

BEFORE THE INDIANA
REAL ESTATE COMMISSION
CAUSE NO.: IREC 11-40

IN THE MATTER OF THE)
UNLICENSED PRACTICE OF:)
)
BOB OESTREICH,)
RESPONDENT.)



FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Indiana Real Estate Commission (“Commission”) held an administrative hearing at 9:00 a.m. on December 14, 2011, in Room W064 of the Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204, concerning a motion for an order to cease and desist the unlicensed practice of real estate, filed against Bob Oestreich (“Respondent”).

The State of Indiana (“Petitioner”) was represented by Laura A. Turner, Deputy Attorney General. Respondent was present and was represented by counsel, Gordon A. Etzler.

Petitioner filed its motion against Respondent on July 15, 2011, alleging that Respondent violated Ind. Code § 25-34.1-3-2 when Respondent engaged in the practice of real estate without the required license.

On August 11, 2011, and September 16, 2011, the Indiana Professional Licensing Agency sent Respondent notice of the date and time of the Order to Show Cause hearing that was set for October 5, 2011.

On October 4, 2011, Respondent, by and through his attorney, requested a continuance of the hearing set for October 5, 2011. Respondent’s request for a continuance was granted, and the Order to Show Cause hearing was reset for December 14, 2011.

On or about December 14, 2011, the Commission considered the evidence presented and took official notice of its file in this matter. By a vote of 9-0-0, the Commission ordered the

Respondent to **CEASE AND DESIST** any and all activity that leads the public to believe that Respondent is representing anyone other than Respondent's own personal real estate or himself.

The Commission then held further proceedings and now issues the following:

FINDINGS OF FACT

1. Respondent's last known mailing address is 446 North 250 East, Valparaiso, Indiana 46383; and/or 105 Brown Street, Apartment 1, Valparaiso, Indiana 46383.
2. Respondent does not currently hold, nor has he ever held, a professional license issued under Ind. Code art. 25-34.1, Real Estate Brokers and Salespersons.
3. Pursuant to Ind. Code § 25-34.1-3-2(a)(3), "no person shall, for consideration, sell, buy, trade, exchange, option, lease, rent, manage, list, or appraise real estate or negotiate or offer to perform any of those acts in Indiana or with respect to real estate situated in Indiana, without a license."
4. Respondent has engaged in activities for which a license is required under Ind. Code § 25-34.1-3-2(a)(3). These activities include, but are not limited to, the advertising and/or offering to sell the following properties without a real estate license:
 - a. 105 Brown Street, Valparaiso, Indiana ("Brown");
 - b. 106 Michigan Street, Valparaiso, Indiana ("106 Michigan");
 - c. 507 Lafayette Street, Valparaiso, Indiana ("Lafayette"); and
 - d. 205 Michigan Avenue, Valparaiso, Indiana ("205 Michigan").
5. The properties previously mentioned above were not owned by Respondent when he advertised that they were for sale.
6. The "For Sale" signs located on the Brown and 106 Michigan properties stated that the properties were "Priced to SELL."

7. Respondent included his telephone number on the "For Sale" signs of the Brown, Lafayette, and 106 Michigan properties.

CONCLUSIONS OF LAW

1. Pursuant to Ind. Code § 25-1-7-14, the Commission has the authority to issue an order for Respondent to cease and desist the unlicensed practice of real estate if the Commission finds that the Respondent has engaged in such activity.

2. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-34.1-3-2, which prohibits any person from acting in the capacity of a real estate licensee without first obtaining the necessary real estate license.

3. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-34.1-3-2, which states that "no person shall, for consideration, sell, buy, trade, exchange, option, lease, rent, manage, list, or appraise real estate or negotiate or offer to perform any of those acts in Indiana or with respect to real estate situated in Indiana, without a license."


ORDER

1. Respondent shall immediately **CEASE AND DESIST** from any further activity that can be considered the practice of real estate pursuant to Ind. Code § 25-34.1-3-2.

2. Respondent shall be punished for contempt of court in either circuit or superior court should Respondent violate the terms of this order to cease and desist the unlicensed practice of real estate.

SO ORDERED this 21st day of December, 2011.

INDIANA REAL ESTATE COMMISSION

By: 
Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies To:

Bob Oestreich
446 North 250 East
Valparaiso, Indiana 46383
CERTIFIED MAIL NO.: 91 7190 0005 2720 0014 6875
RETURN RECEIPT REQUESTED

Bob Oestreich
105 Brown Street, Apartment 1
Valparaiso, Indiana 46383
CERTIFIED MAIL NO.: 91 7190 0005 2720 0014 6882
RETURN RECEIPT REQUESTED

Gordon A. Etzler
251 Indiana Avenue
Valparaiso, Indiana 46383

Laura A. Turner
Office of the Attorney General
Indiana Government Center South
302 W. Washington St., 5th Floor
Indianapolis, IN 46204

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CAUSE NO.: IREC 11-40

IN THE MATTER OF THE
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BOB OESTREICH,
RESPONDENT.

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ORDER TO SHOW CAUSE

Comes now the Indiana Real Estate Commission (“Commission”), by the authority of Chairman Michael Lunsford under Ind. Code § 25-1-7-14(a)(2), and pursuant to Ind. Code § 4-21.5 and Ind. Code § 25-1-7-14 issues the following Order to Show Cause:

The Commission hereby notifies Bob Oestreich (“Respondent”), 446 North 250 East, Valparaiso, Indiana 46383, to appear before the Commission on **October 5, 2011 at 10:00 a.m.**, Local Time, in Room W064 of Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204 to show cause why Respondent should not be subject to licensing, certification, or registration under Ind. Code art. 25-1, and cease and desist his alleged practice of real estate without the required license.

1. This order is being provided to counsel for Petitioner, State of Indiana, Laura A. Turner, Deputy Attorney General, Office of the Attorney General, Indiana Government Center South, 302 West Washington Street, 5th Floor, Indianapolis, Indiana 46204, telephone number (317) 234-7108.

2. The official cause number of this action is: IREC 11-40.

3. This action is an Order to Show Cause issued by the Commission based on the allegations raised in the Motion for Order to Cease and Desist.

4. Any party may be advised and represented by counsel at the party's own expense. The Commission is empowered to hold this hearing pursuant to the authority of Ind. Code § 25-1-11, Ind. Code § 25-1-7-14 and Ind. Code § 4-21.5 *et seq.* The Commission will be presiding as administrative law judge in this matter.

5. The hearing will address the issues contained in the Motion for Order to Cease and Desist filed July 15, 2011 which is attached hereto and incorporated by reference as Exhibit A.

6. Eric Felde, Compliance Director, may be contacted to obtain information concerning hearing schedules and procedures by mail in care of the Indiana Professional Licensing Agency, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204, by e-mail at efelde@pla.in.gov, by facsimile at (317) 233-4326, or by telephone at (317) 234-3015.

7. A party who fails to attend or participate in a pre-hearing conference, hearing, or other later stage of this proceeding may be held in default or have the proceeding dismissed under Ind. Code § 4-21.5-3-24.

SO ORDERED, this 16 day of September, 2011.

INDIANA REAL ESTATE COMMISSION

By: 

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies To:

Bob Oestreich
446 North 250 East
Valparaiso, Indiana 46383

CERTIFIED MAIL NO.: 91 7190 0005 2720 0011 4256
RETURN RECEIPT REQUESTED

Bob Oestreich
105 Brown Street, Apt 1
Valparaiso, IN 46383

CERTIFIED MAIL NO.: 91 7190 0005 2720 0011 4584
RETURN RECEIPT REQUESTED

Laura A. Turner
Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, 5th Floor
Indianapolis, Indiana 46204

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BOB OESTREICH,)
RESPONDENT.)



ORDER TO SHOW CAUSE

Comes now the Indiana Real Estate Commission (“Commission”), by the authority of Chairman Michael Lunsford under Ind. Code § 25-1-7-14(a)(2), and pursuant to Ind. Code § 4-21.5 and Ind. Code § 25-1-7-14 issues the following Order to Show Cause:

The Commission hereby notifies Bob Oestreich (“Respondent”), 446 North 250 East, Valparaiso, Indiana 46383, to appear before the Commission on **August 24, 2011 at 9:30 a.m.**, Local Time, in Room W064 of Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204 to show cause why Respondent should not be subject to licensing, certification, or registration under Ind. Code art. 25-1, and cease and desist his alleged practice of real estate without the required license.

1. This order is being provided to counsel for Petitioner, State of Indiana, Laura A. Turner, Deputy Attorney General, Office of the Attorney General, Indiana Government Center South, 302 West Washington Street, 5th Floor, Indianapolis, Indiana 46204, telephone number (317) 234-7108.

2. The official cause number of this action is: IREC 11-40.

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5. The hearing will address the issues contained in the Motion for Order to Cease and Desist filed July 15, 2011 which is attached hereto and incorporated by reference as Exhibit A.

6. Eric Felde, Compliance Director, may be contacted to obtain information concerning hearing schedules and procedures by mail in care of the Indiana Professional Licensing Agency, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204, by e-mail at efelde@pla.in.gov, by facsimile at (317) 233-4326, or by telephone at (317) 234-3015.

7. A party who fails to attend or participate in a pre-hearing conference, hearing, or other later stage of this proceeding may be held in default or have the proceeding dismissed under Ind. Code § 4-21.5-3-24.

SO ORDERED this 11th day of August, 2011.

INDIANA REAL ESTATE COMMISSION

By: 
Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies To:

Bob Oestreich
446 North 250 East
Valparaiso, Indiana 46383

CERTIFIED MAIL NO.: 91 7190 0005 2720 0010 2451
RETURN RECEIPT REQUESTED

Laura A. Turner
Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, 5th Floor
Indianapolis, Indiana 46204

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BOB OESTREICH,

Respondent.

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MOTION FOR ORDER TO CEASE AND DESIST

The State of Indiana, by Laura A. Turner, Deputy Attorney General, pursuant to Ind. Code § 25-1-7-14 files this motion requesting the Indiana Real Estate Commission (“Commission”) to order Bob Oestreich (“Respondent”) to Cease and Desist his practice of real estate without the required license. In support of this motion, the Office of the Attorney General (“Petitioner”) alleges and states as follows:

1. Petitioner is empowered to bring complaints before the Commission in the name of the State of Indiana pursuant to Ind. Code § 25-1-7-2.
2. The Commission is charged with the responsibility of regulating the practice of real estate in the State of Indiana pursuant to Ind. Code § 25-34.1-2-5.
3. Respondent’s mailing address is 446 North 250 East, Valparaiso, Indiana 46383.
4. Respondent does not currently hold, nor has he ever held, a professional license issued under Ind. Code art. 25-34.1, Real Estate Brokers and Salespersons.
5. Pursuant to Ind. Code § 25-34.1-3-2(a)(3), “no person shall, for consideration, sell, buy, trade, exchange, option, lease, rent, manage, list, or appraise real estate or negotiate or offer to perform any of those acts in Indiana or with respect to real estate situated in Indiana, without a license.”

6. Respondent has engaged and continues to engage in activities for which a license is required under Ind. Code § 25-34.1-3-2(a)(3). These activities include, but are not limited to, the advertising and/or offering to sell the following properties without a real estate license:

- a. 105 Brown Street, Valparaiso, Indiana ("Brown");
- b. 106 Michigan Street, Valparaiso, Indiana ("Michigan"); and
- c. 507 Lafayette Street, Valparaiso, Indiana ("Lafayette").

7. The Brown, Michigan and Lafayette properties were not owned by Respondent when he advertised that they were for sale.

8. The "For Sale" signs located on the Brown and Michigan properties stated that the properties were "Priced to SELL."

9. Respondent included his telephone number on the "For Sale" signs. (A true and correct copy of Respondent's advertisements located at Brown, Michigan, and Lafayette properties are attached hereto and incorporated herein as State's Exhibit 1.)

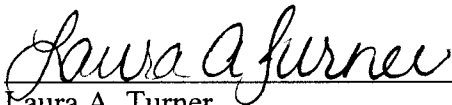
10. By engaging in activities for which a license is required under Ind. Code § 25-34.1-3-2(a)(3), Respondent is subject to a show cause hearing and the issuance of a cease and desist order pursuant to Ind. Code § 25-1-7-14, which states that the Commission may issue an order requiring the Respondent to show cause why he or she should not be ordered to cease and desist from activities for which a license, certification, or registration is required.

WHEREFORE, Petitioner respectfully requests an order against Respondent that:

1. Directs Respondent to immediately cease and desist any activity that is considered the practice of real estate pursuant to Ind. Code § 25-34.1-3-2(a)(3) without the appropriate license; and
2. Provide any other relief that the Commission deems just and proper.

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana
Attorney No. 1958-98

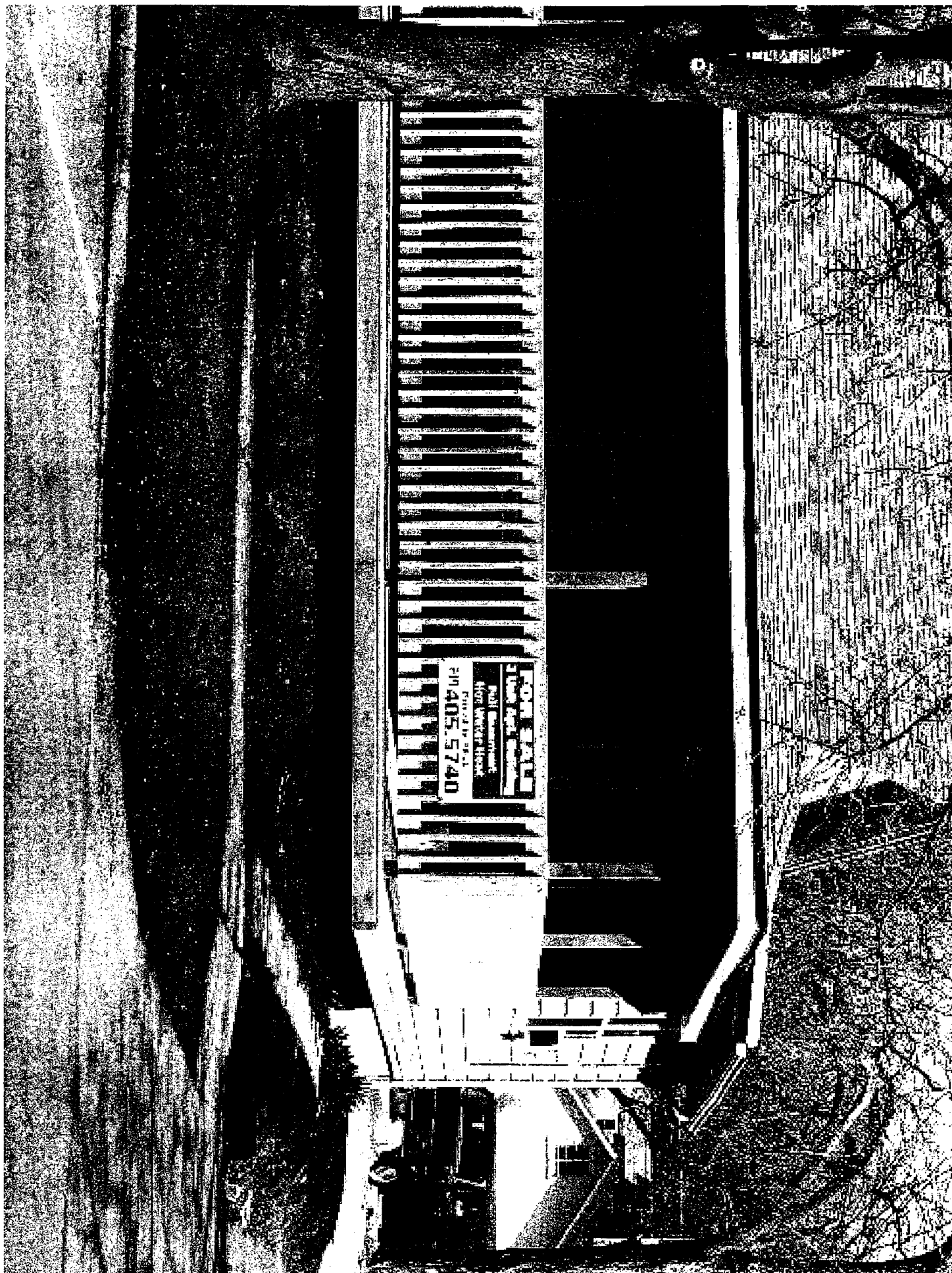
By: 
Laura A. Turner
Deputy Attorney General
Attorney No.: 28350-41

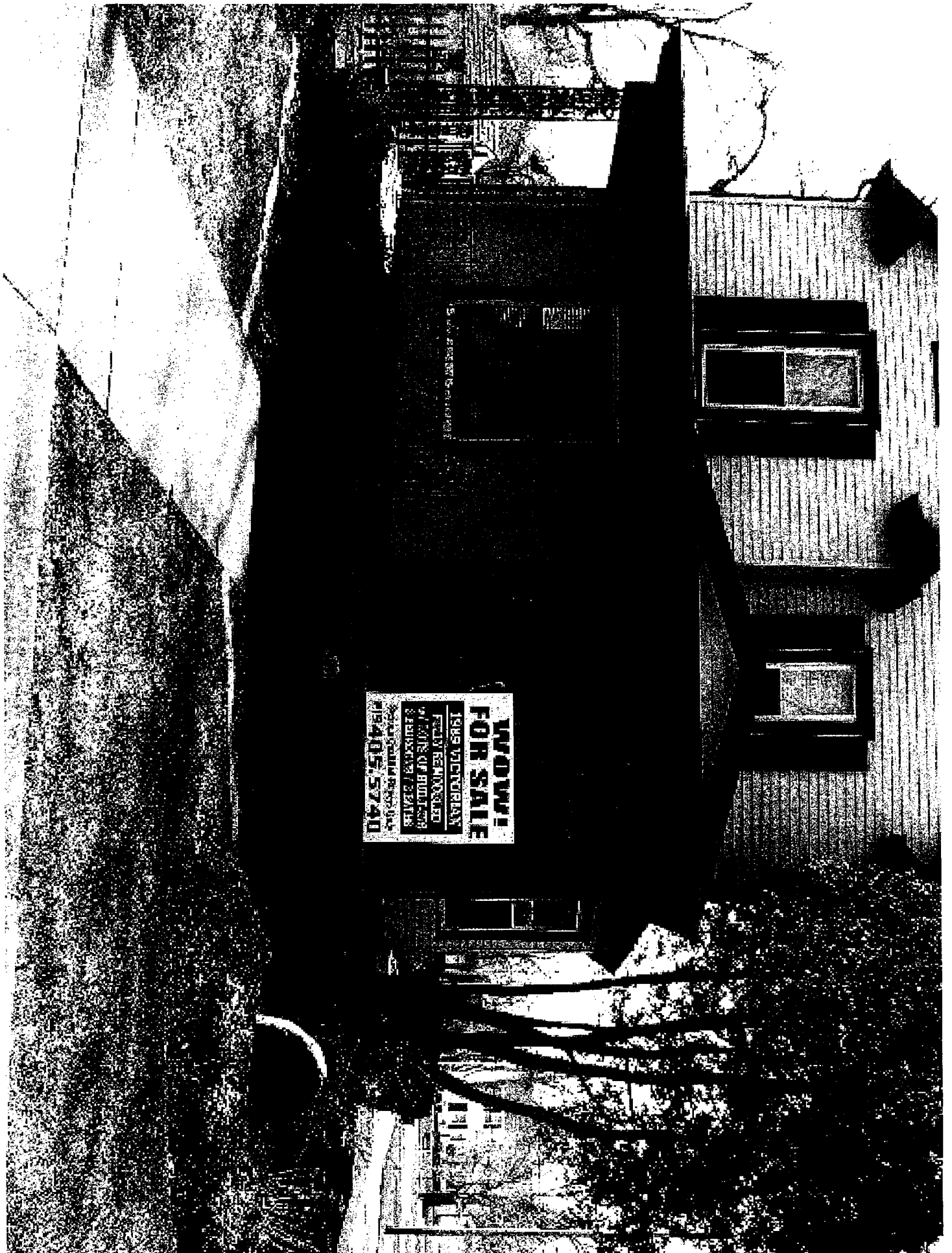
Indiana Government Center South
302 West Washington Street, 5th Floor
Indianapolis, Indiana 46204
Telephone: (317) 234-4784
Facsimile: (317) 233-4393
laura.turner@atg.in.gov



Blumberg No. 5138

STATE'S
EXHIBIT



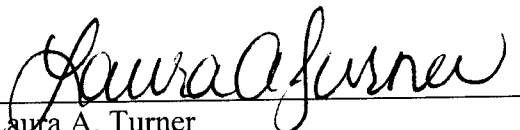


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8 BATHS DOWN / 2 BATHS
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REX 405-574-1100

CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of July, 2011, a true and correct copy of this Complaint was served upon the below-listed party via First Class U.S. Mail, postage prepaid.

Bob Oestreich
446 North 250 East
Valparaiso, IN 46383



Laura A. Turner
Attorney No.: 28350-41
Deputy Attorney General