

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CIVIL DIVISION

ERT 163RD STREET MALL, LLC,

Plaintiff,

v.

Case No. 2013 CA 10209

NOEL ENTERPRISES, L.L.C.,
LINDA NOEL AND MERCY NOEL,

Defendants.

**MOTION FOR CHARGING ORDER; OR IN THE ALTERNATIVE, TO FORECLOSE
OWNERSHIP INTEREST IN CLOSELY HELD LIMITED LIABILITY COMPANY**

Plaintiff, ERT 163RD STREET MALL, LLC (“ERT 163rd” or “Judgment Creditor”) pursuant to Fla. Stat. Sec. 605.0503, Fla. Stat., moves for a charging order against the membership interests of Judgment Mercy Noel (“Judgment Debtor” or “Noel”) in a certain limited liability company more specifically identified and described below, or, to the extent such limited liability company is owned solely by Judgment Debtor, to foreclose Judgment Debtor’s interest in the limited liability company. In support thereof, Judgment Creditor alleges as follows:

1. On April 30, 2014, this Court entered a Final Judgment in this case, adjudging liability to ERT 163rd against Defendant Mercy Noel for \$73,465.53 with interest accruing thereafter by law at the statutory rate (the “Judgment”).
2. Judgment Creditor has undertaken collection efforts, but the Judgment remains unsatisfied.
3. In pursuit of the satisfaction of the Judgment, Judgment Creditor has discovered that Judgment Debtor is the owner of Forsaken Properties, LLC, a Florida limited liability

company. A true and correct copy of the Florida Division of Corporations documents, including the Articles of Organization, are attached as composite **Exhibit “A”** hereto.

4. A Title Affidavit, recorded as CFN# 20200228908, Book 31898, Page 1492, in the Official Records of Miami-Dade County on April 15, 2020 (“Title Affidavit”) states that Noel is the sole Member and Manager of the LLC. (See Title Affidavit at ¶ 4). A copy of the Title Affidavit is attached hereto as **Exhibit “B”**.

5. Upon information and belief, Forsaken Properties, LLC is in possession of certain real property not exempt from execution. More specifically, Noel is the owner of Forsaken Properties, LLC, an active single-member Florida Limited Liability Company, which owns commercial real estate located at 12501 Northeast 5th Avenue, North Miami, Florida 33161-4702 (“the Property”). Records from the Miami-Dade County Property Appraiser reflecting the ownership of the Property are attached hereto as **Exhibit “C”**.

6. Florida Statutes Sec. 605.0503 (1) provides that “[o]n application . . . by any judgment creditor of any member . . ., the court may enter a charging order against the limited liability company interest of the judgment debtor.”

7. In Florida, the LLC charging order remedy is well established. *Olmstead v. Federal Trade Commission*, 44 So. 3d 76, 78 (Fla. 2010), discussed the nature of the LLC charging order remedy in Florida. In *Olmstead*, the Florida Supreme Court affirmed a lower court ruling which ordered the judgment debtor in that case to turnover his entire interest in a limited liability company. The court explained that a limited liability company is similar to a partnership. The Court further reasoned that because of this similarity, Florida law established the limited liability company charging order remedy which mirrored a similar rule concerning judgment creditors' rights against partners in a partnership. *Id.* At 79. “The

charging order affords a judgment creditor access to a judgment debtor's rights to profits and distributions from the business entity in which the debtor has an ownership interest." *Id.*

8. Further, the right of a judgment creditor to foreclose the sole-member interest in a limited liability company is provided for in Sec. 605.0503 (4) upon a showing that distributions under a charging order will not satisfy the judgment within a reasonable time. A judgment creditor may make such showing at the time of application for entry of a charging order. Fla. Stat. Sec. 605.0503 (4).

9. Distributions under a charging order will not satisfy the Judgment within a reasonable time. Judgment Debtor owes Judgment Creditor \$73,465.53 plus accrued post judgment interest. Judgment Creditor has been unsuccessful in their collection efforts to date.

10. Based upon the foregoing, Judgment Creditor is entitled to a final judgment of foreclosure against Judgment Debtor's interests in Forsaken Properties, LLC.

11. Alternatively, if the Court finds that Forsaken Properties, LLC is held and owned by parties other than Judgment Debtor, Judgment Creditor is entitled to at minimum a charging order as to Forsaken Properties, LLC relating to any distributions due to any of the Judgment Debtor by Forsaken Properties, LLC to aid in the execution of the Judgment.

WHEREFORE, Judgment Creditor ERT 163RD STREET MALL, LLC respectfully requests that this Court: (i) enter an order directing the immediate turnover of Judgment Debtor's interest in Forsaken Properties, LLC; (ii) enter an Order directing Judgment Debtor's interest in Forsaken Properties, LLC be sold pursuant to judicial sale whereby the proceeds of such sale are turned over to Judgment Creditor to satisfy the outstanding Judgment against Judgment Debtor; (iii) alternatively enter a charging order against Judgment Debtor's interest in Forsaken Properties, LLC; and (iv) granting such other and further relief as is just and proper.

SHUMAKER, LOOP & KENDRICK, LLP

By: /s/ Stefan Beuge
STEFAN BEUGE, ESQ.
Florida Bar No. 68234
Primary e-mail: sbeuge@shumaker.com
Secondary e-mail: mhartz@shumaker.com
101 E. Kennedy Blvd., Suite 2800
Tampa, Florida 33602
Phone (813) 229-7600
Fax (813) 229-1660
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 31, 2023, a copy of the foregoing was served through the Florida e-Portal to:

Christopher E. Benjamin, Esq.
International Law Partners, LLP
2022 Hollywood Boulevard
Hollywood, Florida 33020
cbenjamin@ilp.law
Counsel for Mercy Noel

And via U.S. Mail on:

Mercydieu T. Noel
1212 NE 117th Street
Miami, FL 33161
Registered Agent for Forsaken Properties, LLC

/s/ Stefan Beuge
Attorney

EXHIBIT A



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company
FORSAKEN PROPERTIES LLC

Filing Information

Document Number	L17000094925
FEI/EIN Number	82-2234735
Date Filed	04/28/2017
Effective Date	04/28/2017
State	FL
Status	ACTIVE

Principal Address

12501 NE 5 Avenue
MIAMI, FL 33161

Changed: 03/30/2021

Mailing Address

1040 SW 99 Ave
Pembroke Pines, FL 33025

Changed: 04/26/2018

Registered Agent Name & Address

NOEL, MERCYDIEU T
1212 NE 117 STREET
MIAMI, FL 33161

Address Changed: 04/26/2018

Authorized Person(s) Detail

Name & Address

Title MGR

NOEL, MERCYDIEU T
1212 NE 117 STREET
MIAMI, FL 33161

Annual Reports

Report Year	Filed Date
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2021	03/30/2021
2022	04/27/2022
2023	03/12/2023

Document Images

03/12/2023 -- ANNUAL REPORT	View image in PDF format
04/27/2022 -- ANNUAL REPORT	View image in PDF format
03/30/2021 -- ANNUAL REPORT	View image in PDF format
06/08/2020 -- ANNUAL REPORT	View image in PDF format
04/15/2019 -- ANNUAL REPORT	View image in PDF format
04/26/2018 -- ANNUAL REPORT	View image in PDF format
04/28/2017 -- Florida Limited Liability	View image in PDF format

**Electronic Articles of Organization
For
Florida Limited Liability Company**

L17000094925
FILED 8:00 AM
April 28, 2017
Sec. Of State
kpcardwell

Article I

The name of the Limited Liability Company is:
FORSAKEN PROPERTIES LLC

Article II

The street address of the principal office of the Limited Liability Company is:
2221 N.E. 164TH STREET
SUITE #261
NORTH MIAMI BEACH, FL. 33160

The mailing address of the Limited Liability Company is:
2221 N.E. 164TH STREET
SUITE #261
NORTH MIAMI BEACH, FL. 33160

Article III

The name and Florida street address of the registered agent is:
MERCYDIEU T NOEL
2221 N.E. 164TH STREET
SUITE #261
NORTH MIAMI BEACH, FL. 33160

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: MERCYDIEU T. NOEL

Article IV

The name and address of person(s) authorized to manage LLC:

Title: MGR
MERCYDIEU T NOEL
2221 N.E. 164TH STREET
NORTH MIAMI BEACH, FL. 33160

L17000094925
FILED 8:00 AM
April 28, 2017
Sec. Of State
kpcardwell

Article V

The effective date for this Limited Liability Company shall be:

04/28/2017

Signature of member or an authorized representative

Electronic Signature: MERCYDIEU T. NOEL

I am the member or authorized representative submitting these Articles of Organization and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of the LLC and every year thereafter to maintain "active" status.

EXHIBIT B

Prepared by:
Georgina Blanco-Elias, Esq.
Attorney at Law
Blanco Law, P.A.
11160 N. Kendall Drive Suite 102
Miami, FL 33176
305-275-2727
File Number: 20-0837
Will Call No.:
Return to:
Vanessa S. Blanco-Banos, Esq.
Law Services, P.A.
3126 Coral Way,
Miami, FL 33145

Above This Line For Recording Data]

Title Affidavit

(Buyer)

Before me, the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared the undersigned ("Affiant"), who, after being by me first duly sworn, depose(s) and say(s) that:

1. **Forsaken Properties, LLC, a Florida limited liability company ("Buyer"), is purchasing the following described property from John M. Stembridge, Individually, a single man and as Trustee of the Amended and Restated John M. Stembridge Revocable Trust Agreement dated September 20, 2019 f/k/n John M. Stembridge, Trustee of The Short Term Living Trust of Government of Israel dated February 1, 2013 ("Seller"), to wit:**

**Lot 55, Block 3, OF GRIFFING BISCAYNE PARK ESTATE, A SUBDIVISION
ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGE 83
OF MIAMI-DADE COUNTY, FLORIDA.**

Parcel Identification Number: 06-2230-025-0480

2. LLC is a Manager-managed LLC.
3. LLC does not have an operating agreement.
4. Affiant, Mercydieu T. Noel, is the sole Member and Manager of LLC and has authority to enter into the subject transaction and execute all documents necessary to effectuate same, including, but not limited to, Note, Mortgage, Closing Statements and Affidavits.
5. LLC is not a debtor in bankruptcy nor is LLC one of a family or group of entities.
6. Affiant is not a debtor in bankruptcy nor has Affiant been a debtor in bankruptcy since becoming a Member or Manager of LLC.
7. There are no creditors who have acquired or attempted to acquire control of the LLC by execution of the Member's interest or otherwise.
8. The respective interests of each Member of LLC in the LLC is: Mercydieu T. Noel-100%
9. All recording references set forth herein are to the Public Records of **Miami-Dade County, Florida**, unless otherwise noted. "Affiant", "Seller" and "Buyer" include singular or plural as context so requires or admits. This affidavit is given for the purpose of clearing any possible question or objection to the title to the above



referenced property and, for the purpose of inducing Law Services, P.A. and Old Republic National Title Insurance Company to issue title insurance on the subject property, with the knowledge that said title companies are relying upon the statements set forth herein. Buyer hereby holds Law Services, P.A. and Old Republic National Title Insurance Company harmless and fully indemnifies same (including but not limited to attorneys' fees, whether suit be brought or not, and at trial and all appellate levels, and court costs and other litigation expenses) with respect to the matters set forth herein.

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.

Forsaken Properties, LLC, a Florida limited liability company

By: *Mercydieu T Noel*
Mercydieu T Noel, Manager

State of Florida
County of Miami-Dade

The foregoing instrument was sworn to and subscribed before me by means of physical presence or online notarization, this 9th day of April, 2020 by Mercydieu T Noel, Manager of Forsaken Properties, LLC, a Florida limited liability company, on behalf of the limited liability company. He/she is personally known to me or has produced a *RID* driver's license as identification.

[Notary Seal]

Georgina Blanco
Notary Public
Printed Name: *Georgina Blanco*
My Commission Expires: *2/9/21*

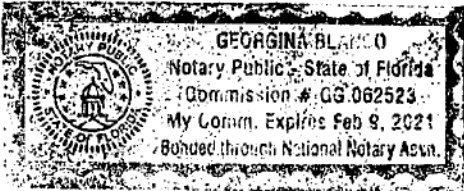


EXHIBIT C



OFFICE OF THE PROPERTY APPRAISER

Detailed Report

Generated On : 3/30/2023

Property Information	
Folio:	06-2230-025-0480
Property Address:	12501 NE 5 AVE North Miami, FL 33161-4702
Owner	FORSAKEN PROPERTIES LLC
Mailing Address	1212 NE 117 ST MIAMI, FL 33161 USA
PA Primary Zone	6000 COMMERCIAL - GENERAL
Primary Land Use	1209 MIXED USE- STORE/RESIDENTIAL : MIXED USE - RESIDENTIAL
Beds / Baths / Half	2 / 2 / 0
Floors	1
Living Units	3
Actual Area	3,007 Sq.Ft
Living Area	3,007 Sq.Ft
Adjusted Area	2,698 Sq.Ft
Lot Size	8,491 Sq.Ft
Year Built	1954



Assessment Information			
Year	2022	2021	2020
Land Value	\$229,257	\$186,802	\$152,838
Building Value	\$6,743	\$49,198	\$83,162
XF Value	\$0	\$0	\$0
Market Value	\$236,000	\$236,000	\$236,000
Assessed Value	\$236,000	\$236,000	\$236,000

Benefits Information				
Benefit	Type	2022	2021	2020
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Taxable Value Information			
	2022	2021	2020
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$236,000	\$236,000	\$236,000
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$236,000	\$236,000	\$236,000
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$236,000	\$236,000	\$236,000
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$236,000	\$236,000	\$236,000

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:



OFFICE OF THE PROPERTY APPRAISER

Generated On : 3/30/2023

Property Information

Folio: 06-2230-025-0480

Property Address: 12501 NE 5 AVE

Roll Year 2022 Land, Building and Extra-Feature Details

Land Information					
The calculated values for this property have been overridden. Please refer to the Land, Building, and XF Values in the Assessment Section, in order to obtain the most accurate values.					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	C-3	6000	Square Ft.	8,491.00	

Building Information						
The calculated values for this property have been overridden. Please refer to the Land, Building, and XF Values in the Assessment Section, in order to obtain the most accurate values.						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	1	1954	3,007	3,007	2,698	

Extra Features			
The calculated values for this property have been overridden. Please refer to the Land, Building, and XF Values in the Assessment Section, in order to obtain the most accurate values.			
Description	Year Built	Units	Calc Value
Cent A/C - Comm (Aprox 300 sqft/Ton)	1985	5	
Paving - Asphalt	1985	3,200	

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Version:



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Generated On : 3/30/2023

Property Information

Folio: 06-2230-025-0480

Property Address: 12501 NE 5 AVE

Roll Year 2021 Land, Building and Extra-Feature Details

Land Information					
The calculated values for this property have been overridden. Please refer to the Land, Building, and XF Values in the Assessment Section, in order to obtain the most accurate values.					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	C-3	6000	Square Ft.	8,491.00	

Building Information						
The calculated values for this property have been overridden. Please refer to the Land, Building, and XF Values in the Assessment Section, in order to obtain the most accurate values.						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	1	1954	3,007	3,007	2,698	

Extra Features			
The calculated values for this property have been overridden. Please refer to the Land, Building, and XF Values in the Assessment Section, in order to obtain the most accurate values.			
Description	Year Built	Units	Calc Value
Paving - Asphalt	1985	3,200	
Cent A/C - Comm (Aprox 300 sqft/Ton)	1985	5	

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Version:



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Generated On : 3/30/2023

Property Information

Folio: 06-2230-025-0480

Property Address: 12501 NE 5 AVE North Miami, FL 33161-4702

Roll Year 2020 Land, Building and Extra-Feature Details

Land Information					
The calculated values for this property have been overridden. Please refer to the Land, Building, and XF Values in the Assessment Section, in order to obtain the most accurate values.					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	C-3	6000	Square Ft.	8,491.00	

Building Information						
The calculated values for this property have been overridden. Please refer to the Land, Building, and XF Values in the Assessment Section, in order to obtain the most accurate values.						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	1	1954			2,717	

Extra Features			
The calculated values for this property have been overridden. Please refer to the Land, Building, and XF Values in the Assessment Section, in order to obtain the most accurate values.			
Description	Year Built	Units	Calc Value
Cent A/C - Comm (Aprox 300 sqft/Ton)	1985	5	
Paving - Asphalt	1985	3,200	

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Generated On : 3/30/2023

Property Information

Folio: 06-2230-025-0480

Property Address: 12501 NE 5 AVE

Full Legal Description

GRIFFING BISCAYNE PK EST PB 5-83

LOT 55 BLK 3

LOT SIZE 8491 SQUARE FEET

OR 21731-0231 0803 1

Sales Information

Previous Sale	Price	OR Book-Page	Qualification Description
04/08/2020	\$475,000	31898-1494	Qual by exam of deed
09/28/2015	\$100	29793-4865	Corrective, tax or QCD; min consideration
07/17/2015	\$100	29707-4311	Corrective, tax or QCD; min consideration
07/16/2015	\$100	29699-4515	Corrective, tax or QCD; min consideration
12/01/2014	\$100	29412-0708	Corrective, tax or QCD; min consideration
02/11/2013	\$225,000	28516-3301	Qual by exam of deed
08/01/2003	\$150,000	21731-0231	Sales which are qualified
02/01/1994	\$0	16257-3547	Sales which are disqualified as a result of examination of the deed
10/01/1984	\$103,000	12293-1052	Sales which are qualified
06/01/1976	\$1	00000-00000	Sales which are disqualified as a result of examination of the deed
06/01/1973	\$55,000	00000-00000	Sales which are qualified

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