



IN AND FOR THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

piSTRICK COURT

AUP 19 2021

ABERDEEN FALLS HOMEOWNERS'
ASSOCIATION, INC.

Plaintiff,

vs.

DAVID RUTKAUSKAS and CAMILLE
RUTKAUSKAS, Husband and Wife;
OCCUPANT(S) OF PREMISES AT 10720 S.
FIR PL., JENKS, OKLAHOMA,

Defendants.

DON NEWBERRY, Court Clerk
ATATR OF OKIA. TULSA COUNT*

Case No.

CJ-2021-02378

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PETITION FOR FORECLOSURE OF OWNERS ASSOCIATION LIEN

COMES NOW the Plaintiff, Aberdeen Falls Homeowners' Association, Inc. ("Plaintiff"), and for its cause of action against the Defendant(s) herein alleges and states as follows:

1. That Plaintiff is an Oklahoma non-profit corporation with its principal place of business in Jenks, Tulsa County, Oklahoma;

2. That Plaintiff did timely file its *Deed of Dedication for The Crossing at 91st* in the office of the County Clerk for Tulsa County, Oklahoma, on October 13, 2003, as Document No. 2003157702, and *Bylaws of Aberdeen Falls Homeowners' Association, Inc.* dated March 31, 2011 (collectively, the Governing Documents), the same being hereby incorporated by reference and made a part hereof as if fully set forth hereafter;

3. That the Defendants David Rutkauskas and Camille Rutkauskas, husband and wife (collectively, "Defendant Rutkauskas"), are the record owners of the real property that is the subject matter of this action, the same being legally described as follows:

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Lot Thirty-Eight (38), Block One (1), ABERDEEN FALLS, an Addition to the City of Jenks, Tulsa County, State of Oklahoma, according to the recorded Plat thereof, a k/a 10720 S. Fir PL, Jenks, OK (the Subject Property");

4. That pursuant to the terms of the Governing Documents, Defendant Rutkauskas did become indebted to Plaintiff for assessments, both regular and special, for common expenses incurred by Plaintiff in the maintenance, repairs and improvements made to the property known as Aberdeen Falls;

5. That Defendant Rutkauskas failed and refused to pay the owner's assessments and other charges levied against the Subject Property as the same came due, and there is currently owing on said account a balance of \$14,260.00 as of August 11, 2021, together with additional assessments, both regular and special, that may come due and remain owing during the pendency of this action, including special assessments for attorney fees and legal costs incurred by the Plaintiff during the prosecution of this action as authorized by the Governing Documents, together with late fees and finance charges accruing each month said assessments remain unpaid, said additional regular and special assessments and other charges commencing to be due and owing on August 11, 2021;

6. That pursuant to Title 60 O.S.A. §851, et seq, and the Governing Documents, Plaintiff filed its assessment liens against the Subject Property for past due assessments chargeable against Defendant Rutkauskas, said liens being recorded in the office of the County Clerk for Tulsa County, Oklahoma, on March 19, 2020, as Document No. 2020025828; on November 10, 2020, as Document No. 2020111275; and on July 13, 2021, as Document No. 2021080825. Copies of said liens are attached hereto as Exhibits "A," "B" and "C," respectively, and made a part hereof by reference;

7. That the Defendant, Occupant(s) of the Premises at 10720 S. Fir PL, Jenks, Oklahoma ("Defendant Occupants"), may claim some right, or interest in and to the Subject Property for and on account of such occupancy or tenancy, but that any such right, title or interest claimed by said Defendant Occupants is subordinate and inferior to the lien of Plaintiff, and Plaintiff prays to the Court that said Defendant Occupants be summoned in this case and made to establish in this suit any right, title or interest they may claim, or have the right to claim, in and to

the Subject Property, or be forever barred from claiming any such right, title or interest in and to the Subject Property;

8. That there is an existing first mortgage filed against the Subject Property given by Defendant Rutkauskas in favor of First Horizon Home Loan Corporation filed of record on November 4, 2004, in the office of the County Clerk for Tulsa County, Oklahoma, as Document No. 2004133940, as subsequently assigned to The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the Holders of the Certificates, First Horizon Mortgage Pass-Through Certificates Series FHAMS 2006-AA1 on May 28, 2014, said assignment being filed in the office of the County Clerk for Tulsa County, Oklahoma, as Document No. 2014044120. Plaintiff acknowledges that said mortgage lien is superior to the lien of Plaintiff claimed hereunder and that this action, and any subsequent sale of the Subject Property as a part of this proceeding, will be made subject to said first and prior mortgage as assigned;

9. That there is an existing second mortgage filed against the Subject Property given by Defendant Rutkauskas in favor of Citizens Bank of Oklahoma filed of record on January 11, 2010, in the office of the County Clerk for Tulsa County, Oklahoma, as Document No. 2010002287, as subsequently amended on November 4, 2019, said Second Amended and Restated Real Estate Mortgage being filed in the office of the County Clerk for Tulsa County, Oklahoma, as Document No. 2019103255. Plaintiff acknowledges that said mortgage lien is superior to the lien of Plaintiff claimed hereunder and that this action, and any subsequent sale of the Subject Property as a part of this proceeding, will be made subject to said first and prior mortgage as assigned;

10. That there is an existing third mortgage filed against the Subject Property given by Defendant Rutkauskas in favor of American Bank & Trust Company filed of record on March 18, 2015, in the office of the County Clerk for Tulsa County, Oklahoma, as Document 2015021777. Plaintiff acknowledges that said mortgage lien is superior to the lien of Plaintiff claimed hereunder and that this action, and any subsequent sale of the Subject Property as a part of this proceeding, will be made subject to said first and prior mortgage as assigned;

11. That Plaintiff has performed all conditions precedent to the filing of this *Petition for Foreclosure of Owners Association Lien*, and is entitled to the relief requested herein.

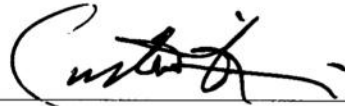
12. **THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.** In accordance with the Fair Debt Collection Practices Act, Title 15 U.S.C.A. Sec. 1692, unless the person or entity responsible for the payment of the above debt, within thirty (30) days after service of this pleading, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid. If such person or entity notifies the undersigned attorney for the creditor in writing within said thirty (30) day period that the debt, or any portion thereof, is disputed, said attorney will obtain verification of the debt and a copy of such verification will be mailed to said person or entity by the undersigned attorney for the creditor; and upon written request by you within the thirty (30) day period, the undersigned attorney for the creditor will provide the name and address of the original creditor, if different from the current creditor.

WHEREFORE, premises considered, Plaintiff prays for judgment *in personam* of and from Defendants David Rutkauskas and Camille Rutkauskas, jointly and severally, in the present amount of \$15,023.50, said amount representing past due assessments, both regular and special, and other charges owing to Plaintiff by Defendant Rutkauskas through August 11, 2021, and for further judgment *in personam* for such additional amounts representing future assessments, both regular and special, that come due and owing and remain unpaid from and after August 11, 2021, during the pendency of this action, together with late fees, finance charges and Plaintiffs reasonable attorney fees and court costs incurred in the prosecution of this action, with interest on all thereof as allowed by law until said judgment is paid in full; for judgment *in rem* of and from all Defendants, and each of them, adjudging the lien of Plaintiff asserted herein to be a valid and subsisting lien against the Subject Property in the amounts prayed for hereunder, and ordering that the lien be foreclosed and the Subject Property sold, with appraisal, according to law, and the proceeds of said sale to be applied first to the payment of the judgment of Plaintiff entered herein, and the balance of said proceeds, if any, to be paid into the Court to abide by the further order of the Court. Plaintiff further prays that upon confirmation of the sale of the Subject Property, the Defendants herein, and each of them, be forever barred, foreclosed and enjoined from asserting or

claiming any right, title, interest, estate or equity of redemption in and to the Subject Property, and for such other and further relief as this Court may deem equitable and necessary in the premises.

ABERDEEN EAEES HOMEOWNERS'
ASSOCIATION, INC.

By:



Curtis W. Kaiser, OBA#4856
RHODES HIERONYMUS, PELC
P.O. Box 21100
Tulsa, OK 74121-1100
Telephone: (918) 582-1173
ckaiser@rhodesokla.com
Attorney for Plaintiff Aberdeen Tails

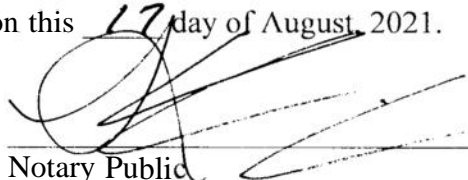
VERIFICATION

I, Curtis W. Kaiser, being first duly sworn upon oath, depose and state that I am the attorney of record for the Plaintiff, Aberdeen Falls Homeowners' Association, Inc., in the above entitled action, and that I prepared the above and foregoing *Petition to Foreclose Association Lien* and I am familiar with the facts and contents alleged and set forth therein, and that to the best of my knowledge and belief, the matters and things set forth therein are true and correct.



Curtis W. Kaiser, OBA # 4856

Subscribed and sworn to before me on this 17 day of August, 2021.



Notary Public

My Commission Expires 2021 My Commission No.





NOTICE OF LIEN FOR HOMEOWNERS ASSOCIATION DUES

STATE OF OKLAHOMA

COUNTY OF TULSA

) ss:
)

KNOW ALL BY THESE PRESENTS:

That **ABERDEEN FALLS HOMEOWNERS ASSOCIATION, INC.**, a corporation whose mailing address is PO Box 701565, Tulsa OK 74170-1565, has a claim against **DAVID & CAMILLE RUTKAUSKAS**, and/or the owner(s) of record if different than the named herein, and the property described as follows, to wit:

Lot One (1), Block Thirty-Eight (38), of Aberdeen Falls, a subdivision of the City of Jenks, in Tulsa County, State of Oklahoma, according to the recorded plat thereof, a/k/a, 10720 S. Fir Pl., Jenks, OK 74037;

That the claim is made for and on behalf of **ABERDEEN FALLS HOMEOWNERS' ASSOCIATION, INC.**, for (1) delinquent homeowners association dues owed to it in the amount of Three Thousand Two Hundred Dollars (\$3,200.00) for the assessment period beginning July 1, 2019, and ending June 31, 2020; (2) an additional charge of Six Hundred Eight-Six Dollars (\$686.00) for administrative and interest fees to date; (3) an additional charge of Sixty Dollars (\$60.00) for two gate remotes; (4) an additional charge of One Hundred Twenty-One Dollars (\$121.00) for legal and administrative fees for this Lien; and (5) any future ongoing and accruing charges after the date of filing of this Lien, such as late fees, fines, interest charges, future unpaid homeowner dues for future assessment periods, future special assessments declared by the Board, attorney fees, costs, and any other reasonable and necessary expenses related to the collection of this Lien, all as authorized by the Association's Deed of Dedication. The total sum due for lien release is at least Four Thousand Twenty-Seven Dollars and Zero Cents (\$4037.00) plus all accumulated fees & expenses listed above.

That the total sum is just, due, and unpaid, and **ABERDEEN FALLS HOMEOWNERS' ASSOCIATION, INC.**, has a claim and lien upon the above-described property in the amount of \$4,037.00, according to the laws of the State of Oklahoma.

IN WITNESS WHEREOF, **ABERDEEN FALLS HOMEOWNERS' ASSOCIATION, INC.**, has caused these presents to be signed in its name by its Representative, dated this 11th day of March, 2020

ABERDEEN FALLS HOMEOWNERS ASSOCIATION, INC.

By: *Kim Justilian*
Kim Justilian, HOA Management Inc.

Before me, the undersigned, a Notary Public in and for said County and State, on this (A) day of March, 2020, personally appeared Kim Justilian, who subscribed the name of the maker hereof to the foregoing as a Representative and acknowledged to me that she executed the same as her free and voluntary act and deed and as the free and voluntary act and deed of such corporation, for the uses and purposes therein set forth. Given under my hand and seal the day and year last above written.

My commission expires: Jan 13, 2024

[Signature]
Notary Public

MICHELLE KING
NOTARY PUBLIC - STATE OF OKLAHOMA
MY COMMISSION EXPIRES JAN 13, 2024
COMMISSION # 16000434





Tulsa County Clerk **Michael Miliis**
 Doc # 2021080825 **PL**(s): 1
 07/13/2021 02:35:40 PM
 Receipt # 21-49043
 Fee: \$ 18.00

HOMEOWNERS* ASSOCIATION LIEN

KNOW ALL MEN BY THESE PRESENTS that Aberdeen Falls Homeowners Association, Inc. ("the Association"), an Oklahoma non-profit corporation, has a claim against David Rutkauskas and Camille Rutkauskas ("Owners") in the amount of \$13,482.00 as of July 1, 2021, for and on account of past due homeowner's assessments owed to the Association by Owners, and that such assessments are due and owing pursuant to the provisions of the Deed of Dedication for Aberdeen Falls filed of record in the office of the County Clerk of Tulsa County, Oklahoma, and the Bylaws of the Association, as the same have been amended, corrected and refilled from time to time, said real estate being legally described as follows:

Lot Thirty-eight (38), Block One (1), ABERDEEN FALLS, an Addition to the City of Jenks, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

This lien is intended to cover and include all past due assessments and other charges now owing as set forth above, and such other assessments and charges as may come due and remain unpaid in the future, said lien claimed pursuant to the provisions of the Title 60 O.S.A. §524.

Dated this 7th day of July, 2021.

ABERDEEN FALLS HOMEOWNERS ASSOCIATION, INC.

By: *Allen S. Robinson*
 President/Vice President

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 7th day of July, 2021, by *Allen S. Robinson*, President/Vice President for the Aberdeen Falls Homeowners Association, Inc., an Oklahoma non-profit corporation, on behalf of the corporation.



Michael Miliis
 Notary Public

My Commission Expires: 11-8-2022 My Commission No.: 10009805

