

Case: 2:11-cv-00724-ALM-TPK Doc #: 50 Filed: 04/10/12 Page: 1 of 4 PAGEID #: 186

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**ESTATE OF MARY A. HERDA,  
DECEASED, et al.,**

**Defendants.**

**CIVIL NO. 2:11CV00724  
JUDGE MARBLEY  
MAGISTRATE JUDGE KEMP**

**ORDER ESTABLISHING PRIORITY OF LIENS  
IN REVERSE MORTGAGE FORECLOSURE ACTION**

This cause came on to be heard upon the Motion of plaintiff, United States of America for an order establishing the priority of liens of all the parties to this suit against the real property involved in this foreclosure action.

This is an action to foreclose on a Home Equity Conversion Mortgage (HECM), known in the general financial field as a reverse mortgage. The reverse mortgage program was established by Congress under 12 U.S.C. § 1715, et seq. and further regulated by 24 C.F.R. Part 206, et seq. Under the reverse mortgage program, the borrower does not have a payment plan. The amount owed on the mortgage becomes due when the borrower dies or has vacated the premises for a period of one year.

Plaintiff, United States of America, is the holder of two Adjustable Rate Notes (Home Equity Conversion) wherein Mary A. Herda, now deceased, is the borrower. Under the terms of Paragraph 7 of the Notes (Plaintiff's Complaint, Exhibits 1 and 3) and Paragraph 9 of the reverse

Mortgages (Plaintiff's Complaint Exhibits 2 and 4), payment in full was required on the date of death of Mary A. Herda.

The Court finds the motion of plaintiff to be well taken.

THEREFORE, IT IS ORDERED that the priority of liens to the real property described in plaintiff's complaint and more commonly known as 1150 Taylor Street, Zanesville, Ohio 43701 shall be as follows:

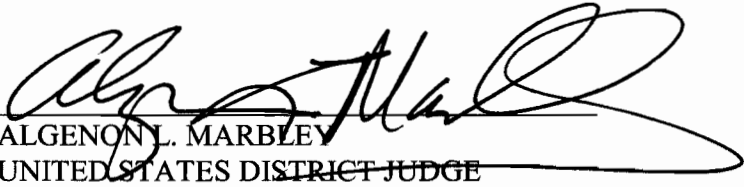
First: The lien of defendant, Treasurer of Muskingum County, Ohio for real estate taxes and assessments due and owing as to Parcel Numbers 17-74-04-08-000 and 17-75-04-09-000.

Second: The mortgage lien of plaintiff, United States of America, acting through the Secretary of Housing and Urban Development recorded on July 28, 2004 in Book 1883, Page 732, Mortgage Deed Records, Recorder's Office, Muskingum County, Ohio.

Third: The mortgage lien of plaintiff, United States of America, acting through the Secretary of Housing and Urban Development, recorded July 28, 2004 in Book 1883, Page 721, Recorder's Office, Muskingum County, Ohio. By virtue of a Subordination Agreement recorded on February 26, 2009 in Book 2204, Page 934 of the Muskingum County Recorder's Office, the Secretary of Housing and Urban Development subordinated the priority of the mortgage recorded in Book 1883, page 721 to the mortgage recorded in Book 1883, Page 732.

The Court further finds that a Certificate of Estate Tax Payment and Real Property Disclosure for Dates of Death on or after November 8, 1990, dated July 14, 2010, was filed on July 23, 2010 in the Probate Court of Muskingum County, Ohio, under Case Number 20101076,

indicating that no Ohio estate tax return is required to be filed. Therefore, defendant State of Ohio, Estate Tax Division has no lien or interest in the property to be foreclosed.

  
ALGENON L. MARBLEY  
UNITED STATES DISTRICT JUDGE

APPROVED:

CARTER M. STEWART  
United States Attorney

s/Bethany J. Hamilton  
BETHANY J. HAMILTON (0075139)  
Assistant United States Attorney  
Attorney for Plaintiff  
303 Marconi Boulevard, Suite 200  
Columbus, Ohio 43215  
Telephone: (614) 469-5715  
Facsimile: (614) 469-5240  
E-mail: bethany.hamilton@usdoj.gov

MICHAEL DeWINE  
Attorney General of Ohio

s/Lucas Ward (per written approval of 4/3/2012)  
LUCAS WARD (0076654)  
Assistant Attorney General  
Attorney for Defendant Ohio Department  
Of Taxation, Estate Tax Unit  
Collections Enforcement Section  
150 East Gay Street, 21st Floor  
Columbus, Ohio 43215-3130  
Telephone: (614) 466-8671  
Facsimile: (614) 752-9070  
E-mail: lucas.ward@ohioattorneygeneral.gov

D. MICHAEL HADDOX  
Prosecuting Attorney

s/Ronald G. LaAsmar (per telephone approval of 4/10/12)  
RONALD G. LaASMAR (0004906)  
Assistant Prosecuting Attorney  
Attorney for Defendant Treasurer of Muskingum  
County, Ohio  
27 North Fifth Street  
Zanesville, Ohio 43701  
Telephone: (740) 455-7123  
Facsimile: (740) 455-7141