

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION**

In Re:

Case No. 04-33519

Melinda Joy Webb,

Debtor(s).

NOTICE OF HEARING AND MOTION OBJECTING TO EXEMPTION

TO: The Debtor, his/her attorney, Trustee and other parties in interest specified in Local Rule 9013-3:

1. Mary Jo A. Jensen-Carter, Trustee of the bankruptcy estate of the above-named Debtor(s) (“Trustee”), moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion on **October 6, 2004 at 11:30 a.m.**, before the Honorable Dennis D. O’Brien, Judge of the U.S. Bankruptcy Court, in Courtroom Number 228A, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.
3. Any response to this motion must be filed and delivered 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 no later than September 27, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and holidays). **IF A RESPONSE IS NOT TIMELY FILED, THE COURT, IN ITS DISCRETION, MAY GRANT THE RELIEF REQUESTED WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. The petition commencing this case was filed under Chapter 7 on June 15, 2004. This case is now pending in this Court.
5. This motion arises under 11 U.S.C. § 522 and Minn. Stat. § 510.01 and 510.02. This motion is filed pursuant to Bankruptcy Rule 9014 and Local Rules 9013-1, 9013-2, 9013-3 and 9013. The debtor has claimed a one-half interest in real property located at 13119 Danube Lane, Rosemount, Dakota County, Minnesota, legally described as Lot 18, Block 3, Evermoor, Dakota County, Minnesota, as her exempt homestead pursuant to Minn. Stat. §510.01. However, Minn. Stat. § 510.02 provides that a homestead that is within the laid out or platted portion of a city, its area must not exceed one-half acre.
6. Based upon the Dakota County property tax records, the debtor's homestead is in a platted portion of the City of Rosemount and its area consists of .59 acres. Therefore, the area of the debtor's homestead exceeds the limitation of Minn. Stat. §510.02. See attached Exhibit A. Accordingly, Trustee objects to the exemption.

WHEREFORE, Trustee prays for an order of the Court denying debtor's exemption as set forth herein and granting such other and further relief as the Court deems just and equitable.

Dated: September 2, 2004.

BUCKLEY & JENSEN

By /e/ Mary Jo A. Jensen-Carter
Mary Jo A. Jensen-Carter, #186041
1339 East County Road D
Vadnais Heights, MN 55109
(651) 486-7475

VERIFICATION

I, Mary Jo A. Jensen-Carter, Trustee and movant named in the motion, declare under penalty of perjury that the facts contained in the foregoing motion are true and correct to the best of my knowledge, information and belief.

Dated: September 2, 2004.

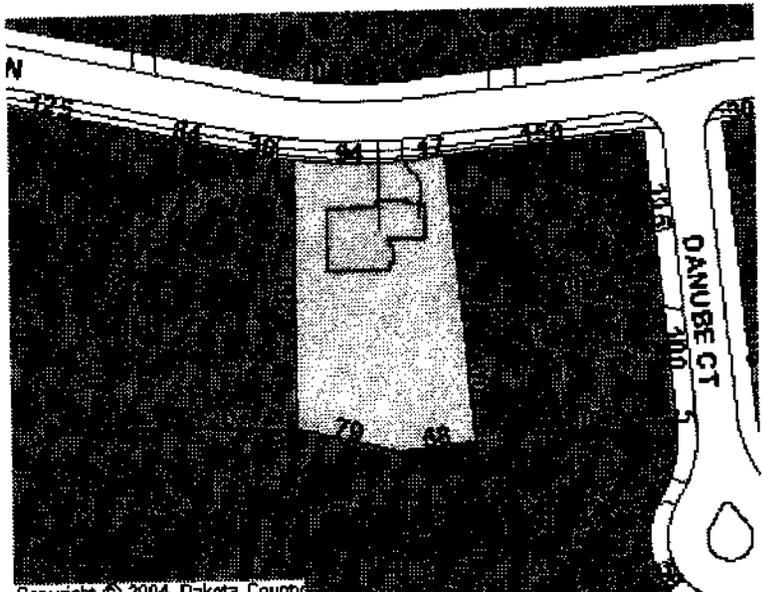
/e/ Mary Jo A. Jensen-Carter
Mary Jo A. Jensen-Carter, Trustee

Dakota County Real Estate Inquiry

Data Updated 8/28/04.



Select option and click map:



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Legend

Real Estate Parcels

- Parcels
- Common Ownership
- Water
- R/W Easement
- Dedicated R/W

Choose a search method, enter criteria, and click Go or hit enter key.

House #:

Address:

PIN:

PIN: 34-25100-180-03 Owner: JAMES R WEBB Address: 13119 DANUBE LANE City: ROSEMOUNT, MN 55068	2004 Est. Value (Payable 2005): \$503,000 2003 Taxable Value (Payable 2004): \$479,300 Payable 2004 Tax: \$6,218.44 Total Acreage: 0.59 Year Built: 2001	
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This application was developed by the Dakota County Office of GIS in cooperation with Assessing Services, Treasurer - Auditor and Property Records Departments



Click on the Dakota County Logo above to return to the home page

Exhibit A

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UNSWORN CERTIFICATE OF SERVICE

I, Ann M. Gagner, declare under penalty of perjury that on September 2, 2004, I served copies of the attached *Notice of Hearing and Motion Objecting to Exemption and a proposed Order* by first class U.S. Mail, to the following parties:

Melinda Joy Webb 13119 Danube Lane Rosemount, MN 55068	United States Trustee 1015 U.S. Courthouse 300 South Fourth Street Minneapolis, MN 55415
Michael T. Kallas Kallas & Associates, Ltd 4930 West 77 th Street, Suite 210 Edina, MN 55435-4808	

Executed on: September 2, 2004.

Signed: /e/ Ann M. Gagner
Ann M. Gagner
Buckley & Jensen
1339 East County Road D
Vadnais Heights, MN 55109

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ORDER

The above-captioned matter came on before this Court on the motion of the Trustee, Mary Jo A. Jensen-Carter, objecting to the debtor's exemptions. Appearances, if any, are noted in the Court's record.

Based upon all of the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. The Trustee's Motion Objecting to Exemption is granted; and
2. The debtor's interest in the real property located at 13119 Danube Lane, Rosemount, Dakota County, Minnesota, legally described as Lot 18, Block 3, Evermoor, Dakota County, Minnesota, is hereby deemed property of the bankruptcy estate to the extent that the acreage of the property exceeds one-half acre, and the Trustee shall administer the same pursuant to the provisions of the Bankruptcy Code.

Dated: _____, 2004.

BY THE COURT

Dennis D. O'Brien
Judge, United States Bankruptcy Court