

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

LYCOMING COUNTY WATER AND SEWER	:	
AUTHORITY, on behalf of and as Assignee from the	:	DOCKET NO. 11-02,178
Borough of South Williamsport,	:	CIVIL ACTION – LAW
Plaintiff	:	
	:	MOTION TO STRIKE
vs.	:	PETITION FOR STAY OF
	:	EXECUTION
GRANT BARNER,	:	
Defendant	:	

ORDER

AND NOW, this ___ day of June, 2012, following oral argument on Plaintiff’s Motion to Strike Petition for Stay of Execution and Motion of Declaratory Judgment of Defendant, it is hereby ORDERED and DIRECTED that Plaintiff’s motion is GRANTED. Defendant’s Petition to Stay Execution and Motion for Declaratory Judgment is untimely pursuant to Section 7185-86 of the Municipal Claims and Tax Liens Act (Municipal Claims Act), 53 P.S. §§ 7101-7505.

This matter requires consideration of this Court’s equity jurisdiction as it relates to the Municipal Claims Act. A brief procedural history of this matter follows hereafter. On September 23, 2009, Plaintiff filed a municipal lien against Defendant’s property located at 301 Hastings Street, South Williamsport, Pennsylvania (Tax Parcel No. 51-01-619). On November 11, 2011, Plaintiff filed the initial Praecipe for Writ of Scire Facias and Writ of Scire Facias in this case. On December 1, 2011, Plaintiff filed the initial Praecipe for Writ of Execution. In February 2012, Defendant began making payments on the debt. Def. Response, 1. However, on March 30, 2012, Plaintiff filed a second Praecipe for Writ of Execution. On May 30, 2011, Defendant filed a Petition for Stay of Execution/Set Aside Execution and Motion for Declaratory Judgment, requesting the Court to invoke its equity jurisdiction in this matter. To date, Defendant has not filed an affidavit of defense under the Municipal Claims Act.

The issue faced by this Court is whether it can invoke its equity jurisdiction and stay the execution of judgment in this case. In this instance, Defendant's petition and motion challenge only the amount of the unpaid charges and fees. A statutory scheme exists for these challenges within the Municipal Claims Act. *See LCN Real Estate, Inc. v. Borough of Wyoming*, 544 A.2d 1053, 1059 (Pa. Cmwlth. Ct. 1988) (finding that an adequate statutory remedy exists in the Municipal Claims Act to challenge the amounts of municipal claims). *See also City of Easton v. Marra*, 862 A.2d 170, 175 n.4 (Pa. Cmwlth. Ct. 2004) (stating that the case of *LCN Real Estate* applies when property owners raise substantive objections to the actual amounts of the assessments). *See generally Penn Township v. Hanover Foods Corp.*, 847 A.2d 219 (Pa. Cmwlth. Ct. 2004) (outlining the procedure behind obtaining, contesting, and executing a municipal lien); *Shapiro v. Center Township*, 632 A.2d 994 (Pa. Cmwlth. Ct. 1993) (outlining the procedure behind obtaining, contesting, and executing a municipal lien). Therefore, this Court finds that Defendant failed to adequately pursue his statutory-prescribed remedies in this matter and thus declines to invoke its equity jurisdiction in this matter.

For clarification purposes, the balance due on the judgment is \$6,277.69, and the Sherriff's Sale scheduled for July 6, 2012, shall proceed.

BY THE COURT,

Richard A. Gray, J.

RAG/abn

cc: Austin White, Esquire
Trisha D. Hoover, Esquire