

PELLEGRINO & FELDSTEIN, LLC
290 ROUTE 46 WEST
DENVER, NJ 07834
(973) 586-2300
OUR FILE NO. 15142-12
ATTORNEYS FOR PLAINTIFF

RECEIVED

SEP - 6 2012

TOWN OF MORRISTOWN
TOWN CLERK'S OFFICE

US BANK CUS/EMPIRE TAX FUND LLC
Plaintiff

vs.

OLD LUMBERYARD ASSOCIATES, L.P.
THE TOWN OF MORRISTOWN, *et als*
Defendant(s)

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION

MORRIS COUNTY

DOCKET NO. F-16912-12

SUMMONS

From The State of New Jersey,
To the Defendant(s) Named above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN 971, Trenton, NJ 08625. An \$ 135.00 filing fee payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and cost of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

Dated: August 31, 2012

Jennifer Perez

Jennifer Perez, Clerk of the Superior Court

Name of Defendant to be served: THE TOWN OF MORRISTOWN

Address for service: C/O CLERK MATTHEW STECHAUNER, 200 SOUTH STREET
MORRISTOWN, NJ 07963

PELLEGRINO & FELDSTEIN, LLC
290 ROUTE 46 WEST
DENVER, NJ 07834
(973) 586-2300
OUR FILE NO. 15142-12
ATTORNEYS FOR PLAINTIFF

US BANK CUS/EMPIRE TAX FUND LLC
Plaintiff

vs.

OLD LUMBERYARD ASSOCIATES, L.P.
THE TOWN OF MORRISTOWN, *et als*
Defendant(s)

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION

MORRIS COUNTY

DOCKET NO. F-16912-12

SUMMONS

From The State of New Jersey,
To the Defendant(s) Named above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN 971, Trenton, NJ 08625. An \$ 135.00 filing fee payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and cost of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

Dated: August 31, 2012

Jennifer Perez

Jennifer Perez, Clerk of the Superior Court

Name of Defendant to be served: THE TOWN OF MORRISTOWN

Address for service: C/O CLERK MATTHEW STECHAUNER, 200 SOUTH STREET
MORRISTOWN, NJ 07963

PELEGRINO & FELDSTEIN, L.L.C.
290 Route 46 West
Denville, NJ 07834
(973) 586-2300
CAP File No. 15142-12
Attorneys for Plaintiff(s)

USBANK CUS/EMPIRE TAX FUND LLC
Plaintiff

vs.

OLD LUMBERYARD ASSOCIATES, L.P.;
LENOX HILL INVESTORS, LLC;
PHILLIPS BRICK INVESTORS LLC; THE
TOWN OF MORRISTOWN: JOHN DOE,
SAID NAME BEING FICTITIOUS; JANE
DOE, SAID NAME BEING FICTITIOUS;
STATE OF NEW JERSEY
Defendant(s)

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION

MORRIS COUNTY

DOCKET NO. F -016912-12

CIVIL ACTION
FORECLOSURE COMPLAINT

USBANK CUS/EMPIRE TAX FUND LLC, complaining of the Defendant(s) says:

FIRST COUNT

1. Title of record to the premises became vested in Old Lumberyard Associates, L.P., by Deed from Pipco Carlstadt, Inc., dated December 30, 1993, and recorded in the MORRIS County Clerk's/Register's Office on February 7, 1994, in Deed Book 3918, page 218.
2. The premises in question for this Count are known as LOT 9 BLOCK 3702 on the Tax Map of MORRISTOWN, County of MORRIS, State of New Jersey.
3. Taxes were assessed against the premises described in Paragraph 2 herein in the name of OLD LUMBERYARD ASSOCIATES, LP for the year(s) 2009, and the said taxes not having been paid, on 6/16/2010, sale of the lands for delinquent taxes, water and/or sewer

charges in the amount of \$3,956.32 was made by LINDA WINSTEAD, Tax Collector of MORRISTOWN, under and by virtue of the provisions of statutes in such case made and provided of the State of New Jersey, which said sale was conducted in all things according to the provisions of such act.

4. At the said sale, the lands and premises described in Paragraph 2 herein were struck off and sold to US BANK CUS/EMPIRE TAX FUND LLC, subject to redemption with interest at 18 % for the sum of \$ 4,553.12, which certificate of sale was in the form prescribed by statute of the State of New Jersey. Said Tax Sale Certificate dated 6/25/2010 was recorded in the Clerk's/Register's Office of MORRIS County on 7/21/2010, Mortgage Book 21582 at Page 1864.
5. All subsequent municipal liens which have been assessed against the premises described in Paragraph 2 herein by the municipality of MORRISTOWN have been paid prior to the commencement of this action.
6. More than two years have elapsed since said sale without redemption and the plaintiff is the holder of said tax sale certificate, and taxes and assessments have been accrued and are owing to the plaintiff since the date of said sale.
7. On 7/12/2012, the plaintiff served written notice, by certified mail with postage prepaid thereon, of plaintiff's intention to file the within complaint, which notice included the amount due on the tax lien or liens to be foreclosed herein as of the date of the notice, to the last known addresses of all parties entitled to redeem in accordance with N.J.S.A. 54:5-97.1 and 54:5-54, as amended, and on the same date also filed such notice with the municipal tax collector's office.

8. Any interest or lien which any of the defendants herein has or claims to have in or upon the said premises described in Paragraph 2 herein or some part thereof, is subject to the lien of the Plaintiff's tax sale certificate.
9. There is now due on said tax sale certificate #10-00027 which is described in paragraphs 3 and 4 herein, the sum of \$4,553.12, which was the original amount due for unpaid taxes and costs, together with subsequent taxes paid thereon with statutory interest due to the Plaintiff. In addition, the tax collector will add any additional interest, additional taxes and/or penalties that may become due and owing as of the date that redemption occurs.
10. Schedule A attached hereto is made part hereof and the paragraph therein are incorporated herein in their entirety.

WHEREFORE, Plaintiff demands Judgment:

- (a) Fixing the amount due on said Tax Sale Certificate;
- (b) Barring and foreclosing the defendants of all equity of redemption in and to the lands and premises described in Paragraph 2 above;
- (c) Directing that the Plaintiff be paid the amount due on said tax sale certificate together with interest and costs by a short day to be appointed by this Honorable Court for the purposes, or in default thereof, that the said defendants and all persons claiming by, through or under them may be ~~debarred and foreclosed of and from all equity and right of redemption on~~ or to the premises described in Paragraph 2 herein.
- (d) Directing that the Plaintiff be vested with an absolute and indefeasible estate of inheritance in fee simple in and to the lands described in Paragraph 2 herein.

SECOND COUNT

1. By virtue of the entry of judgment in Count 1, Plaintiff is entitled to possession of premises located in MORRISTOWN, County of MORRIS, and State of New Jersey,

more particularly described in Paragraph 2 of the First Count. Said claims are joined in one action pursuant to R.4:27-2.

2. Defendants have at all times since that date deprived the plaintiff of possession of said premises.

WHEREFORE, Plaintiff, or its assigns, demands Judgment:

- (a) That the said defendants and all persons claiming by, through, or under them be directed to deliver up to the plaintiff the possession of the said lands and premises, together with all deeds, papers, and writings in their custody and power relating to or concerning the said lands and premises or any part thereof;
- (b) For costs.

PELLEGRINO & FELDSTEIN, LLC
Attorneys for Plaintiff

By: _____



Deborah T. Feldstein, Esq.

DATED: August 12, 2012

CERTIFICATION

The undersigned hereby certifies that the within matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding. There are no other known parties who should be joined in this action at this time

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

PELLEGRINO & FELDSTEIN, LLC
Attorneys for Plaintiff

By: 
Deborah T. Feldstein, Esq,

DATED: August 12, 2012

CERTIFICATION

The undersigned hereby certifies that this firm has obtained and reviewed a 60 year title search related to the subject premises pursuant to R4:64-1(a).

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

PELLEGRINO & FELDSTEIN, LLC
Attorneys for Plaintiff

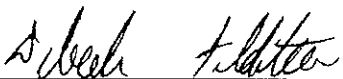
By: 
Deborah T. Feldstein, Esq,

DATED: August 12, 2012

RULE 1:4-8(a) CERTIFICATION

I am the attorney for the plaintiff and hereby certify that the complaint and all documents annexed thereto comport with the requirements of Rule 1:4-8(a).

PELLEGRINO & FELDSTEIN, LLC
Attorneys for Plaintiff

By: 
Deborah T. Feldstein, Esq.

DATED: August 12, 2012

SCHEDULE A

A.) On June 20, 2000, Old Lumberyard Associates, L.P., executed a mortgage to Mercury Capital Corp. in the amount of \$ 250,000.00, which mortgage was recorded on June 28, 2000 in the MORRIS County Clerk's/Register's Office in Mortgage Book 9180 at page 11. Said mortgage is subordinate to the Plaintiff's lien.

On March 1, 2004 the aforesaid mortgagee assigned all its right, title and interest in and to said Mortgage to 63 Elm Street Associates LLC by way of Assignment of Mortgage of that date, which Assignment of Mortgage was recorded in the MORRIS County Clerk's/Register's Office on March 6, 2004 in Book 16632 of Assignment of Mortgages at page 152.

On December 21, 2007 the aforesaid mortgagee assigned all its right, title and interest in and to said Mortgage to Lenox Hill Investors, LLC by way of Assignment of Mortgage of that date, which Assignment of Mortgage was recorded in the MORRIS County Clerk's/Register's Office on June 30, 2008 in Book 21112 of Assignment of Mortgages at page 1744.

B.) On October 4, 2004, Old Lumberyard Associates LP, executed a mortgage to Phillips Brick Investors LLC in an unspecified amount, which mortgage was recorded on October 19, 2004 in the MORRIS County Clerk's/Register's Office in Mortgage Book 17880 at page 123. Said mortgage is subordinate to the Plaintiff's lien.

C.) On January 29, 2008, Old Lumberyard Associates LP, executed a mortgage to Lenox Hill Investors, LLC in an unspecified amount, which mortgage was recorded on January 31, 2008 in the MORRIS County Clerk's/Register's Office in Mortgage Book 21007 at page 1553. Said mortgage is subordinate to the Plaintiff's lien.

D.) On July 17, 2008, Old Lumberyard Associates LP, executed a mortgage to Lenox Hill Investors, LLC in an unspecified amount, which mortgage was recorded on July 28, 2008 in the MORRIS County Clerk's/Register's Office in Mortgage Book 21129 at page 1139. Said mortgage is subordinate to the Plaintiff's lien.

E.) On October 18, 2010, Old Lumberyard Associates LP, executed a mortgage to Lenox Hill Investors, LLC in an unspecified amount, which mortgage was recorded on December 16, 2008 in the MORRIS County Clerk's/Register's Office in Mortgage Book 21694 at page 1764. Said mortgage is subordinate to the Plaintiff's lien.

F.) On June 23, 1995, The Town of Morristown, recorded a Tax Sale Certificate bearing No. 95-45 against Old Lumberyard Assoc. L.P., for a debt of \$ 3,030.61, sold on June 14, 1995 for unpaid taxes/utility charges for the year(s) 1995 recorded in the MORRIS County Clerk's/Register's Office in Mortgage Book 5986 at page 329, dated June 21, 1995. Said lien is subordinate to the Tax Sale Certificate being foreclosed herewith. Said lien is believed to be redeemed, but is still of record.

G.) John Doe and Jane Doe, said names being fictitious, tenants, are made party defendants to this action for any leasehold, possessory or other interest they may have in to or against the subject premises by virtue of their occupancy except to the extent that said interest is protected by the Anti-Eviction Act.

H.) The State of New Jersey is hereby joined as a party defendant for any corporate franchise taxes due pertaining to Old Lumberyard Associates, L.P.

PELLEGRINO & FELDSTEIN, L.L.C.

Denville Law Center

290 Route 46 West
Denville, New Jersey 07834

Michael G. Pellegrino
Deborah T. Feldstein+
+Also admitted in NY

Telephone (973) 586-2300
Fax (973) 586-2580

+Also Admitted in NY

August 12, 2012

Superior Court of New Jersey
Foreclosure Unit
PO Box 971
Trenton, New Jersey 08625

RE: US BANK CUS/EMPIRE TAX FUND LLC vs. OLD LUMBERYARD ASSOCIATES, L.P.
22 HILL ST, MORRISTOWN, NEW JERSEY
Our File No. 15142-12

Dear Sir/Madam:

Enclosed please find an original and one copy of a foreclosure Complaint in the above-captioned matter.

Please charge our account accordingly. Our account number is **141881**.

Thank you for your anticipated cooperation in this matter.

Very truly yours,
PELLEGRINO & FELDSTEIN, LLC

By: 
Deborah T. Feldstein, Esq.

MGP/rr
Enclosures

**FORECLOSURE
CASE INFORMATION STATEMENT
(FCIS)**



Use for initial Chancery Division - General Equity
foreclosure pleadings (not motions) under Rule 4:5-1.

Pleading will be rejected for filing, under Rule 1:5-6(c), if information
above the black bar is not completed or if attorney's signature is not affixed.

FOR USE BY CLERK'S OFFICE ONLY

PAYMENT TYPE ☐ CK ☐ CG ☐ CA

CHG/CK NO

AMOUNT

OVERPAYMENT

BATCH NUMBER

SECTION A: TO BE COMPLETED BY ALL PARTIES

CAPTION
USBANK CUS/EMPIRE TAX FUND LLC
vs
OLD LUMBERYARD ASSOCIATES, L.P.

COUNTY OF VENUE MORRIS

DOCKET NUMBER (When available)
F -016912-12

NAME(S) OF FILING PARTY(IES)
US BANK CUS/EMPIRE TAX FUND LLC

DOCUMENT TYPE
☒ COMPLAINT ☐ ANSWER ☐ OTHER

ATTORNEY NAME (IF APPLICABLE)
DEBORAH T. FELDSTEIN, ESQ.

FIRM NAME
PELLEGRINO & FELDSTEIN, LLC

MAILING ADDRESS
ADDRESS
290 ROUTE 46 WEST
DENVER, N.J. 07834

DAYTIME TELEPHONE NUMBER
(973)-586-2300

SECTION B: TO BE COMPLETED BY PLAINTIFF TO INITIAL COMPLAINT

FORECLOSURE CASE TYPE

FORECLOSURE CASE TYPE NUMBER
☒ 088 IN PERSONAM TAX FORECLOSURE
☐ 089 IN REM TAX FORECLOSURE

IS THIS A HIGH RISK MORTGAGE
PURSUANT TO P L 2009, c 84 AND P L
2008, c 127

☐ YES ☒ NO

☐ ORF RESIDENTIAL MORTGAGE FORECLOSURE
☐ OCD CONDOMINIUM OR HOMEOWNER'S ASSOCIATION
LIEN FORECLOSURE

PURCHASE MONEY MORTGAGE

☐ YES ☒ NO

☐ 091 STRICT FORECLOSURE
☐ OFP OPTIONAL FORECLOSURE PROCEDURE (NO SALE)

RELATED PENDING CASE
IF YES, LIST DOCKET NUMBERS

☐ YES ☒ NO

FULL PHYSICAL STREET ADDRESS OF PROPERTY
22 HILL ST, MORRISTOWN

MUNICIPALITY CODE(*) 1424 ()

AUG 16 2012

ZIP CODE 07960 COUNTY MORRIS

MUNICIPAL BLOCK 3702

(LOTS) 9

SUPERIOR COURT
CLERK'S OFFICE

ALL FILING PARTIES MUST SIGN AND PRINT NAME(S) AND DATE THE FORM BELOW

I CERTIFY THAT CONFIDENTIAL PERSONAL IDENTIFIERS HAVE BEEN REDACTED FROM DOCUMENTS NOW SUBMITTED TO THE
COURT, AND WILL BE REDACTED FROM ALL DOCUMENTS SUBMITTED IN THE FUTURE IN ACCORDANCE WITH RULE 1:38-7(B)

ATTORNEY/SELF REPRESENTED SIGNATURE PRINT ATTORNEY/SELF REPRESENTED NAME
DEBORAH T. FELDSTEIN

DATE
August 12, 2012

ATLANTIC COUNTY: Deputy Clerk of the Superior Court Civil Division, Direct Filing 1101 Bacharach Blvd., First Fl. Atlantic City, NJ 08401 LAWYER REFERRAL - LEGAL SERVICES (609) 345-3444 - (609) 348-4200	CUMBERLAND COUNTY: Deputy Clerk of the Superior Court Civil Case Management Office Broad & Fayette Sts., P.O. Box 615 Bridgeton, NJ 08302 LAWYER REFERRAL - LEGAL SERVICES (856)692-6207 - (856)451-0003	MERCER COUNTY: Deputy Clerk of the Superior Court Local Filing Office, Courthouse 175 South Broad St., P.O. Box 8068 Trenton, NJ 08650 LAWYER REFERRAL - LEGAL SERVICES (609)585-6200 - (609)695-6249
BERGEN COUNTY: Deputy Clerk of the Superior Court Case Processing Section, Room 119 Justice Center, 10 Main Street Hackensack, NJ 07601-0769 LAWYER REFERRAL - LEGAL SERVICES (201)488-0044 - (201)487-2166	ESSEX COUNTY: Deputy Clerk of the Superior Court 237 Hall of Records 465 Dr. Martin Luther King, Jr. Blvd. Newark, NJ 07102 LAWYER REFERRAL - LEGAL SERVICES (973)622-6207 - (973)624-4500	MIDDLESEX COUNTY: Deputy Clerk of the Superior Court Administration Building Third Floor 1 Kennedy Sq., P.O. Box 2633 New Brunswick, NJ 08903-2633 LAWYER REFERRAL - LEGAL SERVICES (732)828-0053 - (732)249-7600
BURLINGTON COUNTY: Deputy Clerk of the Superior Court Central Processing Office Attn: Judicial Intake First Fl., Courts Facility 49 Rancocas Rd. Mt. Holly, NJ 08060 LAWYER REFERRAL (609) 261-4862 LEGAL SERVICES (609)261-1088	GLOUCESTER COUNTY: Deputy Clerk of the Superior Court Civil Case Management Office Attn: Intake First Fl., Court House 1 North Broad Street, P.O. Box 129 Woodbury, NJ 08096 LAWYER REFERRAL (609)848-4589 LEGAL SERVICES (856)848-5360	MONMOUTH COUNTY: Deputy Clerk of the Superior Court 71 Monument Park P.O. Box 1262 Court House, East Wing Freehold, NJ 07728-1262 LAWYER REFERRAL (908)431-5544 LEGAL SERVICES (732)866-0020
CAMDEN COUNTY: Deputy Clerk of the Superior Court Civil Processing Office 1st Fl., Hall of Records 101 S. Fifth St. Camden, NJ 08103 LAWYER REFERRAL (856)964-4520 LEGAL SERVICE (856)964-2010	HUDSON COUNTY: Deputy Clerk of the Superior Court Superior Court, Civil Records Dept. Brennan Court House - 1st Fl. 583 Newark Avenue Jersey City, NJ 07306 LAWYER REFERRAL (201)798-2727 LEGAL SERVICES (201)792-6363	MORRIS COUNTY: Deputy Clerk of the Superior Court Civil Division 30 Schuyler Pl., P.O. Box 910 Morristown, NJ 07960-0910 LAWYER REFERRAL (201)267-5882 LEGAL SERVICES (973)285-6911
CAPE MAY COUNTY: Deputy Clerk of the Superior Court Central Processing Office 3 N. Main Street Box DN-209 Cape May Court House, NJ 08210 LAWYER REFERRAL (609)463-0313 LEGAL SERVICE (609)465-3001	HUNTERDON COUNTY: Deputy Clerk of the Superior Court Civil Division 65 Park Avenue Flemington, NJ 08862 LAWYER REFERRAL (908)735-2611 LEGAL SERVICES (609) 782-7979	OCEAN COUNTY: Deputy Clerk of the Superior Court Court House, Room 119 118 Washington Street Toms River, NJ 08754 LAWYER REFERRAL (732)240-3666 LEGAL SERVICES (732)341-2727
PASSAIC COUNTY: Deputy Clerk of the Superior Court Civil Division - Court House 17 Hamilton St. Paterson, NJ 07505 LAWYER REFERRAL (973)278-9223 LEGAL SERVICES (201)345-7171	SOMERSET COUNTY: Deputy Clerk of the Superior Court Civil Division Office New Court House, 3rd Fl. P.O. Box 3000 Somerville, NJ 08876 LAWYER REFERRAL (908)685-2323 LEGAL SERVICES (908)231-0840	UNION COUNTY: Deputy Clerk of the Superior Court 1st Fl., Court House 2 Broad Street Elizabeth, NJ 07207-6073 LAWYER REFERRAL (908)353-4715 LEGAL SERVICES (908)354-4340
SALEM COUNTY: Deputy Clerk of the Superior Court 2 Market St., P.O. Box 18 Salem, NJ 08079 LAWYER REFERRAL (856)678-8363 LEGAL SERVICES (856)451-0003	SUSSEX COUNTY: Deputy Clerk of the Superior Court Sussex County Judicial Center 43-47 High Street Newton, NJ 07860 LAWYER REFERRAL (973)267-5882 LEGAL SERVICES (973)383-7400	WARREN COUNTY: Deputy Clerk of the Superior Court Civil Division Office Court House Belvidere, NJ 07823-1500 LAWYER REFERRAL (908)267-5882 LEGAL SERVICES (908)475-2010