

IN THE CLEVELAND MUNICIPAL COURT
DIVISION OF HOUSING
CUYAHOGA COUNTY, OHIO

CLEVELAND HOUSING RENEWAL PROJECT, INC.
1956 West 25th St., Suite 200
Cleveland, OH 44113

CASE NO.
08CVH 31391

JUDGE RAYMOND L. PIANKA

Plaintiff,

vs.

WELLS FARGO BANK, N.A., AS TRUSTEE
c/o James M. Strother, General Counsel
420 Montgomery Street
San Francisco, CA 94104

-and-

CITY OF CLEVELAND
601 Lakeside Ave.
Cleveland, OH 44113

Defendants.

VERIFIED COMPLAINT FOR ABATEMENT OF PUBLIC NUISANCE, INJUNCTION, AND RECEIVERSHIP (R.C. 3767.41) & FOR DECLARATION OF BUSINESS PRACTICES AS PUBLIC NUISANCE, AND FOR EQUITABLE RELIEF THEREFROM.

INTRODUCTION

1. As of the filing of this Complaint, Defendant Wells Fargo Bank (hereinafter referred to as "Wells Fargo"), a national or international bank, holds title to over 200 residential real estate properties in Cleveland, Ohio. The great majority of these properties are held by Defendant Wells Fargo's Real Estate Owned ("REO") divisions as the result of foreclosure

proceedings and sheriff's sales. Many are vacant. Many have been left unsecured and have been vandalized and stripped of whatever value they had before foreclosure.

2. This action targets 11 of those vacant properties (hereinafter referenced as the "Properties") located in or near Cleveland neighborhoods like the Slavic Village, Detroit-Shoreway, Buckeye-Woodland and Fairfax neighborhoods that – with the help of the neighborhood organizations including Plaintiff – had been showing measurable improvement in renovating and marketing their housing stock, in providing safe streets and in improving their schools and infrastructure. The progress these neighborhoods have realized is now being threatened by the activities of Defendant Wells Fargo as detailed in this Complaint.

3. The process of putting a home through the steps of foreclosure, vacancy, sheriff's sale and a subsequent sale out of a bank's "REO" inventory *dramatically decreases* the value of the home. Recent studies have established that Cuyahoga County properties auctioned at sheriff's sale and held by a bank as REO lose 56% of their market value when they are sold out of the REO[1]. Between 2005 and July 2008, there were 2,941 REO properties sold for "extremely distressed prices", defined as $10,000 or less, out of all 12,699 REO properties sold.[2] The great majority of these – 2,614 of the 2,941 – occurred in the 18-month period between January of 2007 and July of 2008.[3]

4. Once a property has been sold by a bank at an extremely distressed price – as each of these targeted Properties are likely to be – the vacant property enters the cheap housing "commodity" market where houses are bought and sold by speculators, sometimes on E-Bay and other internet auctions, sometimes for less than $1,000 – the housing equivalent of trading in

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[1] Coulton, C., Hirsh, A., & Shramm, M. (December 2008). *BEYOND REO: Property Transfers at Extremely Distressed Prices in Cuyahoga County, 2005-2008*. Cleveland, Ohio: Case Western Reserve University, Center on Urban Poverty and Community Development.
[2] *Ibid* at 2.
[3] *Ibid.*

"penny stocks". The vast majority of speculators that purchase vacant Cleveland homes have no intention of rehabilitating or living in the property – they are looking only for the opportunity to "flip" the home for a profit to another housing speculator. Meanwhile the condition of the property declines and the impact on its neighbors and its neighborhood is devastating. This phenomenon has been discussed in this Court in the case of *City of Cleveland v. Destiny Ventures, LLC*, 2008 CRB 42411.

5. The 11 Properties that are the subject of this action are each in this post foreclosure death spiral: vacancy –› boarded windows and doors → break-ins and vandalism → theft of the home's assets (copper, aluminum, iron) –› haven for criminal activity → decrease in neighborhood housing values. This action seeks an order finding each of these homes to be a Public Nuisance, defined in Ohio Revised Code 3767.41(A)(2) as "a building that is a menace to the public health, welfare, or safety". This action requests that the Court order the Defendant Wells Fargo – as owner of these properties – to immediately abate the Nuisance conditions by making either the necessary repairs required by the statute or – alternately – by properly demolishing the property. This action also seeks – by separate Motion – an Order prohibiting Defendant Wells Fargo from avoiding its responsibilities by conveying title to any of these Properties before the Nuisance has been properly abated.

THE PARTIES

6. Plaintiff **Cleveland Housing Renewal Project, INC.** (hereinafter referred to as "CHRP") is an Ohio "Nonprofit Corporation" within the meaning of R.C. 3767.41(B) and R.C. 3767.41(C)(3). CHRP has as its principal corporate goal the improvement and renewal of housing and economic conditions in the City of Cleveland.

7. Defendant **Wells Fargo**, "the largest financial institution headquartered in the western U.S.," describes itself as a "diversified financial services company providing banking, insurance, investments, mortgage and consumer finance through almost 6,000 stores, the internet and other distribution channels across North America and internationally." Wells Fargo was founded in 1852 and now has 167,500 "team members" across all 50 states, Puerto Rico and Canada. It is a very profitable bank. It reports it currently has 622 Billion dollars in assets and the market value of its stock is 125 Billion dollars. In the third quarter of 2008, in the midst of a world wide financial meltdown, Defendant Wells Fargo reported a net income of 1.64 Billion dollars and revenue of 10.38 Billion dollars, an increase of 5% over the previous year. In addition to making money, Defendant Wells Fargo claims to be dedicated to "*Corporate Social Responsibility*" and set as its corporate "vision" to "be regarded as the premier financial services company...[to] promote the economic advancement of everyone in our communities including those not yet able to be economically self sufficient, who have yet to share fully in the prosperity of our extraordinary country...[to] be known as an active community leader in economic development, in services that promote economic self-sufficiency, education, social services, the arts, and the environment." Defendant Wells Fargo states, "We alone are ultimately responsible and accountable for our ethical behavior, business practices, lending decisions, risk management and profitability."

8. Defendant **The City of Cleveland** may have or claim to have some interest in real property that is the subject of this action by virtue of code violations, utility assessments and Nuisance abatement costs.

SUMMARY OF LEGAL THEORY: NUISANCE

9. This action seeks to compel Defendant Wells Fargo to comply with state and local laws affecting public health, safety and welfare, and to accept (using its own words) "*Corporate Social Responsibility*" for the Properties *it owns* which are the subject of this Complaint. By this action the Plaintiff merely seeks the application of the established law of Nuisance to the 11 properties owned by Defendant Wells Fargo and specifically identified in this Complaint[4].

10. Plaintiff petitions this Court to declare that each of these Properties is a Public Nuisance as defined by Ohio Revised Code 3767.41(A)(2). Plaintiff further seeks such remedial action as provided by R.C. 3767.41, including but not limited to, an order to immediately abate each Public Nuisance.

11. Plaintiff further petitions this Court to declare as Public Nuisance *the business practices* of Defendant Wells Fargo with respect to its unlawful post-foreclosure practices as a property owner, including, but not limited to, its failure to abate Nuisance conditions threatening public health safety and welfare, and its perpetration and exacerbation of these conditions by the sale of Properties into the "penny stock" housing commodity market.

12. The Cleveland Municipal Court, Housing Division, has jurisdiction under R.C. 1901.131.

COMPLAINT FOR ABATEMENT OF PUBLIC NUISANCE, INJUNCTION, AND RECEIVERSHIP (R.C. 3767.41) & FOR DECLARATION OF BUSINESS PRACTICES AS PUBLIC NUISANCE, AND EQUITABLE RELIEF THEREFROM.

COUNT ONE: Declaration of Public Nuisance

13. The preceding Paragraphs of this Complaint are incorporated into this count by reference.

[4] Specifically: Ohio Revised Code (hereinafter "R.C.") 3767.03, 3767.41, City of Cleveland ordinances, including, but not limited to 203.07; 209.01; 324.01; 3101.10; and 3103.09, and common law nuisance doctrine.

14. Defendant Wells Fargo is the legal owner of certain real Properties at the locations described in Exhibit "A." Evidence of title for each of these Properties, consisting of a Preliminarily Judicial Report dated October 22, 2008, by Surety Title Company is attached hereto and incorporated herein and marked and referred to as Exhibit "B" for identification.

15. The Properties, listed in Exhibit "A" are residential structures within the meaning of "building" as defined by R.C. 3767.41(A)(1).

16. The Properties are presently a Public Nuisance as defined by R.C. 3676.41(A)(2).

17. The condition of each of these Properties is outlined in Exhibit "C," pursuant to Cleveland Housing Court Local Rule 11.01 Property Status Report.

18. Defendant Wells Fargo has had reasonable and ample notice, time and opportunity to abate the dangerous conditions and eliminate the Public Nuisance but has refused or failed to do so.

19. Plaintiff CHRP therefore petitions this Honorable Court for declaration of a Public Nuisance as defined in Ohio Revised Code 3767.41(A)(2), which describes as a "Public Nuisance": **"a building that is a menace to the public health, welfare, or safety..."**

COUNT TWO: Order of Remedial Action

20. The preceding Paragraphs of this Complaint are incorporated into this count by reference.

21. Plaintiff requests such remedial action as provided by R.C. 3767.41, including, but not limited to, an order to immediately abate the Public Nuisance, a permanent injunction, or any other relief the Court deems necessary to abate the Public Nuisances at the addresses listed in Exhibit "A."

COUNT THREE: Declaration of Defendant's Business Practices as a Public Nuisance, Request for an Order Enjoining the Same

22. Defendant Wells Fargo has acquired title to hundreds of residential properties by bidding liens it held at sheriff's sales of homes subject to foreclosure judgments.

23. As owner to the Properties referenced above, Defendant Wells Fargo has a duty to comply with the housing codes of the City of Cleveland.

24. As a general practice, after taking title to sheriff's sale properties, Defendant Wells Fargo failed to comply with the City of Cleveland Ordinances referenced above.

25. Defendant Wells Fargo's failure to comply with the codes listed above, that protect the public health safety and welfare, on a routine and regular basis constitutes negligence in its business practice.

26. In selling its properties in Nuisance condition to third parties, Defendant Wells Fargo has negligently failed to disclose to purchasers the code violations and other health and safety problems burdening the sheriff's sale properties, as required by R.C. 5302.30 and City of Cleveland Certificate of Disclosure Application for Transferring Residential Property.

27. Plaintiff, an Ohio "Nonprofit Corporation" with its principal corporate goals the improvement of housing and economic conditions in the City of Cleveland, functions to invest, develop and build residential properties in the City of Cleveland.

28. Plaintiff and the residents of the City of Cleveland have been harmed in their health, safety and welfare by the unlawful business practices of Defendant Wells Fargo, as described in the preceding Paragraphs.

29. The business practices of Defendant Well Fargo, described in the preceding Paragraphs, are the actual and proximate cause of the harm.

30. Plaintiff therefore petitions this Honorable Court to declare a Public Nuisance the ***business practices*** of Defendant Wells Fargo in its post foreclosure purchase, maintenance and sale of residential properties acquired through sheriff's sale in the City of Cleveland.

31. Defendant Wells Fargo continues to acquire sheriff's sale properties and deal with them in the manner described in the preceding Paragraphs.

32. Defendant Wells Fargo's business practices, described in the preceding Paragraphs, are a continuing and ongoing Nuisance because Defendant Wells Fargo continues to acquire, maintain and sell additional sheriff's sale properties.

33. Plaintiff requests equitable relief, including but not limited to, an order restraining Defendant Wells Fargo from selling residential properties without prior authorization from this Honorable Court, and an injunction permanently enjoining Defendant Wells Fargo's business practices in its handling of sheriff's sale properties.

WHEREFORE, Plaintiff prays for relief as follows:

A. Declare as Public Nuisances both the Properties listed in Exhibit "A" and Defendant Wells Fargo's business practices as described above.

B. Order Defendant Wells Fargo to identify and inventory all properties it currently owns or controls in its own right, or as trustee, or as fiduciary, in the City of Cleveland.

C. Order Defendant Wells Fargo to maintain as current the inventory specified in Paragraph B, above.

D. Prohibit Defendant Wells Fargo from taking any legal action affecting the title to or possession of the Properties without prior authorization of this Court.

E. Permanently enjoin Defendant Wells Fargo from maintaining the Properties it owns in such a manner so as to constitute a Public Nuisance.

F. Permanently enjoin Defendant Wells Fargo from conducting its business practices in a manner constituting a Public Nuisance.

G. Order Defendant Wells Fargo to abate the Public Nuisance at all its Properties in accordance with the standard for abatement stated in R.C. 3767.41(A)(3).

H. Order Defendant Wells Fargo to abate its business practices by complying with City of Cleveland housing health and safety codes and other applicable law preventing Nuisance conditions in residential properties.

I. Direct the Defendant Wells Fargo to pay the cost of this proceeding, including Plaintiff's Attorney's fees and expenses.

J. For such other and further relief as the Court deems just and equitable.

Respectfully submitted,

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VERIFICATION

I, Frank Ford, Executive Director of CHRP, hereby verify and affirm that the facts set forth in the foregoing Complaint are true to the best of my knowledge and belief.

Frank Ford
Executive Director of CHRP

IN THE CLEVELAND MUNICIPAL COURT
DIVISION OF HOUSING
CUYAHOGA COUNTY, OHIO

COPY

CLEVELAND HOUSING RENEWAL PROJECT, INC.

Plaintiff,

-v-

WELLS FARGO BANK, N.A., AS TRUSTEE, ET AL.

Defendants.

CASE NO.

JUDGE RAYMOND L. PIANKA

08CVH 31391

oOo

MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

The Plaintiff Cleveland Housing Renewal Project ("CHRP"), by and through its attorneys, pursuant to Rule 65 of the Ohio Rules of Civil Procedure and for the reasons stated in the attached Memorandum, moves this Court for a Temporary Restraining Order and Preliminary Injunction against Defendant Wells Fargo, enjoining it from directly or indirectly conveying any interest in the Properties identified by the permanent parcel numbers, addresses and legal descriptions listed in Exhibit "A" attached to the Verified Complaint, and hereinafter referenced as the "Properties."

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF
Cleveland Housing Renewal Project Inc.

MEMORANDUM

I. STATEMENT OF FACTS

Plaintiff Cleveland Housing Renewal Project ("CHRP") is an Ohio non-profit corporation operating as a neighborhood development corporation in the City of Cleveland.

Defendant Wells Fargo Bank, N.A., as Trustee ("Wells Fargo") owns approximately 800 properties in Cuyahoga County, based on County Auditor data through 10-31-08 and County Sheriff sale data through 12-8-08. NEO CANDO system, Center on Urban Poverty and Community Development, MSASS, Case Western Reserve University (http://neocando.case.edu). After thousands of homeowners defaulted on their mortgages, Defendant Wells Fargo accordingly brought thousands of mortgage foreclosure actions.

This action targets 11 of the properties that went through mortgage foreclosures. After obtaining a judgment in the foreclosure action, Wells Fargo requested the Properties be sold at sheriff's sale. At sheriff's sale, Wells Fargo purchased the Properties by using its lien as the bid price.

The Properties are residential structures within the meaning of "building" as defined by R.C. 3767.41(A)(1). The Properties are presently vacant and public nuisances as defined by R. C. 3767.41(A)(2). They are located in or near Cleveland neighborhoods like Slavic Village, Detroit-Shoreway, Buckeye-Woodland and Fairfax. These neighborhoods with the help of neighborhood organizations including Plaintiff - had been showing measurable improvement in renovating and marketing their housing stock, in providing safe streets and in improving their schools and infrastructure. The progress these neighborhoods have realized is now being threatened by the activities of Defendant Wells Fargo. Defendant Wells Fargo has had ample notice, time and opportunity to abate the dangerous conditions and eliminate

the public nuisances but has refused or failed to do so.

II. ARGUMENT

A. THIS COURT MUST ENTER A TEMPORARY RESTRAINING ORDER, PROHIBITING THE DEFENDANT FROM CONVEYING TO ANY THIRD PARTY ANY OF THE 11 PROPERTIES WHICH ARE THE SUBJECT OF THIS ACTION.

Ohio Rule of Civil Procedure 65(A) provides that a court may enter a temporary restraining order, without written or oral notice to the adverse party or his or her attorney, under the following conditions:

> (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting his claim that notice should not be required.
>
> Ohio R. Civ. Pro. 65(A).

The Plaintiff, CHRP, has filed a Verified Complaint against Defendant Wells Fargo that alleges specific facts clearly showing that it owns certain Properties that are a public nuisance. The actions of Defendant Wells Fargo pose an immediate and serious threat of irreparable harm to CHRP. Specifically, CHRP will have to bring multiple nuisance actions against multiple and often ill-defined interests, which it does not have the time or resources to do and will be immediately and irreparably harmed should Wells Fargo convey its interest in the Properties to anyone else, without prior approval of this Court, while this litigation is active.

B. THE PLAINTIFF IS ENTITLED TO A PRELIMINARY INJUNCTION, ENJOINING THE DEFENDANT FROM CONVEYING ANY OF THE 11 PROPERTIES WHICH ARE THE SUBJECT OF THIS ACTION

Ohio Rule of Civil Procedure 65 provides for issuance of a preliminary injunction upon reasonable notice to the adverse party. Ohio R. Civ. Pro. 65(B).

Preliminary injunctions are issued to preserve the status quo pending a resolution of the case on the merits. *Yudin v. Knight Industries Corp.* (1996), 109 Ohio App. 3d 437, 439, 672 N.E.2d 265, *cert. denied*, 76 Ohio St. 3d 1495, 670 N.E.2d 242. The decision to grant or deny a motion for injunctive relief is solely within the trial court's discretion. *Danis Clark Landfill Co. v. Clark Cty. Solid Waste Mgt. Dist.* (1995), 73 Ohio St. 3d 590, 653 N.E.2d 646, Syll. ¶ 3.

In deciding a motion for a preliminary injunction pursuant to Rule 65, the court must consider the following:

> whether (1) the movant has shown a strong or substantial likelihood or probability of success on the merits, (2) the movant has shown irreparable injury, (3) the preliminary injunction could harm third parties, and (4) the public interest would be served by issuing the preliminary injunction.

Johnson v. Morris (1995), 108 Ohio App. 3d 343, 352, 670 N.E.2d 1023, *app. dism'd.* (1996), 76 Ohio St. 3d 1404, 666 N.E.2d 565.

The trial court must exercise its discretion to determine whether an adequate remedy at law is available or whether irreparable harm will result to the moving party if the motion is denied. *Dayton Metro. Hous. Auth. V. Dayton Human Rel. Council* (1992), 81 Ohio App. 3d 436, 442, 611 N.E.2d 384, *juris. mot. Overruled*, 65 Ohio St. 3d 1457, 602 N.E.2d 253. "Irreparable harm" means an injury "for the redress of which, after its occurrence, there could be no plain, adequate and complete remedy at law, and for which restitution in specie would be impossible, difficult or incomplete." *Cleveland v. Cleveland Elec. Illum. Co.* (1996), 115 Ohio App. 3d 1, 12, 684 N.E.2d 343, *app. dismd.* (1997), 78 Ohio St. 3d 1419, 676 N.E.2d 123.

1. THE PLAINTIFF HAS SHOWN A STRONG OR SUBSTANTIAL LIKELIHOOD OR PROBABILITY OF SUCCESS ON THE MERITS.

Plaintiff has a very strong likelihood of succeeding on the merits of the case.

Plaintiff has been involved in or financed nuisance abatement cases brought under the receivership statute R.C. 3767.41 in this Court. For example, Plaintiff is currently acting as receiver in a case filed under R.C. 3767.41. *City of Cleveland v. Dubuk*, 2007 CVH 3187 (Cleveland Municipal Court, Housing Division).

This Court has ruled in a number of instances on R.C. 3767.41 public nuisances and receivers have been appointed to abate the same. Other non-profit neighborhood based organizations like CHRP have been using the statute as a tool to abate nuisances for a number of years. This case is likewise filed under the nuisance abatement receivership statute. Consequently, just as Plaintiff and many others have succeeded on the merits of similar cases before this Court, Plaintiff too has a strong likelihood of succeeding on the merits of this case. The Court should grant the injunction and not allow Wells Fargo to convey any of the Properties, without prior approval by this Court, while this litigation is active.

2. THE PLAINTFF HAS SHOWN IRREPARABLE INJURY IF THE INJUNCTION IS NOT GRANTED.

Plaintiff will suffer irreparable injury if the injunction is not granted. Permitting Defendant Wells Fargo to put these Properties into the commodity pool of houses sold out of REO at extremely low "penny stock" prices will:

- Make it difficult, if not impossible, to determine subsequent ownership interests;
- Result in a dramatic decline in the condition of the Property;
- Make the Property more likely to be the object of illegal activity including activity that is dangerous to the immediate neighbors;
- Make it substantially less likely that these Properties will be either renovated or demolished in the foreseeable future;

- Require Plaintiff (or other non-profit neighborhood based organizations similar to CHRP) to bring multiple nuisance actions against multiple and often ill-defined legal interests; and
- Require that Plaintiff (or other non-profit neighborhood based organizations similar to CHRP) expend a significantly larger amount of money for nuisance abatement actions.

Plaintiff will simply not be able to afford multiple nuisance actions directed at these Properties because bringing individual nuisance actions against individual owners would require the expenditure of an estimated $250,000 in legal fees versus approximately $30,000 for bringing a single legal action, like the case before this Court. Each Property is unique, thus, abatement costs vary depending on the location and condition of the Property. For example, CHRP is currently the receiver in a case where the projected abatement costs have reached an alarming amount exceeding $100,000. *Cleveland Housing Renewal Project v. Dubuk, Supra.* CHRP lacks the time and financial resources to bring multiple separate nuisance actions at one time as would be needed if these Properties are sold during this litigation. Consequently, CHRP will be irreparably injured by an amount and to a degree that would be impossible or difficult to determine if this injunction is not granted. The Court should grant the injunction forbidding the conveyance of any of the Properties, without prior approval by this Court, while this litigation is active.

3. THIRD PARTIES WILL NOT BE HARMED IF AN INJUNCTION IS ISSUED.

The Properties are vacant and abandoned. There are no tenants or renters with whose occupancy or use of the Property would be interfered pending the adjudication of this action. Third parties will not be harmed if the injunction is issued; in fact, the opposite will happen. Third parties will benefit from this injunction. This injunction

will ensure that this Court can make a judgment based on all 11 Properties in one proceeding rather than having to make 11 judgments on 11 individual nuisance abatement cases after they have been sold to others. The court should not allow Defendant Wells Fargo to escape liability via sale of the Properties. By selling the Properties without abating the nuisance, Defendant Wells Fargo is externalizing the costs of its liabilities while internalizing the profits. The immediate neighbors and the public who have been paying their mortgage or rent and remain in their homes are bearing the cost.

4. THE PUBLIC INTEREST WOULD BE SERVED BY ISSUING THE INJUNCTION.

Besides lack of time and resources on the part of CHRP to bring 11 separate nuisance abatement actions and the irreparable harm they will suffer, the actions of Wells Fargo pose a further threat of irreparable harm to the public interest. The public cannot afford to wait for the adjudication of 11 separate nuisance cases. The public's cost will not only be monetary as evidenced by the decrease in value of homes but nonmonetary as evidenced by the increased violence on their streets. The public health safety and welfare will continue to be threatened by houses that remain vacant and abandoned inviting crimes, including arson, theft, drug trafficking and the like.

The sale by Defendant Wells Fargo of these Properties will contribute to the downward spiral of the City's housing stock. As this Court has held, "rather than leading to rehabilitation and investment, quick "as is" sales generally leave a Cleveland home vacant and unrepaired, and contribute to the overall decline of the City's housing stock." *City of Cleveland v. Destiny Ventures, Supra.* This is evidenced by research on the Cuyahoga County Auditor's website which revealed that numerous parcels acquired by Wells Fargo at sheriff's sale were sold to speculators such as

Destiny Ventures, LLC. For example, County Auditor's records show that Wells Fargo transferred the property at 10905 Gay Ave. on June 20, 2008 to Destiny Ventures for $1,250 who in turn transferred the property to Stonecrest Investments, Inc. on July 11, 2008 for $1,750. The Court should stop this cycle by not permitting Wells Fargo to convey the Properties under this Court's jurisdiction without prior authorization of the Court while litigation is active.

A recent study, **Beyond REO: Property Transfers at Extremely Distressed Prices in Cuyahoga County, 2005-2008**, has established that Cuyahoga County properties auctioned at sheriff's sale and held by a bank as REO lose 56% of their market value when they are sold out of REO. Coulton, C., Hirsh, A., & Shramm, M. (December 2008). *BEYOND REO: Property Transfers at Extremely Distressed Prices in Cuyahoga County, 2005-2008.* Cleveland, Ohio: Case Western Reserve University, Center on Urban Poverty and Community Development. **Wells Fargo is the second highest seller of properties for $10,000 or less out of REO in Cuyahoga County.** *Id.* The quick "as is" sale of these Properties will be harmful to the public interest.

This illustrates the role of Wells Fargo in the abuse of blighted properties for speculation in real estate which has the effect of destroying neighborhoods. The public interest would be served by the Court granting this injunction and prohibiting Wells Fargo from avoiding its responsibilities as a property owner by conveying title to any of these Properties, without the Court's prior authorization, while this litigation is active.

CONCLUSION

For the reasons stated above, Plaintiff CHRP respectfully requests that this Court immediately enter a temporary restraining order forbidding the conveyance of any of the Properties, without prior approval by this Court pending a preliminary

hearing in 14 days. Later, after Defendant Wells Fargo has received proper notice and has had an opportunity to be heard, Plaintiff CHRP requests that this Court enter a preliminary injunction preventing the conveyance of the Properties, without prior approval by this Court, while this litigation is active.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF
Cleveland Housing Renewal Project Inc.

IN THE CLEVELAND MUNICIPAL COURT
DIVISION OF HOUSING
CUYAHOGA COUNTY, OHIO

CLEVELAND HOUSING RENEWAL PROJECT, INC. Plaintiff, -v- WELLS FARGO, N.A., AS TRUSTEE Defendant.	CASE NO. 08-CVH-31391 JUDGE RAYMOND L. PIANKA TEMPORARY RESTRAINING ORDER

TEMPORARY RESTRAINING ORDER

This cause came to be heard on December 15, 2008, at 11:00 a.m. on the Plaintiff's Verified Complaint, Motion for Temporary Restraining Order and the Affidavit of Attorney Roger W. Van Deusen. Present in Court were Plaintiff, Plaintiff's counsel, and counsel for the City of Cleveland. The Court finds, based upon the affidavit of Mr. Van Deusen, that Plaintiff attempted to provide notice to the Defendants that Plaintiff would seek a temporary restraining order, on this date, at this time. Defendant City of Cleveland appeared and supported the Court granting the motion for temporary restraining order. Defendant Wells Fargo did not appear. The Court is persuaded that Plaintiff would be irreparably harmed by the conveyance by defendant Wells Fargo of any of the Properties described in the Complaint unless restrained by order of this Court, and that immediate and irreparable injury, loss, and damage will result to Plaintiff unless defendant Wells Fargo is restrained, and before this matter can be heard fully.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED that Defendant Wells Fargo and all persons acting in concert therewith shall refrain from conveying any interest in any of the 11 parcels (hereinafter "Properties") identified by the parcel numbers, addresses and legal descriptions in Exhibit A attached to the Verified Complaint and also attached to this Temporary Restraining Order as Exhibit A.

IT IS FURTHER ORDERED that this order expire within fourteen (14) days after entry unless within such time the order for good cause shown is extended, or unless the Defendant consents that it may be extended for a longer period of time;

ORDERED that Plaintiff's Motion for a Preliminary Injunction be assigned for hearing before this Court on **December 29, 2008**, at **10:00 a.m.** in **Courtroom 13B**; and it is further

ORDERED that this Order shall be effective upon the posting by the Plaintiff of security in the amount of $11,000.00 for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained; and it is further

ORDERED that copies of this order and of Plaintiff's Verified Complaint shall be immediately served by Certified Mail upon Defendant Wells Fargo and its counsel.

Dated: December 15, 2008

JUDGE RAYMOND L. PIANKA

EXHIBIT "A"

1. PPN: 121-34-098
ADDRESS: 11501 Mount Overlook Ave Cleveland, OH

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sub-Lot No. 52 in the Heisley Heights Subdivision of part of Original One Hundred Acre Lots No. 418, 419 and 420 as shown by the recorded plat in Volume 36 of Maps, Page 23 of Cuyahoga County Records, and being 40 feet front on the Northerly side of Quincy Avenue, S. E. (formerly Heisley Avenue) and is known as Mt. Overlook Avenue, and extending back of equal width 104.65 feet as appears by said plat, be the same more or less, but subject to all legal highways.

2. PPN: 129-14-121
ADDRESS: 2800 E 117th St. Cleveland, OH

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio, and described as follows, to wit:

Known as being part of Original 100 Acre Lot No. 428, and bounded and described as follows: Beginning at a point in the Westerly line of proposed East 117th Street (said street being 50 feet wide), the Westerly line thereof being parallel with the Easterly line of East 116th Street and 240 feet Easterly therefrom 560-58/100 feet Northerly of the intersection of the Westerly line of proposed East 117th Street with the Northerly line of Buckeye Road, S.E.; thence Westerly parallel with the Northerly line of land conveyed to Joseph Halle and Joshua E. Hail by deed dated April 6, 1872, and recorded in Volume 201, Page 178 of Cuyahoga Records, 120 feet; thence Northerly parallel with said Easterly line of East 116th Street, 40 feet; thence Easterly 120 feet to the Westerly line of proposed East 117th Street; thence Southerly 40 feet to the place of beginning, and being further known as Sublot No. 35 in the South Woodland Rice Avenue Allotment proposed, of part of said Original 100 Acre Lot No. 428, be the same more or less, but subject to all legal highways.

3. PPN: 119-32-166
ADDRESS: 2321 E 87th St. Cleveland, OH

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio: and known as being the Northerly 8-1/2 feet from front to rear of Sublot No. 51, and Southerly 18 feet front to rear of Sublot No. 50 in W. H. Cleminshaw's Subdivision of a part of Original One Hundred Acre Lot No. 408, as shown by the recorded plat in Volume 18 of Maps, page 18 of Cuyahoga County Records, and together forming a parcel of land 26.50 feet front on the Easterly side of East 87th Street (formerly Shelburne Street), and extending back of equal width 85 feet deep, as appears by said plat, be the same more or less, but subject to all legal highways.

4. PPN: 126-03-016
ADDRESS: 2430 E 86th St. Cleveland, OH

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio: and known as being Sublot 109 in L.M. Southern, H.F. Hower and Levi Burgerts Subdivision of part of Original One Hundred Acre Lot No. 415 as shown by the recorded plat in Volume 5 of Maps, Page 53 of Cuyahoga County Records and being 35 feet front on the westerly side of East 86th Street (formerly Congress Street) and extending back 120 feet 9 inches deep on the northerly line, 121 feet deep on the southerly line and being 35 feet wide in the rear as appears by said plat, be the same more or less, but subject to all legal highways.

5. PPN: 126-05-071
ADDRESS: 8719 Beckman Ave Cleveland, OH

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio

And known as being Sublot No. 35 in Purcell and Weaver's Subdivision of part of original One Hundred Acre Lot No. 416, as shown by the recorded plat in Volume 29, Page 17 of Cuyahoga County Records of plats, and being 35 feet front on the northerly side of Beckman Avenue, SE, (formerly Beckman Street), 120.50 feet deep on the easterly line, and 120.55 feet deep on the westerly line, and 35 feet in the rear, as appears by said plat, be the same more or less, but subject to all legal highways.

6. PPN: 126-07-007
ADDRESS: 2421 E 89th St. Cleveland, OH

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio

And known as being parts of Sublots 28 and 29 in William Given's Allotment of a part of Original One Hundred Acre Lot No. 418, as shown by the recorded plat of said Allotment in Volume 4 of Maps, Page 59 of Cuyahoga County Records and being further bounded and described as follows: Beginning on the Easterly line of East 89th Street (60 feet wide) at a point 37 feet Northerly from the intersection of the Easterly line of East 89th Street, with the Northerly line of Folsom, S.E., 150 feet to the Westerly line of an alley 10 feet 8 inches wide conveyed to the City of Cleveland for alley purposes by deed recorded in Volume 477, Page 185; Thence Southerly along the Westerly line of said alley 13 feet to the North line of a parcel of land conveyed to Henry Hodek by deed dated March 20, 1908 and recorded in Volume 1136, Page 578; Thence Westerly along the Northerly line of said Hodak's land and parallel to the Northerly line of Folson Avenue, S.E., 30 feet; Thence Southerly along the Westerly line of said premises conveyed to said Hodak 23 feet; Thence Westerly and parallel to the Northerly line of Folsom Avenue, S.E., 100 feet to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways.

7. PPN: 120-07-001
ADDRESS: 10724 Orville Ave Cleveland, OH

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio

And known as being Sublot No. 97 in J. H. Wade, et al Re-Subdivision of part of Original One Hundred Acre Lot No. 386, as shown by the recorded plat or said Re-Subdivision in Volume 33 of Maps, Page 18 of Cuyahoga County Record. Said Sublot No. 97 has a frontage of 50 feet on the Southerly side of Orville Avenue, N.E., and extends back between parallel lines 200 feet, as appears by said plat, be the same more or less, but subject to all legal highways.

8. PPN: 120-20-057
ADDRESS: 11010 Ashbury Ave Cleveland, OH

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio:

And known as being PARTS OF Sublots Nos. 312 and 313 in the Re-Allotment and re-survey of a part of the Wade Park Allotment of a part of Original One Hundred Acre Lots Nos 386, , 387, 394, 402, and 403, as appears by the recorded plat of said Re-Allotment in Volume 33 of Maps, Page 29 and 30, Cuyahoga County Records, said parts as follows:

Beginning at a point in the southerly line of Ashbury Avenue, N.E. 27.06 feet westerly6 of the northeast corner of Sublot No. 312; thence easterly, along the southerly line of Ashbury Avenue 48 feet; thence southerly parallel to the easterly line of Sublot No. 315, a bout 168 feet to the southerly or real line of said Sublot No. 313, thence westerly along the southerly or rear lines of Sublots Nos. 313 and 312, 48 feet; thence northerly, parallel to the westerly line of Sublot No. 312; about 168 feet to the southerly line of Ashbury Avenue, and to the place of beginning.

ROBERT KLAIBER PE P.S.

9. PPN: 120-02-012
ADDRESS: 10918 Superior Ave Cleveland, OH

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio; and known as being the Easterly 10 feet from front to rear of Sublot No. 333 and the Westerly 32 feet, front to rear of Sublot 132 in the Phillips Subdivision of part of Original 100 Acre Lots Nos. 386 and 387 as shown by the recorded plat in Volume 19 of Maps, Page 23 of Cuyahoga County Records and together forming a parcel of land 42 feet on the Southerly side of Superior Avenue, S.E. and extending back of equal width 130 feet to an alley in the rear, as appears by said plat.

10. PPN: 123-31-083
ADDRESS: 5255 Dolloff Rd. Cleveland, OH

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio

And known as being part of Original 100 acre Lot No. 320 and bounded and described as follows:
Beginning on the Northeasterly line of Dolloff Road S.E., at the point 159½ feet Northwesterly from its intersection with the Northwesterly line of Berkhill Avenue S.E., Thence Northwesterly along said Northeasterly line of Dolloff Road S.E., 34 feet; Thence Northeasterly at right angles with Dolloff Road, S.E., 110 feet, Thence Southeasterly parallel with Dolloff Road, S.E., 34 feet, Thence Southwesterly 110 feet to the place of beginning, be the same more or less, but subject to all legal highways.

11. PPN: 123-31-079
ADDRESS 5241 Dolloff Rd. Cleveland, OH

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio:

And known as being a part of Original One Hundred Acre Lot No. 320, bounded and described as follows:

Beginning at a point in the Northeasterly line of Dolloff Road, S.E., 296.5 feet Northwesterly from intersection of Dolloff and Barkhill known as house #5241 Dolloff Road.

Beginning at Point on the Northeasterly Line of Dolloff Rd. S.E. 296.5 Feet Northwesterly from the Intersection of said Northeasterly Line of Dolloff Road, S.E., with the Northwesterly Line of Barkwill Avenue S.E., thence Northeasterly and parallel with said Northwesterly Line of Barkwill Ave. S.E. 99.5 Feet to a stake; thence Northwesterly 35 Feet to a stake distant 100.5 Feet from the Northeasterly Line of Dolloff Road S.E.; thence Southwesterly and parallel with said Northwesterly Line of Barkwill Ave. S.E. 100.5 Feet to a stake on the Northeasterly Line of Dolloff Road S.E.; thence Southeasterly along the Northeasterly Line of Dolloff Road S.E., 35 Feet to the Place of beginning, be the same more or less, but Subject to all Legal Highways.