

RESOLUTION NO. 1261

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO ENTER INTO A PROPOSED JOURNAL ENTRY OF JUDGMENT IN REGARD TO THE FORECLOSURE ACTION FILED BY ENERGY ONE FEDERAL CREDIT UNION AGAINST THE PROPERTY LOCATED AT 1934 WEST TOLEDO COURT, BROKEN ARROW, OKLAHOMA 74012, TULSA COUNTY CASE NUMBER CJ-2019-1554, AND DIRECTING THE CITY ATTORNEY TO PREPARE AND FILE THE NECESSARY DOCUMENTS TO EFFECTUATE THE JOURNAL ENTRY OF JUDGMENT

WHEREAS, On April 16, 2019, Energy One Federal Credit Union filed a foreclosure action against Larry R. McCoy, the Unknown Spouse of Larry R. McCoy, the City of Broken Arrow, the State of Oklahoma, and the Unknown heirs, executors, administrators, devisees, trustees, and assigns, immediate and remote of Connie Douglas, deceased, Unknown Occupants, as a result of Larry R. McCoy's failure to make timely payment on a mortgage note valued at \$25,000, secured by the property located at 1934 W. Toledo Ct., Broken Arrow, OK 74012. At the time Energy One Federal Credit Union filed its lawsuit, Larry McCoy still owed \$24,551.23 on the mortgage note. City of Broken Arrow was named as a defendant for the purpose of establishing priority of the liens filed against the property. City answered the Petition, admitting it has a filed cleaning and/or mowing lien pursuant to 11 O.S. §§ 22-111, 22-112 filed with the Tulsa County Clerk on November 20, 2018, Doc # 2018107137 in the amount of \$338.57 on the property located at 1934 W. Toledo Ct., Broken Arrow, Oklahoma. The Certified Statement of Costs Lien was filed with the Tulsa County Clerk on December 17, 2018, Doc. # 2018115346. The entirety of the amount outstanding and owed to City is \$818.57 for which City asserts a right to recovery upon foreclosure of the property. A lien for the total \$818.57 was not filed. The State of Oklahoma, by way of the Oklahoma Health Care Authority, answered the Petition, confirming it holds a medical payments lien in the amount of \$35,019.89 as of November 30, 2018. Neither Larry McCoy nor anyone acting on his behalf has answered Energy One Federal Credit Union's Petition.

WHEREAS, after reviewing the facts in this matter, the Council has determined that settlement in this matter is proper and that a Journal Entry of Judgment should be entered into this matter allocating payments to Energy One Federal Credit Union, the City of Broken Arrow, and the Oklahoma Health Care Authority in the following amounts following sale of the subject property:

- FIRST: To the payment of the costs herein accrued and accruing;
- SECOND: To the payment of the judgment and lien of the Plaintiff in the amounts set forth;
- THIRD: To the payment of the lien of the Defendant, City of Broken Arrow, all as per its lien filed with the Tulsa County Clerk as Doc # 2018107137 on November 28, 2018;
- FOURTH: To the payment of the lien of the Defendant, State of Oklahoma, ex rel. Oklahoma Health Care Authority, all as per its lien filed with the Tulsa County Clerk as Doc # 2018107953 on November 30, 2018;

FIFTH: To the payment of the lien of the Defendant, City of Broken Arrow, all as per its lien filed with the Tulsa County Clerk as Doc # 2018115346 on December 27, 2018;

SIXTH: The balance, if any, to be paid to the Clerk of the District Court to await the further order of the District Court; and

WHEREAS, the City Council has determined that such resolution is a just reasonable settlement; and

WHEREAS, it is the desire of the Council to approve such settlement agreement by authorizing the City Attorney to prepare and file the necessary documents to settle this case, including a Journal Entry of Judgment.

NOW, THEREFORE, BE IT RESOLVED that the City Attorney be, and is hereby directed to agree to entry of a judgment in the case of *Energy One Federal Credit Union v. Larry R. McCoy et al.*, Tulsa County Case No. CJ-2019-1554; and

BE IT FURTHER RESOLVED that the City Attorney is hereby directed to prepare and file the necessary documents, including a Journal Entry of Judgment setting forth the lien priorities of the parties to Tulsa County Case No. CJ-2019-1554, and to execute any and all necessary documents to effectuate this settlement for the Court's approval pursuant to 51 O.S. § 158.

APPROVED by the Mayor of the Council of the City of Broken Arrow, Oklahoma this 3rd day of September, 2019.

ATTEST:

Mayor

City Clerk

REVIEWED as to for form and legality this 3rd day of September, 2019.

City Attorney