

Appendix

OR DESIGNATION OF RECORD

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PETITIONER
APPENDIX 1

FILED
COURT OF APPEALS
NO. 19 BE 0044
Cynthia L. Fregiato
CLERK OF COURTS, BELMONT COUNTY

The Supreme Court of Ohio

MAY - 4 2020

FILED

APR 28 2020

CLERK OF COURT
SUPREME COURT OF OHIO

Greg P. Givens

Case No. 2019-1663

v.

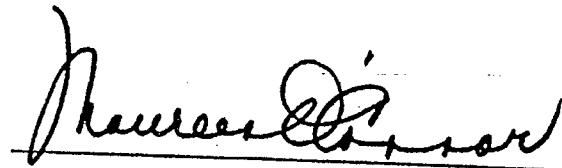
Clyde Yates, Jr., et al.

RECONSIDERATION ENTRY

Belmont County

It is ordered by the court that the motion for reconsideration in this case is denied.

(Belmont County Court of Appeals; No. 19 BE 0044)



Maureen O'Connor
Chief Justice

FILED
COURT OF APPEALS
NO. 19BE44

Cynthia L Fregiato
CLERK OF COURTS, BELMONT COUNTY

The Supreme Court of Ohio

MAY - 4 2020

FILED

FEB 18 2020

CLERK OF COURT
SUPREME COURT OF OHIO

Greg P. Givens

Case No. 2019-1663

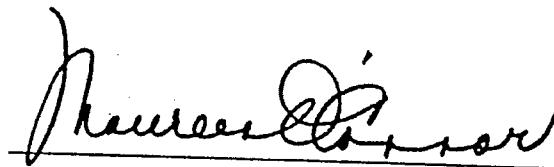
v.

ENTRY

Clyde Yates, Jr., et al.

Upon consideration of the jurisdictional memoranda filed in this case, the court declines to accept jurisdiction of the appeal pursuant to S.Ct.Prac.R. 7.08(B)(4).

(Belmont County Court of Appeals; No. 19 BE 0044)



Maureen O'Connor

Chief Justice

PETITIONER
APPENDIX 2

STATE OF OHIO) IN THE COURT OF APPEALS OF OHIO
)
BELMONT COUNTY) SS: **SEVENTH DISTRICT**
)
GREG P. GIVENS,)
)
PLAINTIFF-APPELLANT,)
)
V.)
)
CLYDE YATES, JR. ET AL.,)
)
DEFENDANTS-APPELLEES.)

FILED
NO. 19BE044
COURT OF APPEALS
CLERK OF COURTS, BELMONT COUNTY
NOV 04 2019
Cynthia L. Fregia
CASE NO. 19 BE 0044
JUDGMENT, ENTRY

This matter comes before us on its own accord for review and determination of whether Plaintiff-Appellant Greg P. Givens's notice of appeal is sufficient to invoke this Court's appellate jurisdiction, which is limited to final and appealable orders. Ohio Constitution, Article IV, Section 3(B)(2); R.C. 2505.01 et seq. Proceeding on his own behalf, Appellant filed a lawsuit against numerous defendants in the trial court below. In response, counsel for two of those defendants, Defendants-Appellees Clyde Yates, Jr. and Kimberly Yates, filed a motion for a more definite statement pursuant to Civ.R. 12(E). The trial court conducted a hearing on the motion, sustained the motion, and gave Appellant thirty (30) days to submit an amended complaint which is "concise, unambiguous, and specific." Appellant submitted an amended complaint and the trial court conducted a hearing concerning the sufficiency of Appellant's amended complaint. In a docket and journal entry filed September 6, 2019, the trial court made a finding that Appellant's amended complaint failed to comply with Civ.R. 12(E) and dismissed the case without prejudice to re-filing. Appellant has filed a notice of appeal directed to that entry.

As indicated, this Court only has appellate review jurisdiction over final and appealable orders. Ohio Constitution, Article IV, Section 3(B)(2); R.C. 2505.01 et seq. And we have held an involuntary dismissal without prejudice is not a final appealable order. *Selmon v. Crestview Nursing & Rehab. Ctr., Inc.*, 184 Ohio App.3d 317, 2009-Ohio-5078, 920 N.E.2d 1017, ¶ 2 (7th Dist.). Other appellate courts have held likewise.

Dues v. Ohio Dept. of Rehab. & Corr., 10th Dist. No. 08AP-943, 2009-Ohio-1668, ¶ 9-10; *Arner v. Andover Bank*, 11th Dist. Ashtabula No. 2008-A-0056, 2008-Ohio-5857, ¶ 2; *Thompson v. Ohio State Univ. Hosps.*, 10th Dist. Franklin No. 06AP-1117, 2007-Ohio-4668. Courts hold this way because a dismissal without prejudice leaves the parties in the same position they were in prior to the action being filed; the action is treated as though it had never been commenced. *Arner*, 11th Ashtabula Dist. No. 2008-A-0056, 2008-Ohio-5857, at ¶ 2, citing *Johnson v. H & M Auto Serv.*, 10th Dist. Franklin No. 07AP-123, 2007-Ohio-5794. Therefore, a dismissal without prejudice is not a final determination of the rights of the parties and does not constitute a final order pursuant to R.C. 2505.02, because the parties (as the trial court here expressly stated) have the ability to refile the complaint. *Davis v. Paige*, 5th Dist. Stark No. 2007 CA 00248, 2008-Ohio-6415, ¶ 31, citing *Lantsberry v. Tilley Lamp Co.*, 27 Ohio St.2d 303, 272 N.E.2d 127 (1971); *Schindler v. Std. Oil Co.*, 165 Ohio St. 76, 133 N.E.2d 336 (1956); and *McIntosh v. Slick*, 5th Dist. Stark Nos. 2001CA00268 and 2001CA00273, 2002-Ohio-3599.

Accordingly, based upon the foregoing reasons, this appeal is dismissed for lack of a final appealable order. Costs taxed against Appellant.

Copy to Appellant, Appellees, any and all counsel of record in the case, and Judge Frank A. Fregiato. (Belmont County Common Pleas Court Case No. 19 CV 0200).

Mark Dornbos
C. H. White
CarolAnn Ross

JUDGES

STATE OF OHIO, COUNTY OF BELMONT
COURT OF COMMON PLEAS
DOCKET AND JOURNAL ENTRY

COMMON PLEAS COURT
BELMONT CO. OH

2019 SEP -6 PM 1:01

FRANK A. FREGIATO
CLERK OF COURT

Greg P. Givens,
Plaintiff
vs.

Case No.: 19 CV 200

Clyde Yates, Jr., et al.,
Defendants

Date of Entry: September 6, 2019

This matter came before the Court for Hearing on September 6, 2019, with Pro Se Plaintiff, Greg Givens, appearing in open court; Attorney Daniel D. Eisenbrei, counsel for Defendants Loeffler, Newhart, Rodgers, Merryman, Gorrell, Napolitano and Collette; and Attorney Eric Costine appearing on behalf of Defendant Yates.

The Court hereby finds that there has not been compliance with Civ. Rule 12(E), in accord with the prior Order of July 29, 2019.

In accord with Civ. Rule 12(E) and the above-stated finding, this matter is hereby dismissed without prejudice to re-filing.

This is a Final, Appealable Order.



Frank A. Fregiato Judge

pc: **Greg Givens, Plaintiff**
Eric Costine, Attorney for Defendant Yates
Daniel D. Eisenbrei, Attorney for Defendants Loeffler; Newhart; Rodgers; Merryman; Gorrell; Napolitano; and Collette

FAF/lz

STATE OF OHIO, COUNTY OF BELMONT
COURT OF COMMON PLEAS
DOCKET AND JOURNAL ENTRY

COMMON PLEAS COURT

BELMONT, OHIO

2019 JUL 29 AM 9:58

CLERK OF COURT

Case No.: 19 CV 200

Greg P. Givens,
Plaintiff
vs.

Clyde Yates, Jr., et al.,
Defendants

Date of Entry: July 26, 2019

Defendant's Motion for More Definite Statement under Ohio Civil Rule 12(E) and Plaintiff's Motion to Strike All (or Portion) of Defendant Yates Motion for More Definite Statement came before the Court for Hearing on July 26, 2019. Plaintiff, Greg P. Givens, appeared in open court as a *Pro Se* litigant; Attorney Eric Costine appeared on behalf of Clyde Yates, Jr.; and Attorney Daniel D. Eisenbrei appearing on behalf of remaining Defendants, Loeffler; Newhart; Rodgers; Merryman; Gorrell; Napolitano; and Collette.

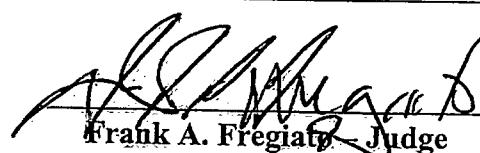
For good cause shown, Defendant Clyde Yates, Jr.'s Motion for a More Definite Statement pursuant to Ohio Civil Rule 12(E) is hereby Sustained.

Plaintiff shall within thirty (30) days submit an amended Complaint which is concise, unambiguous and specific. Should the Plaintiff fail to do so, the Plaintiff's Complaint may be dismissed with prejudice. Plaintiff is strongly encouraged to retain an attorney.

Upon the Plaintiff filing an amended Complaint in accordance with Ohio Civil Rule 12(E), the Defendants shall have twenty-eight (28) days from the date of said filing to file an Answer.

Plaintiff's "Motion" to Strike is hereby Overruled.

All subject to further Order of the Court.



Frank A. Fregiat, Judge

pc: Greg Givens, Plaintiff
Eric Costine, Attorney for Defendant Yates
Daniel D. Eisenbrei, Attorney for Defendants Loeffler; Newhart; Rodgers; Merryman; Gorrell; Napolitano; and Collette

FAF/lz

PETITIONER
APPENDIX 3

STATE OF OHIO, COUNTY OF BELMONT
COURT OF COMMON PLEAS

DOCKET AND JOURNAL ENTRY

COMMON PLEAS COURT
BELMONT CO. OH

2019 SEP -3 AM 9:47

CYNTHIA L. FREGIATO
CLERK OF COURT

Greg P. Givens,

Case No.: 19 CV 200

Plaintiff

Vs.

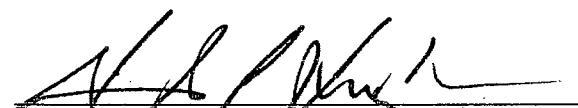
Date of Entry: August 29, 2019

Clyde Yates, Jr., et al.,

Defendants

Review of Defendant's Notification of Filing Under Bankruptcy Act and Suggestion of Stay is hereby scheduled for September 6, 2019, at 8:30 a.m., noting a hearing to determine whether Plaintiff has complied with this Court's Order of July 26, 2019, was previously scheduled for that date and time.

All subject to further Order of the Court.



FRANK A. FREGIATO - JUDGE

pc: Greg P. Givens, Plaintiff
Eric Costine, Atty./Def. Yates
Daniel D. Eisenbrei, Atty./Def. Loeffler; Newhart; Rodgers; Merriman; Gorrell; Napolitano; and Collette
Richard Loew, Jr., Def.
Kimberly Harris, Def.
Joe Klug aka Joseph Klug, Def.
Village of Shadyside, Def.
Kelly G. Kotur, Bankruptcy Attorney for Defendant Daniel S. Napolitano
Kristi L. Lipscomb, Court Reporter

FAF/jsm

IN THE COURT OF COMMON PLEAS
OF BELMONT COUNTY, OHIO

| | | |
|------------------------------|---|------------------------|
| GREG P. GIVENS |) | CASE NO. 19 CV 0200 |
| |) | |
| Plaintiff |) | |
| |) | |
| vs. |) | NOTIFICATION OF FILING |
| |) | UNDER BANKRUPTCY ACT |
| RICHARD L. LOEW, JR., ET AL. |) | AND SUGGESTION OF STAY |
| |) | |
| Defendants |) | |
| |) | |

RICHARD L. LOEW, JR., hereby notifies the Court that on the 27th day of May, 2020, he filed with the Clerk of the United States Bankruptcy Court for the Southern District of Ohio a petition in bankruptcy under Chapter 7 of the Bankruptcy Code. The petition is pending before the Honorable C. Kathryn Preston, Bankruptcy Judge, and has been assigned Case No. 20-52621.

The filing invoked Section 362 of the Bankruptcy code, which stays all court actions and collection proceedings against the debtor as well as all acts to perfect or enforce liens or to obtain possession of the Debtor's property. Greg P. Givens is listed as an unsecured creditor in said petition.

Counsel is filing this to provide notice of the bankruptcy filing but is not making an appearance as counsel for the Defendant.

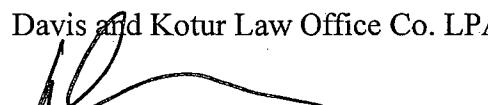
By:

Kelly Gene Kotur, 81295
407-A Howard Street
Bridgeport, OH 43912
Phone: (740) 635-1217
Fax: (740) 633-9843
E-mail: janelle@davisandkotur.com
Attorney for Defendant
Richard L. Loew, Jr.

CERTIFICATE OF SERVICE

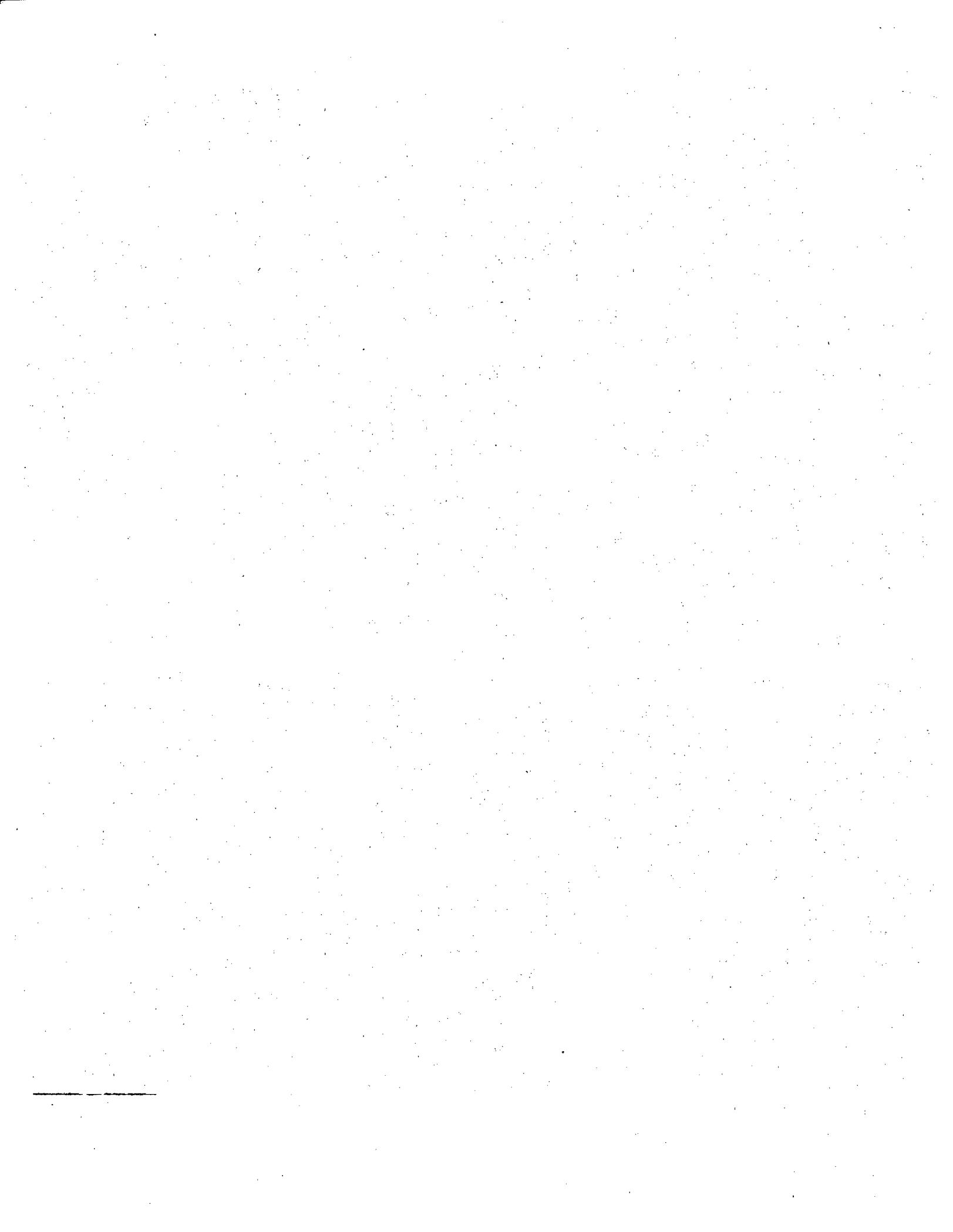
The undersigned certifies that a photocopy of the foregoing Notice was served upon the following parties by first-class mail, postage prepaid, this 27th day of May, 2020:

1) Greg P. Givens, P.O. Box 117, Bellaire, OH 43906.

By:


Davis and Kotur Law Office Co. LPA
Kelly Gene Kotur, 81295
Attorney for Defendant
Richard L. Loew, Jr.

PETITIONER
APPENDIX 4





BELMONT COUNTY AUDITOR

Andrew L. Sutak

[Home](#) | [Owner Search](#) | [Address Search](#) | [Parcel Search](#) | [Quick Search](#) | [Sales Search](#) | [Help](#)

17-00271.000

3743 1/2 HIGHLAND AVE

[Print](#) [?](#)
[General Info](#) [Tax](#) [History](#) [Tax Estimator](#)
[Print All](#)**Property Information**

| | | | | | | | |
|----------------------|---|----------------|----------|-----------------------------|-----------------------|------------|--|
| Property Number | 17-00271.000 | | | Property Address: | 3743 1/2 HIGHLAND AVE | | |
| Owner Name | STEINER DONALD ROBERT | | | SHADYSIDE OH 43947 | SHADYSIDE OH | | |
| Owner Address | 3743 1 / 2 HIGHLAND SHADYSIDE OH 43947 | | | 17 SHADYSIDE CORPORATION | SHADYSIDE OH | | |
| Tax Set | 17 SHADYSIDE CORPORATION | | | 705 SHADYSIDE LSD | SHADYSIDE OH | | |
| School District | 51000 SHADYSIDE CORP | | | 500 Residential vacant land | SHADYSIDE OH 43947 | | |
| Neighborhood | .00000 | | | | USA | | |
| Use Code | | | | Description | | | |
| Acres | | | | IN-LOT 64-A MC G .045 AC | | | |
| Board of Revision | N | Current Value | | | Recent Transfer | | |
| Homestead/Disability | N | Mkt Land Value | \$6,860 | | Valid Sale | N | |
| 2.5% Reduction | N | CAUV | \$0 | | # Parcels | 1 | |
| Divided Property | N | Mkt Impr Value | \$0 | | Deed Type | 113 | |
| New Construction | N | Total | \$6,860 | | Amount | \$17,500 | |
| Foreclosure | N | Current Tax | | | Sale Date | 11/14/2005 | |
| Other Assessments | N | Annual Tax * | \$126.63 | | Conveyance/Deed | 02898 | |
| Front Ft. | 0 | Paid ** | \$0.00 | | Map # | 4 | |
| | | Delq | \$470.87 | | | | |

[<< Previous Card](#)

Card 1 of 0

[Next Card >>](#)**Land**

| Land Type | Acres | Square Ft. | Actual Frontage | Eff. Frontage | Depth | No Of Units | Adjusted Rate | Value |
|----------------------|-------|------------|-----------------|---------------|-------|-------------|---------------|---------|
| FRFront Lot [DEPTHC] | 0.05 | 0 | | 40.00 | 49.00 | 0 | \$173 | \$6,240 |

CAUV Land Lines

No CAUV Land On This Parcel

Card - 1

Improvements

| IMPR Type | Description | Area | Year Built | Value |
|-----------------------|-------------|------|------------|-------|
| No Improvements Found | | | | |

Card - 1

Property Sketch -- Card 1**Property Sketch**





BELMONT COUNTY AUDITOR

Andrew L. Sutak

[Home](#) | [Owner Search](#) | [Address Search](#) | [Parcel Search](#) | [Quick Search](#) | [Sales Search](#) | [Help](#)

3743 1/2 HIGHLAND AVE

17-00270.000

[Print](#) [?](#)
[General Info](#) [Tax](#) [History](#) [Tax Estimator](#)
[Print All](#)**Property Information**

| | | | | | | | |
|--------------------------|---|----------------|------------|--------------------------------|-----------------------|--|--|
| Property Number | 17-00270.000 | | | Property Address: | 3743 1/2 HIGHLAND AVE | | |
| Owner Name | STEINER DONALD ROBERT | | | SHADYSIDE OH | | | |
| Owner Address | 3743 1 / 2 HIGHLAND SHADYSIDE OH 43947 | | | Tax Payer Address: | | | |
| Tax Set | 17 SHADYSIDE CORPORATION | | | STEINER DONALD ROBERT | | | |
| School District | 705 SHADYSIDE LSD | | | 3743 1 / 2 HIGHLAND AVE | | | |
| Neighborhood | 51000 SHADYSIDE CORP | | | SHADYSIDE OH 43947 | | | |
| Use Code | 520 2-family owner occupies 1 unit | | | USA | | | |
| Acres | .00000 | | | | | | |
| Description | | | | | | | |
| IN-LOT 63-A MCG 2.045 AC | | | | | | | |
| Current Value | | | | Recent Transfer | | | |
| Board of Revision | N | Mkt Land Value | \$6,860 | Valid Sale | N | | |
| Homestead/Disability | N | CAUV | \$0 | # Parcels | 1 | | |
| 2.5% Reduction | N | Mkt Impr Value | \$33,150 | Deed Type | 113 | | |
| Divided Property | N | Total | \$40,010 | Amount | \$17,500 | | |
| New Construction | N | Current Tax | | Sale Date | 11/14/2005 | | |
| Foreclosure | N | Annual Tax * | \$749.43 | Conveyance/Deed | 02898 | | |
| Other Assessments | Y | Paid ** | \$0.00 | Map # | 4 | | |
| Front Ft. | 0 | Delq | \$2,243.25 | | | | |

[<< Previous Card](#) [Card 1 of 1](#) [Next Card >>](#)**Dwelling Information**

| | | | | | |
|-------------------|------|--------------|-------------|----------------|---------------|
| Sq Ft Finished | 1680 | Room Count | 6 | Fireplace(s) | 0 |
| 1st Floor Area | 840 | Story Height | 2 | Year Built | 1914 |
| Upper Floor Area | 840 | # Bedrooms | 3 | Year Remodeled | 0 |
| Half Story Area | 0 | Full Baths | 2 | Grade | D |
| Attic Area | 0 | Half Baths | 0 | Style | Duplex |
| Finished Basement | 0 | Heating | Gravity Air | Ext Walls | Frame - FRAME |
| Basement Type | None | Air Cond | NONE | | |

Land

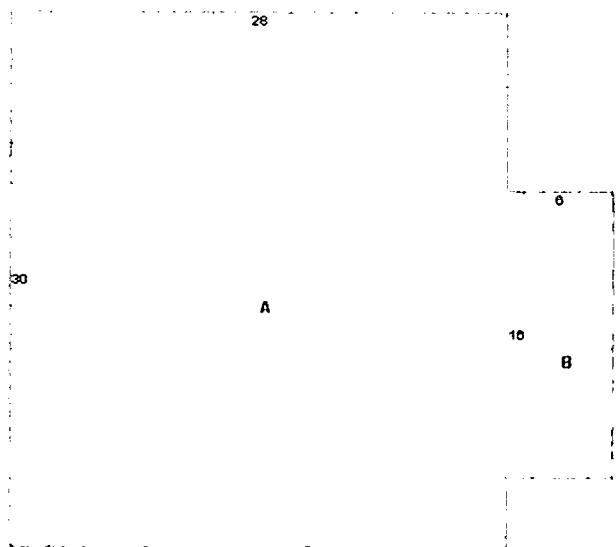
| Land Type | Acres | Square Ft. | Actual Frontage | Eff. Frontage | Depth | No Of Units | Adjusted Rate | Value |
|-----------------------|-------|------------|-----------------|---------------|-------|-------------|---------------|---------|
| FRFront Lot [DEPTH C] | 0.05 | 0 | | 40.00 | 49.00 | 0 | \$173 | \$6,240 |

CAUV Land Lines

No CAUV Land On This Parcel

| | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|-------------------------------------|-----------|-------------|---------|------------|-------|----------|---------|----------|--|---------|----------|-----------|----------|--|---------|---------|---------|---|--|---------|-------------------|-------------------------------------|-----|------|---------|
| Card - 1 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Improvements | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <tr> <td>IMPR Type</td> <td>Description</td> <td>Area</td> <td>Year Built</td> <td>Value</td> </tr> <tr> <td>Addition</td> <td>OFP OFP</td> <td>96 SQ FT</td> <td></td> <td>\$2,300</td> </tr> <tr> <td>Addition</td> <td>OFP2 OFP2</td> <td>96 SQ FT</td> <td></td> <td>\$2,200</td> </tr> <tr> <td>Feature</td> <td>CLU CLU</td> <td>1</td> <td></td> <td>\$4,380</td> </tr> <tr> <td>Other Improvement</td> <td>DCBG Detached Concrete Block Garage</td> <td>900</td> <td>1961</td> <td>\$4,630</td> </tr> </table> | | IMPR Type | Description | Area | Year Built | Value | Addition | OFP OFP | 96 SQ FT | | \$2,300 | Addition | OFP2 OFP2 | 96 SQ FT | | \$2,200 | Feature | CLU CLU | 1 | | \$4,380 | Other Improvement | DCBG Detached Concrete Block Garage | 900 | 1961 | \$4,630 |
| IMPR Type | Description | Area | Year Built | Value | | | | | | | | | | | | | | | | | | | | | | |
| Addition | OFP OFP | 96 SQ FT | | \$2,300 | | | | | | | | | | | | | | | | | | | | | | |
| Addition | OFP2 OFP2 | 96 SQ FT | | \$2,200 | | | | | | | | | | | | | | | | | | | | | | |
| Feature | CLU CLU | 1 | | \$4,380 | | | | | | | | | | | | | | | | | | | | | | |
| Other Improvement | DCBG Detached Concrete Block Garage | 900 | 1961 | \$4,630 | | | | | | | | | | | | | | | | | | | | | | |

| | |
|----------------------------------|--|
| Card - 1 | |
| Property Sketch -- Card 1 | |
| Property Sketch | |



0.074s

| | |
|----|--|
| 10 | |
| A | |
| B | |
| 5 | |

| Label | Area | Perimeter | Dimension | Scale: 5 ft |
|-------|------|-----------|-----------|-------------|
| 2s Fr | 840 | 116 | N/A | |
| OFF2 | 86 | 44 | N/A | |
| OFF | 0 | 0 | | |

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Last Updated: 5/19/2017



