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Refund Recovery Specialist, LLC v. City of Norfolk by and Through Hester

Court of Appeals of Virginia, Williamsburg - June 16, 2026 - S.E.2d - 2026 WL 1737045

City brought action to sell real estate, which was subject to credit line deed of trust held by lienholder, to satisfy delinquent real estate taxes, and after property was sold at tax sale, company representing heirs of deceased former owner petitioned to claim surplus funds from sale.

The Norfolk Circuit Court ordered surplus funds held in court registry, denied company's motion for default judgment against lienholder, dismissed heirs' petition to claim surplus funds, and awarded attorney fees to city. Company appealed.

The Court of Appeals held that:

- Default judgment was not warranted against lienholder;
- Dismissal of company's petition was not warranted;
- Consideration of whether statute directing surplus funds from tax sale of property to municipality that initiated sale was unconstitutional taking as applied under state constitution was warranted; and
- Remand was required for trial court to determine proper distribution of surplus funds.

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