

IN THE COURT OF COMMON PLEAS OF  
LYCOMING COUNTY, PA

OLD LYCOMING TOWNSHIP,	:	
Plaintiff	:	NO: 10-01913
	:	
vs.	:	
	:	
	:	
DAVID SMITH, LORRIE SMITH, and	:	CIVIL ACTION
ERIC M. BARR,	:	
Defendants	:	

**ORDER**

On September 10, 2010, the Plaintiff filed a Praecipe for Writ of Revival seeking issuance of a writ of revival of a lien entered at Lycoming County Docket 08-90134 against David and Lorrie Smith and Eric M. Barr in the amount of \$281.25 plus interest from August 28, 2008.<sup>1</sup> A Writ of Revival was subsequently issued. The municipal lien related to lawn maintenance performed on property that was abandoned by David and Lorrie Smith and then sold as a result of a foreclosure sale. The property was purchased by Eric M. Barr.

On October 15, 2010, Defendant Eric Barr filed an Answer and Objection to the Writ of Revival of Municipal Lien. Mr. Barr contends that the Plaintiff, Old Lycoming County Township, was provided with a notice of the Sheriff sale but failed to provide the Sheriff's office with a claim for a municipal lien for lawn maintenance. On January 18, 2010, the Sheriff's office paid numerous liens and claims before distributing the proceeds of the Sheriff's sale. One of the liens paid by the Sheriff

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<sup>1</sup> Although the Praecipe seeks issuance of a writ of revival of a lien of judgment entered at Lycoming County Docket 08-90314, the correct docket number is listed in the caption of the Praecipe for Writ of Revival.

was to Old Lycoming Township for an outstanding sewer bill.<sup>2</sup> At the time of Mr. Barr's purchase it appeared that all claims of Old Lycoming Township were paid as the Sheriff's docket indicated payment of "Old Lycoming lien."

Pa.R.C.P. 3136 provides the mechanism for distribution of proceeds by the sheriff following the sale of real property. Pa.R.C.P. 3136(a) provides that the sheriff is to prepare a schedule of proposed distribution of the proceeds of sale within thirty days following the sale of real property. This is to be kept on file and is to be available for inspection. If no exceptions are filed to the proposed schedule of distribution, the sheriff is to distribute the proceeds of sale in accordance with the proposed schedule of distribution. Pa.R.C.P. 3136(d). Pa.R.C.P. 3136(a) provides that no schedule is necessary when the property is sold "to the plaintiff for costs only." Following argument, it is unclear to this court as to whether a proposed schedule of distribution was prepared. It is however clear, that if a schedule of distribution was prepared, Old Lycoming Township did not file exceptions to the proposed distribution. It is also clear to this Court that Old Lycoming Township failed to provide the sheriff with its claim for the municipal lien prior to the sheriff's distribution of the proceeds of sale.

Accordingly, this Court finds that Old Lycoming Township is divested by the sale of the property, has lost its lien and Defendant Barr's Objection to the Plaintiff's Writ of Revival is granted.

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<sup>2</sup> Plaintiff Old Lycoming Township contends that the entity which submitted its claim for the sewer bill is a different entity than the Plaintiff, Old Lycoming Township.

**ORDER**

AND NOW, this 8<sup>th</sup> day of February, 2011, Defendant Eric Barr's Objection to Writ of Revival of Municipal Lien at 08-90134 is GRANTED, and the lien is hereby STRICKEN and DISMISSED.

BY THE COURT,

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Richard A. Gray, J.

cc: Michael J. Zicoello, Esquire  
Denise L. Dieter, Esquire  
Gary Weber, Esquire