

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**HARPAGON MO, LLC,
APPELLANT
vs.**

**CLAY COUNTY COLLECTOR,
RESPONDENT**

**CITIFINANCIAL SERVICES, INC.,
RESPONDENT**

DOCKET NUMBER WD72006

DATE: MARCH 15, 2011

Appeal from:

The Circuit Court of Clay County, Missouri
The Honorable Anthony Rex Gabbert, Judge

Appellate Judges:

Division One: Thomas H. Newton, P.J., James M. Smart, Jr. and Joseph M. Ellis, JJ.

Attorneys:

Eugene J. Feldhausen, for Appellant

Patricia L. Hughes, for Respondent Clay County Collector

Kari Gutermuth, for Respondent Citifinancial Services, Inc.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

HARPAGON MO, LLC, APPELLANT

v.

**CLAY COUNTY COLLECTOR, RESPONDENT
CITIFINANCIAL SERVICES, INC., RESPONDENT**

WD72006

Clay County, Missouri

Before Division One Judges: Thomas H. Newton, P.J., James M. Smart, Jr. and Joseph M. Ellis, JJ.

Harpagon Mo LLC appeals from a judgment entered in the Circuit Court of Clay County granting summary judgment in favor of Citifinancial Services, Inc. in an action filed by Harpagon to quiet title in a piece of real property purchased by Sunrise Atlantic, LLC at a tax sale and later assigned to Harpagon.

REVERSED AND REMANDED.

Division One holds:

(1) Section 140.610 does not bar a claim that the notice requirements of § 140.405 were not satisfied or that the notice provided was otherwise insufficient to satisfy due process.

(2) The trial court erred in granting summary judgment to Citifinancial on the basis that Sunrise Atlantic failed to comply with the affidavit requirement of § 140.405.4 when such requirement only applies to third offering tax sales and the tax sale involved herein was a first offering.

(3) The trial court erred in granting summary judgment to Citifinancial on the basis that the § 140.405 notice was not sent to the correct address when uncontroverted facts establish that Sunrise Atlantic utilized reasonable efforts to notify Citifinancial of the tax sale and its right to redeem and that Sunrise Atlantic was successful in those efforts.

(4) The trial court erred in granting summary judgment to Citifinancial on the basis that the notice failed to state that Citifinancial had one year from the date of the tax sale to redeem the property when there is no such requirement in § 140.405 and Sunrise Atlantic properly informed Citifinancial of the date up to which it had a right to redeem the property.

Opinion by Joseph M. Ellis, Judge

Date: March 15, 2011

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