

## Million-dollar bidder for Elevation Chandler loses court case

5 comments by **Luci Scott** - Feb. 25, 2010 07:04 PM  
The Arizona Republic

The **million-dollar** bidder for Elevation Chandler has lost his court case, but he says he will appeal.

Judge Bethany Hicks of Maricopa County Superior Court has dismissed the **lawsuit** filed by the bidder, Tom Peltier of BT Capital, in an attempt to take ownership of the 10.6-acre property near the intersection of Loops 101 and 202, just south of Chandler Fashion Center.

The feud arose from a trustee sale in which errors were made by the company conducting the sale, T.D. **Service Company** of Arizona.

Joe Cotterman is the attorney for California-based Point Center Financial, which financed a \$24 million mortgage for Jeff Cline, the developer of Elevation Chandler.

"We're very happy to see the judge reached what we believe is the right answer, and now his sale can be conducted in the right way," Cotterman said.

The public, including BT Capital, will have a chance to bid at a new **trustee sale**, he noted.

In her ruling this week, the judge said the June 15 trustee's sale is void because it did not comply with statutory notice requirements.

Furthermore, Hicks said, "Inadequacy in the sales price, coupled with irregularities in

sales process, may justify setting aside a foreclosure sale as a matter of **equity**."

Roger L. Cohen, attorney for T.D. Service, was pleased with the judge's ruling.

"It's clear the judge was listening to the arguments," he said. "We think she understands the issues and ruled appropriately in our client's favor."

However, Peltier's attorney, Bob Lord, said he would appeal.

"I think the interpretation of the statutes is wrong," he said. "And the value of the **property** is an issue of fact that has to be decided, and it was inappropriate for the court to make a determination on the value without first hearing evidence."

Elevation Chandler is the bankrupt site that contains the abandoned, partly built structure that was to be a hotel topped by luxury condos.

At the June 15 sale, Peltier bid \$1,000,001 and was told he had won the property, even though the price was a fraction of what it's worth. The next day, he was told he could

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not have the property because T.D. Service had erred, making the sale invalid. T.D. Service says it made several mistakes: accepting Peltier's low bid, posting a notice of sale at the wrong address and including a small bit of land in the sale that is not part of Elevation Chandler but is owned by Westcor, the owner of Chandler Fashion Center.

It was not immediately clear whether an appeal would stall a public auction.

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