



OFFICE OF THE CITY ATTORNEY

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December 29, 2006

Common Council
City of West Allis

RE: City Attorney's Report of Claim

Dear Council Members:

The enclosed claim has been referred to this office in accordance with Section 3.05 (6)(a) of the Revised Municipal Code. This office has examined the facts of the claim and the applicable law. Our Opinion regarding liability is as follows:

It is the recommendation of this office that the following claim be placed on file:

Countrywide Home Loans, Inc. v. Michael A. Robins and Rhonda Robins, et al.
Milwaukee County Case No. 01-CV-007230

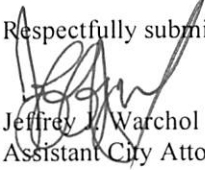
This is a Foreclosure action against Michael A. and Rhonda Robins, husband and wife, where the City of West Allis, Department of Development, Housing Division was named as a Defendant due to said Department issuing a Loan in an amount of \$4,000.00 to Michael A. and Rhonda Robins for the purchase of a home on or about April 21st, 1998. The City recorded an Affidavit of Interest Claimed in Real Estate on the Robins' property with the Milwaukee County Register of Deeds on May 8th, 1998, to secure its interest in the Robins real estate. On or about October 27th, 1998, the Housing Division signed a Subordination Agreement to subordinate the City's Loan to that of Countrywide Home Loans, Inc., f/k/a America's Wholesale Lender, the Plaintiff in this Foreclosure case. Subsequently on August 6th, 2001, after the Robins defaulted on the Loan to Countrywide Home Loans, Inc., it filed a Foreclosure action naming the City as a Defendant due to its subordinated interest in the property.

On October 19th, 2001, the City Attorney's Office filed a Notice of Appearance and Demand for Surplus in an attempt to protect the City's interest in this case should the Foreclosure action result in a Sheriff's Sale in an amount above what is owed to the primary lender. As is customary with most Foreclosure actions, the Robins' property sold at Sheriff's Sale for an amount less than what was owed the primary lender and said sale was confirmed by the Circuit Court on February 25th, 2002. At said confirmation, the City's Lien on the property, by virtue of its Mortgage, was extinguished and the City was forever barred from claiming any interest in the property.

Although the Foreclosure wiped out the Lien, the Mortgage Note was still legally enforceable as against Michael A. and Rhonda Robins. Despite the same, Michael A. and Rhonda Robins filed Bankruptcy and obtained a Discharge of all debts, including the City's Mortgage Note, on August 19th, 2005.

As a result of the Foreclosure action, coupled with the Bankruptcy Discharge, the City Attorney's Office has exhausted all legal remedies to collect this debt and issued a Memorandum to the Finance Department to write-off all remaining outstanding amounts on the Robins' Loan as of December 21st, 2006. Based upon the above, it is the recommendation of the City Attorney's Office to place this claim on file.

Respectfully submitted,


Jeffrey J. Warchol
Assistant City Attorney

JJW:da