



Ohio Revised Code

Section 323.72 Answer - hearing on or dismissal of complaint.

Effective: September 4, 2014

Legislation: Senate Bill 172 - 130th General Assembly

(A)(1) At any time after a complaint is filed under section 323.69 of the Revised Code, and before a decree of foreclosure is entered, the record owner or another person having a legal or equitable ownership interest in the abandoned land may plead only that the impositions shown by the notice to be due and outstanding have been paid in full or are invalid or inapplicable in whole or in part, and may raise issues pertaining to service of process and the parcel's status as abandoned land.

(2) At any time before a decree of foreclosure is filed under section 323.69 of the Revised Code, a lienholder or another person having a security interest of record in the abandoned land may plead either of the following:

(a) That the impositions shown by the notice to be due and outstanding have been paid in full;

(b) Subject to division (C) of this section, that in order to preserve the lienholder's or other person's security interest of record in the land, the abandoned land should not be disposed of as provided in sections 323.65 to 323.79 of the Revised Code and the case should be transferred to a court pursuant to section 323.691 of the Revised Code.

(B) If the record owner or another person having a legal or equitable ownership interest in a parcel of abandoned land files a pleading with the county board of revision under division (A)(1) of this section, or if a lienholder or another person having a security interest of record in the abandoned land files a pleading with the board under division (A)(2) of this section that asserts that the impositions have been paid in full, the board shall schedule a hearing for a date not sooner than thirty days, and not later than ninety days, after the board receives the pleading. Upon scheduling the hearing, the board shall notify the person that filed the pleading and all interested parties, other than parties in default, of the date, time, and place of the hearing, and shall conduct the hearing. The only questions to be considered at the hearing are the amount and validity of all or a portion of the impositions, whether those impositions have in fact been paid in full, and, under division (A)(1) of this section, whether valid issues pertaining to service of process and the parcel's status as



abandoned land have been raised. If the record owner, lienholder, or other person shows by a preponderance of the evidence that all impositions against the parcel have been paid, the board shall dismiss the complaint and remove the parcel of abandoned land from the abandoned land list, and that land shall not be offered for sale or otherwise conveyed under sections 323.65 to 323.79 of the Revised Code. If the record owner, lienholder, or other person fails to appear, or appears and fails to show by a preponderance of the evidence that all impositions against the parcel have been paid, the board shall proceed in the manner prescribed in section 323.73 of the Revised Code. A hearing under this division may be consolidated with any final hearing on the matter under section 323.70 of the Revised Code.

If the board determines that the impositions have been paid, then the board, on its own motion, may dismiss the case without a hearing.

(C) If a lienholder or another person having a security interest of record in the abandoned land, other than the owner, timely files a pleading under division (A)(2)(b) of this section requesting that the abandoned land not be disposed of as provided in sections 323.65 to 323.79 of the Revised Code and the complaint be transferred to a court pursuant to section 323.691 of the Revised Code in order to preserve the lienholder's or other person's security interest, the county board of revision may approve the request if the board finds that the sale or other conveyance of the parcel of land under sections 323.65 to 323.79 of the Revised Code would unreasonably jeopardize the lienholder's or other person's ability to enforce the security interest or to otherwise preserve the lienholder's or other person's security interest. The board may conduct a hearing on the request and make a ruling based on the available and submitted evidence of the parties. If the board approves the request without a hearing, the board shall file the decision with the clerk of court, and the clerk shall send a notice of the decision to the lienholder or other person by ordinary mail. In order for a lienholder or other person having a security interest to show for purposes of this division that the parcel of abandoned land should not be disposed of pursuant to sections 323.65 to 323.78 of the Revised Code and the complaint should be transferred to a court pursuant to section 323.691 of the Revised Code in order "to preserve the lienholder's or other person's security interest," the lienholder or other person must first make a minimum showing by a preponderance of the evidence pursuant to section 323.71 of the Revised Code that the impositions against the parcel of abandoned land do not exceed the fair market value of the abandoned land as determined by the auditor's then-current valuation of that parcel, which valuation is presumed, subject to rebuttal, to be the fair market value of the land. If



the lienholder or other person having a security interest makes the minimum showing, the board of revision may consider the request and make a ruling based on the available and submitted evidence of the parties. If the lienholder or other person having a security interest fails to make the minimum showing, the board of revision shall deny the request.

(D) If a pleading as described in division (B) or (C) of this section is filed and the county board of revision approves a request made under those divisions, regardless of whether a hearing is conducted under division (C) of this section, the board shall dismiss the complaint in the case of pleadings described in division (B) of this section or transfer the complaint to a court in the case of pleadings described in division (C) of this section.

If the county board of revision does not dismiss the complaint in the case of pleadings described in division (B) of this section or does not approve a request to transfer to a court as described in division (C) of this section after conducting a hearing, the board shall proceed with the final hearing prescribed in section 323.70 of the Revised Code and file its decision on the complaint for foreclosure with the clerk of court. The clerk shall send written notice of the decision to the parties by ordinary mail or by certified mail, return receipt requested. If the board renders a decision ordering the foreclosure and forfeiture of the parcel of abandoned land, the parcel shall be disposed of under section 323.73 of the Revised Code.