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FILED Dec 13 19 88
BILL COVINGTON, CLERK
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IN THE PROBATE COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

IN RE: THE ESTATE OF NELLIE E. JONES,

WARD

LAURA YANCEY GOODALL,

CONSERVATOR/PLAINTIFF,

V.

NELLIE E. JONES,

WARD/DEFENDANT,

AND MARY O. MCCABE, RUTH SCRUGGS, AND THE ESTATE OF MARGARET C. MCCABE, deceased,

DEFENDANTS,

AND

THOMAS E. MCCABE, AND ROBERT A. MCCABE, JR.,

INTERVENORS/DEFENDANTS.

DOCKET NO. 79265

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ORDER APPROVING SALE OF REAL PROPERTY
LOCATED AT 817, 819, 821 AND 823 MAIN STREET
DAVIDSON COUNTY, TENNESSEE

THIS CAUSE came on to be heard upon the 22nd day of November, 1988, before the Honorable James R. Everett, Jr., Judge of the Probate Court for Davidson County, Tennessee, upon the Conservator's Petition for Court Authorization to Sell Real Estate of the Ward, and the Petition for Sale of Land for Partition of the property known as 817, 819, 821 and 823 Main Street, located in Nashville, Davidson County, Tennessee and based upon an examination of the respective Petitions as incorporated in the Original Complaint filed on March 31, 1988, the Report of the duly appointed Guardian Ad Litem for the Ward, Anne Russell; Answer of the Guardian Ad Litem for the Ward; Answer of the Defendant Estate of Margaret McCabe; Answer of Defendant Mary O. McCabe; Answer of Defendants Robert A. McCabe, Jr., and Thomas E. McCabe,

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examination of the Appraisals of the subject property located at Main Street, heretofore filed with the Court; examination of the proposed offer to purchase said real property submitted through the Auctioneer, Feller Brown; Statement of counsel for the Conservator; Statement of the Guardian Ad Litem Anne Russell, Statement of Counsel for the Defendants Mary McCabe; Robert A. McCabe, Jr., and Thomas E. McCabe; Statement of Administrator for the Estate of Margaret McCabe; and the Record as a whole, the Court finds the following:

A) The Defendant Nellie E. Jones, Ward, has been properly notified of this proceeding by service of process on her duly appointed Guardian Ad Litem, Anne Russell;

B) The Defendant Nellie E. Jones, Ward, has been properly represented by her duly appointed Guardian Ad Litem, Anne Russell;

C) The Defendant Mary O. McCabe has been properly served and is represented by her attorney, Spiller Campbell;

D) The Defendant/Intervenors, Robert A. McCabe, Jr., and Thomas E. McCabe, have been properly served and are personally before the Court through their attorney, Spiller Campbell;

E) That the Estate of Margaret C. McCabe has been properly served with process and is before the Court through the duly appointed Administratrix of the Estate of Margaret C. McCabe, Marleen Eskind-Moses;

F) That with respect to the subject property known as 817 and 819 Main Street, Nashville, Davidson County, Tennessee, the Defendant Nellie E. Jones owns an undivided one-half (1/2) interest as tenant in common in said property, and Defendant Mary McCabe and Defendant Estate of Margaret McCabe jointly own the remaining undivided one-half (1/2) interest as tenants in common in said property;

G) That Defendants Mary McCabe, Robert A. McCabe, Jr., and Thomas O. McCabe claim an ownership interest by intestate succession in their deceased sister's (Margaret

McCabe) ownership interest in the subject property known as 817 and 819 Main Street, Nashville, Davidson County, Tennessee;

H) That with respect to the subject property known as 821 Main Street, the Defendant Nellie E. Jones, Ward, and Defendant Mary McCabe each own as tenants in common an undivided one-half (1/2) interest in said property;

I) That with respect to the subject property known as 823 Main Street, the Defendant Nellie E. Jones, Ward, and Defendant Mary McCabe each own as tenants in common an undivided one-half (1/2) interest in said property;

J) That the appraised fair market value of the property located at 817 and 819 Main Street is $70,000.00; that the appraised value of the property located at 821 Main Street is $35,000.00; that the appraised fair market value of the property located at 823 Main Street is $49,000.00, for a total appraised fair market value of a $154,000.00;

K) It is in the best interest of all of the Defendants that the subject property located at 817, 819, 821 and 823 Main Street be sold under this Partition for Sale cause of action;

L) That it is necessary and in the manifest best interest of the Defendant Nellie E. Jones, Ward, to sell her ownership interest in the subject property known as 817, 819, 821 and 823 Main Street, Nashville, Davidson County, Tennessee in order to help meet her increasing health care needs; increase liquidity in her estate; and for income and inheritance tax reasons;

M) That the subject property located at 817, 819, 821 and 823 Main Street, Davidson County, Nashville, Tennessee cannot be Partitioned in Kind among the respective owners and their ownership interest therein, and therefore said property should be sold by Partition for Sell as a whole;

N) That the price offered for the subject property known as 817, 819, 821 and 823 Main Street, Nashville, Davidson County, Tennessee by the proposed purchaser, Clark

Fizer in the amount of $160,000.00, which was procured December of 1987 by Feller Brown, Auctioneer, should be accepted by the respective Defendants;

O) That the sale of the subject property located at 817, 819, 821 and 823 Main Street, Nashville, Davidson County, Tennessee in this Partition for Sell should be approved;

BASED UPON THESE FINDINGS the Court hereby ORDERS, ADJUDGES AND DECREES the following:

1. That the following subject property known as 817, 819, 821 and 823 Main Street, Nashville, Davidson County, Tennessee, shall be partitioned for sale and the respective Plaintiff and Defendants shall be authorized to sell said property to the proposed purchaser, Clark Fizer:

TRACT 1: (817 and 819 Main Street) (Map 82-12, Parcel 223)

Land in Davidson County, Tennessee, being Lots No. 10 and 11 in Neil S. Brown's Addition to Edgefield, as of record in Book 57, Page 50, Register's Office for said County.

Said Lots Nos. 10 and 11 front together 90 feet on the northerly side of Main Street and run back between parallel lines, 170 feet to an alley. Including but excluding part of Lots Nos. 10 and 11 of said property conveyed to The Nashville Housing Authority from N. R. Roberts and wife, of record in Book 3889, page 76, said Register's Office described as follows:

Beginning at a point, said point being on the northerly margin of Main Street and being the southeast corner of said property; thence with the northerly margin of Main Street in a westerly direction a distance of 90 feet, more or less, to a point; thence along a line in a northerly direction a distance of 10 feet, more/less, to a point; thence along a line in a easterly direction, said line being 10 feet, north of and parallel to the northerly margin of Main Street, a distance of 90 feet, more or less, thence along a line in a southerly direction a distance of 10 feet, more or less, to the point of beginning, and containing 900 square feet, more or less.

Being the same property conveyed to E. B. Jones wife, Nellie E. Jones, Mary O. McCabe and Margaret C. McCabe, by deed from N. R. Roberts and wife, Emma G. Roberts, of record in Book 4179, page 840, Register's Office for Davidson County, Tennessee. The said E. B. Jones having since died and title vested in Nellie E. Jones, as surviving tenant by the entirety. The said Margaret C. McCabe having died intestate, title to her interest is vested in her heirs at law.

TRACT 2: (821 Main Street) (Map 82-12, Parcel 224)

Land in Davidson County, Tennessee, being the northerly part of Lot No. 12 in the Neil S. Brown Addition to Nashville, of record in Book 57, page 50, Register's Office for said County.

Said northerly part of Lot No. 12 fronts 50 feet on the northerly side of Main Street and runs back between parallel line 160 feet to an alley.

Being the same property conveyed to Mary McCabe by deed from Theodore C. Donalson and wife, Bessie F. Donalson, of record in Book 4498, page 20, Register's Office for Davidson County, Tennessee.

By deed of record in Book 4889, page 33, said Register's Office, Mary McCabe conveyed a 1/2 undivided interest in the above described property to E. B. Jones and wife, Nellie E. Jones, the said E. B. Jones having died and title vested in Nellie E. Jones as surviving tenant by the entirety.

TRACT 3: (823 Main Street) (Map 82-12, Parcel 225)

Parcel I:
Land in Davidson County, Tennessee, being Lot No. 13 on the Plan of Neill S. Brown's Addition to Edgefield, now East Nashville, as of record in Book 57, page 50, Register's Office for said County.

Said Lot No. 13 fronts 50 feet on the northerly side of Main Street and runs back between parallel line, with the westerly margin of North 9th Street, 170 feet to an alley.

Being property conveyed to E. B. Jones and wife, Nellie E. Jones, by deed from Richard Dance, Trustee, of record in Book 4471, page 575, Register's Office for Davidson County, Tennessee.

Included in the above description but expressly excluded is a strip 50 feet wide by 10 feet in depth conveyed to The Nashville Housing Authority by deed from Alfred G. Rutherford, Clerk of the Circuit Court at Nashville, Davidson County, Tennessee, by deed of record in Book 4099, page 466, Register's Office for Davidson County, Tennessee, under condemnation proceedings Case No. 79553.

By deed of record in Book 4889, page 35, said Register's Office, E. B. Jones and wife, Nellie E. Jones conveyed a 1/2 undivided interest in the above described property to Mary McCabe. The said E. B. Jones having since died and title vested in Nellie E. Jones as surviving tenant by the entirety.

Parcel II:
All right, title and interest in and to that tract of land fronting 15 feet on the northerly side of Main Street and extending back between parallel lines, and adjacent to Parcel I herein above described. Being part of that portion of North 9th Street abandoned by ordinance bill # 66-856 of the Metropolitan Nashville and Davidson County Council.

Tract 1, 2 & 3, are part of the same property conveyed to Nellie E. Jones by quitclaim deed from Phillip E. Coleman of record in Book 7105, page 741, Register's Office for Davidson County, Tennessee. The said Nellie E. Jones, having been adjudicated incompetent and title is vested in Estate of Nellie E. Jones, Conservatorship.

2. That the subject property located at 817, 819, 821 and 823 Main Street, Nashville, Davidson County, Tennessee, shall be sold to Clark Fizer for a total purchase price of $160,000.00, in cash, pursuant to the contract procured by Feller Brown, Auctioneer;

3. That Defendants Nellie E. Jones, through her duly appointed Conservator, Laura Yancey Goodall, Defendant Mary McCabe, Defendants Robert McCabe, Thomas McCabe, and Defendant Estate Margaret McCabe through the duly appointed Administratrix, Marleen Eskind-Moses, are hereby directed to sign a good and valid Warranty Deed as prepared and provided by the title company and any other deeds so designated by the title company which are necessary in transferring their respective interests in the subject property to the purchaser, Clark Fizer;

4. That from the sale proceeds, the Defendants are directed to pay any and all costs associated with the sale of the subject property including but not limited to commission fees to Feller Brown, Auctioneer; title insurance; recordation costs of any necessary deeds; transfer costs; proration of taxes; and closing fees;

5. That the Defendant Nellie E. Jones, Ward, shall be entitled to one-half (1/2) of the remaining sale proceeds from the sale of the subject property known as 817, 819, 821 and 823 Main Street, Nashville, Davidson County, Tennessee and shall receive said proceeds upon the closing of said property;

6. That the Defendants Mary McCabe, Estate of Margaret McCabe, Robert McCabe and Thomas McCabe shall be entitled to the remaining one-half (1/2) of the sale proceeds derived from the sale of the subject property

located at 817, 819, 821 and 823 Main Street, Nashville, Davidson County, Tennessee according to their respective ownership interest in said property, and said one-half (1/2) proceeds shall be deposited with the Clerk of the Probate Court and distributed to Defendants Mary McCabe, Estate of Margaret McCabe, Robert McCabe and Thomas McCabe after a determination is made of the monetary amount owed to each respective Defendant;

7. That the Defendants or their duly appointed representatives are further directed to make arrangements with the buyer and Feller Brown, Auctioneer, to close the real estate transaction herein within forty-five (45) days from the date of entry of this Order;

8. That all court costs in this cause with respect to the Partition for Sale of the property known as Main Street, Nashville, Davidson County, Tennessee shall be taxed equally against the respective Plaintiff and Defendants Mary McCabe, Estate of Margaret McCabe, Thomas E. McCabe and Robert McCabe for which execution may issue;

9. That the attorney's fees and expenses incurred by the Guardian Ad Litem for the Defendant Nellie E. Jones shall be paid from the Estate of Nellie E. Jones.

IT IS SO ORDERED this the 13 day of December, 1988.

JAMES R. EVERETT, JR.
JUDGE OF THE PROBATE COURT

APPROVED FOR ENTRY:

RAY & HOUSCH

BY: Paul T. Housch
PAUL T. HOUSCH
Tn. Sup. Ct. Reg. No. 11538

211 Third Avenue North
P. O. Box 2643
Nashville, Tennessee 37219
256-2111

Attorney for Conservator,
Laura Yancey Goodall

STATE OF TENNESSEE, DAVIDSON COUNTY

I, BILL COVINGTON, Clerk of the Probate Court of Davidson County, State aforesaid, do certify that the foregoing is a full, true and complete copy, of the original on file in my office. Minute Book 328 Page 37
Given under my hand and official seal, at office, in Nashville, this 30 of Jan 1989.

BILL COVINGTON
Clerk of Probate Court
By Lucy Yates Deputy Clerk

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