SNOW KING, )  
HERMAN LEONARD OSBORN, and )  
HARRY GLEN OSBORN, )

Respondents, )

TOWER INVESTMENTS, LLC, )  
Plaintiff, )

v. )

ULUS OSBORN, HERBERT )  
OSBORN, LUTHER OSBORN, )  
JO MARIE OSBORN BAXTER, )  
MARTHA SUE OSBORN VERGON, )  
MABEL SULLIVAN, EFFIE LEE )  
OSBORN, WILLIAM HENRY )  
(RUFUS) OSBORN, ROBERT )  
THOMAS OSBORN, JESSE )  
JAMES OSBORN, WALTER )  
HERSCHEL OSBORN, ELIZABETH )  
SNOW KING, HERMAN LEONARD )

FILED 4/20/09  
INITIAL BOOK PAGE  
JESSIE McALLAN BARNETT  
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No. 04055 ✓

JURY DEMAND

*Chancery # 35927*

OSBORN, and HARRY GLEN )  
OSBORN. )  
 )  
Defendants. )

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SERIAL BOOK PAGE  
JUDGE WILLIAM E. GREGG  
AK

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ORDER

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This cause came to be heard on April 13, 2009, for the purposes of reconsidering the value of the property at issue in this action and the best way to sell it. Tower Investments, LLC ("Tower") had filed a motion to remove the minimum bid from the auction process. The Court had previously continued the Motion and ordered Tower to arrange for the appearance of Doyle Monday to testify regarding certain opinions with respect to the property in light of changed economic conditions since his testimony as an expert witness in the evidentiary hearing conducted in this matter in April 2008. Specifically, the Court wanted to hear Mr. Monday's opinions regarding (1) whether the property is worth more if sold as a whole rather than being divided and sold (2) the effect of the changes in the real estate market on the value of the property.

Counsel for some of the Osborn Heirs, Huntly Gordon, Esq., did not appear for the Motion. However, several of the family members were present and were allowed to present their position to the Court.

Mr. Monday testified that in his opinion, the changed economic conditions have strengthened his opinion that the property is worth more if sold as a whole versus being divided and sold. Mr. Monday also testified that the property has

likely declined in value since his November 2007 appraisal, but that it was difficult to say with certainty how much. Mr. Monday also testified that a minimum bid price would chill the auction process. This testimony is supported by the affidavit of Rob Strickland of Furrow Auction Company, which was previously made part of the record.

Based upon Mr. Monday's testimony and the entire record, the Court finds that the property at issue is still worth more if sold as a whole rather than being divided and sold, and that therefore a judicial sale remains the appropriate remedy in this action. The Court also finds that the minimum bid requirement should be removed from the auction process, but that any contract that results from the auction must be approved by the Court. The Court also finds that this action should be transferred to Chancery Court in order for a more efficient and expeditious sale process.

It is therefore **ORDERED** as follows:

1. This action is hereby transferred to Chancery Court.
2. The property located at 3501 Bailey Rd., consisting of 41.48 acres on the north side of Bailey Rd. and 23.38 acres on the south side of Bailey Road, described in Book 1926, Page 270 of the Williamson County Register of Deeds and being further described as Tax Map 103, Parcel 2 shall be sold at auction to the highest bidder for cash on the first available and practical date.
3. The property sold shall not include the family cemetery consisting of one-half (1/2) acre, to be described by the Osborn family pursuant to the

Court's July 14, 2008. The property description of the cemetery shall be filed with the Court no later than April 21, 2009.

4. The Property shall be sold by the Clerk & Master, who shall act as Special Commissioner for the sale of the property. The legal description of the property to be sold is set forth in paragraph 1 above.

5. The Clerk & Master shall begin publication of the property pursuant to Tenn. Code Ann. § 35-5-101.

6. The Clerk & Master shall be authorized to retain the services of an auctioneer, if necessary, with a fee not to exceed 6% of the sale of said property, plus necessary advertising fees.

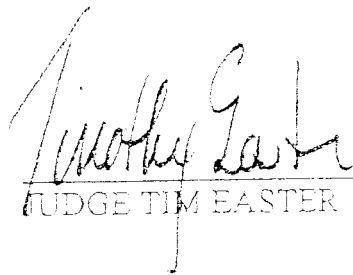
7. The Clerk & Master shall be authorized to approve auctioneer's expenses for advertising.

8. The Clerk & Master shall be authorized to obtain a necessary title search, to provide a title policy if reasonably necessary, and to take all reasonable actions to secure the sale of said property, including obtaining a survey.

9. Any contract that results from the auction must be approved by the Court before it is binding and enforceable.

10. Provided that the sale is approved by the Court, the proceeds of the sale shall be disbursed pursuant to orders of the court after all valid liens and costs of the sale have been satisfied. The parties shall apply to the Court for disbursements in specific amounts within 15 days of confirmation of the sale. Either party may request a hearing to determine the amount of that party's

disbursement, and the Court shall not disburse any proceeds to either of the parties before such hearing.

 4/20/09  
\_\_\_\_\_  
JUDGE TIM EASTER

Respectfully submitted,



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Attorneys for Intervening Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served on:

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Christopher Osborn (Via hand delivery)  
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Wartburg, TN 37887

Jeffrey Osborn  
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Franklin, TN 37064

Via United States Mail on the 14<sup>th</sup> day of April, 2009.

  
Greg Oakley

CLERK'S CERTIFICATE  
I hereby certify that a true and correct copy of  
this case has been mailed or delivered to  
an agent or counsel of record  
4/21/09 Anna Kild  
Date Clerk Court