

NOTICE OF PENDING ORDINANCE

ORDINANCE NO. 09-1283

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Tinton Falls, in the County of Monmouth, State of New Jersey, held on October 20, 2009. This Ordinance will be further considered for adoption, after the public hearing is held thereon, at a meeting of the Borough Council to be held on Tuesday, November 10, 2009, in the Municipal Center, 556 Tinton Avenue, Tinton Falls, NJ beginning at 7:30 o'clock P.M., and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office to the members of the general public who shall request the same.

KAREN MOUNT-TAYLOR RMC, CMC
BOROUGH CLERK

PLEASE PUBLISH IN FULL ON: October 22, 2009

**ORDINANCE AUTHORIZING THE SALE OF PROPERTY OWNED BY THE
BOROUGH OF TINTON FALLS NO LONGER NEEDED FOR ANY PUBLIC
PURPOSE DESIGNATED AS TAX BLOCK 69, LOT 4.01 IN THE BOROUGH OF
TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

WHEREAS, the Borough of Tinton Falls is the owner of Block 69, Lot 4.01, known as 1188 Sycamore Avenue in the Borough of Tinton Falls; and

WHEREAS, this property was subject to a minor subdivision wherein Block 69, Lot 4 was subdivided into two lots, one residential and one open space lot; and

WHEREAS, the newly created Lot 4.01, the residential lot, is not needed for any public purpose or use and the intent of the subdivision was to preserve the open space portion of the property; and

WHEREAS, the Borough desires to sell the residential lot not needed for any public purpose or use; and

WHEREAS, the Borough has previously received an appraisal of the property indicating its value to be approximately \$150,000; and

WHEREAS, such value was utilized to establish minimum bids for a property auction that was advertised in the *Asbury Park Press*, on the Borough website and at Borough Hall; and

WHEREAS, pursuant to Ordinances No. 04-1118 and 09-1271, such auction was held on September 23, 2009, without any bids having been received or other interest in the sale having been expressed; and

WHEREAS, the Borough Council has determined that given current economic conditions it is in the best interest of the Borough to conduct another public auction with no minimum bid threshold while reserving the Borough's right to reject all bids received.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey, as follows:

SECTION ONE – THE PROPERTY

Pursuant to N.J.S.A. 4A:12-13(a), Block 69, Lot 4.01, known as 1188 Sycamore Avenue in the Borough of Tinton Falls, as provided in the metes and bounds description attached hereto as Schedule A, shall be sold to the highest bidder at an open public auction with no minimum bid being required.

SECTION TWO – THE AUCTION

The public sale shall be held by the Borough Clerk, at the Tinton Falls Municipal Building, Main Meeting Room, 556 Tinton Avenue, on a date to be determined and publicly advertised by the Borough Clerk. Once all written bids for the property are received and opened, all bidding shall begin and close with the highest bid received. All bids shall be in writing at the time set for receiving bids. No bid shall be accepted prior to or after the date, time and place established by this ordinance. All bids will be reported to the Borough Council at the next meeting whereupon they may reject the highest bid if found to be inadequate.

SECTION THREE – PREQUALIFICATION

It shall be a prequalification that any potential bidder be required to deposit with the Borough Clerk a certified check or verified electronic funds transfer to the Director of Law's attorney trust account of not less than 10% of the bid amount. Any potential purchaser failing to comply with this requirement, shall be ineligible to participate in the bidding for the purchase of the property.

SECTION FOUR – PROPERTY CONDITION

The Borough of Tinton Falls is offering the property for sale in its present condition. The property is sold "as is." The Borough shall not be required to expend any funds in connection with any potential environmental investigation, assessment and/or remediation that may be required. The Borough has no knowledge of, nor has it been placed on notice of, any violation of any environmental law on the property.

The Borough represents that the property is located in the historic district and any changes to the structure will require approval of the Borough's Historic Preservation Commission.

The Borough represents that the property is the subject of a driveway access easement twenty (20) feet in width providing access to the open space lot.

SECTION FIVE – RESERVATION OF RIGHTS

The Borough Council reserves the following rights with regard to this sale:

- a. To adjourn this sale at the time of sale for not more than a week without re-advertising the sale.
- b. To reject any and all bids received.

- c. That the sale is subject to confirmation by the Borough Council, by resolution, which confirmation shall be granted or denied within fifteen (15) days of the sale.

SECTION SIX – DUE DILIGENCE

Prospective bidders should examine the property prior to bidding. The Borough believes title to said property is insurable by a reputable title insurance company at regular rates subject to easements and restrictions of record in effect on the date of the public sale, such as federal, state, county and municipal laws or regulations as may be in effect and apply on the date of the public sale; and to such state of facts as an accurate survey and a visual inspection of the property as of the date of the sale may disclose. In the event the Borough cannot convey insurable title to the property, the sole liability to the Borough shall be the return, without interest, of all monies paid by the purchaser to the Borough. Objections to insurability of the title must be made by the purchaser to the Director of Law within thirty (30) days after confirmation of the sale by the Borough Council.

SECTION SEVEN – CLOSING

The balance of the purchase price shall be paid by certified check to the Borough of Tinton Falls after closing upon delivery of the deed. This closing shall take place within forty-five (45) days after the confirmation of the sale by the Borough Council. All usual adjustments shall be made as of the date of the transfer of title.

SECTION EIGHT – ZONING

The property in question is zoned residential in the R-2 Zone.

SECTION NINE - DEED

Title shall be transferred by a quit claim deed and the property shall be conveyed subject to all conditions of this ordinance.

SECTION TEN - TAXES

Real property taxes shall be assessed as of the first day of the month following the date when the title is closed.

SECTION ELEVEN – ADVERTISEMENT

As required pursuant N.J.S.A. 4A:12-13(a), the Borough Clerk shall publish a notice to bidders and copy of this ordinance authorizing sale of the property to the highest bidder in the *Asbury Park Press* by two insertions at least once a week during two consecutive weeks, the last publication to be made no earlier than seven (7) days prior to the sale.

SECTION TWELVE – REPEALER

Any ordinances, or portions thereof, which are inconsistent with the provisions of this ordinance shall hereby be repealed to the extent of any such inconsistency.

SECTION THIRTEEN – EFFECTIVE DATE

This ordinance shall take effect upon publication pursuant to law and the General Revised Ordinances of the Borough of Tinton Falls.

SCHEDULE A

Metes and Bounds Description: Lot 4.01, Block 69, Borough of Tinton Falls, New Jersey

Beginning at a point in the easterly right-of-way line of Sycamore Avenue (Monmouth County, Route 13A) (Width varies), on the southerly line of Lot 3, Block 69, said point being 20' Easterly from the Northwesterly corner of Lot 3, Block 69, as shown on Map entitled, "Minor Subdivision for Lot 4, Block 69, Borough of Tinton Falls, Monmouth County, New Jersey", prepared by Landform Technology, Inc., dated June 26, 2003; thence,

1. Easterly along the southerly line of Lot 3, Block 69, on a course of S. 55 20' 00" E. (South fifty five degrees twenty minutes zero seconds East) a distance of 135.60' (one hundred thirty five and sixty hundredths feet) to a point being the Southerly corner of Lot 3, Block 69; thence,

2. Northerly along the easterly line of Lot 3, Block 69, on a course of N. 35 26' 28" E. (North thirty five degrees twenty six minutes twenty eight seconds East) a distance of 110.31' (one hundred ten and thirty one hundredths feet) to a point; thence,

3. Easterly along the southerly line of Lot 4.02, Block 69 on a course of S. 54 33' 32" E. (South fifty four degrees thirty three minutes thirty two seconds East) a distance of 95.94' (ninety five and ninety four hundredths feet) to a point; thence,

4. Southerly along the westerly line of Lot 4.02, Block 69 on a course of S. 34 10' 24" W. (South thirty four degrees ten minutes twenty four seconds West) a distance of 188.46' (one hundred eighty eight and forty six hundredths feet) to a point; thence,

5. Northwesterly along the northerly line of Lot 4.02, Block 69 on a course N. 55 28' 13" W/ (North fifty five degrees twenty eight minutes thirteen seconds West) a distance of 94.12' (ninety four and twelve hundredths feet) to an angle point: thence,

6. Continuing Northwesterly along the northerly line of Lot 4.02, Block 69 on a course N. 59 40' 52" W. (North fifty nine degrees forty minutes fifty two seconds West) a distance of 141.29' (One hundred forty one and twenty nine hundredths feet) to a point in the easterly right-of-way line of Sycamore Avenue (width varies); thence,

7. Northerly along the easterly right-of-way line of Sycamore Avenue on a course N. 34 53' 40" E. (North thirty four degrees fifty three minutes forty seconds East) a distance of 110.44' (one hundred ten and forty four hundredths feet) to a point and place of beginning.

Containing 30,075.78 + S.F. or 0.690 + Ac.