

Notice of Sale

- Premises: 130-12 220th Street, Jamaica, New York
- New York Supreme Court, County of Queens, Stephanie Rucker, Plaintiff, vs. Dwayne Franklin, Defendant, Index No. 717321/2020.
- Pursuant to the interlocutory Judgment and Order ("Judgment") granted by this Court and entered in the County Clerk's Office on December 19, 2024, I, the undersigned Referee duly appointed in this action for such purpose, will sell to the highest bidder, in the Queens County Supreme Courthouse located at 88-11 Sutphin Boulevard, Jamaica, NY, on the courthouse steps, on 28th day of April, 2025, at 10:00 am, the mortgaged premises known as 130-12 220th Street, Jamaica, New York (the "Premises") including any and all personal property of Defendant located upon the Premises and/or used in connection with the Premises (the "Personal Property"), subject to any superior liens upon the Personal Property. ALL that certain plot, piece, parcel of land, with the buildings and improvements thereon erected, situate, lying, and being in the City of New York, County of Queens, State of New York, at Block 12897, Lot 046, as more fully described in the Judgment. Premises will be sold subject to the filed Judgment and Terms of Sale.

Dated: March 28, 2025

Alan Katsenbaum, Esq., Referee

Exhibit A Terms of Sale Follow

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS**

-----X

STEPHANIE RUCKER,
Plaintiff,

Index No. 717321/2020

-against-

DWAYNE FRANKLIN

Partition Premises:
130-12 220th Street
Jamaica, New York

Defendant(s).

-----X

TERMS OF PARTITION SALE

The premises described in the duly published Notice of Sale, more particularly known as 130-12 220th Street, Jamaica, New York, ("Premises") will be sold under the direction of Alan Katsenbaum, Esq., Referee, subject to the following terms:

1. Ten percent of the purchase money of said Premises ("Deposit") based on the struck down bid at the auction ("Purchase Price") will be required to be paid to said Referee, in certified funds or, in the Referee's sole discretion, cash, at the time and place of sale, and for which the Referee's receipt will be given. At the time of making of a bid, the bidder shall exhibit to the Referee the full ten percent (10%) of the sum bid. No double endorsed checks will be accepted. Bids may only be made in whole dollar increments as specified by the Referee. If Plaintiff or any of the Defendants is the purchaser, the ten percent (10%) deposit is waived.

2. The residue of said purchase money will be required to be paid by bank or certified check at the office of Plaintiff's attorneys (Adam Wilner, Esq., 546 Fifth Ave, 18th Floor, New York, NY 10036), or such other place as the Referee may designate, on or before **May 14th, 2025**, at 10 a.m. ("Closing Date"), when and where the said Referee's deed will be ready for delivery unless otherwise agreed upon by Plaintiffs attorneys and purchaser in writing.

3. **TIME IS OF THE ESSENCE** as to the purchaser with respect to the Closing Date and any adjourn date thereof, with no further notice being required by the Referee or the Plaintiff's attorneys. By signing the Memorandum of Sale annexed hereto, the purchaser understands and agrees that time is of the essence as to the purchaser's obligations hereunder and that the purchaser must appear at the time and date specified herein with the balance of the purchase price and be in all respects ready, willing and able to complete the sale transaction. The failure of the purchaser to appear ready, willing and able to pay the balance of the purchase price at the time and place specified herein is a material default under these Terms of Sale, which shall result in the purchaser's Deposit being forfeited as liquidated damages for failing to complete the purchase of the Premises as provided herein.

4. The Referee or Plaintiff's counsel is not required to send any notice to the purchaser and if the purchaser neglects to call at the time specified above or fails to appear to receive the Referee's deed, the purchaser shall be in material default of its obligations hereunder.

5. In the event that the Plaintiff shall, in its sole and absolute discretion, agree to extend the Closing Date, same shall not be extended for more than thirty (30) calendar days (hereinafter referred to as the "Extended Date") and such extension shall be granted only on the following terms and conditions: (a) purchaser shall pay to the Plaintiff or its assignee in cash, bank or certified check interest at the rate of nine percent (9%) per annum on the total Purchase Price during the period of such extension (in no event shall the rate of interest charged hereunder be in excess of the maximum rate provided by the applicable law); (b) purchaser shall pay all costs and expenses incurred by the Plaintiff in connection with the granting of said extension; (c) Purchaser shall assume all responsibility for the taxes, insurance and other costs or payments of any kind required to be paid by the Referee herein and the risk of loss or damage from any cause whatsoever during the period of such extension shall be borne by the purchaser; (d) **TIME SHALL BE OF THE ESSENCE** with respect to the Extended Date as to the Purchaser only.

6. All taxes, assessments, water rates and other encumbrances which, at the time of the public auction, are liens upon said Premises, will be paid by the Referee out of the purchase money, or will be given as a credit to the purchaser provided the purchaser shall previous to the delivery of the deed, produce to the Referee proof of payment of such liens, and duplicate receipts for the payment thereof, in a form satisfactory to the Referee. In the event, that the Plaintiff shall have advanced monies for taxes, assessments, water charges, sewer rents or insurance covering a period which is later in time than the date whereupon the Premises is struck down to the highest bidder, purchaser herein agrees to reimburse plaintiff for such advances at closing.

7. The purchaser of said Premises will, at the time and place of sale, sign a memorandum of purchase, and an agreement to comply with the terms and conditions of sale herein contained.

8. The biddings will be kept open after the Premises is struck down in case any purchaser shall fail to comply with any of the above conditions of sale, and the Premises so struck down to the purchaser will again be put up for sale, under the direction of said Referee, under these same Terms of Sale, without application to the court, unless the Plaintiff's attorney shall elect to make such application; and such purchaser shall be held liable for any deficiency there may be between the sum for which said Premises shall be struck down upon the sale and that which they may be purchased or upon resale, and also for any and all costs and expenses incurred upon such resale, including but not limited to reasonable attorneys' fees, disbursements and advertising costs. A purchaser who defaults under these Terms of Sale shall not be entitled to a refund of any amount deposited with the Referee or to any excess resulting from any resale of the Premises. Upon default of the purchaser under these Terms of Sale, the Referee shall deliver to the Plaintiff, without notice to the purchaser, the amount deposited by the purchaser as liquidated damages for failing to complete the purchase of the Premises as provided herein.

9. All real property transfer taxes, including but not limited to the New York City Real Property Transfer Tax and New York State Transfer Tax, and the expenses of recording the Referee's Deed, shall be borne by the purchaser.

10. The Premises are being sold in "as is" physical order and condition on the day of the sale. The Referee and/or the Plaintiff have not made and do not make any representations as to the physical condition, rents, leases, expenses, operation or any other matter or thing affecting or relating to the Premises, except as herein specifically set forth, and the Purchaser hereby expressly acknowledges that no representations have been made.

11. The Premises are being sold subject to:

- (a) Any state of facts that an inspection of the Premises would disclose;
- (b) Any state of facts that an accurate survey of the Premises would show;
- (c) Covenants, restrictions, easements, declarations, rights of way and public utility agreements and reservations, if any, of record and to any and all violations thereof;
- (d) Building and zoning regulations, restrictions, ordinances and amendments thereto of the municipality, State or Federal government, or any agency, bureau, commission or department in which the Premises is situated, and to any violations or notices of violations of same, including, but not limited to, reapportionment of lot lines, and vault charges, if any;
- (e) Any and all orders or requirements issued by any governmental body, including any environmental agency, having jurisdiction against or affecting said Premises and violations of the same, whether or not of public record;
- (f) Rights of tenants or persons in possession, if any;
- (g) Prior liens, encumbrances, mortgages and/or judgments of record, whether consensual or imposed by operation of law;
- (h) The right of redemption of the United States of America, if any, to redeem the Premises within 120 days from date of sale;
- (i) Rights of any defendants pursuant to CPLR §§ 317, 2003 and 5015, if any;
- (j) Any and all hazardous materials located in or at the Premises including, but not limited to, flammable explosives, radioactive materials, hazardous wastes, asbestos or any material containing asbestos, and toxic substances;
- (k) Unpaid water and sewer rents, if any, which are not yet a lien on the Premises.
- (l) Any other conditions to be announced at the sale by the Referee appointed herein.

12. Any address for the Premises is provided for convenience only and the purchaser agrees and acknowledges that she or he is familiar with, and has relied solely upon the legal description of the Premises as set forth in the pleadings and the Interlocutory Order and Judgment for Partition Sale and Appointment of Referee.

13. The purchaser represents that he or she did acquaint and familiarized himself or herself with the Premises, any encumbrances upon the Premises and these Terms of Sale before placing the bid.

14. The Referee and/or the Plaintiff shall not be liable or bound by any verbal or written statements, representations, promises, statements or guaranties, real estate broker's "set-ups" or information pertaining to the Premises furnished by any real estate broker, agent or any other person or source except as specifically set forth herein. The Referee and/or the Plaintiff is not liable for any express or implied warranties, guaranties, promises or statements of any kind relating in any manner to the Premises. All understandings and agreements heretofore had between the parties are merged in these Terms of Sale, which fully and completely express their agreement. These Terms of Sale cannot be modified or terminated orally.

15. Notwithstanding any provision contained herein to the contrary, in the event the Referee is unable to convey title for whatever reason whatsoever, except for the default of the purchaser, the purchaser's sole and exclusive remedy shall be the return of the Deposit. In that event, all obligations between the Referee, Plaintiff and the purchaser shall be deemed null and void. Further, the purchaser shall have no recourse against the Referee, Plaintiff or its attorneys, its agents and assigns, for any expenses he or she may have incurred in connection with the sale or any other matter related to or in connection with the sale of the Premises.

16. The Purchaser will execute any and all documents required by the Referee in connection with this transfer, including, without limitation, Real Property Transfer Tax forms, New York State Transfer Gains Tax forms, New York State Equalization forms and indemnity agreements.

18. Searches, title reports and title insurance, if any, shall be paid by the purchaser. The sale of the Premises is not contingent upon, or subject to, the purchaser obtaining title insurance.

18. This Terms of Sale is subject to the Interlocutory Order and Judgment for Partition Sale and Appointment of Referee entered in the above-titled action and same shall be deemed included in this Terms of Sale with the same force and effect as if fully set forth herein at length. In the event of any inconsistency between the provisions of these Terms of Sale and the Interlocutory Order and Judgment for Partition Sale and Appointment of Referee, the provisions of said Interlocutory Order and Judgment for Partition Sale and Appointment of Referee shall be controlling.

Dated: March 28, 2025

Alan Katsenbaum, Esq., Referee