

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:	)	Chapter 7
	)	BKY Case No. 04-42991-RJK
Prisana O. Nelson,	)	
	)	
Debtor(s)	)	<b><u>VERIFIED NOTICE OF HEARING</u></b>
	)	<b><u>AND MOTION OBJECTING TO</u></b>
	)	<b><u>CLAIMED EXEMPT PROPERTY</u></b>

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TO: The United States Bankruptcy Court, the United States Trustee, the debtor, the debtor's attorney, and all parties who requested notice under Bankruptcy Rule 2002 (none):

1. Julia A. Christians, Trustee herein, moves the Court for the relief requested below, and gives notice of hearing herewith.

2. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005, and Local Rule 1071-1. This motion is filed pursuant to Bankruptcy Rule 9014 and Local Rules 9013-1 through 9013-5. This proceeding arises under 11 U.S.C. § 522 and Local Rule 4003-1(a).

3. The Court will hold a hearing on this objection on October 6, 2004, at 9:30 a.m. in Courtroom No. 8 West, U.S. Courthouse, 300 South Fourth Street, Minneapolis, MN 55415, or as soon thereafter as counsel can be heard.

4. Any entity opposing the motion under Local Rule 9013-2 is required to file and serve a response, including a memorandum of facts and law and any opposing affidavit, not later than October 1, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than September 27, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). **If no**

**response is timely served and filed, the Court may grant the relief requested without a hearing.**

5. The undersigned trustee hereby objects to the debtor's Amended claim that the following property is exempt under the applicable exemption statute: Real Property located at 11887 Jenkins Street N.E., Blaine, Minnesota 55449, legally described as Lot 10, Block 8, Olympic Glen, Anoka County, Minnesota, listed by the debtor as having a value of \$217,500 for a one-half interest (\$435,000 full value), subject to a mortgage of \$350,643

6. The objection is made for the following reasons: The Trustee duly objected to the claim of exemption asserted in Debtor's original Schedule C on the basis the property in question exceeded the one-half acre size limitation of the statute. This Court entered an Order on July 28, 2004 disallowing Debtor's claim of exemption in the real property to the extent the property exceeded one-half acre and further providing, "That the debtor shall have 30 (thirty) days to designate as homestead property a portion of the real property not to exceed one-half acre in size." On or about August 27, 2004, Debtor filed an Amended Schedule C, claiming an exemption pursuant to Minn. Stat. §§ 510.01, 510.02 in the same property by changing the wording of the legal description to add, "except the North 14.91 feet thereof".

Based upon Debtor's own figures, the lot size is 25,700 square feet, exceeding one-half acre by 3,920 square feet. *See*, Exhibit A. Based upon the plat drawings provided by Debtor, it appears that exclusion of the north 14.91 feet of the property falls short of an exclusion of the necessary 3,920 square feet. *See*, Exhibit B. The Trustee sought clarification from Debtor as to the basis for the calculations, but Debtor has not responded. Therefore, to preserve the estate's rights to require an accurate designation of the exempt one-half acre portion and no more, the Trustee brings this objection to the Amended Schedule C claim of exemption in the real property.

Dated: September 22, 2004

/e/ Julia A. Christians  
Julia A. Christians, Trustee  
One Financial Plaza, Suite 2500  
120 South Sixth Street  
Minneapolis, MN 55402  
(612) 338-5815

**VERIFICATION**

Julia A. Christians, being duly sworn, says that she is the Chapter 7 Trustee in this action, that she has read this Verified Notice and Objection To Claimed Exempt Property and that it is true of her own knowledge, to the best of her information.

/e/ Julia A. Christians  
Julia A. Christians

1 ACRE = 43,560 SQ FT

1/2 ACRE = 21,780 SQ FT

OUR LOT 25,700 SQ FT

NORTHERN EASEMENT (119TH AVENUE)  $219.95' \times 10 \text{ FEET} = 2199.5 \text{ SQ FT}$   
(L) (W)

WEST EASEMENT (JENKINS STREET)  $123.86' + 57.71' = 181.57' \times 10' = 1816.7 \text{ SQ FT}$   
(L) (L) (W)

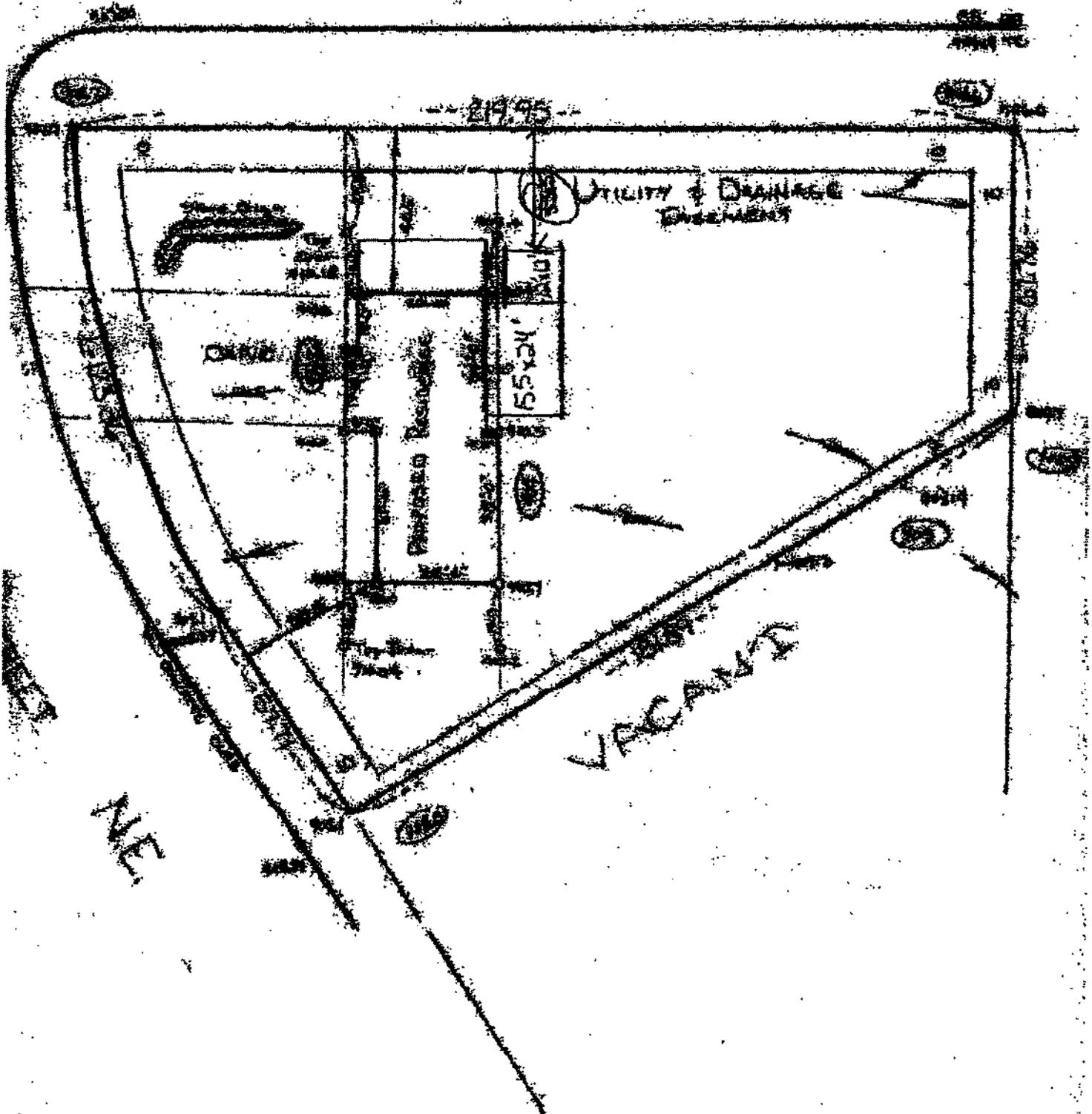
EAST EASEMENT (BACK OF ACRES 37)  $67.76' \times 10' = 677.6 \text{ SQ FT}$   
(L) (W)

SOUTH EASEMENT  $181.89' \times 5' = 909.45 \text{ SQ FT}$

TOTAL EASEMENTS SURROUNDING PROP. 5602.25 SQ FT



119<sup>TH</sup> AVENUE NE  
11887 Jenkins St -



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Prisana O. Nelson, )  
 )  
Debtors. )

**UNSWORN CERTIFICATE OF SERVICE**

I, Sarah L. Fortin, declare under penalty of perjury that on September 22, 2004, I mailed copies of the attached **Notice Of Hearing And Motion Objecting to Claimed Exempt Property; and proposed Order** by first class mail postage prepaid to each entity named below at the address stated below for each entity:

Office of the United States Trustee  
1015 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

Prisana O. Nelson  
11887 Jenkins Street NE  
Blaine, MN 55449

Thomas F. Miller, Esq.  
715 Florida Avenue W, Ste. 305  
Minneapolis, MN 55426

Executed on: September 22, 2004

/s/ Sarah L. Fortin  
Sarah L. Fortin, Legal Secretary  
Lapp, Libra, Thomson, Stoebner &  
Pusch, Chartered  
120 South Sixth Street, Suite 2500  
Minneapolis, MN 55402  
612/338-5815

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

_____	)	Chapter 7
In re:	)	BKY Case No. 04-42991-RJK
Prisana O. Nelson,	)	
Debtor(s).	)	
_____	)	

**ORDER RESPECTING OBJECTION TO CLAIM OF EXEMPTION**

The objection of the trustee to the debtor's claim that the following property is exempt under Minn. Stat. §§ 510.01, 510.02: Real Property located at 11887 Jenkins Street N.E., Blaine, Minnesota 55449, legally described as Lot 10, Block 8, Olympic Glen, Anoka County, Minnesota, listed value of one-half interest \$217,500 (\$435,000 full value); came duly on for hearing on October 6, 2004. Appearances were as noted in the record.

Upon said objection and for cause shown, and upon all the files, records, and proceedings herein,  
IT IS ORDERED,

That the debtor's claim of exemption in the following property: Real Property located at 11887 Jenkins Street N.E., Blaine, Minnesota 55449, legally described as Lot 10, Block 8, Olympic Glen, Anoka County, Minnesota; is disallowed to the extent said property exceeds one-half acre in size.

Dated:

\_\_\_\_\_  
Robert J. Kressel  
United States Bankruptcy Judge