

constructed as an apartment complex and subsequently subdivided and converted into condominiums.

ARTICLE XXVIII MISCELLANEOUS PROVISIONS

Section 28.1 Enforcement:

(a) The Association and any Owner shall have the right to enforce by any proceedings at law or in equity, each covenant, condition, restriction and reservation now or hereafter imposed by the provisions of this Declaration. Each Owner shall have a right of action against the Association for any failure by the Association to comply with the provisions of the Documents. Failure by the Association or any Owner to enforce any covenant, condition, restriction or reservation contained herein shall not be deemed a waiver or the right to do so thereafter.

(b) In the event the Association, Declarant, or any Owner shall commence litigation to enforce any of the covenants, conditions, restrictions or reservations herein contained, the prevailing party in such litigation shall be entitled to costs of suit and such attorney's fees as the Court may adjudge reasonable and proper. The "prevailing party" shall be the party in whose favor a final judgment is entered.

Section 28.2 Captions. The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents or the intent of any provision thereof.

Section 28.3 Gender. The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so require.

Section 28.4 Waiver. No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 28.5 Invalidity. The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and if a provision is invalid, all of the other provisions of the Documents shall continue in full force and effect.

Section 28.6 Conflict. The Documents are intended to comply with the requirements of the Act applicable to common interest communities and the Documents shall be interpreted, if at all possible, so as to be consistent with the Act. If there is any conflict between the Documents and the provisions of the foregoing statutes, the provisions of the applicable statutes shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control.

Section 28.7 Notices. Any notice permitted or required to be given under the provisions of this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third day (other than a Sunday or a legal holiday) after a copy of the same has been deposited in the United

States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing given by such person to the Association.

Section 28.8 Unilateral Amendment By Declarant. Declarant may unilaterally amend this Declaration if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) required by an institutional or governmental lender or purchaser of mortgage loans, to enable such lender or purchaser to make or purchase mortgage loans on the Units; (iv) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units; or (v) otherwise necessary to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. So long as Declarant still owns property described in Exhibit "A" or Exhibit "B" for development as part of the Project, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon right of any Owner.

Section 28.9 Term. This Declaration, including all of the covenants, conditions and restrictions hereof, shall run with and bind the Property for a term of 30 years from the date this Declaration is recorded. After such time, the covenants, conditions and restrictions contained herein, shall be automatically extended for successive periods of 10 years, unless an instrument is signed by the Owner of at least 2/3 of the total number of Units in the Project and recorded in the Clark County, Nevada Recorder's Office within the year preceding the beginning of each successive period of 10 years, agreeing to change the terms of this Declaration, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified herein.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the date set forth above.

"DECLARANT"

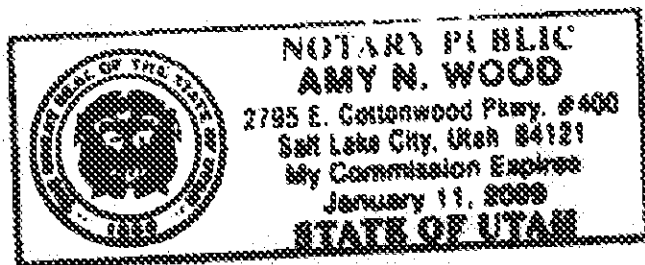
Tuscano Associates, LLC,
a Nevada limited liability company.

By: Kenneth M. Woolley
Name: Kenneth M. Woolley
Title: Manager

STATE OF UTAH

COUNTY OF SALT LAKE

This instrument was acknowledged before me on April 4, 2005, by Kenneth M. Woodley, as Manager of Tuscano Associates, LLC, a Nevada limited liability company.



Amy N. Wood
Notary Public

EXHIBIT "A"

Legal Description

All of the following described real property located in the County of Clark, State of Nevada, more particularly described as follows:

All that real property described in the Final Plat of Tuscano Condominiums (a Common Interest Condominium Subdivision), recorded in Book 122 of Plats, page 11, in the Office of the County Recorder, Clark County, Nevada on January 31, 2005.

EXHIBIT "B"

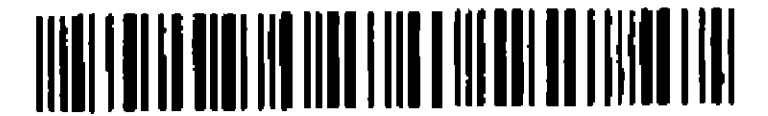
Common Elements

All of the following described real property located in the County of Clark, State of Nevada, more particularly described as follows:

All that real property described as Common Elements on the Final Plat of Tuscano Condominiums (a Common Interest Condominium Subdivision), recorded in Book 122 of Plats, page 11, in the Office of the County Recorder, Clark County, Nevada on January 31, 2005.

EXHIBIT 2

EXHIBIT 2



20051207-0002366

Fee: \$17.00 RPTT: \$1,002.15
N/C Fee: \$0.00

12/07/2005 09:54:01
T20050220961

Requestor:
FIRST AMERICAN TITLE COMPANY OF NEVADA

Frances Deane PUN
Clark County Recorder Pgs: 4

A.P.N.: 176-03-510-102
File No: 101-2237055 (SC)
R.P.T.T.: \$1,002.16

When Recorded Mail To: Mail Tax Statements To:
Stephanie Tablante
7255 West Sunset Road Unit 2050
Las Vegas, NV 89113

US

4

GRANT, BARGAIN and SALE DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Tuscano Condominiums LLC., a Nevada limited liability company

do(es) hereby *GRANT, BARGAIN and SELL* to

Stephanie Tablante, a single woman

the real property situate in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1) - UNITS:

UNIT 2050 IN BUILDING 7 AS SHOWN ON THE FINAL PLAT OF TUSCANO CONDOMINIUMS, A CONDOMINIUM COMMUNITY, RECORDED JANUARY 31, 2005, IN BOOK 122, PAGE 11 OF PLATS, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (THE "PLAT"), AND

PARCEL TWO (2) - COMMON ELEMENTS:

1/352 INTEREST AS A TENANT-IN-COMMON IN THE COMMON ELEMENTS IN ACCORDANCE WITH AND SUBJECT TO THE TERMS OF THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TUSCANO TOWNHOMES RECORDED APRIL 5, 2005 IN BOOK 20050405 AS DOCUMENT NO. 0002422 IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (THE "DECLARATION").

EXCEPTING THEREFROM, ALL UNITS SHOWN ON THE PLAT.

RESERVING THEREFROM, THE RIGHT TO USE ANY OF THOSE AREAS DESIGNATED AS LIMITED COMMON ELEMENTS IN THE PLAT AND/OR THE DECLARATION.

FURTHER RESERVING THEREFROM, FOR THE BENEFIT OF THE OWNERS OF ALL UNITS SHOWN ON THE PLAT (EXCEPT THE UNIT REFERRED TO IN PARCEL 1 ABOVE) NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS, AS DEFINED IN AND SUBJECT TO THE DECLARATION.

PARCEL THREE (3) - APPURTENANT EASEMENTS:

NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS AS DEFINED IN AND SUBJECT TO THE DECLARATION, WHICH EASEMENTS ARE APPURTENANT TO PARCELS 1, 2 ABOVE.

Subject to

1. All general and special taxes for the current fiscal year.
2. Covenants, Conditions, Restrictions, Reservations, Rights, Rights of Way and Easements now of record.

TOGETHER with all tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

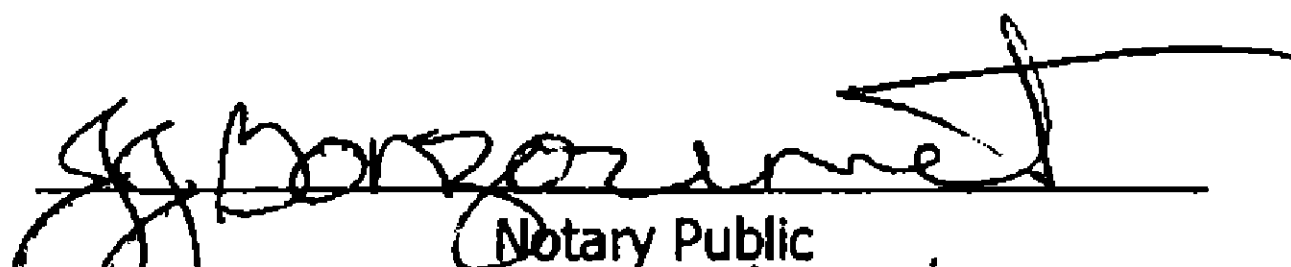
Date: 12/02/2005

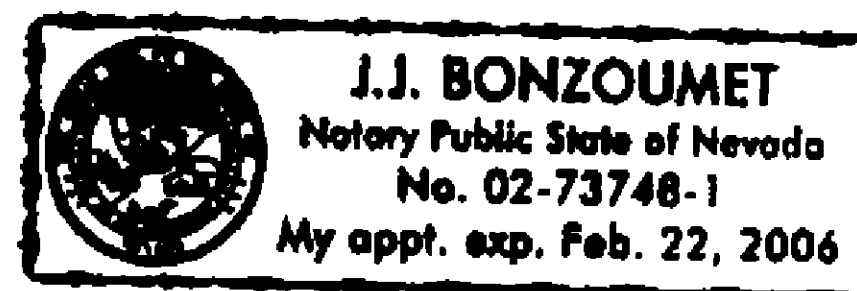
Tuscano Condominiums LLC, a Nevada
Limited Liability Company


By: Ken Baxter, Member

STATE OF **NEVADA**)
 : **ss.**
COUNTY OF **CLARK**)

This instrument was acknowledged before me on 12/2/05 by
Tuscano Condominiums LLC, a Nevada Limited Liability Company by Ken Baxter,
Member.


Notary Public
(My commission expires: 2/22/06)



**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

- a) 176-03-510-102
b) _____
c) _____
d) _____

2. Type of Property

- a) ☐ Vacant Land b) ☐ Single Fam. Res. ⁴⁸
c) ☒ Condo/Twnhse d) ☐ 2-4 Plex
e) ☐ Apt. Bldg. f) ☐ Comm'l/Ind'l
g) ☐ Agricultural h) ☐ Mobile Home
i) ☐ Other _____

FOR RECORDERS OPTIONAL USE

Book _____ Page: _____
Date of Recording: _____
Notes: _____

3. Total Value/Sales Price of Property:

\$196,400.00

Deed in Lieu of Foreclosure Only (value of property)

(\$ _____)

Transfer Tax Value:

\$196,400.00

Real Property Transfer Tax Due

\$1,002.15

4. **If Exemption Claimed:**

a. Transfer Tax Exemption, per 375.090, Section: _____

b. Explain reason for exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: _____ Capacity: Agent

Signature: _____ Capacity: _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: Tuscano Condominiums LLC.

Address: 630 Trade Center Drive

City: Las Vegas

State: NV Zip: 89119

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Stephanie Tablante

Address: 7255 West Sunset Road

City: Las Vegas

State: NV Zip: 89113

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

First American Title Company of

Print Name: Nevada

File Number: 101-2237055 SC/SRF

Address: 2490 Paseo Verde Parkway #100

City: Henderson

State: NV Zip: 89074

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

239dc

EXHIBIT 3

EXHIBIT 3



20051207-0002367

Fee: \$32.00

N/C Fee: \$0.00

12/07/2005

09:54:01

T20050220961

Requestor:

FIRST AMERICAN TITLE COMPANY OF NEVADA

Frances Deane

PUN

Clark County Recorder

Pgs: 19

Assessor's Parcel Number: 176-03-510-102

Return To: NEW FREEDOM MORTGAGE CORPORATION

ATTN: FINAL DOC'S

2363 SOUTH FOOTHILL DRIVE

SALT LAKE CITY, UT 84109

Prepared By: Tammy Gonzales

2363 SOUTH FOOTHILL DRIVE

SALT LAKE CITY, UT 84109

~~Recording Requested By:~~

NEW FREEDOM MORTGAGE CORPORATION

2363 SOUTH FOOTHILL DRIVE

SALT LAKE CITY, UT 84109

49

191

[Space Above This Line For Recording Data]

DEED OF TRUST

MIN

1000360-0000275964-1

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated November 29, 2005,

together with all Riders to this document.

(B) "Borrower" is STEPHANIE TABLANTE, A SINGLE WOMAN

Borrower is the trustor under this Security Instrument.

(C) "Lender" is NEW FREEDOM MORTGAGE CORPORATION

Lender is a A CORPORATION

organized and existing under the laws of

THE STATE OF UTAH

TABLAN, S275964

275964

NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 3029 1/01

WITH MERS

VMP-6A(NV) (0507) MW 07/03

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Initials: ST

VMP Mortgage Solutions, Inc.

(800)521-7291



Lender's address is 2363 SOUTH FOOTHILL DRIVE, SALT LAKE CITY, UT 84109

(D) "Trustee" is FIRST AMERICAN TITLE CO. OF NEVADA

(E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. **MERS is the beneficiary under this Security Instrument.** MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(F) "Note" means the promissory note signed by Borrower and dated November 29, 2005. The Note states that Borrower owes Lender One Hundred Seventy Six Thousand Seven Hundred Sixty and no/100 Dollars (U.S. \$176,760.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than December 1, 2035.

(G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

<input type="checkbox"/> Adjustable Rate Rider	<input checked="" type="checkbox"/> Condominium Rider	<input type="checkbox"/> Second Home Rider
<input type="checkbox"/> Balloon Rider	<input type="checkbox"/> Planned Unit Development Rider	<input type="checkbox"/> 1-4 Family Rider
<input type="checkbox"/> VA Rider	<input type="checkbox"/> Biweekly Payment Rider	<input type="checkbox"/> Other(s) [specify]

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "Escrow Items" means those items that are described in Section 3.

(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time.

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time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(R) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the COUNTY [Type of Recording Jurisdiction] of CLARK [Name of Recording Jurisdiction]:
SEE ATTACHED EXHIBIT "A" APN: 176-03-510-102

Parcel ID Number: 176-03-510-102
7255 W. SUNSET ROAD #2050
LAS VEGAS
("Property Address"):

which currently has the address of
[Street]
[City], Nevada 89113 [Zip Code]

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances

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of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives

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Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the

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Initials: ST

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lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with

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the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable

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attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

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(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

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12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

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16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be

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one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

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NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option, and without further demand, may invoke the power of sale, including the right to accelerate full payment of the Note, and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Lender may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.

24. Substitute Trustee. Lender at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

25. Assumption Fee. If there is an assumption of this loan, Lender may charge an assumption fee of U.S. \$ 0.00

TABLAN, S275964

275964

Initials: SV

 -6A(NV) (0507)

Page 13 of 15

Form 3029 1/01

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Witnesses:

STEPHANIE TABLANTE (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

TABLAN, S275964

275964

VMP-6A(NV) (0507)

Page 14 of 15

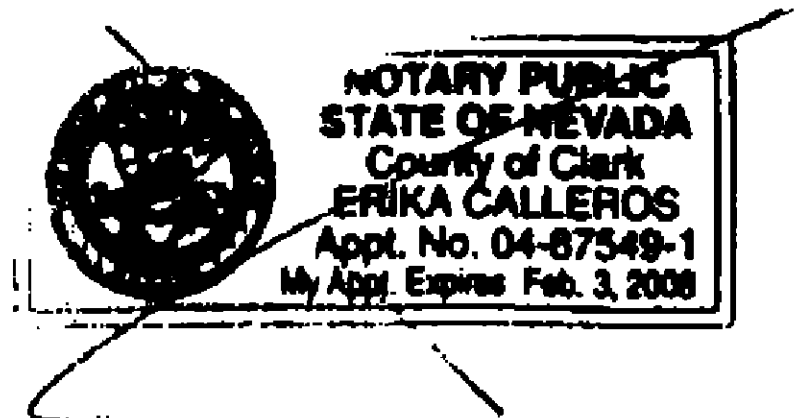
Form 3029 1/01

NSM00018

STATE OF NEVADA
COUNTY OF CLARK

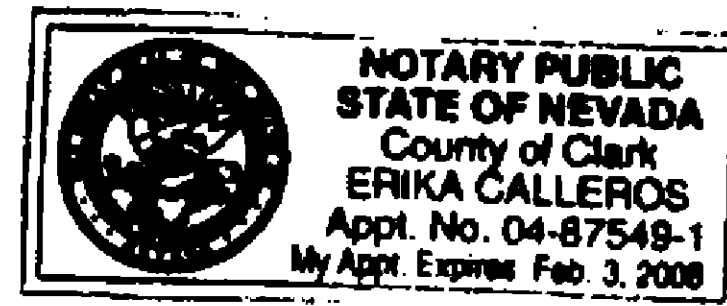
This instrument was acknowledged before me on
STEPHANIE TABLANTE

December 1, 2005 by



Erika Calleros

Mail Tax Statements To:
NEW FREEDOM MORTGAGE CORPORATION
2363 SOUTH FOOTHILL DRIVE
SALT LAKE CITY, UT 84109



TABLAN, S275964

275964

Initials: ST

VMP-6A(NV) (0507)

Page 15 of 15

Form 3029 1/01

NSM00019

EXHIBIT "A"

The land referred to in this Commitment is situated in the City of Las Vegas, County of Clark, State of Nevada and is described as follows:

PARCEL ONE (1) - UNITS:

UNIT 2050 IN BUILDING 7 AS SHOWN ON THE FINAL PLAT OF TUSCANO CONDOMINIUMS, A CONDOMINIUM COMMUNITY, RECORDED JANUARY 31, 2005, IN BOOK 122, PAGE 11 OF PLATS, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (THE "PLAT"), AND

PARCEL TWO (2) - COMMON ELEMENTS:

1/352 INTEREST AS A TENANT-IN-COMMON IN THE COMMON ELEMENTS IN ACCORDANCE WITH AND SUBJECT TO THE TERMS OF THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TUSCANO TOWNHOMES RECORDED APRIL 5, 2005 IN BOOK 20050405 AS DOCUMENT NO. 0002422 IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (THE "DECLARATION").

EXCEPTING THEREFROM, ALL UNITS SHOWN ON THE PLAT.

RESERVING THEREFROM, THE RIGHT TO USE ANY OF THOSE AREAS DESIGNATED AS LIMITED COMMON ELEMENTS IN THE PLAT AND/OR THE DECLARATION.

FURTHER RESERVING THEREFROM, FOR THE BENEFIT OF THE OWNERS OF ALL UNITS SHOWN ON THE PLAT (EXCEPT THE UNIT REFERRED TO IN PARCEL 1 ABOVE) NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS, AS DEFINED IN AND SUBJECT TO THE DECLARATION.

PARCEL THREE (3) - APPURTENANT EASEMENTS:

NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS AS DEFINED IN AND SUBJECT TO THE DECLARATION, WHICH EASEMENTS ARE APPURTENANT TO PARCELS 1, 2 ABOVE.

CONDOMINIUM RIDER

THIS CONDOMINIUM RIDER is made this 29th day of November 2005, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to NEW FREEDOM MORTGAGE CORPORATION

(the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

7255 W. SUNSET ROAD #2050, LAS VEGAS, NV 89113
[Property Address]

The Property includes a unit in, together with an undivided interest in the common elements of, a condominium project known as:

TUSCANO CONDOMINIUMS

[Name of Condominium Project]

(the "Condominium Project"). If the owners association or other entity which acts for the Condominium Project (the "Owners Association") holds title to property for the benefit or use of its members or shareholders, the Property also includes Borrower's interest in the Owners Association and the uses, proceeds and benefits of Borrower's interest.

CONDOMINIUM COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. Condominium Obligations. Borrower shall perform all of Borrower's obligations under the Condominium Project's Constituent Documents. The "Constituent Documents" are the: (i) Declaration or any other document which creates the Condominium Project; (ii) by-laws; (iii) code of regulations; and (iv) other equivalent documents. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

B. Property Insurance. So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy on the Condominium Project which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes and floods, from which Lender requires insurance, then: (i) Lender waives the provision in

TABLAN, S275964

275964

MULTISTATE CONDOMINIUM RIDER - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

VMP-8R (0411) Form 3140 1/01

Page 1 of 3 Initials: ST

VMP Mortgage Solutions, Inc.

(800)521-7291 MW 11/04



Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, whether to the unit or to common elements, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender for application to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

C. Public Liability Insurance. Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

D. Condemnation. The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property, whether of the unit or of the common elements, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the Condominium Project, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the Constituent Documents if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay condominium dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

TABLAN, S275964

275964

 -8R (0411)


Page 2 of 3

Initials: ST

Form 3140 1/01

NSM00022

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Condominium Rider.

 _____ (Seal) _____ (Seal)
STEPHANIE TABLANTE -Borrower -Borrower

_____ (Seal) _____ (Seal)
-Borrower -Borrower

_____ (Seal) _____ (Seal)
-Borrower -Borrower

_____ (Seal) _____ (Seal)
-Borrower -Borrower

TABLAN, S275964

275964

 -8R (0411)

Page 3 of 3

Form 3140 1/01

EXHIBIT 4

EXHIBIT 4

Inst #: 201103030003444

Fees: \$17.00 N/C Fee: \$25.00

RPTT: \$499.80 Ex: #

03/03/2011 01:40:52 PM

Receipt #: 694986

Requestor:

JOHN PETER LEE LTD

Recorded By: JRV Pgs: 5

DEBBIE CONWAY

CLARK COUNTY RECORDER

CS-1

APN # 176-03-510-102

Deed in Lieu of Foreclosure

Recording requested by:

JOHN PETER LEE, LTD.

Return to:

John Peter Lee, Ltd.
830 Las Vegas Boulevard South
Las Vegas, NV 89101

This page added to provide additional information required by NRS 111.312
Sections 1-2. (Additional recording fee applies.)

This cover page must be typed or printed clearly in black ink only.

APN 176-03-510-102

The undersigned hereby affirms that
there is no Social Security number
contained in this document.

WHEN RECORDED, RETURN TO:

New Freedom Mortgage Corporation
2363 South Foothill Drive
Salt Lake City, UT 84109

GRANTEE/MAIL TAX STATEMENTS TO:

New Freedom Mortgage Corporation
2363 South Foothill Drive
Salt Lake City, UT 84109

DEED IN LIEU OF FORECLOSURE

THIS INDENTURE, made and entered into this 15th day of March, 2011, by and between
Stephanie Tablante, party of the first part, and New Freedom Mortgage Corporation, its successors
and assigns, party of the second part.

WITNESSETH

That the said party of the first part for valuable consideration conveys to the party of the
second part, all that certain real property situate in Clark County, State of Nevada, described as
follows:

APN: 176-03-510-102
7255 W. Sunset Road, # 2050
Las Vegas, Nevada 89113

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or appertaining , and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD the said premises, together with the appurtenances, unto the said party of the second part, and to the assigns and transferees of the said party of the second part forever.

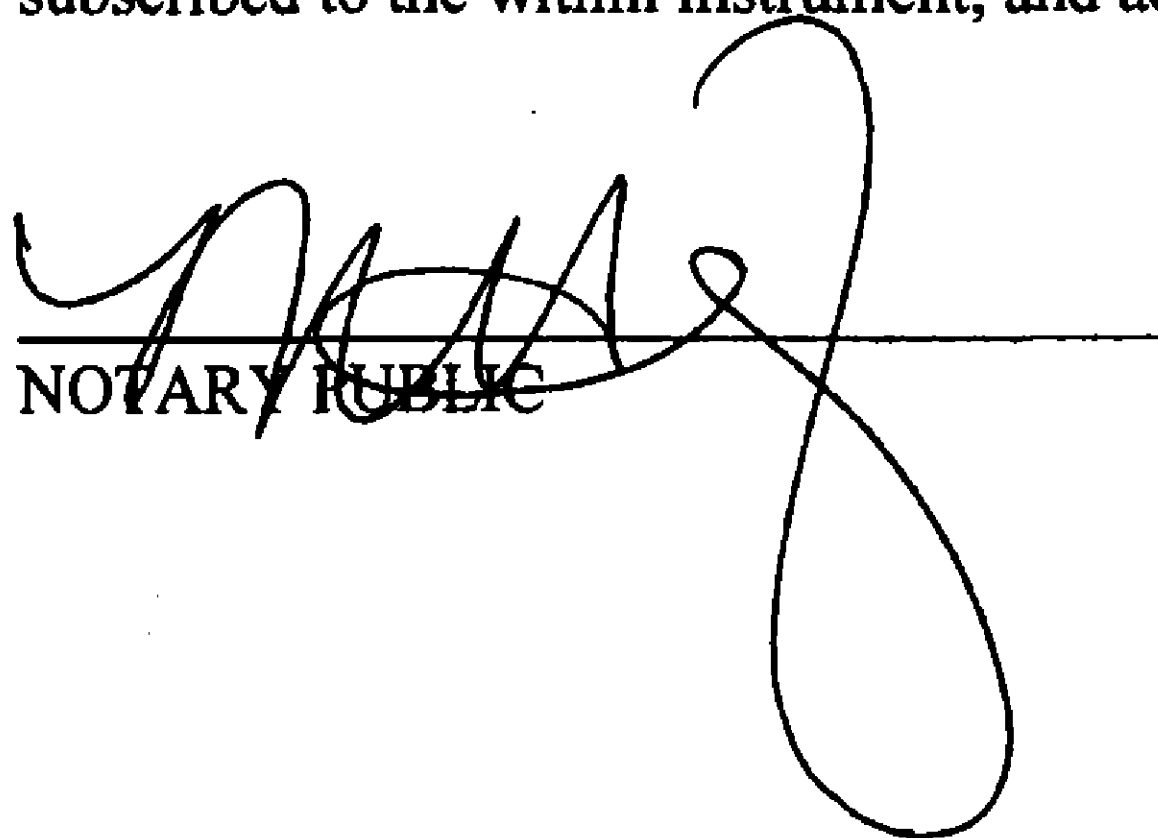
THIS DEED is an absolute conveyance, the party of the first part having sold said land to the party of the second part for a fair and adequate consideration, such consideration being full satisfaction of all obligations secured by the Deeds of Trust executed by the party of the first part to New Freedom Mortgage Corporation, trustee for party of the second part, beneficiary, Mortgage Electronic Registration Systems, Inc.("MERS"), P.O. Box 2026, Flint, MI 48501-2026 nominee for lender, New Freedom Mortgage Corporation and recorded on December 7, 2005, in the Official Records of the Clark County Recorder's Office, Las Vegas, Nevada as Document Number 200512070002367. Party of the first part declares that this conveyance is voluntarily and freely and fairly made and that there are no agreements, oral or written, other than this deed between the parties hereto with respect to the property hereby conveyed.

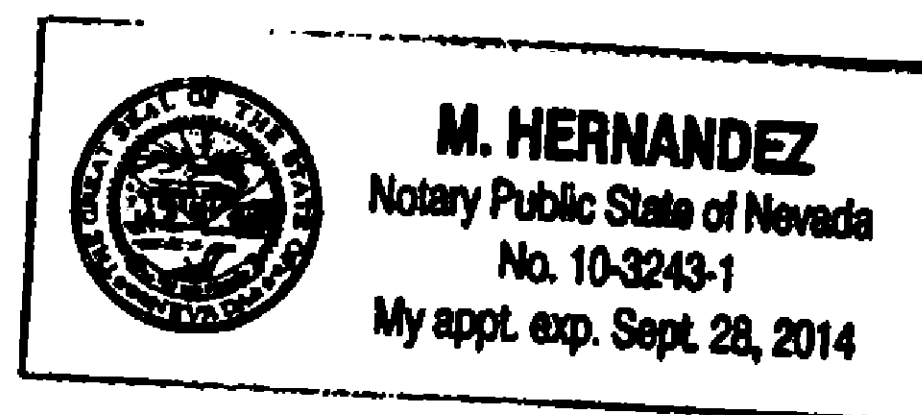
IN WITNESS WHEREOF the party of the first part has executed this Deed in Lieu of Foreclosure the day and year first hereinabove written.


Stephanie Tablante

STATE OF Nevada
COUNTY OF Clark) SS.:

On March 1st, 2011, before me the undersigned, a Notary Public in and for said County and State, personally appeared Stephanie Tablante, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.


NOTARY PUBLIC



**STATE OF NEVADA
DECLARATION OF VALUE FORM**

1. Assessor Parcel Number(s)

a. 176-03-510-102
b. _____
c. _____
d. _____

2. Type of Property:

a. ☐ Vacant Land b. ☐ Single Fam. Res.
c. ☒ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
☐ Other _____

FOR RECORDER'S OPTIONAL USE ONLY
Book: _____ Page: _____
Date of Recording: _____
Notes: _____

3. a. Total Value/Sales Price of Property \$ 165,850.63
b. Deed in Lieu of Foreclosure Only (value of property) (67,977.00)
c. Transfer Tax Value: \$ 99,873.00
d. Real Property Transfer Tax Due \$ ~~510.00~~ 499.80 m.m.

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: _____%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature  Capacity Seller

Signature _____ Capacity _____

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Print Name: Stephanie Tablante
Address: 9037 Loggers Mile Ave.
City: Las Vegas
State: NV Zip: 89143

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

Print Name: New Freedom Mortgage Corp.
Address: 2363 South Foothill Drive
City: Salt Lake City
State: UT Zip: 84109

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

Print Name: John Peter Lee, Ltd. Escrow #: _____
Address: 830 Las Vegas Blvd., South
City: Las Vegas State: NV Zip: 89101

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

EXHIBIT 5

EXHIBIT 5

Cl-1

Inst #: 201106210002567

Fees: \$18.00 N/C Fee: \$25.00

RPTT: \$0.00 Ex: #003

06/21/2011 01:48:06 PM

Receipt #: 819251

Requestor:

JOHN PETER LEE LTD

Recorded By: JRV Pgs: 6

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN # 176-03-510-102

Re-recorded to correct legal description
(Deed in Lieu of Foreclosure)

RE-RECORDED

Recording requested by:

JOHN PETER LEE, LTD.

Return to:

John Peter Lee, Ltd.
830 Las Vegas Boulevard South
Las Vegas, NV 89101

This page added to provide additional information required by NRS 111.312
Sections 1-2. (Additional recording fee applies.)

This cover page must be typed or printed clearly in black ink only.

Inst #: 201103030003444

Fees: \$17.00 N/C Fee: \$25.00

RPTT: \$499.80 Ex: #

03/03/2011 01:40:52 PM

Receipt #: 694986

Requestor:

JOHN PETER LEE LTD

Recorded By: JRV Pgs: 5

DEBBIE CONWAY

CLARK COUNTY RECORDER

CS-1

APN # 176-03-510-102

Deed in Lieu of Foreclosure

Recording requested by:

JOHN PETER LEE, LTD.

Return to:

John Peter Lee, Ltd.
830 Las Vegas Boulevard South
Las Vegas, NV 89101

This page added to provide additional information required by NRS 111.312
Sections 1-2. (Additional recording fee applies.)

This cover page must be typed or printed clearly in black ink only.

APN 176-03-510-102

The undersigned hereby affirms that
there is no Social Security number
contained in this document.

WHEN RECORDED, RETURN TO:

New Freedom Mortgage Corporation
2363 South Foothill Drive
Salt Lake City, UT 84109

GRANTEE/MAIL TAX STATEMENTS TO:

New Freedom Mortgage Corporation
2363 South Foothill Drive
Salt Lake City, UT 84109

DEED IN LIEU OF FORECLOSURE

THIS INDENTURE, made and entered into this 21st day of June, 2011, by and between
Stephanie Tablante, party of the first part, and New Freedom Mortgage Corporation, its successors
and assigns, party of the second part.

WITNESSETH

That the said party of the first part for valuable consideration conveys to the party of the
second part, all that certain real property situate in Clark County, State of Nevada, described as
follows:

PARCEL ONE (1) - UNITS:

**UNIT 2050 IN BUILDING 7 AS SHOWN ON THE FINAL PLAT OF TUSCANO
CONDOMINIUMS, A CONDOMINIUM COMMUNITY, RECORDED JANUARY 31, 2005,
IN BOOK 122, PAGE 11 OF PLATS, IN THE OFFICE OF THE COUNTY RECORDER OF
CLARK COUNTY, NEVADA (THE "PLATE"), AND**

PARCEL TWO (2) - COMMON ELEMENTS:

1/352 INTEREST AS A TENANT - IN - COMMON IN THE COMMON ELEMENTS IN ACCORDANCE WITH AND SUBJECT TO THE TERMS OF THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TUSCANO TOWNHOMES RECORDED APRIL 5, 2005 IN BOOK 20050405 AS DOCUMENT NO. 0002422 IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (THE "DECLARATION").

EXCEPTING THEREFROM, ALL UNITS SHOWN ON THE PLAT.

RESERVING THEREFROM, THE RIGHT TO USE ANY OF THOSE AREAS DESIGNATED AS LIMITED COMMON ELEMENTS IN THE PLAT AND/OR THE DECLARATION.

FURTHER RESERVING THEREFROM, FOR THE BENEFIT OF THE OWNERS OF ALL UNITS SHOWN ON THE PLAT (EXCEPT THE UNIT REFERRED TO IN PARCEL 1 ABOVE) NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS, AS DEFINED IN AND SUBJECT TO THE DECLARATION.

PARCEL THREE (3) - APPURTENANT EASEMENTS:

NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS AS DEFINED IN AND SUBJECT TO THE DECLARATION, WHICH EASEMENTS ARE APPURTENANT TO PARCELS 1,2 ABOVE.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or appertaining , and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD the said premises, together with the appurtenances, unto the said party of the second part, and to the assigns and transferees of the said party of the second part forever.

THIS DEED is an absolute conveyance, the party of the first part having sold said land to the party of the second part for a fair and adequate consideration, such consideration being full satisfaction of all obligations secured by the Deeds of Trust executed by the party of the first part to

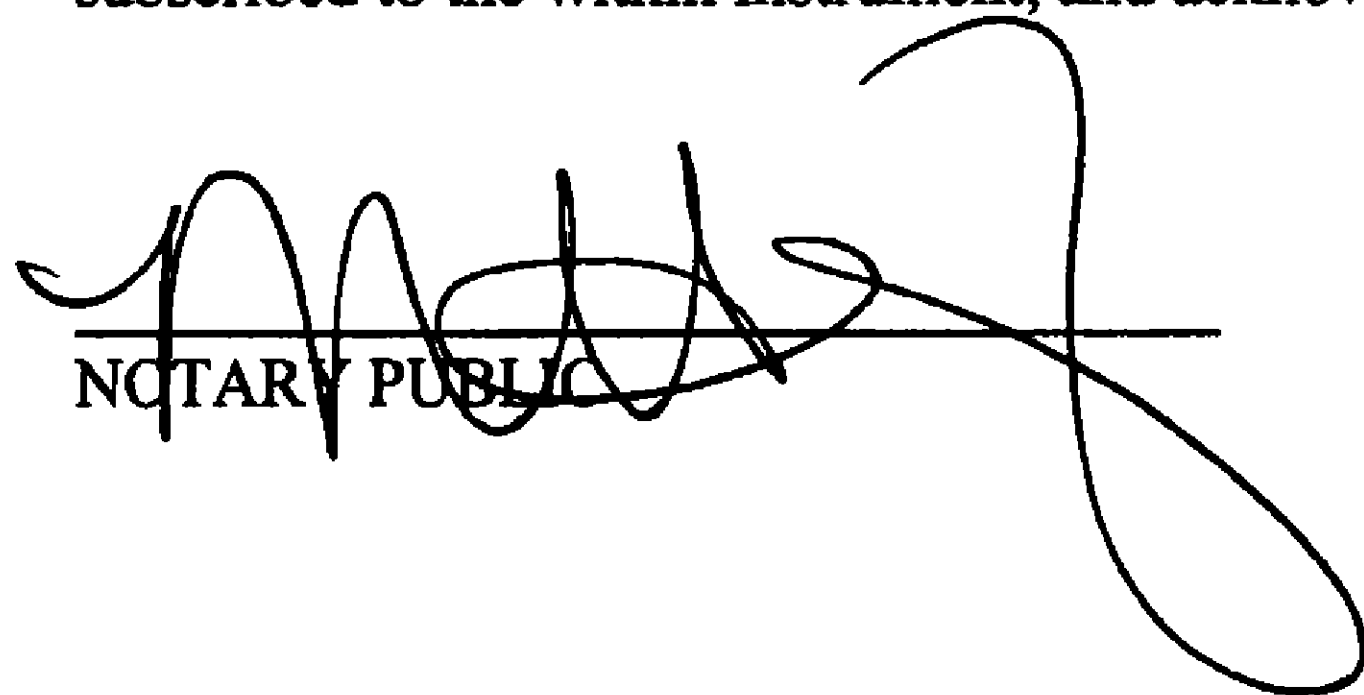
New Freedom Mortgage Corporation, trustee for party of the second part, beneficiary, Mortgage Electronic Registration Systems, Inc. ("MERS"), P.O. Box 2026, Flint, MI 48501-2026 nominee for lender, New Freedom Mortgage Corporation and recorded on December 7, 2005, in the Official Records of the Clark County Recorder's Office, Las Vegas, Nevada as Document Number 200512070002367. Party of the first part declares that this conveyance is voluntarily and freely and fairly made and that there are no agreements, oral or written, other than this deed between the parties hereto with respect to the property hereby conveyed.

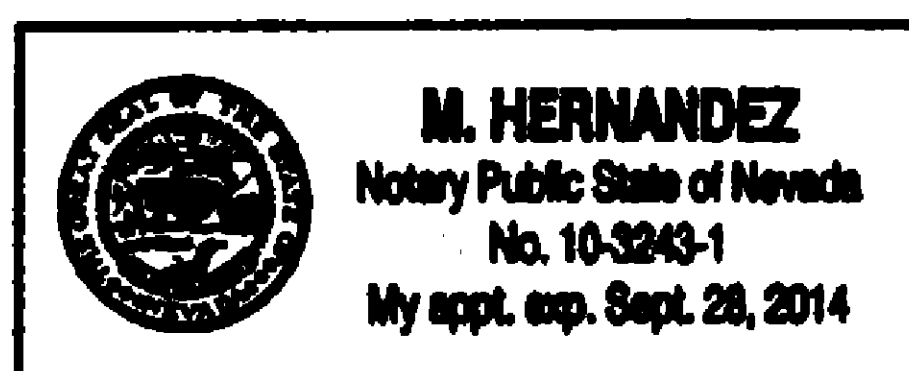
IN WITNESS WHEREOF the party of the first part has executed this Deed in Lieu of Foreclosure the day and year first hereinabove written.


Stephanie Tablante

STATE OF NEVADA)
) SS.:
COUNTY OF CLARK)

On June 21st, 2011, before me the undersigned, a Notary Public in and for said County and State, personally appeared Stephanie Tablante, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.


NOTARY PUBLIC



STATE OF NEVADA
DECLARATION OF VALUE FORM

1. Assessor Parcel Number(s)

a. 176-03-510-102
b. _____
c. _____
d. _____

2. Type of Property:

a. ☐ Vacant Land b. ☐ Single Fam. Res.
c. ☒ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
☐ Other _____

FOR RECORDER'S OPTIONAL USE ONLY

Book: _____ Page: _____

Date of Recording: _____

Notes: _____

3. a. Total Value/Sales Price of Property \$ 165,850.63
b. Deed in Lieu of Foreclosure Only (value of property) (67,977.00)
c. Transfer Tax Value: \$ 99,873.00
d. Real Property Transfer Tax Due \$ ~~499.80~~ TB

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section 3 *add*
b. Explain Reason for Exemption: Re-Recording to ~~original~~ legal
discription #201103030003444

5. Partial Interest: Percentage being transferred: _____%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature [Signature] Capacity seller

Signature _____ Capacity _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: Stephanie Tablante
Address: 9037 Loggers Mile Ave.
City: Las Vegas
State: NV Zip: 89143

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: New Freedom Mortgage Corp
Address: 2363 South Foothill Dr.
City: Salt Lake City
State: UT Zip: 84109

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

Print Name: John Peter Lee, Ltd. Escrow #: _____
Address: 830 Las Vegas Blvd., South
City: Las Vegas State: NV Zip: 89101

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

EXHIBIT 6

EXHIBIT 6

Assessor Parcel Number: 176-03-510-102
File Number: R792725

Accommodation

Inet #: 201204040001017
Fees: \$17.00
N/C Fee: \$0.00
04/04/2012 09:15:46 AM
Receipt #: 1119454
Requestor:
NORTH AMERICAN TITLE COMPAN
Recorded By: SOL Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

LIEN FOR DELINQUENT ASSESSMENTS

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

NOTICE IS HEREBY GIVEN: Red Rock Financial Services, a division of RMI Management LLC, officially assigned as agent by the Tuscano Homeowners Association, herein also called the Association, in accordance with Nevada Revised Statutes 116 and outlined in the Association Covenants, Conditions, and Restrictions, herein also called CC&R's, recorded on 04/05/2006, in Book Number 20060405, as Instrument Number 0002422 and including any and all Amendments and Annexations et. seq., of Official Records of Clark County, Nevada, which have been supplied to and agreed upon by said owner.

Said Association imposes a Lien for Delinquent Assessments on the commonly known property:

7255 W Sunset Rd #2050, Las Vegas, NV 89113

TUSCANO CONDO PLAT BOOK 122 PAGE 11 UNIT 2050 BLDG 7, in the County of Clark

Current Owner(s) of Record:

NEW FREEDOM MORTGAGE CORPORATION

The amount owing as of the date of preparation of this lien is **\$2,695.10.

This amount includes assessments, late fees, interest, fines/violations and collection fees and costs.

****** The said amount may increase or decrease as assessments, late fees, interest, fines/violations, collection fees, costs or partial payments are applied to the account.

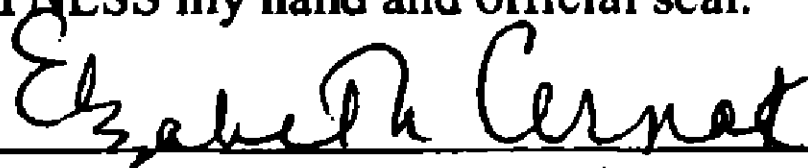
Dated: March 29, 2012


Prepared By Rebecca Tom, Red Rock Financial Services, on behalf of Tuscano Homeowners Association

STATE OF NEVADA)
COUNTY OF CLARK)

On March 29, 2012, before me, personally appeared Rebecca Tom, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


When Recorded Mail To: Red Rock Financial Services
7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887

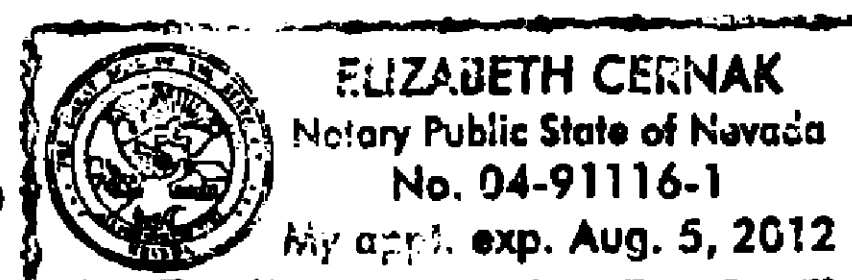


EXHIBIT 7

EXHIBIT 7

Assessor Parcel Number: 176-03-510-102
File Number: R792725
Property Address: 7255 W Sunset Rd #2050
Las Vegas, NV 89113
Title Order Number: 1048078

Inst #: 201205290001690
Fees: \$17.00
N/C Fee: \$0.00
05/29/2012 12:55:19 PM
Receipt #: 1178178
Requestor:
STEWART TITLE LAS VEGAS WAR
Recorded By: SOL Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

NOTICE OF DEFAULT AND ELECTION TO SELL PURSUANT TO THE
LIEN FOR DELINQUENT ASSESSMENTS
◆ IMPORTANT NOTICE ◆

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

NOTICE IS HEREBY GIVEN: Red Rock Financial Services officially assigned as agent by the Tuscano Homeowners Association, under the Lien for Delinquent Assessments, recorded on 04/04/2012, in Book Number 20120404, as Instrument Number 0001017, reflecting NEW FREEDOM MORTGAGE CORPORATION as the owner(s) of record on said lien, land legally described as TUSCANO CONDO PLAT BOOK 122 PAGE 11 UNIT 2050 BLDG 7, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 04/05/2006, in Book Number 20060405, as Instrument Number 0002422, has been breached. As of 12/01/2011 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes 116, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of May 23, 2012, the amount owed is \$ 4,018.40. This amount will continue to increase until paid in full.

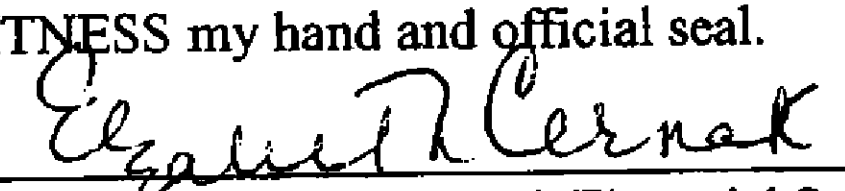

Prepared By Rebecca Tom, Red Rock Financial Services, on behalf of Tuscano Homeowners Association

Dated: May 23, 2012

STATE OF NEVADA)
COUNTY OF CLARK)

On May 23, 2012, before me, personally appeared Rebecca Tom, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


When Recorded Red Rock Financial Services
Mail To: 7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887

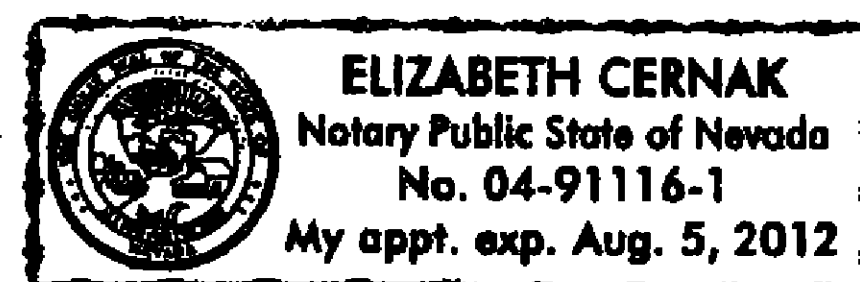


EXHIBIT 8

EXHIBIT 8

APN: 176-03-510-102
ULS#: NV-TU3-03

When recorded mail to:
United Legal Services Inc.
A Nevada Law Firm
9484 South Eastern Ave. #163
Las Vegas, NV 89123
Phone: (702) 617-3263

Inst #: 201305290000306
Fees: \$17.00
N/C Fee: \$0.00
05/29/2013 08:03:04 AM
Receipt #: 1632393
Requestor:
UNITED LEGAL SERVICES INC.
Recorded By: DXI Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

NOTICE OF FORECLOSURE SALE
UNDER THE LIEN FOR DELINQUENT ASSESSMENTS

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL UNITED LEGAL SERVICES INC. AT (702) 617-3263. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (877) 829-9907.

YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS, notice of which was recorded on April 4, 2012 as instrument 201204040001017 in the Official Records of the Recorder of Clark County, Nevada ("Official Records"), by the Tuscano Homeowners Association. The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on May 29, 2012 as instrument 201205290001690 in the Official Records. The property owner(s) of record is/are: New Freedom Mortgage Corporation. The total amount necessary to satisfy the lien as of the proposed sale date is \$7,806.42.

UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT WILL BE SOLD AT PUBLIC SALE. United Legal Services Inc. ("ULS") has the collections file on this account. Any payments to satisfy the lien must be in cash, cashier's check, or wire transfer, and must be actually received by ULS prior to the sale. If payment in full is not received prior to the date/time below, the property will be auctioned. All auction sales are final and late payments will be returned. If you need an explanation of this notice or its contents, you should contact an attorney.

NOTICE IS HEREBY GIVEN THAT on June 22, 2013 at 9:00 AM at 8965 S. Eastern Ave, Suite 350, Las Vegas, NV 89123, United Legal Services Inc., as duly authorized agent for sale pursuant to NRS 116, will sell at public auction to the highest bidder, for lawful money of the United States, all right, title, and interest in the property commonly known as: 7255 W Sunset Unit 2050, Las Vegas, Nevada 89113. Payment by the winning bidder must be made at the conclusion of the auction and in cash or a cashier's check drawn on a bank or credit union authorized to do business in the State of Nevada. The sale will be made without covenant or warranty, expressed or implied, regarding, but not limited to, title, possession, encumbrances, or obligations to satisfy any secured or unsecured liens.

Date: May 28, 2013

By: 
Mia Fregeau
An employee of United Legal Services Inc.
As authorized agent for, and on behalf of, Tuscano Homeowners Association

EXHIBIT 9

EXHIBIT 9

(3-1)

APN: 176-03-510-102

Return document and mail tax statements to:

West Sunset 2050 Trust
P.O. Box 530541
Henderson NV 89053

Inst #: 201306240003127
Fees: \$18.00 N/C Fee: \$0.00
RPTT: \$323.85 Ex: #
06/24/2013 03:46:06 PM
Receipt #: 1667567
Requestor:
WEST SUNSET 2050 TRUST
Recorded By: GILKS Pgs: 3
DEBBIE CONWAY
CLARK COUNTY RECORDER

FORECLOSURE DEED UPON SALE

Foreclosing lienholder **TUSCANO HOMEOWNERS ASSOCIATION**, under power of sale pursuant to NRS Chapter 116, does hereby sell, without warranty, expressed or implied, to:

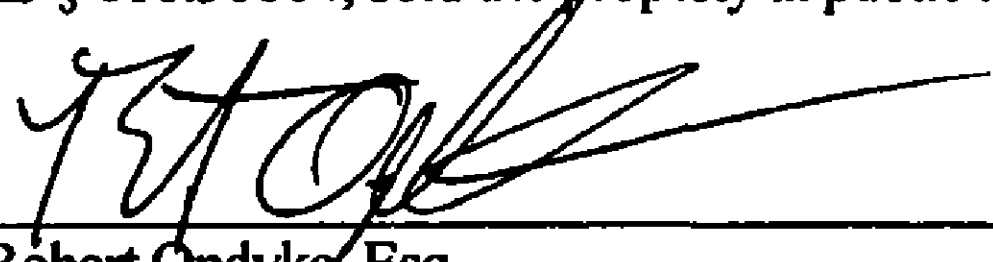
WEST SUNSET 2050 TRUST

the real property situated in Clark County, Nevada legally described as:

SEE EXHIBIT A ATTACHED FOR LEGAL DESCRIPTION

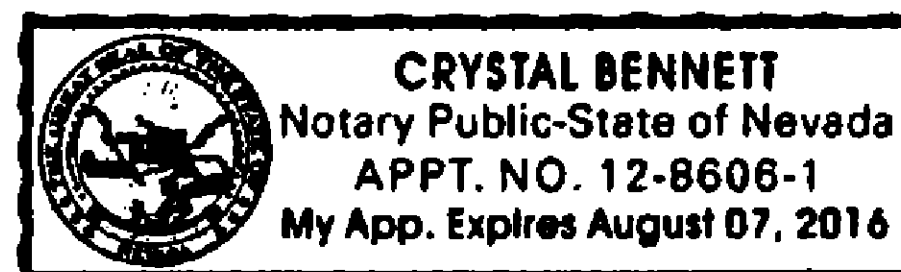
and commonly known as 7255 W SUNSET RD UNIT 2050, LAS VEGAS NV 89113.

This conveyance is made pursuant to the powers conferred upon Agent by NRS Chapter 116, the foreclosing Association's governing documents (CC&R's), and the notice of the Lien for Delinquent Assessments, recorded on April 4, 2012 as instrument 201204040001017 in the Official Records of the Recorder of Clark County, Nevada. Default occurred as set forth in the Notice of Default and Election to Sell, recorded on May 29, 2012 as instrument 201205290001690 in the Official Records of the Recorder of Clark County, Nevada. All requirements of law have been complied with, including, but not limited to, the elapsing of the 90 days, the mailing of copies of the notice of Lien of Delinquent Assessment, and Notice of Default, and the mailing, posting, and publication of the Notice of Foreclosure Sale. Agent, in compliance with the Notice of Foreclosure Sale and in exercise of its power under NRS § 116.31164, sold the property at public auction on June 22, 2013.

By: 
Robert Opdyke, Esq.
United Legal Services Inc.
As authorized agent for, and on behalf of, foreclosing Association

STATE OF NEVADA)
COUNTY OF CLARK)

This instrument was acknowledged before me
on June 24th, 2013, by: Robert Opdyke.





NOTARY PUBLIC

EXHIBIT A

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1) - UNITS:

UNIT 2050 IN BUILDING 7 AS SHOWN ON THE FINAL PLAT OF TUSCANO CONDOMINIUMS, A CONDOMINIUM COMMUNITY, RECORDED JANUARY 31, 2005, IN BOOK 122, PAGE 11 OF PLATS, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (THE "PLAT"), AND

PARCEL TWO (2) - COMMON ELEMENTS:

1/352 INTEREST AS A TENANT-IN-COMMON IN THE COMMON ELEMENTS IN ACCORDANCE WITH AND SUBJECT TO THE TERMS OF THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TUSCANO TOWNHOMES RECORDED APRIL 5, 2005 IN BOOK 20050405 AS DOCUMENT NO. 0002422 IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (THE "DECLARATION").

EXCEPTING THEREFROM, ALL UNITS SHOWN ON THE PLAT.

RESERVING THEREFROM, THE RIGHT TO USE ANY OF THOSE AREAS DESIGNATED AS LIMITED COMMON ELEMENTS IN THE PLAT AND/OR THE DECLARATION.

FURTHER RESERVING THEREFROM, FOR THE BENEFIT OF THE OWNERS OF ALL UNITS SHOWN ON THE PLAT (EXCEPT THE UNIT REFERRED TO IN PARCEL 1 ABOVE) NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS, AS DEFINED IN AND SUBJECT TO THE DECLARATION.

PARCEL THREE (3) - APPURTENANT EASEMENTS:

NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS AS DEFINED IN AND SUBJECT TO THE DECLARATION, WHICH EASEMENTS ARE APPURTENANT TO PARCELS 1,2 ABOVE.

STATE OF NEVADA
DECLARATION OF VALUE

1. Assessor Parcel Number(s)

- a. 176-03-510-102
b. _____
c. _____
d. _____

2. Type of Property:

- a. ☐ Vacant Land b. ☐ Single Fam. Res.
c. ☒ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
☐ Other

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3.a. Total Value/Sales Price of Property

\$ 63280.00

b. Deed in Lieu of Foreclosure Only (value of property (_____)

c. Transfer Tax Value: \$ 63280.00

d. Real Property Transfer Tax Due \$ 323.85

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: _____ %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature [Signature] Capacity: Grantee

Signature _____ Capacity: _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: United Legal Services Inc.*

Address: 9484 S. Eastern Ave. #163

City: Las Vegas

State: NV Zip: 89123

**As agent for Tuscano Homeowners Association.*

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: _____

Address: _____

City: _____

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: West Sunset 2050 Trust

Address: P.O. Box 530541

City: Henderson

State: NV Zip: 89053

Escrow # _____

State: _____ Zip: _____

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

EXHIBIT 10

EXHIBIT 10

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

WEST SUNSET 2050 TRUST, a)
Nevada Trust,)

Plaintiff,)

v.)

NEW FREEDOM MORTGAGE)
CORPORATION, a Foreign)
Corporation; BANK OF AMERICA,)

N.A., a National Association;)

NATIONSTAR MORTGAGE, LLC, a)

Foreign Limited Liability)

Company; COOPER CASTLE LAW)

FIRM, LLP, a Nevada Limited)

Liability Partnership;)

STEPHANIE TABLANTE, an)

individual; DOES I through X;)

and ROE CORPORATIONS I)

through X, inclusive,)

Defendants.)

NATIONSTAR MORTGAGE, LLC,)

Counterclaimant,)

v.)

WEST SUNSET 2050 TRUST, a)

Nevada Trust,)

Counter-Defendant.)

CASE NO. A-13-691323-C

DEPT. NO. XXI

DEPOSITION OF

30(B)(6) DESIGNEE

UNITED LEGAL SERVICES, LLC

ROBERT ATKINSON, ESQ.

LAS VEGAS, NEVADA

MONDAY, MAY 11, 2015

Reported By Kele R. Smith, NV CCR No. 672, CA CSR No.
13405

JOB NO.: 245765A

Page 2

1 DEPOSITION OF ROBERT ATKINSON, ESQ.,
2 taken at 1160 Town Center, Suite 330, Las Vegas, Nevada,
3 on Monday, May 11, 2015, at 10:14 a.m., before Kele R.
4 Smith, Certified Court Reporter, in and for the State of
5 Nevada.
6
7 APPEARANCES:
8 For the Witness:
9 IN PROPER PERSON
10 BY: ROBERT ATKINSON, ESQ.
11 8965 South Eastern Avenue
12 Suite 260
13 Las Vegas, Nevada 89123
14 (702) 614-0600
15
16 For the Plaintiff:
17 MAIER GUTIERREZ AYON
18 BY: KATHRYN L. BUTLER, ESQ.
19 2500 West Sahara Avenue
20 Suite 106
21 Las Vegas, Nevada 89102
22 (702) 629-7900
23 klb@mgalaw.com
24
25 For the Defendants NationStar Mortgage:
AKERMAN
BY: ALLISON SCHMIDT, ESQ.
1160 Town Center Drive
Suite 330
Las Vegas, Nevada 89144
(702) 634-5000
allison.schmidt@akerman.com

Page 3

1 I N D E X
2
3 WITNESS: ROBERT ATKINSON, ESQ.
4
5 EXAMINATION PAGE
6 By Ms. Schmidt 4
7
8
9
10
11
12 EXHIBITS
13 MARKED PAGE
14 Exhibit A Documents Brought By Witness -
15 Emails, Statutes, Fee Schedules 8
16 Exhibit B United Legal Services
17 Documents 26
18 Exhibit C Documents From Prior
19 Collection Agency 55
20 Exhibit D Documents From Land Records 55
21
22 Exhibit E Contracts With HOA and First
23 100 55
24 Exhibit F Auction Results 55
25 Exhibit G Emails 55

Page 4

1 LAS VEGAS, NEVADA; MONDAY, MAY 11, 2015
2 10:14 A.M.
3 -oOo-
4 (The Reporter was relieved of her duties
5 under NRCP 30(b) (4).)
6 Whereupon,
7 ROBERT ATKINSON, ESQ.,
8 having first been called as a witness, was duly sworn
9 and testified as follows:
10
11 BY MS. SCHMIDT:
12 Q. Can you state your name and spell your last name
13 for the record?
14 A. Robert Atkinson, A-T-K-I-N-S-O-N.
15 Q. And my name is Allison Schmidt. I'm the attorney
16 for Bank of America and NationStar Mortgage in the
17 action designated as Case No. A-13-691323. Have you
18 been a witness or have you been deposed before today?
19 A. I am here in my capacity as PMK for United Legal
20 Services, Inc. I'm also here in an attorney capacity
21 representing myself. On that basis, I reserve the right
22 to object to any questions that may arise.
23 With respect to your specific question: Have I
24 been subject to a deposition, with respect to United
25 Legal Services, Inc., no. This is my first one. But I

Page 5

1 have another one scheduled this afternoon, so I think
2 the wave is starting to hit.
3 Q. Since you are an attorney, I'll probably waive
4 your standard admonitions. I assume you understand the
5 deposition process?
6 A. I do. And the ground rules.
7 Q. Okay. Great.
8 And you understand that since you've designated
9 yourself as someone with knowledge in this case, you may
10 be required to give testimony at trial if this case gets
11 tried?
12 A. I do.
13 Q. Okay. And today my purpose is to find out,
14 essentially, what you would say at trial if this case
15 gets tried. Do you understand that?
16 A. I do.
17 Q. All right. And you understand that the oath you
18 just took is the same oath you would take in a court of
19 law?
20 A. I do.
21 Q. Okay. Let's see. Is there any reason that
22 you're not able to give your best and truthful testimony
23 today?
24 A. No.
25 Q. Do you take any medication that might affect your

Page 6

1 testimony?
 2 A. No.
 3 Q. Do you feel well today?
 4 A. I do.
 5 Q. Okay. All right.
 6 A. And to qualify that, pursuant to my oath, I am
 7 testifying to the best of my knowledge and recollection
 8 as to events which took place almost two years ago.
 9 Q. When I ask my questions, since you are acting as
 10 your attorney as well, I'll give you some time to object
 11 in case you want to make your objection, as I understand
 12 that that might be the case.
 13 How did you prepare for this deposition today?
 14 A. I printed out the documents that I had previously
 15 provided to you on disk, and I printed out ancillary
 16 documents related to HOA lien sales that you perhaps
 17 might have had a question on, and that's it.
 18 Q. So all the documents that you've reviewed in
 19 preparation for today's deposition have been provided?
 20 A. All the documents that were responsive to your
 21 specific request that were anticipated as part of the
 22 deposition have been provided.
 23 Q. Okay. When you say "ancillary documents," what
 24 are you referring to?
 25 A. Well, I'm glad you asked. In case the subject

Page 7

1 goes there, one of them is a breakdown of the NAC
 2 statutory costs. Again, these are small percentage
 3 items, but in case you had a question on them.
 4 Another is a printout from the Clark County
 5 treasurer's office that explains why for all of these
 6 HOA sales the value shown on the DOV form on the
 7 foreclosure deed is not equal to the auction value, and
 8 those are specific instructions from the Clark County
 9 treasurer.
 10 And I printed off the relevant statutes from NRS
 11 116 relating to foreclosure in case we needed them as
 12 reference during the conversation.
 13 And lastly is a printout example of request for
 14 notice that the mortgage companies are doing in the land
 15 records now, which I do not recall a single one being
 16 land records back in the day, but now all of the
 17 mortgage companies are filing requests for land
 18 documents.
 19 Q. Would we be able to make copies of those
 20 documents really quick so she would have a copy and I
 21 would have a copy as well?
 22 A. Absolutely. For the ones that are not the
 23 statutes, this is your copy. Actually, if you want more
 24 than one copy, there's that. I'm not -- if we get into
 25 116, we will. If you want we can.

Page 8

1 Q. I don't think we need the 116.
 2 A. Here is a copy of the Clark County treasurer
 3 document.
 4 MS. BUTLER: I'll just look through it real
 5 quick and I should be fine.
 6 THE WITNESS: I'm not bringing these because
 7 I want to lead off with these. I brought these in case
 8 you asked me.
 9 MS. SCHMIDT: Got it. Would you mind if I
 10 mark these as an exhibit to this deposition so when we
 11 get the transcript, we will have them all together?
 12 THE WITNESS: That is fine. I brought these
 13 in case we needed them.
 14 MS. SCHMIDT: Can we mark all of these as
 15 Exhibit A.
 16 (Exhibit A was marked.)
 17 MS. SCHMIDT: Did you have any questions for
 18 me before we start?
 19 THE WITNESS: I do not.
 20 MS. SCHMIDT: Okay.
 21 BY MS. SCHMIDT:
 22 Q. What do you do for a living?
 23 A. I'm an attorney.
 24 Q. And who is your employer?
 25 A. Atkinson Law Associates.

Page 9

1 Q. Okay. And how is Atkinson Law Associates
 2 affiliated with United Legal Services?
 3 A. Common ownership. I own 100 percent of both
 4 firms. The firms themselves have no relationship
 5 whatsoever to each other. United Legal Services is no
 6 longer in business and has not been in business for a
 7 long time now.
 8 Q. Do you know approximately when United Legal
 9 Services ceased operations?
 10 A. With respect to the HOA foreclosure sales, it was
 11 October of 2013. We almost began another project in
 12 approximately May or June of 2014 for a commercial HOA,
 13 but that project aborted, and I did not consider that to
 14 be a job. So effectively it's October 2013.
 15 Q. So as of today, are you involved in any HOA
 16 foreclosures, or has that ceased?
 17 A. That's ceased. Other than that one aborted
 18 commercial HOA foreclosure, which is a project we never
 19 actually ended up doing, it has completely ceased all
 20 business since October 2013.
 21 Q. Got it.
 22 Are you familiar with the property located at
 23 7255 West Sunset Road, Unit 2050, Las Vegas, Nevada
 24 89113?
 25 A. I'm familiar to the extent that I was the

Page 10

1 auctioneer for that property at an auction that was
2 scheduled and arranged for by United Legal Services.

3 Q. And when you say you were the auctioneer, was
4 United Legal Services just the auctioneer or were they
5 also the trustee? I'm trying to figure out what that
6 relationship was at the time of the sale?

7 A. Your question is legally incorrect. There is a
8 mass of confusion in the industry between NRS 107 and
9 NRS 116. NRS 116 does not use the word "trustee." It
10 used the words "agent authorized for sale." However,
11 other players in the industry, including Alessi &
12 Koenig, would oftentimes use the language of 107 for
13 their NRS 116 sales. So you see things like "trustee
14 foreclosure deeds for HOA sales. We believe that to be
15 utterly legally incorrect, but people nevertheless would
16 recognize such deeds as being a valid 116 foreclosure.

17 We always in all capacities were an NRS 116 agent
18 authorized for sale. And by the way, when I use the
19 collective word "we," I mean specifically the law firm
20 United Legal Services.

21 Q. Okay. And so did United Legal Services have the
22 relationship you just described with the Tuscano HOA?

23 A. Yes. As provided in Section 4 of the documents
24 that were provided, there is a contract with the HOA.
25 Have you had a chance to review the document entitled

Page 11

1 Purchase and Sale Agreement?

2 Q. I have, actually. Maybe not with respect to this
3 case, but I am familiar with the contents --

4 A. It's a generally standard template that was used
5 for tri-party agreements between an HOA, the company
6 First 100, LLC, and United Legal Services as agent
7 authorized for sale. In this document the HOA
8 specifically has the collections file transferred from
9 Red Rock Financial Services to United Legal Services.
10 These files were always transferred after Red Rock had
11 done the Notice of Lien and had filed a Notice of
12 Default. The purpose of this Purchase and Sale
13 Agreement, amongst other purposes, had United Legal
14 Services act in that final third stage of the sale to
15 notice up a foreclosure sale and to conduct the auction.

16 Q. Okay. And who would retain United Legal
17 Services? Was it the HOA or First 100?

18 A. I'm attempting to find the specific clause in the
19 contract to point you to. Section 7.08 of the contract
20 is entitled, "Limited Scope of Attorney-Client
21 Representation. By this contract, an attorney/client
22 relationship is established between Agent and Seller,
23 however, Agent is not the general counsel for Seller and
24 is the attorney-at-law of Seller only for the limited
25 scope of services described herein and contemplated to

Page 12

1 be performed by Agent under this agreement."

2 So specifically United Legal Services, Inc. is --
3 step back. I forgot to put the end quote. The quote
4 ended with the words "under this agreement."

5 United Legal Services is a Nevada law firm, and
6 so through this contract, the HOAs retained United Legal
7 Services to perform the scope of services.

8 Q. The contract you're referencing, is that the only
9 contract that governs the tri-partite relationship you
10 were describing between Tuscano -- or I should say
11 amongst Tuscano, First 100, and United Legal Services?

12 A. There is the Purchase and Sale Agreement itself.
13 The Purchase and Sale Agreement, as with them all,
14 included what we would call a first batch. It would be
15 one or more properties that would be subject to the
16 Purchase and Sale Agreement. Subsequent batches that
17 would come in -- and I believe on Tuscano there were
18 four additional batches, and these batches would come in
19 through a self-executing Exhibit 3 to the Purchase and
20 Sale Agreement, the examples of which we provided to
21 you.

22 For example, I believe the -- here's the example
23 of the subject property coming in simply as a contract
24 extension. And that contract extension was not a full
25 new -- brand new Purchase and Sale Agreement but merely

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1 a signed Exhibit 3, and that sped up the business
2 considerably.

3 The Purchase and Sale Agreement was the only
4 contractual legal agreement between United Legal
5 Services and the HOA. There was a separate purchase
6 arrangement agreement between United Legal Services and
7 First 100, LLC whereby First 100, LLC would pay for the
8 costs of United Legal Services to perform the services.
9 In other words, it was a zero-cost contract for the HOA.

10 Q. Okay.

11 A. And that document was provided for you as well in
12 the Section 4.

13 Q. So to make sure I understand, United Legal
14 Services would be paid for their services by First 100?

15 A. That is correct, and what would happen is we
16 would get notified that another batch had come in or for
17 the first batch a PSA had been signed. We would send
18 out an invoice to First 100, and they initially started
19 off at \$750, pursuant to the purchase arrangement
20 agreement, and I provided the invoice showing the
21 subject property for this deposition as one of those
22 invoices. This is invoice ULS-016.

23 That covered the NAC costs, so this was a
24 contractual -- a statutorily defined up-front number,
25 and I wasn't going to do -- and by "I," I mean in my

Page 14

1 capacity as president of United Legal Services. I was
2 not going to have United Legal Services do any work
3 until First 100 paid for the costs. A lot of these were
4 costs.

5 Q. When you say "the NAC costs," are you referring
6 to the schedule of costs that you provided today as
7 well?

8 A. That is correct. If you refer to the schedule of
9 costs -- may I? In Exhibit A you will see a document
10 entitled Collections Fees and Costs Scheduled. So these
11 were broken out. The top section is relating to NOS.
12 Relating to the Notice of Sale. The bottom section is
13 relating to sale. So the costs relating to the Notice
14 of Sale are these seven items. The sum of those seven
15 items in this schedule is \$800. For most of the
16 duration of it prior to approximately June 22nd, 2013,
17 it was \$750.

18 The reason that this changed is because the very
19 last item, which is the USPS mailing cost, including
20 certified mail, went up from \$5 to \$55, and the reason
21 is because there was a statute change that went into
22 effect approximately June 22nd, 2013, whereas after that
23 date there are -- you had to send out certified mail to
24 all of the relevant parties as opposed to regular first
25 class mail to regular parties. So we bumped up the cost

Page 15

1 to \$800. So the sum from here to here was \$800. At the
2 time this was implemented it was 750.

3 Q. And that's why the invoice that you just
4 indicated, it appears that the costs per property were
5 \$750?

6 A. That is correct. And in addition, that \$750 is
7 referred to in the Payment Arrangement Agreement between
8 United Legal Services and First 100 as executed on
9 December 5th, 2012 in placement for Clark County
10 properties -- because it differed by county -- was \$750.

11 Q. Thank you. How did the relationship between
12 United Legal Services and First 100 come about?

13 A. First 100 had contacted me to --

14 MS. BUTLER: You're not going to get into
15 any client confidentiality?

16 THE WITNESS: No. I'm going through that in
17 my head.

18 A. First 100 had contacted me to perform and act as
19 the agent authorized for sale for HOA industry
20 relationships that they were developing as part of their
21 business model. The very first auction that I
22 personally held was in my former law firm, and realizing
23 that my insurance for that law firm would not cover this
24 sort of activity, I felt it prudent to start a brand new
25 law firm whose sole purpose was HOA foreclosure

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1 auctions, and so I formed United Legal Services for that
2 purpose.

3 Q. And what was your former law firm that you were
4 referencing?

5 A. It's a law firm called Kupperlin Law Group, LLC.

6 Q. And can you spell that just?

7 A. K-U-P-P-E-R-L-I-N. My son's name is Cooper.

8 Q. Who at First 100 contacted you?

9 A. My primary point of contact throughout the whole
10 process was Michelle Sergent. The development of the
11 Purchase and Sale Agreement was mostly conducted with
12 Jay Bloom. But after these got going, United Legal
13 Services had very little interaction with Jay Bloom. It
14 was more of a volume relationship, and Michelle Sergent
15 over there was a point of contact, so when a PSA needed
16 to get executed, she'd send it to me. I'd Email her
17 back. And I believe we provided some Emails for you as
18 well. You'll see there that almost all the Emails are
19 to and from Michelle Sergent.

20 Q. So once United Legal Services is retained to be
21 the agent, as you put it, for the HOA, what duties does
22 United Legal Services undertake?

23 A. The typical business process would be to obtain
24 the collections file from Red Rock, produce a Notice of
25 Foreclosure Sale, record that document, notice it out

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1 pursuant to statute, take calls and any payments
2 proffered, and for those properties for which the lien
3 was not satisfied as of the date of sale, to conduct the
4 foreclosure sale.

5 We also provided a notice -- sorry the actual
6 foreclosure deed to an auction winner for any auction in
7 which First 100 was the winner. United Legal Services,
8 who had electronic filing capacity with the Clark County
9 recorder, we would record those documents as a courtesy,
10 as an accommodation we call it. For other parties we
11 would simply provide the foreclosure deed, typically
12 with a suggested DOV, but I have no idea what the DOV --
13 what actually got filed for the subject property.

14 Q. And how did United Legal Services calculate the
15 amount that was owed that's listed in the Notice of
16 Sale?

17 A. We started with the total amount owed as provided
18 by Red Rock Financial Services, and the total amount
19 owed included overdue assessments, plus late fees, plus
20 collections costs, and excluded any compliance files.
21 And then we added the cost shown in exhibit -- of
22 collections costs.

23 Q. Uh-huh?

24 A. But the entire first section, which I believe
25 added up to \$1,200. Because if someone -- let me --

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1 pull that document back out so I can explain how it
2 works. We do this very carefully. If -- do you see the
3 \$1200 number on this exhibit?

4 Q. I do.

5 A. So if the property went for auction, then that
6 was how much total would have been owed. However, if
7 somebody attempted to pay it off before auction -- and
8 quite a few of these properties did get paid off before
9 the auction -- we would subtract out charges relating to
10 the auction, as you can see in the second table of this
11 exhibit. But we would add in the statutorily permitted
12 additional costs such as recordation and release of
13 notice. The net on that is minus 146. So if somebody
14 called in and said, "How much do I owe to pay this off,
15 we would take a look at the number that was calculated
16 in the Notice of Foreclosure Sale and subtract \$146.

17 Q. Okay. And for clarity of the record, we were
18 referring to the document contained in Exhibit A that's
19 entitled Collection Fees and Costs Schedule.

20 When you indicated that quite a few properties
21 got paid off prior to auction, how would that come
22 about?

23 A. We -- we got calls from property owners, many of
24 whom were quite irate. We occasionally got contacted by
25 servicers. Very rarely. And occasionally we would be

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1 contacted by confused tenants. At all times we
2 expressed the need to pay this off prior to auction;
3 that foreclosure was eminent, and for homeowners that
4 expressed a desire to pay, it was either done as a
5 payment in full or if they're able to strike a deal to
6 be on a shortened payment plan, those would be
7 accommodated as well. If it was one of the rare
8 contacts from a mortgage servicer, we accepted any money
9 that was provided to us. This happened on -- to my
10 recollection, six occasions out of the between 1 and 200
11 properties that were placed with us.

12 On all six occasions they tendered just the nine
13 months assessments with no collections costs. In all
14 six we recorded notice of partial payment in the land
15 records prior to the auction. That did not occur in
16 this case. For the subject property for this lawsuit,
17 we were not contacted by either the homeowner or a
18 servicer.

19 Q. Okay. When United Legal Services gets the file
20 from Red Rock Financial Services, does it take any
21 independent steps to verify the file is correct, the
22 work that had been done by Red Rock was correct?

23 A. No. That was the responsibility of the HOA
24 pursuant to the Purchase and Sale Agreement.

25 Q. So United Legal Services would have no

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1 independent knowledge of whether or not Red Rock
2 essentially did what it was required to do?

3 A. We had absolutely no knowledge of that. Correct.

4 Q. Okay. In this case you indicated that one of the
5 duties of United Legal Services was to notice out a
6 Notice of Sale, provide notice in accordance with the
7 law. What is your understanding of who is required to
8 receive notice at the Notice of Sale?

9 A. Let us refer to the statute. Under NRS
10 116.311635 it says, "The association or other person
11 conducting the sale shall also, after the expiration of
12 the 90 days and before selling the unit:

13 "(a) Give notice of the time and place of the
14 sale in the manner and for a time not less than that
15 required by law for the sale of real property upon
16 execution, except that in lieu of following the
17 procedure for service on a judgment debtor pursuant to
18 NRS 21.130, service must be made on the unit's owner as
19 follows:"

20 Subsections 1 and 2 of that talk about mailing it
21 to the unit and then posting it on the unit. Subsection
22 B, which I think is relevant for your client, says,
23 "Mail, on or before the date of first publication of
24 posting, a copy of the notice by certified or registered
25 mail, return receipt requested to:"

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1 May I point out that the statute that says "copy
2 of the notice by certified or registered mail" didn't
3 always say that. Pursuant to Senate Bill 280, it used
4 to say first class. Under -- for the subject property,
5 the pre-amendment statute was in effect, and so the
6 mailing requirement was only by first class mail to the
7 parties, which I'm about to express.

8 Continuing with the quotation from the statute,
9 subsection 1, "Each person entitled to receive a copy of
10 the Notice of Default and Election to Sale under notice
11 NRS 3.1163."

12 Subsection 2, "The holder of a recorded security
13 interest or the purchaser of the unit, if either of them
14 has notified the association, before the mailing of the
15 Notice of Sale, of the existence of the security
16 interest, lease or contract of sale, as applicable."
17 And 3, "The Ombudsman."

18 We had no knowledge as to which holders of
19 recorded security interests had notified the
20 association. It is our legal position that any recorded
21 security interest, in order to win any case on notice,
22 would have to provide proof positive that they notified
23 the association prior to the sale. However, because we
24 had no knowledge of this, we went ahead and mailed it to
25 the security interests and assignments as recorded in

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1 the land records out of an abundance of caution.

2 Does that make sense?

3 Q. Yes. Thank you. So to ascertain what security
4 interests existed on the property, did United Legal
5 Services obtain a title report, or did they do some
6 title research?

7 A. United Legal Services performed title research.
8 I'm also a real estate attorney, and I'm quite familiar
9 with title and recordation and security instruments, so
10 what we would do is we would pull a fresh printout from
11 the Clark County recorder's office, and we would also do
12 side research on the borrower's names in order to ensure
13 that there were no security interests on the relevant
14 parcel that didn't come up when you typed in the parcel
15 number. We would also, by the way, do bankruptcy
16 searches, including the day before each sale.

17 And in the Section 2 of the documents I sent you
18 is a printout of the Clark County recorded documents, a
19 printout of the Clark County assessor, which indicates
20 what the mailing address of the deed was at the time, a
21 printout of the deed itself, and then behind it is the
22 recorded security interests and any assignments thereof.
23 I haven't look at this in awhile, so I don't know if
24 there were any assignments, but we can certainly flip
25 through it and see if there were.

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1 Q. Do your records show precisely what parties were
2 provided with the Notice of Sale in this case?

3 A. They do. In Section 3, which is the documents
4 that were produced by United Legal Services, stepping
5 through it, you can see -- the first document. Do you
6 have that with you?

7 Q. I don't have them from your documents, but I did
8 print us out a copy of the recorded documents.

9 A. Okay. Let's step through this. This is the
10 unrecorded original Notice of Foreclosure Sale, the
11 recorded Notice of Foreclosure Sale, the Notice to
12 Tenants of Property, which was a statutorily required
13 item. Here is the certified mailing receipt to owner or
14 occupant. Here's the certified mail to New Freedom
15 Mortgage Corporation. Here is returned USPS from Cooper
16 Castle, returned mail from owner or occupant, returned
17 mail from New Freedom Mortgage Corporation, returned
18 certified mail from owner/occupant, and then returned
19 certified mail from New Freedom Mortgage Corporation,
20 and then you'll see a Form 3877 from the post office.
21 U.S. Post Office Form 3877 is a bulk certificate of
22 mailing document. Are you familiar with these?

23 Q. No.

24 A. Okay. There are multiple types of mail:
25 Regular, first class mail, certified mail, registered

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1 mail, and so forth. A certificate of mail indicates
2 that you have transmitted to the post office a first
3 class mail item. It's proof that it got mailed.
4 There's no proof of receipt. There's no proof of
5 delivery or anything. It's a certificate of mailing.

6 Now there are individual U.S. postal certificates
7 of mail for individual pieces, but as we were billed in
8 volume, we asked the post office if there was an easier
9 way to do this, and they told us about Form 3877 and how
10 to fill it out.

11 The way you read this form is each one of the
12 addresses in the second column is something in which a
13 U.S. first class mail envelope went out the door. For
14 example, you can see the Ombudsman on there, and you can
15 see the transferees and other people that were in the
16 land records. And then they stamped the whole thing.
17 The slashes on the bottom are required by the post
18 office. If we didn't put them in, then the person in
19 the post office would to make sure there's a complete
20 column so that there's no subsequent shenanigans as to
21 typing in something.

22 So this certificate of mail shows all of the U.S.
23 first class pieces of mail that went out the door
24 relevant to the property. In addition, you can see on
25 the bottom of Form 3877 -- you can see our code, and we

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1 had internal codes for each property, and this is NV,
2 meaning Nevada, dash T3, which is batch three of
3 Tuscano, dash 03, which is the subject property.

4 Q. So this form would show that these got mailed,
5 but not necessarily indicate receipt of those?

6 A. That is correct. We were under no statutory duty
7 whatsoever to send it out with delivery confirmation or
8 certified mail or anything.

9 Q. Okay.

10 MS. SCHMIDT: Do you mind if we go off the
11 record for two seconds?

12 (Discussion off the record.)

13 MS. SCHMIDT: We'll mark as Exhibit B --
14 this is the Section 3 of documents that we were just
15 referring to that contain the certified mailing
16 receipts, the recorded and unrecorded Notice of
17 Foreclosure Sales, the notice to tenants, and the USPS
18 Form 3877 that we were just referencing.

19 A. Now you'll notice on the Form 3877 there is a
20 reference to NationStar Mortgage at the Highland Drive
21 address. You may ask where did we get that address, and
22 may I refer you to Bates stamp N as in Nancy SM as in
23 Mary 0041. This document is the document entitled
24 Corporation Assignment and Deed of Trust, and it
25 transfers the beneficial interest in the deed of trust

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1 from Bank of America, N.A. to NationStar Mortgage, and
 2 it provides the same Highland Drive address that you
 3 find on the certificate of mailing.
 4 (Exhibit B was marked.)
 5 BY MS. SCHMIDT:
 6 Q. Looking at the Notice of Foreclosure Sale that's
 7 recorded NSM 00043, was this something that was
 8 generated by United Legal Services?
 9 A. Yes.
 10 Q. And I see it's executed by a Mia --
 11 A. Fregeau.
 12 Q. Fregeau. What's her role with United Legal
 13 Services?
 14 A. She's no longer employed by United Legal Services
 15 as United Legal Services is no longer in business. At
 16 the time she was a staff employee.
 17 Q. And at the time that this was executed, what were
 18 her duties?
 19 A. She wore several hats. She posted items on the
 20 property and the public notice postings. She handled
 21 all of the outbound mail such as filling out the
 22 certified mailing receipts. She handled incoming
 23 returned mail and scanned and sorted them. She also
 24 work our call center. We had a very tiny call center,
 25 but we would get calls, and if she was out posting, then

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1 another employee would handle the calls.
 2 Q. And what is the amount listed as due and owing on
 3 this document?
 4 A. It's found the last word of Paragraph 2, which is
 5 7,806.42.
 6 Q. And can you explain to me again how that was
 7 calculated?
 8 A. Certainly. It may take a moment to rebuild my
 9 calculation, so hold, please.
 10 If you look on the back page of the collections
 11 file that we received from Red Rock Financial Services,
 12 you'll see the last page, Page 6 of 6 of Accounts Detail
 13 a total of \$6487.42. As discussed, that is the sum of
 14 collections costs plus past due assessments. If you add
 15 \$1,150, which was the pre-June 22nd, 2013 amount, you
 16 will get \$7,637.42.
 17 Now, the file was transferred as of May 23rd,
 18 2013. The sale is set for June 22nd, 2013, so we had to
 19 add in one more month of unpaid assessments and one more
 20 month of late fees. At the time the monthly assessments
 21 were \$164. At the time the late fees were \$15. So if
 22 you add 179 to 7,637.42, you get 7,806.42, and that's
 23 the number that's in the Notice of Foreclosure Sale.
 24 Q. The notice indicates that a sale would be held on
 25 June 22nd, 2013 at 9:00 a.m. Do you agree with that?

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1 A. If by that you mean did that sale for the subject
 2 property occur on that date, I would have to look at
 3 the --
 4 Q. Well, preliminarily, do you agree that that's the
 5 date listed on the Notice of Foreclosure Sale?
 6 A. Is that your question? Yes. That is the date
 7 listed on the foreclosure sale.
 8 Q. Did the sale actually go forward on that date?
 9 A. Yes. I say that by referring to the documents,
 10 specifically the Foreclosure Deed on Sale, as well as
 11 the auction results that were provided to you on this
 12 property, which were filled out at the time of the sale.
 13 Q. What steps did United Legal Services take to
 14 publicize the sales?
 15 A. They were published and posted. It was all done
 16 pursuant to statute. There was no marketing or
 17 advertising done in any manner. However, we had a
 18 regular public auction and people knew about our sales,
 19 and so they were the same cast of characters that you
 20 would find at HOA foreclosures over at Alessi & Koenig.
 21 For example, one of the principals of SFR Investments
 22 commonly showed up.
 23 Q. Did United Legal Services ever contact
 24 individual -- I'll say purchasers from the cast of
 25 characters to let them know that that specific sale was

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1 happening?
 2 A. Not as a matter of practice. Occasionally it
 3 might have happened, but not as a matter of practice.
 4 Q. When you say that the sales were published and
 5 posted according to statute, where would they be
 6 published?
 7 A. In the Clark County Legal News. Affidavit of
 8 Publications are in the documents provided. And the
 9 postings took place on the property as well as in three
 10 public locations. The Affidavit of Posting for the
 11 three public locations are provided in the documents.
 12 Those are public boards that are in existence around
 13 town. We were very careful to select those, and the
 14 Affidavit of Service provides the items that were taped
 15 to the unit on the door. And on this one we provided a
 16 photograph of the documents taped to the door. I'm sure
 17 you saw that.
 18 Q. And did the investors or purchasers that would
 19 attend these sales ever contact United Legal Services?
 20 A. Yes.
 21 Q. Did United Legal Services have a website or
 22 something like that where someone could look up upcoming
 23 foreclosure sales?
 24 A. No. It's a very small community of people that
 25 buy these things.

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1 Q. Were you personally in attendance of this
2 auction?

3 A. I called every auction held in Clark County that
4 United Legal Services did. So the answer to your
5 question is yes.

6 Q. Do you have any records or memory that indicate
7 how many individuals attended this particular auction?

8 A. I do not and did not keep an attendance ledger of
9 any auction. There was at least two individuals, but
10 there could have been five or six or ten. Sometimes
11 there was as high as 15.

12 Q. What was the opening bid for this auction?

13 A. You would have to refer to the MP3 of the
14 auction. On many of the auctions I recorded them for
15 posterity just in case I needed it, so I provided that
16 MP3 to you, so you can listen to it.

17 Q. And that was on the CD that you provided?

18 A. Yes. Under Section 5. And you will hear that
19 there is regular, normal, spirited bidding. This
20 particular property got up to \$7,800.

21 Q. Was \$7,800 what the property was sold for?

22 A. Correct.

23 Q. If the borrower had wanted to pay off the lien,
24 let's say at 8:00 a.m. prior to the sale, what would --
25 how much would they have had to pay to satisfy the lien?

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1 A. I believe I have answered that question. Let me
2 reiterate my answer. It would have been the amount
3 shown in the Notice of Foreclosure Sale minus \$146.

4 Q. So that would be the 7,806.42 minus the \$146?

5 A. And the \$146 is shown as Table 2 to the
6 collections cost document found in Exhibit 1. The
7 property owner or anyone else did not show up to this
8 auction. If they had, we absolutely would take that
9 money.

10 Q. Do you recall who was the high bidder at this
11 sale?

12 A. A gentleman -- I don't know how to spell his last
13 name, but it's Jacob Lefkowitz or something like that.
14 He was a regular. We saw him all the time.

15 Q. Can you estimate about how many properties he has
16 purchased from United Legal Services auctions?

17 A. It is my understanding that Jacob personally was
18 a bidder -- so just to clarify your question, I don't
19 recall Jacob ever taking properties in his personal
20 name, but instead after the sale and auctions were
21 concluded, then as part as part of bringing up the
22 receipt for sale, which you have a copy of, we would ask
23 for vesting information, and vesting information on this
24 one happened to be the trust. West Sunset 2050 trust.
25 I do not recall offhand how many properties for

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1 which Jacob personally was the successful bidder on
2 behalf of some other entity. Perhaps 5 or 10.

3 You have to understand that a lot of these
4 properties were lousy properties. I don't know if you
5 understand the cash flow, but these properties, as part
6 of the Purchase and Sale Agreement contract were all
7 contractually obligated to be started with an opening
8 bid of \$99, and the reason is because most of the
9 properties sold for just 2 or \$3,000 because they're
10 crappy little condos.

11 So when you start putting together the cost of
12 sale, plus the cost of rehab, plus the cost of
13 litigation, you might be in at \$9,000 just to get a
14 first deed of trust foreclosure sale stalled out in
15 court, and on those properties, this is an apartment
16 unit, it might rent out for \$500. These are not good
17 parts of town. So at \$500 and you're in it for 9,000,
18 now you've got a pay-back period of 18 months just to
19 get your money back. This thing's got a lien amount of
20 7800. You know? This one probably was a two bedroom.
21 I don't even know. The reason it went more is because
22 for the rent you might be able to get \$900 and your
23 payback period is less.

24 It's my understanding that a lot of these guys
25 would go buy the property and try to peek in the window

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1 and see if it was in the good shape, and if it was in
2 good shape, then hey, my rehab cost will be 500 bucks.

3 I was not part of it, but I was aware of the fact
4 that there were calculations as to how much each
5 individual bidder was willing to bid up to. It's all --
6 my understanding is hard cash flow costs.

7 Q. So pursuant to the contract with the HOA and
8 First 100, do you believe the bidding on this would have
9 started at \$99?

10 A. Every property that United Legal Services acted
11 as the agent authorized for sale and was the auctioneer
12 for began opening bid at \$99. So as a result, this
13 particular property would have started at \$99 as an
14 opening bid.

15 Q. So is it possible that a purchaser could buy
16 these properties for less than the amount of the lien
17 owed?

18 A. Oh, yes. In fact, that was an explicit part of
19 the First 100 business model, to my understanding. Have
20 you ever attended an Alessi & Koenig foreclosure
21 auction? You personally?

22 Q. Not that I can recall.

23 A. They're very interesting because a third to a
24 half of them are won by the HOA. Alessi & Koenig sets
25 the initial opening bid at the lien amount, and these

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1 cash flow investors say, "I'm not going to pay 13,000
2 for a condo or \$8,000 for a condo," and so there's no
3 overbid. Now, Alessi & Koenig, back in the day, would
4 then identify the HOA was the opening bidder as being
5 the winner. Then the HOAs would become title owner of
6 the property. What are they going to do with the title
7 owner of the property? That was really troublesome to
8 the HOA. Now they had to insure the property. What
9 were they going to do? Fix it up and rent it out?

10 First 100, it is my understanding, spotted an
11 opportunity in the business model saying as part of the
12 multifaceted complex document that is a PSA, said, Hey,
13 auction this thing off. By setting it at \$99, they were
14 virtually assured that somebody would overbid because
15 somebody would take a flier for 100 bucks. Most of them
16 would offer 2 or 3,000, and that way the HOA could be
17 comforted that they wouldn't end up being the owner of
18 the property. And, in fact, on none of our auctions was
19 the HOA winning bid ever the winning bidder at \$99.

20 And by the way, I don't know if you know this,
21 but this is entirely hearsay, but it is my understanding
22 that after awhile, Alessi & Koenig was instructed to
23 cancel the auction if there was no overbid, which I
24 found to be an extremely interesting practice, if that's
25 what they were doing. They would call it at 15,000, the

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1 amount of the lien, no overbids. They would cancel in
2 order to prevent their HOA from having the take back the
3 property. That is entirely hearsay. I don't know if
4 they did that.

5 You can see the pressure the HOAs were under.
6 Like, Oh, man. I don't want the property. No one is
7 buying it. Cancel the sale and leave it in the property
8 owner's name. That \$99 opening bid was a very
9 attractive part of the First 100 business model.

10 Q. Was there a First 100 agent or representative
11 that attended the sale?

12 A. Yes. Typically it was Jay Bloom, but sometimes
13 it was another employee.

14 Q. And if there were no third-party bidders -- and
15 by third party I mean not the HOA and not First 100 --
16 what would happen in those instances?

17 A. You can probably listen to and hear for yourself
18 on the MP3 that was provided. There were three
19 properties that were auctioned that day. Two of them
20 were bought by First 100. One for 3,000 and the other
21 for \$3,000. In the MP3 -- I haven't listened to it in
22 awhile, but generally the way the bids would go is that
23 somebody would start off with \$100 or \$500, because if
24 nobody overbid, why would you overbid yourself?

25 Generally somebody would say \$100, and then

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1 occasionally we'd have one go off for \$100, but
2 generally there was active bidding because Hey, man, why
3 not bid \$500? It's still cheap because you never know.
4 Generally it would go \$100, \$500 as the opening bid, and
5 somebody else would top that by a 500, and generally bid
6 in increments of \$500 until you hit a stopping point.
7 It's a public auction. We found the market value for
8 it, and the auction ceased.

9 Sometimes -- because everybody walked in with a
10 number that was their bid cap, because these are very
11 calculated cash flow kind of guys -- when things got
12 closer to a bid cap, people would reduce the increment
13 to less than \$500. So that's probably what happened on
14 the subject property going off at 7800. You probably
15 got -- these guys have the same business models, and
16 somebody was in the 7,000s and then Jay -- I don't know
17 what his cap was, but he had a higher cap than anyone
18 else, so he won the property at 7800.

19 Q. Were the sales ever canceled or postponed to
20 attempt to get more bidders there?

21 A. No. It is United Legal Services' position that
22 every auction was commercially reasonable.

23 Q. I know you indicated before on the six or so
24 occasions where the security interest holder paid some
25 money to United Legal Services it was your practice to

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1 record a Notice of Partial Payment.

2 A. Yes.

3 Q. Would that be information that was announced at
4 the sale as well?

5 A. Oh, yes. And it, as you might imagine, affects
6 the purchase price because it would be relevant
7 information into the calculation of these characters.

8 Q. In your experience did that have an effect of
9 chilling the bidding on certain properties where the
10 partial payment had been recorded?

11 THE WITNESS: I object to the form of the
12 question in the sense that "chilling the bidding" is an
13 undefined term.

14 A. How I would instead characterize it is that my
15 understanding is that the price would be less than it
16 otherwise would have gone for without the presence of
17 that information.

18 BY MS. SCHMIDT:

19 Q. Prior to calling the sales, does United Legal
20 Services or I should say did United Legal Services
21 announce whether or not there was a deed of trust on the
22 property at all?

23 A. No. That was not anything required by statute.
24 It was absolute caveat emptor. I mean, you don't hear
25 that down at regular foreclosure auctions. There was no

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1 need for that. Nor did United Legal Services take any
2 legal position whatsoever as to the legal effect of an
3 NRS 116 foreclosure on an extant deed of trust.

4 As a matter of fact, we expressly put that on the
5 six or so Notice of Partial Payment of Lien. I can
6 provide an example if you wish. It says, We have no
7 legal position as to what this payment is, but the payor
8 intended it to pay off the nine-months super priority.

9 Q. I want to look at the Foreclosure Deed Upon Sale
10 Bates stamped NSM 0044 and including the Declaration of
11 Value through NSM 00046.

12 A. Okay.

13 Q. Are you familiar with this document?

14 A. The NSM 0044 and 45 document was produced and
15 executed by United Legal Services, and the Bates stamp
16 46 document was a blank deed -- sorry. A blank
17 Declaration of Value form that was produced but not
18 executed by United Legal Services. The asterisk by
19 United Legal Services and then it says at the bottom "as
20 agent for Tuscano Homeowners' Association," that was
21 additional language and clarification that was required
22 by Clark County recorder or these things would get
23 kicked back unless we put that in.

24 But the actual handwriting in Section 3 of the
25 DOV form that is not familiar to me, it would have been

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1 somebody on the buyer's side. That's not my
2 handwriting. It's not Mr. Opdyke's handwriting. We
3 never fill those out except for First 100 purchases.
4 And certainly that is not any signature -- the grantee,
5 as you can see, signed the DOV form.

6 Q. Can you tell me who Robert Opdyke is?

7 A. He's an attorney that is currently an employee of
8 Atkinson Law Associates, but at the time also did and
9 worked as a part-time employee at United Legal Services.

10 Q. Can you tell me what his role was in United Legal
11 Services when he was working there?

12 A. I can answer that two ways. First, he acted in
13 an attorney capacity. Second is that he assisted with
14 the production of the documents and in the evaluation of
15 the land records.

16 Q. Does the foreclosure deed contain the price paid
17 of the auction?

18 A. No. Nor is there any statutory requirement for
19 it to do so. There is, in fact, a statutory discussion
20 of the language for such foreclosure deeds in NRS 116.
21 Are you familiar with that particular language?

22 Q. Yes.

23 A. You will find that language in there, and the
24 discussion of the language to be found in the
25 foreclosure deed in the statutes makes no reference to

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1 any requirement to having to have the sale price
2 incorporated in the foreclosure deed.

3 Q. Does it anywhere in the Foreclosure Deed Upon
4 Sale recite the consideration paid for the property?

5 A. No. Nor is there any requirement for it to do
6 so. Pursuant to the Email from Clark County treasurer
7 that is found in Exhibit 1, they expressly said that it
8 should be at market value. There is a statutory basis
9 for that. I don't know if you're aware of that, but the
10 Clark County -- the reason for that Email was because
11 the Clark County recorder was having a conniption fit
12 over a \$2,000 DOV form, and there's a statute -- it's
13 like NRS 375 or something. I can look it up -- that
14 says that in -- for recordation, real property transfer
15 taxes -- then any transfer which is a gift or of nominal
16 value shall be at full market value. I forget the exact
17 language, but the reading that you see is from Georgia
18 who works in the audit department. They got a readout
19 from, I think, the DA's office saying that the HOA
20 foreclosure sales -- we're going to deem them to be
21 nominal, and therefore they have to be at full market
22 value. I personally do not believe it to be nominal.
23 \$2,000 is \$2,000.

24 However, it is my perception it's more of a
25 revenue grab for the government than anything else

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1 because they knew all these players had money, and if
2 they could get \$300 out of them instead of \$20 of them,
3 then they would certainly do that, but that was my
4 perception.

5 Q. The amount listed on the Declaration of Value,
6 NSM 00046 is \$63,280. Where would that figure come
7 from?

8 A. I have no knowledge whatsoever as to how the
9 buyer obtained that number on the DOV form. We provided
10 them a blank DOV form. I can guess -- and if you permit
11 me to -- what we would do for the foreclosure deeds that
12 we recorded as an accommodation for First 100 sales, we
13 would go to the land records and call up the assessor's
14 value on the Clark County treasurer's website because
15 that's where Clark County recorder pointed us to. I
16 forget if it was that mail or a subsequent phone call.
17 They said, Use the assessed value of the current year.
18 There it is right there. I had no knowledge of it until
19 today. It's right there on the then current year tax
20 assessed value on the Clark County treasurer website
21 printout for the parcel. Do you see that?

22 Q. And for the record, we're indicating on the Clark
23 County Assessor information under Real Property Assessed
24 Value is the total taxable value for the year 2013
25 through '14 and appears to be \$63,280.

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1 A. That was the industry standard.
 2 Q. So just so I understand, on these declarations of
 3 value that were not for First 100, the grantee, whoever
 4 purchased at the sale, would be in charge of
 5 ascertaining the total value sales price of the property
 6 and filling them in themselves?
 7 A. Ascertaining is -- I would instead use the word
 8 "determining." But because a Clark County recorder had
 9 set it out as a general rule, then it is my
 10 understanding that the industry players all knew the
 11 rule, and per our discovery today, that it appears that
 12 they did the exact same thing, because that's what
 13 everybody did. Because otherwise how would you
 14 determine what a market value is? If the Clark County
 15 recorder said go to the Clark County website and use the
 16 assessed value, that's what people did.
 17 Q. So for this particular declaration of value in
 18 this case, that information was filled in by the grantee
 19 and not United Legal Services. Is that correct?
 20 A. Correct.
 21 Q. Okay. I believe you indicated previously it was
 22 the HOA's responsibility to make sure that the work that
 23 had been done by -- in this case -- Red Rock Financial
 24 Services was correct?
 25 A. Yes. It is definitely not United Legal

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1 Services's responsibility to be auditing or inspecting
 2 the work of Red Rock Financial Services in terms of how
 3 they did the Notice of Lien and Notice of Default. When
 4 I say "did," I mean both the compilation and recordation
 5 of that document, as well as any noticing required by
 6 the statutes.
 7 Q. United Legal Services didn't go through
 8 certificates of mailing that might have been in Red
 9 Rock's file?
 10 A. We were under no duty to do so whatever.
 11 Q. And United Legal Services didn't check to make
 12 sure that Red Rock Financial Services complied with
 13 posting requirements?
 14 A. We were under no duty to do so. If there was a
 15 flaw in Red Rock's work, you'll have to talk to Red
 16 Rock.
 17 Q. Looking at the first page of the Foreclosure Deed
 18 Upon Sale, NSM 00044, looking at the bottom of the
 19 paragraph in the middle of it where it says -- I'm
 20 quoting from the deed. "All requirements of law have
 21 been complied with, including, but not limited to te
 22 elapsing of the 90 days, the mailing of copies of the
 23 Notice of Lien of Delinquent Assessment, and Notice of
 24 Default, and the mailing, posting, and publication of
 25 the Notice of Foreclosure Sale."

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1 Based on your testimony -- I should say that's
 2 the end of the quote. The quote ends with "Notice of
 3 Foreclosure Sale."
 4 Based on your testimony, the individual signing
 5 this for United Legal Services would have no personal
 6 knowledge that all those requirements had been complied
 7 with. Is that correct?
 8 A. Pursuant to my earlier statement, United Legal
 9 Services had no duty or obligation to inspect or audit
 10 Red Rock's records. I believe the statement and line of
 11 argument that you're presenting is conflating two
 12 different concepts.
 13 Q. Well, my question is -- I mean, you testified
 14 that you didn't check whether or not Red Rock Financial
 15 Services did the correct mailing or the posting or the
 16 work they did in terms of the creating and recording of
 17 these documents, so I'm wondering --
 18 A. The purpose --
 19 Q. Let me just finish this -- if the individual for
 20 United Legal Services who executed this would have
 21 personal knowledge of whether or not those had been
 22 complied with since it wasn't one of United Legal
 23 Services's duties to check those things.
 24 A. You misunderstand the purpose of that language.
 25 That language is specific language that's found in NRS

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1 116.31166 subsection 1. That statute discusses the
 2 effects of certain recitals in the deed, and what the
 3 statutes say is that if those recitals that you read
 4 about are present in an HOA foreclosure deed -- and by
 5 HOA foreclosure I mean NRS 116 foreclosure -- then they
 6 are conclusive proof of the matter's recital.
 7 Now, I will leave it up to you attorneys to
 8 explore the various wrinkles of that. Your questions
 9 are intending for me to form a legal opinion as to what
 10 it is. My legal opinion is that if the foreclosure deed
 11 contains the recitals, then by statute they're
 12 conclusive proof of the matter's recital.
 13 If you believe that based on my earlier testimony
 14 relative to United Legal Services' personal knowledge of
 15 things that United Legal Services performed and lack of
 16 personal knowledge of things that a prior collections
 17 agency performed, whether those facts have any sort of
 18 legal effect on the statutory recitals, is not my fight.
 19 Q. I understand. What I'm trying to find out here
 20 is whether or not Robert Opdyke -- and I apologize if
 21 I'm mispronouncing that to him wherever he is -- whether
 22 or not he had personal or business records knowledge of
 23 each and every thing in the recitals.
 24 A. What we had was the documents we were provided
 25 from Red Rock Financial Services. So in that document

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1 you can see a lengthy set of assessments as well as
2 collections efforts. Mr. Opdyke had no personal
3 knowledge of any activity of Red Rock Financial
4 Services. United -- nor is he particularly any sort of
5 target for your investigation. He's simply a signatory
6 for United Legal Services.

7 I think your question is better: Did United
8 Legal Services as an entity have any knowledge of any
9 particular activity of Red Rock Financial Services, and
10 my response is: We were provided the documents that we
11 were provided, which comprise the lien, a Notice of
12 Default, and an accounting ledger. We got no other
13 documents from Red Rock Financial Services on any of the
14 accounts, and so we know what was in here and nothing
15 else.

16 Q. So when the recitals say that all requirements of
17 law have been complied with -- for instance, the mailing
18 of copies of the Notice of Delinquent Assessment Lien --
19 even though United Legal Services is signing that, they
20 have no personal knowledge that those requirements were
21 complied with?

22 A. That is correct. We relied on Red Rock Financial
23 Services to perform their collections activities in a
24 professional manner, and our assumption is that they
25 would not have sent over any deficient file. So the

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1 statement was made on the assumption that it was correct
2 because Red Rock did not flag it as being a troubled or
3 a redo file.

4 By the way, your line of inquiry is not how I
5 read that statute.

6 Q. Fair enough.

7 A. That's fine.

8 Q. I know quite a bit of this is up in the air and
9 subject to all of our interpretation.

10 A. By the way, if you find that Red Rock's files are
11 in order, then it doesn't matter.

12 Q. In United Legal Services's files for each
13 property, does it keep copies of any correspondence it
14 receives related to that property?

15 A. Yes.

16 Q. Does United Legal Services maintain a call log
17 for properties for -- for instance, if someone called,
18 would there be a record of that in the file?

19 A. No written record.

20 Q. Did anyone contact United Legal Services to pay
21 off this particular -- to make a payment on this
22 particular property prior to sale?

23 A. No.

24 Q. If United Legal Services received contact from a
25 beneficiary of a first deed of trust who requested a

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1 superpriority payoff, what was United Legal Services'
2 policy at the time between 2012 to the date of sale,
3 June 22nd, 2013, in responding to those requests?

4 A. We always had an open-door policy with respect to
5 any servicer or deed of trust beneficiary that contacted
6 us. Those contacts were very rare and very far in
7 between. In general, they would ask how much should
8 they pay, and we would say, "We cannot provide you with
9 legal advice."

10 And then they would say, "We only want to pay
11 nine months of assessments and not collections costs,"
12 and I would say, "You are free to do so," and then we
13 would explain what we would do. And on those rare
14 occasions when a servicer did contact us to make some
15 sort of payment, they were always delighted that we
16 would take payment without demanding collections costs
17 and we would record the payments in the land record.
18 Apparently no other NRS 116 foreclosure agent would do
19 that and so apparently it was a best practice.

20 Q. If a beneficiary called and said, "Can you tell
21 me what the monthly assessments are or quarterly
22 assessments," looking at that information so they could
23 calculate nine months, United Legal Services would give
24 that to them?

25 A. Certainly. Because the monthly assessment was

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1 found right in the account detail.

2 Q. I usually say "borrower," but I should say unit
3 owner" -- contacted United Legal Services and wanted to
4 explore ways to save their home, who would have the
5 ultimate authority to decide whether or not to enter
6 into some sort of payment plan with them?

7 A. Typically our policy was to tell them that the
8 amount shown -- the amount that was required to stop a
9 sale was the amount shown in the Notice of Foreclosure
10 Sale minus \$146, and we would inform them that would
11 have to be paid in full prior to the auction.
12 Occasionally, homeowners would also contact the HOA
13 either through the HOA board member or FirstService
14 Residential, formerly known as RMI, and sometimes we
15 would get a request from the HOA or RMI to accept a
16 payment plan for a unit owner, and in those instances we
17 would put people on payment plans. We would then
18 postpone auctions to keep them on a short leash, and
19 when the payment plan was complete, we would cancel the
20 auction. It didn't happen that often.

21 Q. Would it be the HOA that decided whether or not
22 to allow the home owner to enter some sort of payment
23 plan?

24 A. Usually the HOA boards are extremely quiescent in
25 the sense that they relied heavily on RMI -- now

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1 FirstService Residential -- to perform the day-to-day
2 management of the HOA community, and so it was very rare
3 would I actually get contacted by anyone on the HOA
4 board. It was always through somebody over at RMI.

5 Q. So it was the management company, generally, that
6 would decide whether or not to allow a payment plan?

7 I'm trying to figure out who has the authority to --

8 A. RMI would clearly have the authority to put
9 somebody on a payment plan and request that a payment
10 plan be put on. It was very rare. In general I was
11 contractually obligated to take this thing for sale. If
12 somebody called up and said, "I'd like to go on a
13 payment plan," our standard response is: "You have to
14 pay it in full before the sale." Why? Because we're
15 permitted to do that. It's just like a regular deed of
16 trust auction. I mean, you're in arrearage for \$20,000,
17 and the answer is no.

18 But you have to realize that this is a fairly
19 rare event because most of these homeowners were
20 severely delinquent on the deed of trust, were terribly
21 underwater. A lot of these condos had a market value of
22 \$40,000 or \$60,000 and the deed of trust was for
23 \$210,000 because it was bought in 2005, and the last
24 thing anybody wanted to do was cough up \$7,000 to save
25 it from an HOA foreclosure auction, because they knew

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1 the foreclosure date was coming at some point. They
2 just didn't know who was going to be first: the deed of
3 trust beneficiary or the HOA. So they had rode it out
4 sometimes for years before something got foreclosed on.

5 Q. On the properties where there was an agreement
6 with First 100 and the HOA, would First 100 have any say
7 over whether or not a payment plan could be entered
8 into?

9 A. I inquired with Mr. Jay Bloom early on as to what
10 his perspectives and views were under the three-way
11 contract, and his perspective was, for example, the
12 Purchase and Sale Agreement had as a large component of
13 it the cash flow of the receivables, and so First 100
14 would typically pay the HOA nine-months worth of
15 assessments in order to receive all cash flows that
16 would arise from any monetization event that might occur
17 on the property that arose as a result of United Legal
18 Services posting and serving out the Notice of
19 Foreclosure Sale.

20 So as a result, First 100 was a third-party
21 beneficiary of any payment stream that would come in off
22 of a payment plan because those payments would go to
23 First 100, not to the HOA. So I felt it proper to ask
24 First 100, "Hey if somebody calls in and wants a \$100 a
25 month payment plan, what do you say," and the answer

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1 came back, "No payment plans unless the HOA requests it.
2 Otherwise march it to sale."

3 I believe -- I don't know for sure, but I believe
4 that it was the concept of: Anybody that's behind on
5 their deed of trust and the HOA foreclosure would have
6 said anything to eek out another few months on the
7 property, and these guys were already horribly behind,
8 and if they could now live in the property and pay only
9 \$300 a month, which effectively would have been rent
10 because you can make \$300 a month for years on a \$7,000
11 lien, that this was rewarding bad behavior.

12 There was also, I believe, a concept of: Let's
13 try to flush out the people who actually have money and
14 do, in fact, want to stay there, and then, Hey, if those
15 guys cough up 8 grand, then fine. We did see that
16 occasionally on the few single-family homes we did. All
17 of a sudden a check for \$12,000 would come in because
18 people had been living there for four years and had not
19 paid the deed of trust and actually had the money. But
20 it was rare.

21 Q. When there was proceeds from a foreclosure sale,
22 would United Legal Services be responsible for the
23 application of those proceeds?

24 A. Yes. Correct.

25 Q. And how were the proceeds applied in this case?

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1 A. On the last page of Section 4.

2 Q. Okay. Let me make sure I write this down.

3 A. We produced a Proceeds Reconciliation Report.
4 United Legal Services would get proceeds in. This is
5 the Proceeds Reconciliation Report for the subject
6 property, as well as other activity. So we would
7 receive money in from auction sales, and then we were to
8 remit back to First 100 the proceeds, because by
9 contract we were required to.

10 Now, before we did that, though, we were allowed
11 to apply the foreclosure sales collections costs
12 provided in the NAC document that would include
13 conducting the foreclosure sale and so forth. Do you
14 see that?

15 Q. Yes.

16 A. So you see \$7,800 came in, and then there were no
17 excess proceeds because this, as usual, came in less
18 than the lien amount. And so we would deduct \$125 to
19 conduct the foreclosure sale. Then \$125 to prepare the
20 deed. And then there was also something called a
21 foreclosure fee that was permitted in NAC. Now, I'm in
22 business to make a buck, so I, of course, charge all of
23 them, and you can see this is a debits and credits. So
24 every few days we would remit a chunk of change over to
25 First 100 as we were required to by contract. So...

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1 Q. In the event that there were excess proceeds,
2 would United Legal Services be responsible for paying
3 those out or would First 100?

4 A. Yes. United Legal Services. We did not give any
5 excess proceeds to First 100. They were not entitled to
6 it under the law. They were only entitled to the cash
7 flow up to the lien amount.

8 Q. In the case where there were excess proceeds, how
9 would those be paid out?

10 A. Typically, we started off by just giving
11 checks -- very rare by the way. It usually only
12 happened on Fannie Mae properties where it had already
13 been foreclosed on. And so in those instances, we would
14 remit it to Fannie Mae. After awhile, once I began
15 realizing there was a fight as to whether the deed of
16 trust -- you know, if there was any dispute as to what
17 it was, then generally we would just hold on to it as
18 opposed to remitting it, because it was unclear as a
19 matter of law as to who was the proper recipient of any
20 excess proceeds, which there were very, very few of
21 these.

22 Q. Does United Legal Services -- or I should say did
23 United Legal Services have a position on what it
24 believed the amount of the superpriority lien was?

25 A. We had absolutely no legal position on the legal

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1 effect of an NRS 116 foreclosure.

2 MS. SCHMIDT: Can we go off the record
3 again?

4 ***

5 (RECESS TAKEN FROM 12:00 P.M. TO 12:08 P.M.)

6 ***

7 MS. SCHMIDT: We'll mark as Exhibit C what
8 is labeled as Section 1, Documents From Prior Collection
9 Agencies, Red Rock Financial Services. Also mark as
10 Exhibit D what's labeled as Section 2, Documents From
11 Land Records. And we'll label as Exhibit E Section 4,
12 Contracts with HOA and First 100. And as Exhibit F,
13 Section 5. What's marked as Auction Results. And
14 Exhibit G, what's marked as Section 6, Emails.

15 THE WITNESS: And under the assumption that
16 those are true and correct copies of the documents so
17 provided to you, I hereby authenticate at this time.

18 MS. SCHMIDT: Thank you.

19 Do you have any questions that you wanted to
20 ask?

21 MS. BUTLER: I do not.

22 MS. SCHMIDT: I think we are done here.
23 (Exhibits C, D, E, F, and G were marked.)
24 (Proceedings concluded at 12:20 p.m.)
25

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CERTIFICATE OF REPORTER

1 STATE OF NEVADA)
2) ss:
3 COUNTY OF CLARK)

4 I, KELE R. SMITH, a duly commissioned
5 Notary Public, Clark County, State of Nevada, do hereby
6 certify: That I reported the taking of the deposition
7 of ROBERT ATKINSON, ESQ., commencing on Monday, May 11,
8 2015, at 10:14 a.m.

9 That prior to being deposed, the witness was by
10 me duly sworn to testify to the truth. That I
11 thereafter transcribed my said shorthand notes into
12 typewriting and that the typewritten transcript is a
13 complete, true, and accurate transcription of said
14 shorthand notes and that witness waived review and
15 correction of the transcript.

16 I further certify that I am not a relative or
17 employee of counsel of any of the parties, nor a
18 relative or employee of the parties involved in said
19 action, nor a person financially interested in the
20 action.

21 IN WITNESS WHEREOF, I have set my hand in my
22 office in the County of Clark, State of Nevada, this
23 12th day of May, 2015.
24

25 KELE R. SMITH, NV CCR #672, CA CSR #13405

Section 3

United Legal Services documents

EXHIBIT 12
DATE 5-11-19
BY Attorney
PAGE(S)
B. Smith, CCR No. 672

APN: 176-03-510-102
ULS#: NV-TU3-03

When recorded mail to:
United Legal Services Inc.
A Nevada Law Firm
9484 South Eastern Ave. #163
Las Vegas, NV 89123
Phone: (702) 617-3263

NOTICE OF FORECLOSURE SALE
UNDER THE LIEN FOR DELINQUENT ASSESSMENTS

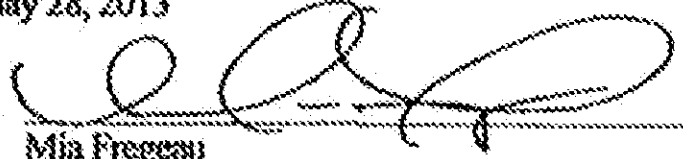
WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL UNITED LEGAL SERVICES INC. AT (702) 617-3263. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (877) 829-9907.

YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS, notice of which was recorded on April 4, 2012 as instrument 201204040001017 in the Official Records of the Recorder of Clark County, Nevada ("Official Records"), by the Tuscano Homeowners Association. The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on May 29, 2012 as instrument 201205290001690 in the Official Records. The property owner(s) of record is/are: New Freedom Mortgage Corporation. The total amount necessary to satisfy the lien as of the proposed sale date is \$7,806.42.

UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT WILL BE SOLD AT PUBLIC SALE. United Legal Services Inc. ("ULS") has the collections file on this account. Any payments to satisfy the lien must be in cash, cashier's check, or wire transfer, and must be actually received by ULS prior to the sale. If payment in full is not received prior to the date/time below, the property will be auctioned. All auction sales are final and late payments will be returned. If you need an explanation of this notice or its contents, you should contact an attorney.

NOTICE IS HEREBY GIVEN THAT on June 22, 2013 at 9:00 AM at 8965 S. Eastern Ave, Suite 350, Las Vegas, NV 89123, United Legal Services Inc., as duly authorized agent for sale pursuant to NRS 116, will sell at public auction to the highest bidder, for lawful money of the United States, all right, title, and interest in the property commonly known as: 7255 W Sunset Unit 2050, Las Vegas, Nevada 89113. Payment by the winning bidder must be made at the conclusion of the auction and in cash or a cashier's check drawn on a bank or credit union authorized to do business in the State of Nevada. The sale will be made without covenant or warranty, expressed or implied, regarding, but not limited to, title, possession, encumbrances, or obligations to satisfy any secured or unsecured liens.

Date: May 28, 2013

By: 
Mia Fregeau
An employee of United Legal Services Inc.
As authorized agent for, and on behalf of, Tuscano Homeowners Association

APN: 176-03-510-102
ULS#: NV-TU3-03

When recorded mail to:
United Legal Services Inc.
A Nevada Law Firm
9484 South Eastern Ave. #163
Las Vegas, NV 89123
Phone: (702) 617-3263

Inst #: 201305290000306
Fees: \$17.00
N/C Fee: \$0.00
05/29/2013 08:03:04 AM
Receipt #: 1632393
Requestor:
UNITED LEGAL SERVICES INC.
Recorded By: DXI Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

NOTICE OF FORECLOSURE SALE
UNDER THE LIEN FOR DELINQUENT ASSESSMENTS

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL UNITED LEGAL SERVICES INC. AT (702) 617-3263. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (877) 829-9907.

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Date: May 28, 2013

By: 
Mia Fregeau
An employee of United Legal Services Inc.
As authorized agent for, and on behalf of, Tuscano Homeowners Association

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes, eviction proceedings may begin against you after you have been given a notice to quit.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

- (1) Delivering a copy to you personally in the presence of a witness;
- (2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or
- (3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

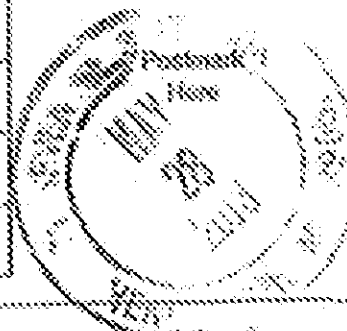
If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

- (1) You will be given at least 10 days to answer a summons and complaint;
- (2) If you do not file an answer, an order evicting you by default may be obtained against you;
- (3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and
- (4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

7012 2210 0001 6534 1010
0707 4539 1000 0723 2107

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only. No Insurance Coverage Provided)	
For delivery information visit usps.com	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Sent To	
OWNER OR OCCUPANT	
Street, Apt. No., or PO Box No.	7255 W SUNSET RD APT 2050
City, State, ZIP+4	LAS VEGAS NV 89113-1911
PS Form 3800, October 2005	



U.S. Postal Service[™]

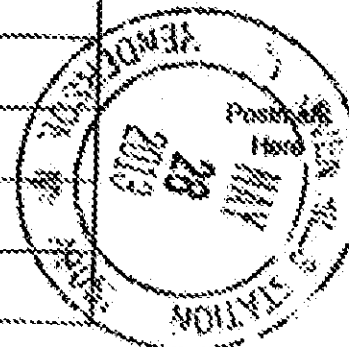
CERTIFIED MAIL[™] RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$
Certified Fee
Return Receipt Fee
(Endorsement Required)
Restricted Delivery Fee
(Endorsement Required)
Total Postage & Fees \$



Sent To

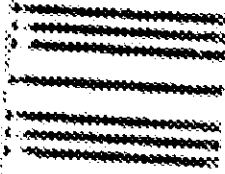
NEW FREEDOM MORTGAGE CORPORATION
Street, Apt. No., 2393 S FOOTHILL DR
or PO Box No. SALT LAKE CITY UT 84109-1458
City, State, ZIP+4

PS Form 3800, August 2005

See Reverse for Instructions

7012 2210 0001 4559 1000 0122 2102

UNITED LEGAL SERVICES INC.
9484 SOUTH EASTERN AVE #163
LAS VEGAS, NV 89123



06250008443722
\$0.460
US POSTAGE
FIRST-CLASS
FROM 89123
MAY 28 2013
stamps.com

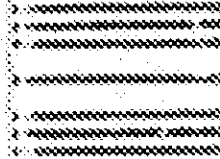
THE COOPER CASTLE LAW FIRM
820 S. VALLEY VIEW BLVD
LAS VEGAS NV 89107-4411

FORWARD TIME EXP 1 3121 00 05/29/13
THE COOPER CASTLE LAW FIRM
820 S. VALLEY VIEW BLVD
LAS VEGAS NV 89107-4411

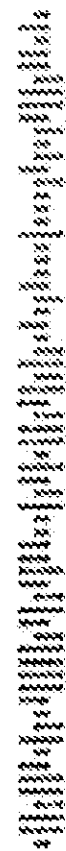
8912303987

RETURN TO SENDER

UNITED LEGAL SERVICES INC.
9484 SOUTH EASTERN AVE #163
LAS VEGAS, NV 89123



0000000403722
\$0.460
US POSTAGE
FIRST-CLASS
FROM 89123
MAY 28 2013
stamps



OWNER OR OCCUPANT
7255 W SUNSET RD APT 2050
LAS VEGAS NV 89113-1911

WIXIE 891 56 1040 0006/27/13
RETURN TO SENDER
VACANT
UNABLE TO FORWARD

8C: 89123308784 *0879-03146-28-39
89123308784

UNITED LEGAL SERVICES INC.
9484 SOUTHEASTERN AVE #163
LAS VEGAS, NV 89123

NEW FREEDOM MORTGAGE CORPORATION
2363 S FOOTHILL DR
SALT LAKE CITY UT 84109-1458

062603064+0720

\$0.460

US POSTAGE
FIRST-CLASS
FROM 89123
MAY 28 2013

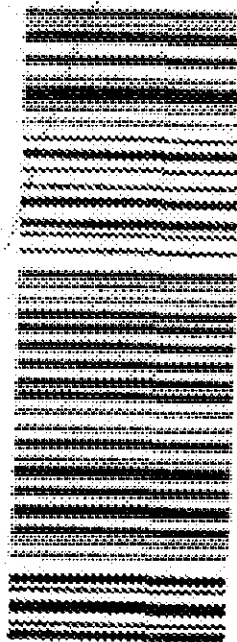
stamps

841 52 2 00 05/30/13
 RETURN TO SENDER
 REFUSED
 UNABLE TO FORWARD

8912303987 30: 8912303784 *079-03344-22-39

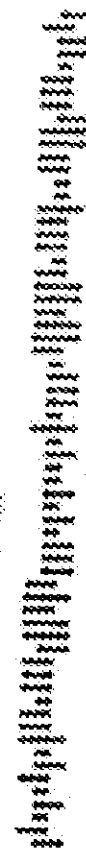
UNITED LEGAL SERVICES INC.
9484 SOUTH EASTERN AVE #163
LAS VEGAS, NV 89123

CERTIFIED MAIL



7012 2210 0001 6534 1010

06790008443722
\$6.110
US POSTAGE
FIRST-CLASS
FROM 89123
MAY 28 2013
stamps.com



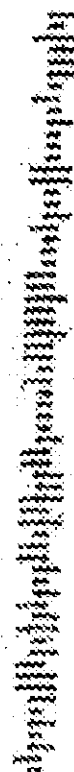
OWNER OR OCCUPANT
7255 W SUNSET RD APT 2050
LAS VEGAS NV 89113-1911

UCC

**RETURN RECEIPT
REQUESTED**

RETURN TO SENDER
ATTEMPTED
NOT RECOVERED

99113191100



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

OWNER OR OCCUPANT
7255 W SUNSET RD APT 2050
LAS VEGAS NV 89113-1911

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ G.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number

(Transfer from service label)

7012 2210 0001 4534 1010

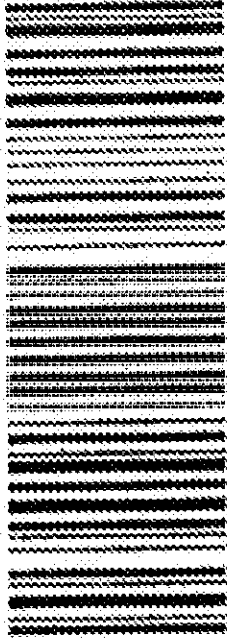
PS Form 3811, February 2004

Domestic Return Receipt

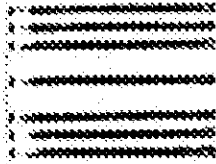
102997-00-99-1500

UNITED LEGAL SERVICES INC.
9484 SOUTHEASTERN AVE #163
LAS VEGAS, NV 89123

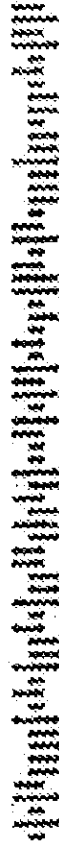
CERTIFIED MAIL



7012 2210 0001 6534 1003



06260008443722
\$6.110
US POSTAGE
FIRST-CLASS
FROM 89123
MAY 28 2013
stamps.com



NEW FREEDOM MORTGAGE CORPORATION
2363 S FOOTHILL DR
SALT LAKE CITY UT 84109-1458

RETURN RECEIPT
REQUESTED

NIXIE 841 DE 1040 REF
RETURN TO SENDER
REFUSED
UNABLE TO FORWARD
SC: 89123398784 *25F
891233987



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print name and address on the reverse so the carrier can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article processed for:

NEW FREEDOM MORTGAGE CORPORATION
2363 S FOOTHILL DR
SALT LAKE CITY UT 84109-1458

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent ☐ Address

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes ☒ No
If YES, enter delivery address below

3. Service Type

☒ Certified Mail ☐ Express Mail

☐ Registered ☐ Return Receipt for Merchandise

☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2210 0001 6534 1003

pls Return Receipt

102606-09-M-1540

AFFIDAVIT OF POSTING

STATE OF NEVADA)
COUNTY OF CLARK) ss:

Mia Fregeau, being duly sworn, says: That at all times herein affiant was and is over 18 years of age.
That on May 29, 2013, affiant posted a copy of the below listed documents:

- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS
Regarding 7255 W. Sunset Rd Unit 1173, Las Vegas, Nevada 89113
- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS
Regarding 7255 W. Sunset Rd Unit 2018, Las Vegas, Nevada 89113
- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS
Regarding 7255 W. Sunset Rd Unit 2050, Las Vegas, Nevada 89113

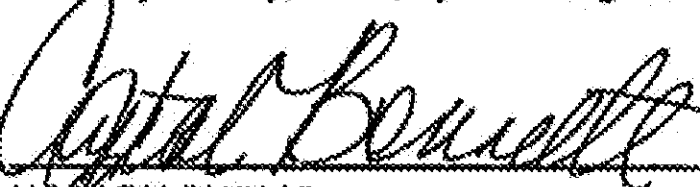
In each the following locations:

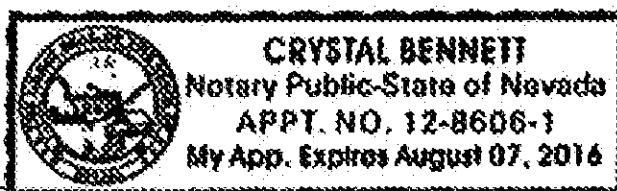
- The public board located near the elevators on the first floor of the Regional Justice Center, 200 Lewis Ave., Las Vegas, Nevada 89101
- The public board located in the Clerk of Court's office for the Eighth Judicial District, located on the third floor of the Regional Justice Center, 200 Lewis Ave., Las Vegas, Nevada 89101
- The public board located on the first floor of the Grant Sawyer Building, 555 East Washington Ave., Las Vegas, Nevada 89101

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.


MIA FREGEAU

SIGNED and SWORN to before me on
29th day of May, 2013, by Mia Fregeau


NOTARY PUBLIC



AFFIDAVIT OF SERVICE

STATE OF NEVADA)
COUNTY OF CLARK)

ss:

Mia Fregeau, being duly sworn, says: That at all times herein affiant was and is over 18 years of age. That on May 29, 2013, affiant served the below listed documents at the addresses and in the manner stated:

7255 W. Sunset Rd Unit 1173, Las Vegas, Nevada 89113

- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS
- NOTICE TO TENANTS OF THE PROPERTY

by posting the Notices conspicuously on the front door of the residence.

7255 W. Sunset Rd Unit 2018, Las Vegas, Nevada 89113

- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS
- NOTICE TO TENANTS OF THE PROPERTY

by posting the Notices conspicuously on the front door of the residence.

7255 W. Sunset Rd Unit 2050, Las Vegas, Nevada 89113

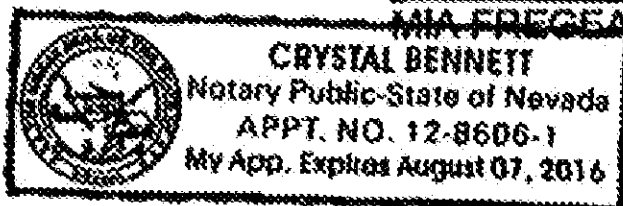
- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS
- NOTICE TO TENANTS OF THE PROPERTY

by posting the Notices conspicuously on the front door of the residence.

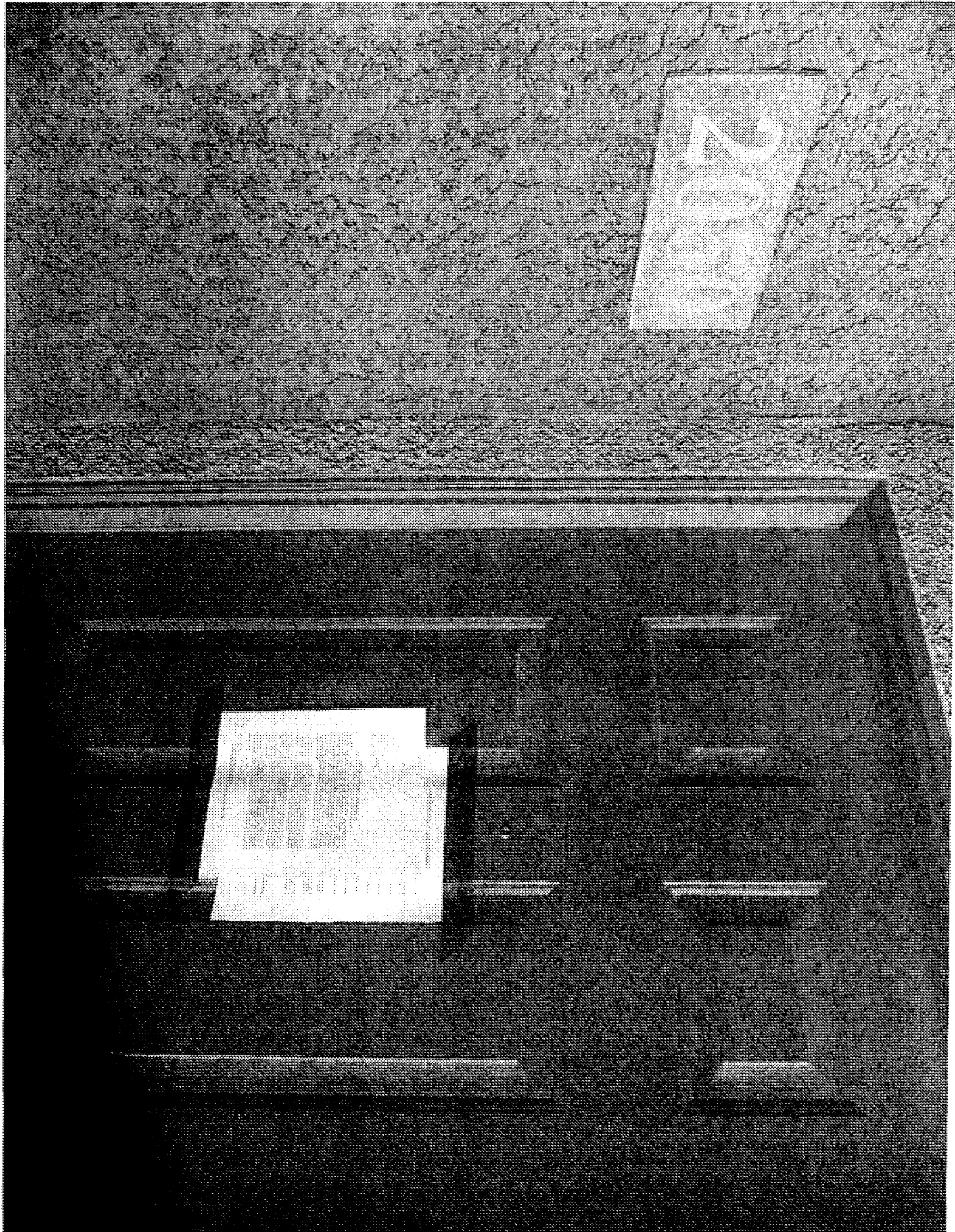
I declare under penalty of perjury under the law,
of the State of Nevada that the foregoing is true and correct

SIGNED and SWORN to before me on
29th day of May 2013, by Mia Fregeau

NOTARY PUBLIC



[Signature]
MIA FREGEAU



NOTICE OF FORECLOSURE SALE
UNDER THE LIEN FOR
DELINQUENT ASSESSMENTS

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL UNITED LEGAL SERVICES INC. AT (702) 817-3283. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (877) 829-0007.

YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS, notice of which was recorded on April 4, 2012 as instrument 201204040001017 in the Official Records of the Recorder of Clark County, Nevada ("Official Records"), by the Tuscans Homeowners Association. The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on May 29, 2012 as instrument 201205290001890 in the Official Records. The property owner(s) of record is/are: New Freedom Mortgage Corporation. The total amount necessary to satisfy the lien as of the proposed sale date is \$7,808.42.

UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT WILL BE SOLD AT PUBLIC SALE. United Legal Services Inc. ("ULS") has the collections file on this account. Any payments to satisfy the lien must be in cash, cashier's check, or wire transfer, and must be actually received by ULS prior to the sale. If payment in full is not received prior to the date/time below, the property will be auctioned. All auction sales are final and late payments will be returned. If you need an explanation of this notice or its contents, you should contact an attorney.

APN: 176-03-510-102
ULS# NV-TU3-03

NOTICE IS HEREBY GIVEN THAT on June 22, 2013 at 10:00 AM at 8985 S. Eastern Ave, Suite 350, Las Vegas, NV 89123, United Legal Services Inc., as duly authorized agent for sale pursuant to NRS 118, will sell at public auction to the highest bidder, for lawful money of the United States, all right, title, and interest in the property commonly known as: 7255 W Sunset Unit 2050, Las Vegas, Nevada 89113. Payment by the winning bidder must be made at the conclusion of the auction and in cash or a cashier's check drawn on a bank or credit union authorized to do business in the State of Nevada. The sale will be made without covenant or warranty, expressed or implied, regarding, but not limited to, title, possession, encumbrances, or obligations to satisfy any secured or unsecured liens.

Date: May 28, 2013

By: Mia Frigoau
An employee of United Legal Services Inc.
As authorized agent for, and on behalf of, Tuscans Homeowners Association

PUBLISHED
05/31/2013, 06/07/2013 & 06/14/2013

CLARK COUNTY LEGAL NEWS
CLARK & NYE COUNTY, NEVADA
CCLN FILE 130531c.wps


Affidavit of Publication

This is to confirm that, on the aforementioned dates, the attached Legal Notice was published in the Clark County Legal News newspaper, a newspaper of general and subscription circulation in both Clark County, Nevada and Nye County, Nevada.

Per NRS 238.030, the Clark County Legal News newspaper is printed and published in whole or in part in both Clark County and Nye County, Nevada.

WITNESS my hand on this

06-14-13


MIRANDA DONOVAN,
legal notice director,
Clark County Legal News newspaper

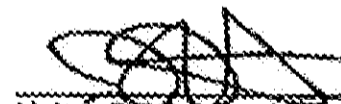
STATE OF NEVADA

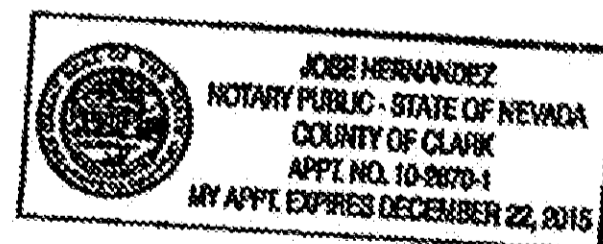
COUNTY OF CLARK

On June 14, 2013, before me,
the undersigned, a Notary Public in and for
said State, personally appeared;

Miranda Donovan,
personally known to me (or proved to me on
the basis of satisfactory evidence) to be the
person whose name is subscribed to the
within instrument, and acknowledged to me
that it was executed by said person.

WITNESS my hand and official seal:


Notary Public in and for said State



RECEIPT OF SALE

United Legal Services Inc.

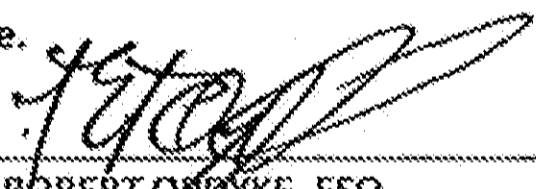
(702) 617-3263

PROPERTY INFORMATION:	
APN	PROPERTY STREET ADDRESS
176-03-510-102	7255 W SUNSET RD UNIT 2050, LAS VEGAS NV 89113

SALE INFORMATION:	
SALE DATE	WINNING BID AMOUNT (\$):
6/22/13	\$7,800

BUYER INFORMATION:	
BUYER (OR REPRESENTATIVE'S) NAME	CONTACT INFORMATION
Kenneth Berberich	P.O. Box 530541 Henderson NV 89053
VESTING -- RECORD TITLE AS SHOWN	West Sunset 2050 Trust

PAYMENT INFORMATION:			
AMOUNT	DRAWN ON (or WIRE FROM)	DATE RECEIVED by AGENT	INITIALS
\$7,800	Ch. Bank	6/24/13	REO

CERTIFICATION OF AGENT:
I hereby certify that the information above is accurate.
Signature:  ROBERT O'DYKE, ESQ.

ALL SALES OF PROPERTY ARE ON ANY "AS IS" BASIS, WITH NO WARRANTIES,
EXPRESS OR IMPLIED.

APN: 176-03-510-102

Return document and mail tax statements to:

West Sunset 2050 Trust
P.O. Box 530541
Henderson NV 89053

FORECLOSURE DEED UPON SALE

Foreclosing lienholder **TUSCANO HOMEOWNERS ASSOCIATION**, under power of sale pursuant to NRS Chapter 116, does hereby sell, without warranty, expressed or implied, to:

WEST SUNSET 2050 TRUST

the real property situated in Clark County, Nevada legally described as:

SEE EXHIBIT A ATTACHED FOR LEGAL DESCRIPTION

and commonly known as 7255 W SUNSET RD UNIT 2050, LAS VEGAS NV 89113.

This conveyance is made pursuant to the powers conferred upon Agent by NRS Chapter 116, the foreclosing Association's governing documents (CC&R's), and the notice of the Lien for Delinquent Assessments, recorded on April 4, 2012 as instrument 201204040001017 in the Official Records of the Recorder of Clark County, Nevada. Default occurred as set forth in the Notice of Default and Election to Sell, recorded on May 29, 2012 as instrument 201205290001690 in the Official Records of the Recorder of Clark County, Nevada. All requirements of law have been complied with, including, but not limited to, the elapsing of the 90 days, the mailing of copies of the notice of Lien of Delinquent Assessment, and Notice of Default, and the mailing, posting, and publication of the Notice of Foreclosure Sale. Agent, in compliance with the Notice of Foreclosure Sale and in exercise of its power under NRS § 116.31164, sold the property at public auction on June 22, 2013.

By: _____
Robert Opdyke, Esq.
United Legal Services Inc.
As authorized agent for, and on behalf of, foreclosing Association

STATE OF NEVADA)
COUNTY OF CLARK)

This instrument was acknowledged before me
on June _____, 2013, by: Robert Opdyke.

NOTARY PUBLIC

EXHIBIT A

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1) - UNITS:

UNIT 2050 IN BUILDING 7 AS SHOWN ON THE FINAL PLAT OF TUSCANO CONDOMINIUMS, A CONDOMINIUM COMMUNITY, RECORDED JANUARY 31, 2005, IN BOOK 122, PAGE 11 OF PLATS, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (THE "PLAT"), AND

PARCEL TWO (2) - COMMON ELEMENTS:

1/352 INTEREST AS A TENANT-IN-COMMON IN THE COMMON ELEMENTS IN ACCORDANCE WITH AND SUBJECT TO THE TERMS OF THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TUSCANO TOWNHOMES RECORDED APRIL 5, 2005 IN BOOK 20050405 AS DOCUMENT NO. 0002422 IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (THE "DECLARATION").

EXCEPTING THEREFROM, ALL UNITS SHOWN ON THE PLAT.

RESERVING THEREFROM, THE RIGHT TO USE ANY OF THOSE AREAS DESIGNATED AS LIMITED COMMON ELEMENTS IN THE PLAT AND/OR THE DECLARATION.

FURTHER RESERVING THEREFROM, FOR THE BENEFIT OF THE OWNERS OF ALL UNITS SHOWN ON THE PLAT (EXCEPT THE UNIT REFERRED TO IN PARCEL 1 ABOVE) NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS, AS DEFINED IN AND SUBJECT TO THE DECLARATION.

PARCEL THREE (3) - APPURTENANT EASEMENTS:

NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS AS DEFINED IN AND SUBJECT TO THE DECLARATION, WHICH EASEMENTS ARE APPURTENANT TO PARCELS 1,2 ABOVE.

STATE OF NEVADA
DECLARATION OF VALUE

1. Assessor Parcel Number(s)

a. 176-03-510-102
b. _____
c. _____
d. _____

2. Type of Property:

a. <input type="checkbox"/> Vacant Land	b. <input type="checkbox"/> Single Fam. Res.
c. <input checked="" type="checkbox"/> Condo/Twnhse	d. <input type="checkbox"/> 2-4 Plex
e. <input type="checkbox"/> Apt. Bldg	f. <input type="checkbox"/> Comm'l/Ind'l
g. <input type="checkbox"/> Agricultural	h. <input type="checkbox"/> Mobile Home
<input type="checkbox"/> Other	

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3.a. Total Value/Sales Price of Property \$ _____
b. Deed in Lieu of Foreclosure Only (value of property (_____)
c. Transfer Tax Value: \$ _____
d. Real Property Transfer Tax Due \$ _____

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: _____ %
The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature _____ Capacity: _____

Signature _____ Capacity: _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: United Legal Services Inc.
Address: 9484 S. Eastern Ave. #163
City: Las Vegas
State: NV Zip: 89123

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: West Sunset 2050 Trust
Address: P.O. Box 530541
City: Henderson
State: NV Zip: 89053

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: _____	Escrow #: _____
Address: _____	
City: _____	State: _____ Zip: _____

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

EXHIBIT 11

EXHIBIT 11

Recording Requested By:
Bank of America
Prepared By: Srbui Muradyan
888-603-9011

When recorded mail to:
CoreLogic
450 E. Boundary St.
Attn: Release Dept.
Chapin, SC 29036



DocID# 16910692327163615

Tax ID: 176-03-510-102

Property Address:

7255 W Sunset Rd Unit 2050

Las Vegas, NV 89113-1911

NV0-ADT 14411205 7/25/2011

Inst #: 201107290000895

Fees: \$15.00

N/C Fee: \$0.00

07/29/2011 09:30:03 AM

Receipt #: 862036

Requestor:

CORELOGIC

Recorded By: MSH Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

This space for Recorder's use

MIN #: 1000360-0000275964-1

MERS Phone #: 888-679-6377

ASSIGNMENT OF DEED OF TRUST

For Value Received, the undersigned holder of a Deed of Trust (herein "Assignor") whose address is 3300 S.W. 34TH AVENUE, SUITE 101 OCALA, FL 34474 does hereby grant, sell, assign, transfer and convey unto BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP whose address is 400 NATIONAL WAY, SIMI VALLEY, CA 93065 all beneficial interest under that certain Deed of Trust described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Deed of Trust.

Original Lender: NEW FREEDOM MORTGAGE CORPORATION

Made By: STEPHANIE TABLANTE, A SINGLE WOMAN

Trustee: FIRST AMERICAN TITLE CO. OF NEVADA

Date of Deed of Trust: 11/29/2005 Original Loan Amount: \$176,760.00

Recorded in Clark County, NV on: 12/7/2005, book 20051207, page 0002367 and instrument number N/A

I the undersigned hereby affirm that this document submitted for recording does not contain the social security number of any person or persons.

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Deed of Trust to be executed on

7/28/11

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.

By: 

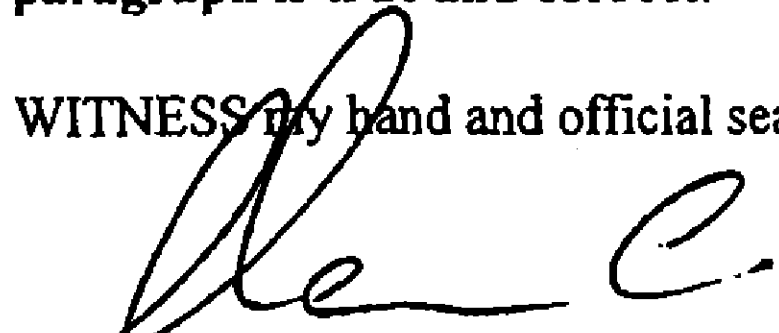
Chester Levings, Assistant Secretary

State of California
County of Ventura

On 07/28/11 before me, MARCELLUS ELLIS, Notary Public, personally appeared Chester Levings, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

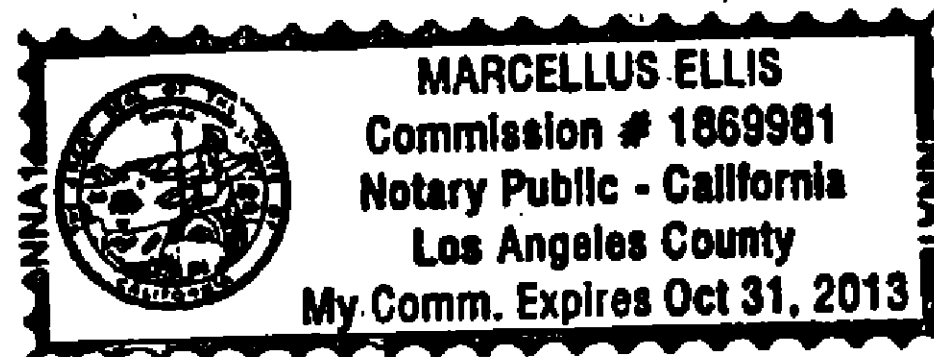
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Notary Public: MARCELLUS ELLIS
My Commission Expires: 10/31/13

(Seal)



BORROWER : STEPHANIE TABLANTE

EXHIBIT 12

EXHIBIT 12

When Recorded Mail To:
The Cooper Castle Law Firm
820 S. Valley View Blvd.
Las Vegas, Nevada 89107
Attn.: Jessica Chester

T.S. No.: 11-08-31196-NV
APN: 176-03-510-102
TITLE REPORT No.: 5817079

Inet #: 201202020000943
Fees: \$17.00
N/C Fee: \$25.00
02/02/2012 12:21:18 PM
Receipt #: 1054869
Requestor:
DOCUMENT PROCESSING SOLUTIONS
Recorded By: SCA Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

SUBSTITUTION OF TRUSTEE

WHEREAS, Stephanie Tablante, the original Trustor, First American Title Co. of Nevada, was the original Trustee, and Mortgage Electronic Registration Systems, Inc. (MERS) was the original Beneficiary under that certain Deed of Trust dated November 29, 2005 and recorded on December 7, 2005, as Book: 20051207 Instrument: 0002367 of Official Records of Clark County, Nevada; and

WHEREAS, the undersigned is the present Beneficiary under said Deed of Trust, and

WHEREAS, the undersigned desires to substitute a new Trustee effective as of 8/10/2011 under said Deed of Trust in place and instead of said original Trustee, or Successor Trustee, thereunder, in the manner in said Deed of Trust provided,

NOW, THEREFORE, the undersigned hereby substitutes Cooper Castle Law Firm, LLP, A Multi-Jurisdictional Law Firm, as Trustee under said Deed of Trust.

The Beneficiary hereby ratifies and confirms all action taken on the Beneficiary's behalf by the instant and/or Successor Trustee prior to the recording of the substitution of trustee.

Effective Date: 8/10/2011

BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO BAC
HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME
LOANS SERVICING LP

Acknowledgement:

State of Texas
County of Dallas

Michelle Johnson
Michelle Johnson, Assistant Vice President (AVP)

On 10/3/11 before me, Maxine P. Luster, personally appeared Michelle Johnson, AVP, who provided to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Maxine P. Luster
Maxine P. Luster

Stephanie Tablante / 11-08-31196-NV

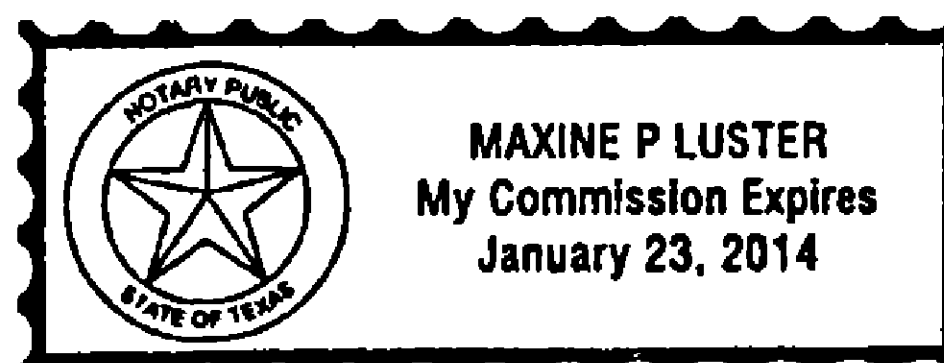


EXHIBIT 13

EXHIBIT 13

Inst #: 201303200000887
Fees: \$18.00
N/C Fee: \$0.00
03/20/2013 08:28:50 AM
Receipt #: 1541118
Requestor:
CASTLE STAWIARSKI, LLC - NE
Recorded By: MSH Pgs: 2
DEBBIE CONWAY
CLARK COUNTY RECORDER

Tax Parcel: 176-03-510-102

Recording requested by:
BANK OF AMERICA N.A.,
SUCCESSOR BY MERGER TO BAC
HOME LOANS SERVICING, LP FKA
COUNTRYWIDE HOME LOANS
SERVICING, LP

When recorded mail to:
NATIONSTAR MORTGAGE, LLC
350 HIGHLAND DRIVE
LEWISVILLE, TX 75067
Attn: MOSAIC

Mail tax statement to:
Bank of America, N.A.
1757 Tapo Canyon Road, #300
Simi Valley, CA 93063

CORPORATION ASSIGNMENT OF DEED OF TRUST

Doc. ID# 95010692327170532
Commitment# A41682

For value received, the undersigned, BANK OF AMERICA N.A., SUCCESSOR BY
MERGER TO BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING,
LP, 1800 TAPO CANYON ROAD, SIMI VALLEY, CA 93063, hereby grants, assigns and
transfers to:

NATIONSTAR MORTGAGE, LLC
350 HIGHLAND DRIVE, LEWISVILLE, TX 75067

All beneficial interest under that certain Deed of Trust dated 11/29/05,
executed by: STEPHANIE TABLANTE, Trustor as per TRUST DEED recorded as
Instrument No. 20051207-0002367 on 12/07/05 in Book _____ Page _____
of official records in the County Recorder's Office of CLARK County,
NEVADA.

The Trustee is FIRST AMERICAN TITLE CO OF NEV.
Original Mortgage \$176,760.00
7255 W SUNSET ROAD #2050, LAS VEGAS, NV 89113

Together with the Note or Notes therein described or referred to, the money
due and to become due thereon with interest, and all rights accrued or to
accrue under said Deed of Trust.

CORPORATION ASSIGNMENT OF DEED OF TRUST

Doc. ID# 95010692327170532
Commitment# A41682

Dated: FEB 28 2013

BANK OF AMERICA N.A., SUCCESSOR BY MERGER TO BAC HOME
LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS
SERVICING, LP

By 
CARMEN DENA, ASSISTANT VICE PRESIDENT

State of California
County of Ventura

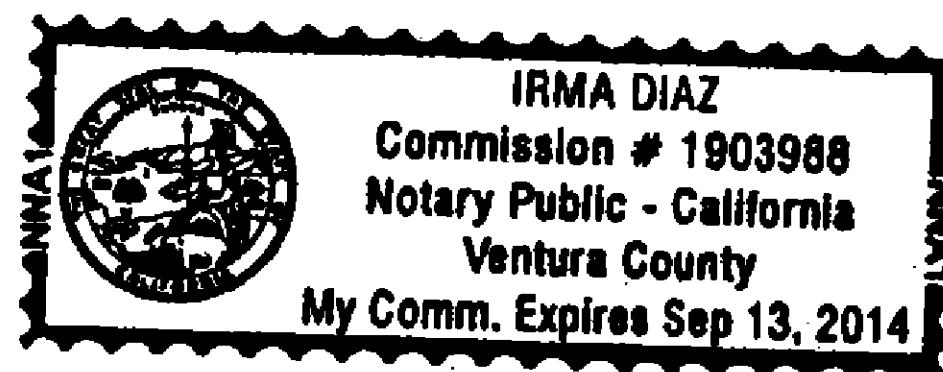
On FEB 28 2013 before me, IRMA DIAZ, Notary Public, personally appeared CARMEN DENA, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature: 

IRMA DIAZ



Prepared by: THANIA ORNELAS
1800 TAPO CANYON ROAD
SIMI VALLEY, CA 93063
Phone#: (213) 345-0979

EXHIBIT 14

EXHIBIT 14

Inst #: 201309180002103

Fees: \$221.00

N/C Fee: \$0.00

09/18/2013 01:51:55 PM

Receipt #: 1775955

Requestor:

FIRST AMERICAN NATIONAL DEF

Recorded By: CYV Pgs: 5

DEBBIE CONWAY

CLARK COUNTY RECORDER

WHEN RECORDED MAIL TO:
Cooper Castle Law Firm, LLP
5275 S. Durango Drive
Las Vegas, NV 89113

T.S. No.: 11-08-31196-NV
APN: 176-03-510-102
Property Address: 7255 W. Sunset Road #2050, Las Vegas, NV 89113

NOTICE OF BREACH AND DEFAULT AND OF ELECTION TO CAUSE SALE OF REAL PROPERTY UNDER DEED OF TRUST

NOTICE IS HEREBY GIVEN THAT: THE COOPER CASTLE LAW FIRM, LLP, A MULTIJURISDICTIONAL LAW FIRM is the duly appointed Trustee under a Deed of Trust dated November 29, 2005, executed by Stephanie Tablante, as Trustor in favor of Mortgage Electronic Registration Systems, Inc. (MERS), recorded on December 7, 2005 and recorded as. 20051207-0002367 of Official Records in the office of the County recorder of Clark County, Nevada securing, among other obligations:

One note(s) for the Original sum of \$176,760.00, that the beneficial interest under such Deed of Trust and the obligations secured hereby are presently held by the undersigned; that a breach of and default in the obligations for which such Deed of Trust is security has occurred or that payment has not been made of:

The installment of Principal, Interest, impounds and late fees which became due March 1, 2011 together with all subsequent installments of principal, interest, impounds, late fees and foreclosure fees and expenses. Any advances which may hereafter be made. All obligations and indebtedness as they become due and charges pursuant to said Note and Deed of Trust.

That by reason thereof the present Beneficiary under such Deed of Trust has executed and delivered to said duly appointed Trustee a substitution of trustee and a request for Sale of the security pursuant to the Deed of Trust and all documents evidencing obligations secured thereby and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

NOTICE

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. Where reinstatement is possible, if the default is not cured within 35 days following recording and mailing of this Notice to Trustor or Trustor's successor in interest, the right of reinstatement will terminate and the property may thereafter be sold. The Trustor may have the right to bring a court action to assert the nonexistence of a default or any other defense of Trustor to acceleration and Sale.

(PAGE 1 of 2)

T.S. No.: 11-08-31196-NV
APN: 176-03-510-102

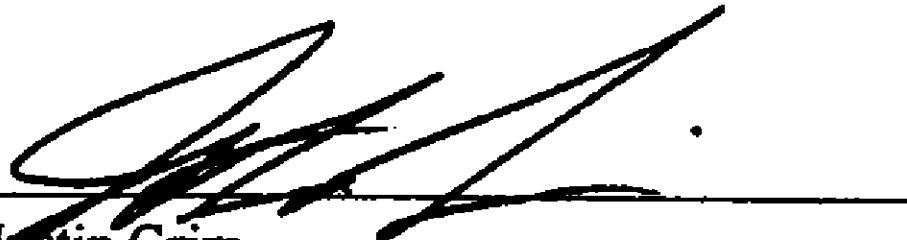
To determine if reinstatement is possible and the amount, if any, to cure the default, contact:

Nationstar Mortgage, LLC
C/O The Cooper Castle Law Firm, LLP
A MultiJurisdictional Law Firm
5275 S. Durango Drive
Las Vegas, Nevada 89113
(702) 435-4175 Telephone
(702) 877-7424 Facsimile

BE ADVISED THAT THE COOPER CASTLE LAW FIRM, LLP A MULTIJURISDICTIONAL LAW FIRM MAY BE ACTING AS A DEBT COLLECTOR AND IS ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION PROVIDED BY YOU WILL BE USED FOR THAT PURPOSE.

Dated: September 13, 2013

THE COOPER CASTLE LAW FIRM, LLP
A Multi-Jurisdictional Law Firm

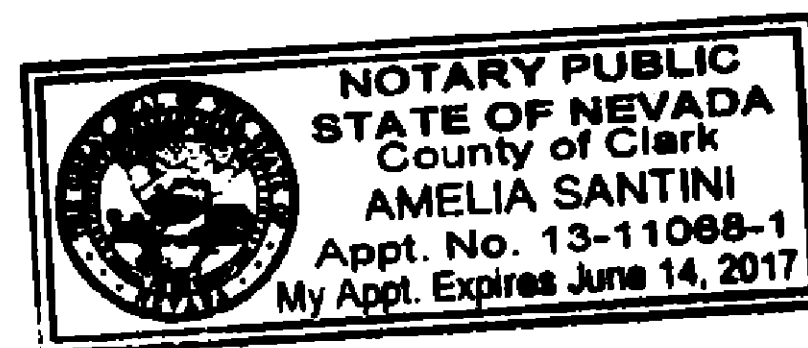
By: 
Justin Grim
Attorney at Law

State of NEVADA } ss.
County of CLARK }

On September 13, 2013, before me, Amelia Santini, Notary Public, personally appeared Justin Grim personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Amelia Santini (Seal)



Stephanie Tablante / 11-08-31196-NV

(PAGE 2 OF 2)

**AFFIDAVIT OF AUTHORITY IN SUPPORT OF NOTICE OF DEFAULT AND
ELECTION TO SELL
[NRS § 107.080]**

Borrowers Identified in Deed of Trust:
Stephanie Tablante

Trustee Address:
The Cooper Castle Law Firm, LLP
5275 S. Durango Dr.
Las Vegas, NV 89113

Property Address:
7255 W. Sunset Road #2050, Las Vegas, NV
89113

Deed of Trust Instrument Number:
20051207-0002367

STATE OF TEXAS)
) ss:
COUNTY OF DENTON)

The affiant, Jerrell Menyweather, being first duly sworn upon oath and under penalty of perjury, attests as follows:

1. I am an employee of Nationstar Mortgage, LLC. I am duly authorized to make this Affidavit in the capacity as the current beneficiary of the subject Deed of Trust (Beneficiary) or the Servicer for the current beneficiary of the Deed of Trust.

2. I have the personal knowledge required to execute this Affidavit, as set forth in NRS 107.080(2)(c) and can confirm the accuracy of the information set forth herein. If sworn as a witness, I could competently testify to the facts contained herein.

3. In the regular and ordinary course of business, it is Nationstar Mortgage, LLC s practice to make, collect, and maintain business records and documents related to any loan it originates, funds, purchases and/or services, including the Subject Loan (collectively, Business Records). I have continuing access to the Business Records for the Subject Loan, and I am familiar with the Business Records and I have personally reviewed the business records relied upon to compile this Affidavit.

4. The full name and business address of the current trustee or the current trustee s representative or assignee is:

The Cooper Castle Law Firm, LLP
5275 S. Durango Dr.
Las Vegas, NV 89113

TS#- 11-08-31196-NV
APN#- 176-03-510-102

Page 1 of 3

NSM00049

0467

5. The full name and business address of the current holder of the note secured by the Deed of Trust is:

Nationstar Mortgage, LLC
350 Highland Drive
Lewisville, TX 75067

6. The full name and business address of the current beneficiary of record of the Deed of Trust is:

Nationstar Mortgage, LLC
350 Highland Drive
Lewisville, TX 75067

7. The full name and business address of the current servicer of the obligation or debt secured by the Deed of Trust is:

Nationstar Mortgage, LLC
350 Highland Drive
Lewisville, TX 75067

8. The beneficiary, its successor in interest, or the trustee of the Deed of Trust has: (I) actual or constructive possession of the note secured by the Deed of Trust; and/or (II) is entitled to enforce the obligation or debt secured by the Deed of Trust. If the latter is applicable and the obligation or debt is an instrument, as defined in NRS § 104.3103(2), the beneficiary, successor in interest to the beneficiary, or trustee entitled to enforce the obligation or debt is either: (1) the holder of the instrument constituting the obligation or debt; (2) a non-holder in possession of the instrument who has the rights of the holder; or (3) a person not in possession of the instrument who is entitled to enforce the instrument pursuant to a court order issued NRS § 104.3309.

9. The beneficiary, its successor in interest, the trustee, the servicer of the obligation or debt secured by the Deed of Trust, or an attorney representing any of those persons, has sent to the obligor or borrower of the of the obligation or debt secured by the Deed of Trust a written statement containing the following information (I) the amount of payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the underlying obligation or debt, as of the date of the statement; (II) The amount in default; (III) the principal amount of the obligation or debt secured by the Deed of Trust; (IV) the amount of accrued interest and late charges; (V) a good faith estimate of all fees imposed in connection with the exercise of the power of sale; (VI) contact information for obtaining the most current amounts due and a local or toll free

telephone number where the obligor or borrower of the obligation or debt may call to receive the most current amounts due and a recitation of the information contained in this Affidavit.

10. The borrower or obligor may utilize the following toll-free or local telephone number to inquire about the default, obtain the most current amounts due, receive a recitation of the information contained in this Affidavit, and/or explore loss mitigation alternatives: (888) 480 2432.

11. Pursuant to my personal review of the business records of the beneficiary, the successor in interest of the beneficiary, and/or the business records of the servicer of the obligation or debt secured by the Deed of Trust; and/or the records of the county recorder where the subject real property is located; and or the title guaranty or title insurance issued by a title insurer or title agent authorized to do business in the state of Nevada, the following is the (I) date, (II) recordation number (or other unique designation); and (III) assignee of each recorded assignment of the subject Deed of Trust:

Date: 07/29/11
Record Number: 201107290000895
Assignee: BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing LP

Date: 03/20/13
Record Number: 201303200000887
Assignee: Nationstar Mortgage, LLC

Signed By: Jerrell Menyweather 8-29-13 Dated: August 29, 2013

Print Name: Jerrell Menyweather Assistant Secretary

STATE OF Texas)
) ss:
COUNTY OF Denton)

On this 29 day of August, 2013, personally appeared before me, a Notary Public, in and for said County and State, Jerrell Menyweather, known to me to be the persons described in and who executed the foregoing instrument in the capacity set forth therein, who acknowledged to me that he/she executed the same freely and voluntarily and for the uses and purposes therein mentioned.



J. Haugabook
NOTARY PUBLIC IN AND FOR
SAID COUNTY AND STATE

TS#- 11-08-31196-NV
APN#- 176-03-510-102

Page 3 of 3

EXHIBIT 15

EXHIBIT 15

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

WEST SUNSET 2050 TRUST, a)
Nevada Trust,)

Plaintiff,)

v.)

NEW FREEDOM MORTGAGE)
CORPORATION, a Foreign)
Corporation; BANK OF AMERICA,)

N.A., a National Association;)
NATIONSTAR MORTGAGE, LLC, a)

Foreign Limited Liability)
Company; COOPER CASTLE LAW)

FIRM, LLP, a Nevada Limited)
Liability Partnership;)

STEPHANIE TABLANTE, an)
individual; DOES I through X;)

and ROE CORPORATIONS I)
through X, inclusive,)

Defendants.)

NATIONSTAR MORTGAGE, LLC,)

Counterclaimant,)

v.)

WEST SUNSET 2050 TRUST, a)
Nevada Trust,)

Counter-Defendant.)

CASE NO. A-13-691323-C
DEPT. NO. XXI

DEPOSITION OF

30(B)(6) DESIGNEE

RED ROCK FINANCIAL

SERVICES

JULIA THOMPSON

MONDAY, MAY 11, 2015

LAS VEGAS, NEVADA

Reported By Kele R. Smith, NV CCR No. 672, CA CSR No.
13405

JOB NO.: 245765-B

Page 2

1 DEPOSITION OF JULIA THOMPSON,
2 taken at 1160 Town Center, Suite 330, Las Vegas, Nevada,
3 on Monday, May 11, 2015, at 1:33 p.m., before Kele R.
4 Smith, Certified Court Reporter, in and for the State of
5 Nevada.
6
7 APPEARANCES:
8 For the Witness and Red Rock Financial Services:
9 KOCH SCOW
10 BY: STEVEN R. SCOW, ESQ.
11 11500 South Eastern Avenue
12 Suite 210
13 Henderson, Nevada 89052
14 (702) 269-5629
15
16 For the Plaintiff:
17 MAIER GUTIERREZ AYON
18 BY: KATHRYN BUTLER, ESQ.
19 2500 West Sahara Avenue
20 Suite 106
21 Las Vegas, Nevada 89102
22 (702) 629-7900
23 For the Defendants NationStar Mortgage:
24 AKERMAN
25 BY: ALLISON SCHMIDT, ESQ.
1160 Town Center Drive
Suite 330
Las Vegas, Nevada 89144
(702) 634-5000
allison.schmidt@akerman.com

Page 3

1 I N D E X
2
3 WITNESS: JULIA THOMPSON
4
5 EXAMINATION PAGE
6 By Ms. Schmidt 4
7
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11
12 EXHIBITS
13 MARKED PAGE
14
15 None
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Page 4

1 LAS VEGAS, NEVADA; MONDAY, MAY 11, 2015
2 1:33 P.M.
3 -oOo-
4 (The Reporter was relieved of her duties
5 under NRCP 30(b) (4).)
6 Whereupon,
7 JULIA THOMPSON,
8 having first been called as a witness, was duly sworn
9 and testified as follows:
10
11 BY MS. SCHMIDT:
12 Q. Good afternoon. Can you state your name and
13 spell your last name for the record?
14 A. It's Julia Thompson, T-H-O-M-P-S-O-N.
15 Q. And I am Allison Schmidt. I am counsel for both
16 Bank of America and NationStar Mortgage in the action
17 designated as Case No. A-13-691323.
18 So before we get started today, have you been
19 deposed before?
20 A. Yes.
21 Q. Approximately how many times?
22 A. Two.
23 Q. And when was that?
24 A. The last one, about a month ago.
25 Q. And were you testifying in the same role in that

Page 5

1 case as a person most knowledgeable for Red Rock
2 Financial Services?
3 A. Yes.
4 Q. Okay. And what was the nature of the litigation
5 in those cases, if you know?
6 A. I don't recall.
7 Q. Did they deal with HOA foreclosures?
8 A. Yes. One did.
9 Q. And did you have the same counsel with you on
10 those depositions as you have with you today?
11 A. Yes.
12 Q. Okay. So you've been identified as someone with
13 knowledge about this case which we are litigating. As a
14 witness you may be required to give testimony at trial
15 when the case gets tried. Do you understand that?
16 A. Yes.
17 Q. What we're doing is essentially out from you what
18 you will say if the case gets tried. Do you understand
19 that?
20 A. Yes.
21 Q. Do you understand that the oath you just took is
22 the same oath you would take in a court of law and
23 carries with it the same obligations to tell the truth
24 and the same penalties of perjury?
25 A. Yes.

Page 6

1 Q. There are two reasons why we are taking your
2 deposition today. First, we want to know what you're
3 going to say at the trial. Second, if you're not
4 available at the time of trial, we can use the
5 transcript as substitute for your testimony. Third, if
6 you were to be at trial and gave a statement that is
7 inconsistent with the you say today, we can question you
8 about the inconsistency. Do you understand that?

9 A. Yes.

10 Q. And since you've been deposed recently, I'll give
11 you some abridged deposition ground rules. But you
12 understand that it's important for me to finish my
13 questions and for me to let you finish your answers
14 since we're making a record today, and they can only
15 take down what one person is saying at a time?

16 A. Yes.

17 Q. And your attorney might make some objections to
18 my questions. Unless he instructs you not to answer,
19 we'll let him make his objection and then you'll give
20 your answer. Do you understand that?

21 A. Yes.

22 Q. If you don't understand a question I'm asking or
23 you're confused about words I'm using, you can let me
24 know. Is that okay?

25 A. Yes.

Page 7

1 Q. Is there any reason you're unable to testify
2 truthfully today?

3 A. No.

4 Q. Are you taking any medication that might affect
5 your testimony today?

6 A. No.

7 Q. Are you under the influence of alcohol or drugs?

8 A. No.

9 Q. And --

10 MR. SCOW: That can be an important
11 question.

12 BY MS. SCHMIDT:

13 Q. Did you prepare for this deposition today?

14 A. Yes.

15 Q. Can you describe for me how you prepared?

16 A. I went through the file briefly.

17 Q. Okay. And when you say "the file,"
18 is it the file related to 7255 West Sunset Road, Unit
19 2050 in Las Vegas, Nevada, 89113?

20 A. Yes.

21 Q. Do you have any questions for me before we start?

22 A. No.

23 Q. Where do you work?

24 A. Red Rock Financial Services.

25 Q. Whether's your job title there?

Page 8

1 A. Account Coordinator.

2 Q. And what are your duties as account coordinator?

3 A. I prepare correspondence, letters to homeowners,
4 take phone calls, prepare files for subpoenas.

5 Q. Okay. Do you recall if you prepared the response
6 to the subpoena that Red Rock gave in this case?

7 A. No.

8 Q. No, you don't recall? I'm sorry. I should have
9 asked that question better. No, you don't recall or you
10 didn't participate in the response?

11 A. I don't recall.

12 Q. Okay. Are you familiar with the property located
13 at 7255 West Sunset Road, Unit 2050?

14 A. Somewhat.

15 Q. In what way are you familiar with the property?

16 A. I've seen it in collections with our office and
17 preparing the file this morning.

18 Q. Okay. And what was the relationship between Red
19 Rock Financial Services and the Tuscano homeowners
20 association?

21 A. We are a collection agent for the association.

22 Q. And in that role is there a contract that governs
23 that relationship?

24 A. Yes. There's a collection agreement.

25 Q. Have you reviewed that contract in preparation

Page 9

1 for today's deposition?

2 A. I did not.

3 Q. Are you familiar with the contents of the
4 contract?

5 A. Somewhat.

6 Q. What duties does Red Rock Financial Services
7 undertake on behalf of the HOA?

8 A. We record documents on their behalf, attempt to
9 collect the debt.

10 Q. When you are attempting to collect a debt, what
11 does that entail?

12 A. Collecting the balance owed from the homeowner to
13 the association.

14 Q. Is Red Rock Financial Services responsible for
15 providing notice to the unit owner?

16 A. Yes.

17 Q. And are they responsible for providing notice to
18 any persons or entities with interests in the
19 properties?

20 A. At a certain point, yes.

21 Q. Can you describe for me what that certain point
22 is?

23 A. When we get to the Notice of Default and the
24 Notice of Sale, we're provided reports by our title
25 company that list interested parties, and at that time

Page 10

1 we'll provide notice to them.

2 Q. So prior to -- actually, let me ask you: At what

3 point in the collections does Red Rock Financial

4 Services obtain a title report?

5 A. At the Notice of Default stage.

6 Q. Okay. So there would be a Notice of Lien, and

7 prior to the Notice of Default, a title report would be

8 obtained?

9 A. Yes.

10 Q. And where do you obtain a title report from?

11 A. From a title company.

12 Q. Do you use different title companies or is there

13 one?

14 A. We use different ones.

15 Q. How does the HOA notify Red Rock Financial

16 Services about the amount that is owed?

17 A. They provide an accounting ledger.

18 Q. Does Red Rock Financial Services add any amounts

19 to that ledger?

20 A. Yes.

21 Q. Or excuse me. Add any amounts to the amount

22 that's owed?

23 A. Yes.

24 Q. What are things that Red Rock Financial Services

25 would add to the amount owed?

Page 11

1 A. The cost of collecting and the fees associated

2 with that.

3 Q. And to your knowledge are those governed by

4 Nevada law?

5 A. Yes, they are.

6 Q. Would Red Rock add any amounts to the amount due

7 and owing from a homeowner other than those described in

8 the NAC, Nevada Administrative Code, governing the fees?

9 A. Not that I'm aware of.

10 Q. Does Red Rock Financial Services take any steps

11 to verify the information that's provided by the HOA is

12 true and complete?

13 A. Yes.

14 Q. What are those steps?

15 A. Well, we verify public record to ensure the owner

16 is the current owner.

17 Q. Does Red Rock Financial Services contact or

18 attempt to contact the unit owners prior to recording a

19 Notice of Delinquent Assessment Lien?

20 A. Yes.

21 Q. What kind of contact is that?

22 A. We send an Intent to Lien letter. It's certified

23 and first class mail.

24 Q. And assuming there's no response to your Intent

25 to Lien letter, does Red Rock Financial Services take

Page 12

1 any other steps prior to recording the Notice of

2 Delinquent Assessment Lien?

3 A. No.

4 Q. So some of our deposition topics include the word

5 "superpriority." Have you heard that phrase before?

6 A. Yes.

7 Q. Can you explain what your understanding of a

8 superpriority lien is?

9 A. The superpriority would be the amount owed by the

10 first deed of trust in the event of a foreclosure.

11 Q. And does Red Rock Financial Services have a

12 position as to what that is?

13 A. What do you mean?

14 Q. What the amount is or what it includes?

15 A. Yes. It includes nine months -- usually nine

16 months of assessments, late fees, interest, and all the

17 collection fees and costs.

18 Q. In this specific file it appears that the

19 association's lien was sold to a company called First

20 100, LLC. Are you familiar with that company?

21 A. Somewhat.

22 Q. Have you seen other files in which the liens were

23 sold to First 100, LLC?

24 A. Yes.

25 Q. When a lien is sold by the HOA to First 100, LLC,

Page 13

1 what usually happens at Red Rock Financial Services when

2 that occurs?

3 A. Our fees are paid and the files are pulled from

4 our office.

5 Q. And do you know where the files go to?

6 A. To the person we're directed to. Usually the

7 association --

8 Q. Okay.

9 A. -- or their agent as authorized.

10 Q. And does First 100 pay the fees that are owed to

11 Red Rock?

12 A. I don't remember. I'm not sure.

13 Q. Okay. Have you had direct contact with anyone

14 from First 100, LLC?

15 A. I don't recall.

16 Q. Okay. I'm going to hand you a document. It's

17 Bates numbered NSM 00039. It's entitled Lien For

18 Delinquent Assessments. Are you familiar with this type

19 of document?

20 A. Yes.

21 Q. And do the documents usually only have one page?

22 A. Yes.

23 Q. And do you recognize this specific Lien For

24 Delinquent Assessments?

25 A. Yes.

Page 14

1 Q. And were you involved, to your recollection, in
2 the preparation of this document?
3 A. No.
4 Q. And how can you tell that you were not involved?
5 A. Well, my name's not on it, and at the time, I was
6 not working in a position that would have been dealing
7 with this document.
8 Q. So usually is it the person who executes it is
9 the person who prepared it at Red Rock Financial
10 Services?
11 A. Yes. The prepared by.
12 Q. And so this was prepared by Rebecca Tom it
13 appears?
14 A. Yes.
15 Q. Is she still employed by Red Rock Financial
16 Services?
17 A. No, she's not.
18 Q. Do you know approximately when she left the
19 company?
20 A. No.
21 Q. Can you describe for me the purpose of this
22 document?
23 A. It's to put on notice that there is a debt owed
24 against this property.
25 Q. And does the document state the amount of the

Page 15

1 debt owed?
2 A. Yes.
3 Q. In this case it looks like it says the amount
4 owing as of the date of preparation of this lien is
5 \$2,695.10. Is that correct?
6 A. Yes.
7 Q. Do you know how that amount is calculated?
8 A. That would have been the full balance that was
9 owed as of that date.
10 Q. Would that include some of the fees of Red Rock
11 for preparing the document --
12 A. Yes. That includes Red Rock fees to date and the
13 association balance to date.
14 Q. And does the HOA provide a ledger of any sort
15 immediately preceding the recording of these documents
16 to allow them to calculate the amount due and owing?
17 A. Yes.
18 Q. Does the person that signs the documents from Red
19 Rock Financial Services verify independently that the
20 information in the document they prepare is true and
21 correct?
22 A. Yes.
23 Q. Can you sort of describe for me what steps they
24 go through to ensure that the documents are correct?
25 A. They'll check public records, make sure the owner

Page 16

1 is the correct owner, spelling is correct, legal
2 description is correct, spelled correctly. They'll
3 verify that the association balance is correct per the
4 association's records.
5 Q. Did Red Rock Financial Services request this
6 document be recorded?
7 A. Yes.
8 Q. Does Red Rock Financial Services provide copies
9 of the Lien For Delinquent Assessments to anybody?
10 A. The homeowner.
11 Q. Just the homeowner?
12 A. Yes.
13 MS. SCHMIDT: I'll take this back.
14 BY MS. SCHMIDT:
15 Q. I'm going to hand you a document Bates numbered
16 NSM 00040. Can you tell me what this document is?
17 A. It's a Notice of Default.
18 Q. And can you verify that the document is one-page
19 long?
20 A. Yes.
21 Q. Do you recognize this type of document?
22 A. Yes.
23 Q. Do you recognize this specific document?
24 A. Yeah.
25 Q. What do you recognize it -- or, strike that. Can

Page 17

1 you tell from this document who prepared it?
2 A. Yes.
3 Q. Who prepared it?
4 A. Rebecca Tom.
5 Q. Can you tell me the purpose of the document?
6 A. My understanding is it's the first step in the
7 foreclosure process.
8 Q. Does the document state an amount due and owing
9 under the association's lien?
10 A. Yes.
11 Q. And what amount was due and owing?
12 A. \$4,018.40.
13 Q. Do you know how that amount is calculated?
14 A. It's the association balance in full plus all the
15 collection fees that have been incurred as of the date
16 of preparation.
17 Q. And did Red Rock Financial Services request that
18 document be recorded?
19 A. Yes.
20 Q. And once the document is -- let me ask you this:
21 Are copies of this document provided to anybody?
22 A. To the homeowner and any parties who appear on
23 our report.
24 Q. Okay. And is that done before the recording or
25 after?

Page 18

1 A. After.
 2 Q. Okay. And can you tell me with respect to this
 3 specific file who was provided with a copy of this
 4 Notice of Default?
 5 A. I don't remember. I'm not sure.
 6 MS. SCHMIDT: Can we go off the record for a
 7 second?
 8 MR. SCOW: Uh-huh.
 9 (Discussion off the record.)
 10 BY MS. SCHMIDT:
 11 Q. Looking at the document Bates numbered NSM 00075,
 12 can you tell me what this document is?
 13 A. It's our title report.
 14 Q. Okay. And what do you use a title report for?
 15 A. To obtain contact information for interested
 16 parties.
 17 Q. And so is this the document that you would have
 18 used to determine what parties to send the Notice of
 19 Default to?
 20 A. Yes.
 21 Q. Okay. And can you tell me, based on your review
 22 of this document, which parties received the Notice of
 23 Default?
 24 A. It was New Freedom Mortgage Corporation.
 25 Q. Based on your review of this document, was notice

Page 19

1 provided to Bank of America?
 2 A. No.
 3 Q. And based on your review of this document, was
 4 notice provided to NationStar Mortgage?
 5 A. No.
 6 Q. Okay. Do you recall approximately when this file
 7 was transferred to United Legal Services?
 8 A. Not exactly.
 9 Q. Let me show you what we've marked as Bates No.
 10 NSM 00043. I'll represent to you this is a Notice of
 11 Foreclosure Sale which appears to be recorded by United
 12 Legal Services. Based on your review of that document,
 13 would you say the file was transferred prior to the date
 14 on which that was recorded?
 15 A. Yes.
 16 Q. And when the files were transferred, based on a
 17 First 100 agreement, would Red Rock just immediately
 18 cease work on that file?
 19 A. Yes.
 20 Q. Okay. If Red Rock Financial Services received
 21 return mail, would there been any further effort to
 22 locate a good address for that person or entity?
 23 A. Not that I'm aware of.
 24 Q. On this file did United Legal Services ever
 25 contact Red Rock Financial Services to find out what had

Page 20

1 been done to the file transfer?
 2 A. I'm not sure.
 3 Q. Did Red Rock Financial Services often have
 4 contact with United Legal Services?
 5 A. I'm not really sure.
 6 Q. Does Red Rock Financial Services maintain in its
 7 file a copy of all correspondence related to a certain
 8 property?
 9 A. Yes.
 10 Q. So if there were correspondence, it would be
 11 saved in the file?
 12 A. It should be, yes.
 13 Q. And does Red Rock Financial Services maintain a
 14 call log with each file?
 15 A. Yes.
 16 Q. So if there was a call that had come in related
 17 to a property, there would be some sort of written log
 18 about that call?
 19 A. There should be, yes.
 20 Q. On this file do you know if Red Rock Financial
 21 Services received any correspondence or a phone call
 22 from any agent of Bank of America?
 23 A. I'm not -- I don't know.
 24 Q. In cases where a beneficiary of a first deed of
 25 trust contacted Red Rock Financial Services and

Page 21

1 requested payoff figures, what was the procedure that
 2 Red Rock Financial Services would follow?
 3 A. They would have to submit their request in
 4 writing, and we would provide the requested information
 5 within 10 business days.
 6 Q. If a sale is eminent, is there any way they could
 7 get the information faster?
 8 A. Yes.
 9 Q. What information would then be provided?
 10 A. If they requested payoff?
 11 Q. Yes.
 12 A. It depends on the reason for the request.
 13 Q. Let's say it's preforeclosure HOA sale and that
 14 there's no foreclosure by the beneficiary. So in this
 15 hypothetical, we'll say they want to protect their
 16 interest in the property prior to the HOA foreclosure
 17 sale. They request a payoff for that purpose. What
 18 would be the procedure that Red Rock Financial Services
 19 followed?
 20 A. At the time of the file or currently?
 21 Q. We'll say at the time of the Notice of Default in
 22 this case which is recorded on --
 23 MR. SCOW: Did we give that back? It's 39.
 24 BY MS. SCHMIDT:
 25 Q. Which was recorded on May 29th, 2012?

Page 22

1 A. We would have provided them the full balance
2 owing. So a cover letter that outlines the payoff
3 demand, payoff amount, and then the account ledger.

4 Q. What would the accounting ledger contain?

5 A. All charges that are currently outstanding to
6 include the association balance, assessments, late fees,
7 interest, and collection charges.

8 Q. At the time of this Notice of Default, which we
9 decided was May of 2012, if a beneficiary of a deed of
10 trust submitted an amount equal to nine months of common
11 assessments but nothing more, what was Red Rock's
12 procedure for accepting or declining those payments?

13 A. If the payment was submitted under the terms that
14 it was to satisfy a superpriority amount, it would have
15 been rejected.

16 Q. In what situations would it be accepted?

17 A. If it was submitted as a partial payment. Not to
18 satisfy any lien's superpriority portions.

19 Q. If a partial payment was made -- when I say
20 "partial payment," I should say if any payment from a
21 beneficiary of a deed of trust was made, was that
22 disclosed either by recorded notice or disclosed at
23 sales?

24 A. At this time?

25 Q. Yes. In 2012.

Page 23

1 A. No, it would not have.

2 MR. SCOW: Can you clarify that though? I
3 know she answered, but what do you mean?

4 MS. SCHMIDT: Sure.

5 BY MS. SCHMIDT:

6 Q. Well, I wanted to know if a payment from a
7 beneficiary was received -- perhaps I should ask this
8 more than one question. Was there any document that
9 would be recorded against the property saying that some
10 payment had been received at this time, mid-2012?

11 MR. SCOW: Do you mean received or accepted?

12 MS. SCHMIDT: Well, start with received.

13 A. No.

14 BY MS. SCHMIDT:

15 Q. If a payment was accepted by Red Rock Financial
16 Services during this time in mid-2012, would they record
17 anything against the property saying that some payment
18 had been accepted for the beneficiary of the deed of
19 trust?

20 A. No.

21 Q. And at this time, if the payment had been
22 accepted by Red Rock Financial Services, would that be
23 information that would be announced prior to the sale?

24 A. Currently or back then?

25 Q. In 2012.

Page 24

1 A. No.

2 Q. And if payment had been received but not accepted
3 at this time, mid-2012, would Red Rock announce that
4 information at the sale?

5 A. No.

6 Q. Looking at what's marked in the subpoena response
7 as MSN 00054, it appears to be a check that comes from
8 the First 100, LLC operating account. Do you know what
9 this check was for?

10 A. I believe the collection charges incurred by Red
11 Rock.

12 Q. Do you know if this also included any
13 assessments?

14 A. It should not have, but I'm not sure.

15 MS. SCHMIDT: I think those are all my
16 questions.

17 If you have any --

18 MS. BUTLER: Nope.

19 MR. SCOW: I've got a few. Do you have
20 another hour or so?

21 I don't have any questions.

22 MS. SCHMIDT: I think we're all done.

23 (Proceedings concluded at 2:07 p.m.)
24
25

Page 25

CERTIFICATE OF REPORTER

2 STATE OF NEVADA)

) ss:

3 COUNTY OF CLARK)

4 I, KELE R. SMITH, a duly commissioned

5 Notary Public, Clark County, State of Nevada, do hereby
6 certify: That I reported the taking of the deposition
7 of JULIA THOMPSON, commencing on Monday, May 11, 2015,
8 at 1:33 p.m.

9 That prior to being deposed, the witness was by
10 me duly sworn to testify to the truth. That I
11 thereafter transcribed my said shorthand notes into
12 typewriting and that the typewritten transcript is a
13 complete, true, and accurate transcription of said
14 shorthand notes and that witness's attorney waived
15 review and correction of the transcript.

16 I further certify that I am not a relative or
17 employee of counsel of any of the parties, nor a
18 relative or employee of the parties involved in said
19 action, nor a person financially interested in the
20 action.

21 IN WITNESS WHEREOF, I have set my hand in my
22 office in the County of Clark, State of Nevada, this
23 12th day of May, 2015.

24

25 KELE R. SMITH, NV CCR #672, CA CSR #13405

IN THE SUPREME COURT OF THE STATE OF NEVADA

WEST SUNSET 2050 TRUST, a Nevada
Trust,

Appellant,

vs.

NATIONSTAR MORTGAGE, LLC, a
Foreign Limited Liability Company,

Respondent.

Supreme Court Case No. 70754
Electronically Filed
Apr 06 2017 08:14 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from an order in favor of Respondent
entered by the Eighth Judicial District Court, Clark County, Nevada
The Honorable Valerie Adair, District Court Judge
District Court Case No. A-13-691323-C

JOINT APPENDIX VOLUME II

LUIS A. AYON, ESQ.
Nevada Bar No. 9752
Email: laa@mglaw.com
STEPHEN G. CLOUGH, ESQ.
Nevada Bar No. 10549
Email: sgc@mgalaw.com
MAIER GUTIERREZ AYON
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Telephone: (702) 629-7900
Facsimile: (702) 629-7925

Attorneys for Appellant West Sunset 2050 Trust

DATE	DESCRIPTION	VOLUME	PAGES
10/08/2014	Affidavit of Publication	1	0054
12/09/2013	Affidavit of Service	1	0008
12/09/2013	Affidavit of Service	1	0009
12/09/2013	Affidavit of Service	1	0010
12/11/2013	Affidavit of Service	1	0011
12/19/2013	Answer to Complaint	1	0012-0019
06/18/2014	Answer to Counterclaim	1	0043-0053
11/06/2013	Complaint	1	0001-0007
07/29/2015	Default against New Freedom Mortgage Corporation	4	0790-0792
07/29/2015	Default against Stephanie Tablante	4	0783-0789
05/11/2015	Deposition of 30(b)(6) Designee of Red Rock Financial Services Julia Thompson	2	0277-0301
05/11/2015	Deposition of 30(b)(6) Designee United Legal Services, LLC Robert Atkinson, Esq.	1/2	0055-0276
10/11/2016	Motion for Final Judgment Pursuant to Rule 54(B) and to Stay Remaining Claims Pending Conclusion of Appeal on an Order Shortening Time	5	0936-1007
05/20/2014	Nationstar Mortgage LLC's Answer, Counterclaim against West Sunset 2050 Trust and Cross-Claim against Stephanie Tablante	1	0033-0042

07/01/2016	Notice of Appeal	4	0917-0935
07/29/2015	Notice of Entry of Default	4	0793-0798
07/29/2015	Notice of Entry of Default	4	0799-0808
02/04/2014	Notice of Entry of Order	1	0029-0032
02/16/2016	Notice of Entry of Order	4	0813-0820
06/03/2016	Notice of Entry of Order Denying Plaintiff's Motion for Reconsideration and to Alter and Amend Order Granting Nationstar Mortgage LLC and Bank of America, N.A.'s Motion for Summary Judgment	4	0911-0916
11/10/2016	Notice of Entry of Order Granting Motion for Final Judgment Pursuant to Rule 54(B) and to Stay Remaining Claims Pending Conclusion of Appeal	5	1015-1022
06/10/2015	Opposition to Motion for Summary Judgment and Countermotion for Summary Judgment	3/4	0600-0737
03/22/2016	Opposition to Plaintiff's Motion for Reconsideration and to Alter and Amend Order Granting Defendants Nationstar Mortgage LLC and Bank of America, N.A.'s Motion for Summary Judgment	4	0891-0898
05/31/2016	Order Denying Plaintiff's Motion for Reconsideration and to Alter and	4	0909-0910

	Amend Order Granting Nationstar Mortgage LLC and Bank of America, N.A.'s Motion for Summary Judgment		
02/03/2014	Order Granting Dismissal of The Cooper Castle Law Firm, LLP	1	0027-0028
11/09/2016	Order Granting Motion for Final Judgment Pursuant to Rule 54(B) and to Stay Remaining Claims Pending Conclusion of Appeal	5	1010-1014
02/08/2016	Order Granting Nationstar Mortgage LLC's Countermotion for Summary Judgment and Denying Plaintiff's Motion for Summary Judgment	4	0809-0812
03/04/2016	Plaintiff's Motion for Reconsideration and to Alter and Amend Order Granting Defendants Nationstar Mortgage LLC and Bank of America, N.A.'s Countermotion for Summary Judgment	4	0821-0890
03/28/2016	Plaintiff's Reply in Support of Plaintiff's Motion for Reconsideration and to Alter and Amend Order Granting Defendants Nationstar Mortgage LLC and Bank of America, N.A.'s Countermotion for Summary Judgment	4	0899-0908
07/13/2015	Recorder's Transcript Re: Calendar Call	4	0778-0782

01/15/2014	Recorder's Transcript Re: Defendant The Cooper Castle Law Firm, LLP's Motion to Dismiss; Plaintiff's Opposition to Motion to Dismiss; Countermotion for Leave to Amend Complaint	1	0020-0026
10/26/2016	Recorder's Transcript Re: West Sunset 2050 Trust's Motion for Final Judgment Pursuant to Rule 54(B) and to Stay Remaining Claims Pending Conclusion of Appeal on an Order Shortening Time	5	1008-1009
06/24/2015	Recorder's Transcript Re: West Sunset 2050 Trust's Motion for Summary Judgment; Opposition to Motion for Summary Judgment and Countermotion for Summary Judgment	4	0760-0777
05/22/2015	West Sunset 2050 Trust's Motion for Summary Judgment	2	0302-0477
06/18/2015	West Sunset 2050 Trust's Reply in Support of Motion for Summary Judgment and Opposition to Countermotion for Summary Judgment	4	0738-0759
05/22/2015	West Sunset 2050 Trust's Request for Judicial Notice in Support of Motion for Summary Judgment	3	0478-0599

Jen:

Please find attached authorization for 7255 W. Sunset, #2140. Please forward account ledger, collection invoice, copy of lien, and a copy of the default.

Thank you,

Michelle Sergent
Office Manager

First 100, LLC
10620 Southern Highlands Parkway, Suite 110-485
Las Vegas, Nevada 89141
(702) 823-3600 ext. 114

Robert Atkinson

From: Julia Thompson <JThompson@rrfs.com>
Sent: Tuesday, July 02, 2013 2:07 PM
To: Michelle Sergent; Robert Atkinson
Subject: RE: Tuscano
Attachments: Documents 803386.pdf; Documents 806191.pdf; Documents 807415.pdf; Documents 813215.pdf; Document 74645.pdf; Documents 368194.pdf; Invoice 806191.pdf; Invoice 807415.pdf; Invoice 813215.pdf; Invoice 74645.pdf; Invoice 368194.pdf; Invoice 803386.pdf

See attached.

Julia Thompson
Red Rock Financial Services
A FirstService Residential Management Company

******Our Corporate Office has moved effective April 2nd! The new address will be: 4775 W. Teco Ave. Suite #140, Las Vegas, NV 89118******

o. 702.932.6887 | f. 702.315.1351 | www.RRFS.com

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From: Michelle Sergent [<mailto:msergent@first100llc.com>]
Sent: Tuesday, July 02, 2013 9:56 AM
To: Julia Thompson; Robert Atkinson
Subject: Tuscano

Julia:

Please find attached the acceptance of the offer from First 100. Please provide an updated account ledger, collection invoice, and a copy of the lien and default for each property.

Thank you,

Michelle Sergent
Office Manager

First 100, LLC
10620 Southern Highlands Parkway, Suite 110-485
Las Vegas, Nevada 89141
(702) 823-3600 ext. 114

Robert Atkinson

From: Julia Thompson <JThompson@rrfs.com>
Sent: Wednesday, July 03, 2013 2:22 PM
To: Michelle Sergent; Robert Atkinson
Subject: RE: Tuscano
Attachments: Documents 814233.pdf; Invoice 814233.pdf

Attached ☺

Julia Thompson
Red Rock Financial Services
o. 702.932.6887 | f. 702.315.1351 | www.RRFS.com

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From: Michelle Sergent [<mailto:msergent@first100llc.com>]
Sent: Wednesday, July 03, 2013 10:02 AM
To: Julia Thompson; Robert Atkinson
Subject: Tuscano

Julia:

Please find attached executed PO for the referenced property. Please provide an updated account ledger, collection invoice, and a copy of the lien and default.

Thank you,

Michelle Sergent
Office Manager

First 100, LLC
10620 Southern Highlands Parkway, Suite 110-485

Las Vegas, Nevada 89141
(702) 823-3600 ext. 114

Robert Atkinson

From: Julia Thompson <JThompson@rrfs.com>
Sent: Wednesday, September 04, 2013 10:31 AM
To: Robert Atkinson
Subject: RE: Tuscano
Attachments: AccountDetail.pdf

Sorry about that!

Julia Thompson

Red Rock Financial Services

A FirstService Residential Management Company

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From: Robert Atkinson [<mailto:Robert@nv-lawfirm.com>]
Sent: Tuesday, September 03, 2013 12:28 PM
To: Julia Thompson
Subject: FW: Tuscano

Julia,

Would you be so kind as to send the ledger to us for 7255 W Sunset 1151?

The Document you sent us on #1151 (#813215) contained the Lien and Default on Unit 1151, but the ledger was from Unit 1088 (see attached, from your July 2 email).

Unit 1088 was already covered in Document #806191.

I think this was just a compiling error on Document 813215.

Thanks,

-Robert

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600
✉ Email: robert@nv-lawfirm.com
☎ Fax: (702) 614-0647

8965 South Eastern Ave Suite 350
Las Vegas, NV 89123

Notice: If this email was sent to a client or prospective client, then it is a PRIVILEGED and CONFIDENTIAL communication.

From: Julia Thompson [<mailto:JThompson@rrfs.com>]
Sent: Tuesday, July 02, 2013 2:07 PM
To: Michelle Sergent; Robert Atkinson
Subject: RE: Tuscano

See attached.

Julia Thompson
Red Rock Financial Services
A FirstService Residential Management Company

******Our Corporate Office has moved effective April 2nd! The new address will be: 4775 W. Teco Ave. Suite #140, Las Vegas, NV 89118******

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From: Michelle Sergent [<mailto:msergent@first100llc.com>]
Sent: Tuesday, July 02, 2013 9:56 AM
To: Julia Thompson; Robert Atkinson
Subject: Tuscano

Julia:

Please find attached the acceptance of the offer from First 100. Please provide an updated account ledger, collection invoice, and a copy of the lien and default for each property.

Thank you,

Michelle Sergent
Office Manager

First 100, LLC
10620 Southern Highlands Parkway, Suite 110-485
Las Vegas, Nevada 89141
(702) 823-3600 ext. 114

Robert Atkinson

From: Robert Atkinson
Sent: Tuesday, March 26, 2013 1:20 PM
To: 'Michelle Sergent'; 'Chris Wood'
Subject: RE: Tuscano
Attachments: PSA - Tuscano v2.pdf

Attached.

-Robert

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600
✉ Email: robert@nv-lawfirm.com
☎ Fax: (702) 614-0647

8965 South Eastern Ave Suite 350
Las Vegas, NV 89123

Notice: If this email was sent to a client or prospective client,
then it is a PRIVILEGED and CONFIDENTIAL communication.

From: Michelle Sergent [<mailto:msergent@first100llc.com>]
Sent: Tuesday, March 26, 2013 12:01 PM
To: Robert Opdyke; Robert Atkinson; Chris Wood
Subject: Tuscano

Chris:

Please review attached offer.

Robert:

Please update PSA to reflect change in number of units.

Thanks,

Michelle Sergent
Office Manager

First 100, LLC
10620 Southern Highlands Parkway, Suite 110-485
Las Vegas, Nevada 89141
(702) 823-3600 ext. 114

Robert Atkinson

From: Michelle Sergent <msergent@first100llc.com>
Sent: Thursday, March 28, 2013 2:59 PM
To: Chris Wood
Cc: Robert Atkinson
Subject: Re: What was the Mountain's Edge community that signed the PSA?

We received the Tuscano PSA today. Information has been provided to Robert.

Michelle Sergent
Office Manager

First 100, LLC
10620 Southern Highlands Parkway, Suite 110-485
Las Vegas, Nevada 89141
(702) 823-3600 ext. 114

On Thu, Mar 28, 2013 at 2:57 PM, Chris Wood <cwood@first100llc.com> wrote:
Not sure about the Mountain's Edge part, but we did get the executed PSA back on Tuscano. Michelle can give you the details on addresses, etc.

Chris Wood
National Sales Manager
First 100, LLC

o. 702.823.3600 ext. 107 | m. 702.219.8026

11920 Southern Highlands Parkway, Suite 200
Las Vegas, Nevada 89141

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On Mar 28, 2013, at 10:02 AM, Robert Atkinson <Robert@nv-lawfirm.com> wrote:

Chris,

Was there a PSA signed that has not come back yet? Vistana, or Tuscano?

-Robert

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600

✉ Email: robert@nv-lawfirm.com

☎ Fax: (702) 614-0647

**8965 South Eastern Ave Suite 350
Las Vegas, NV 89123**

Notice: If this email was sent to a client or prospective client,
then it is a PRIVILEGED and CONFIDENTIAL communication.

Robert Atkinson

From: Chris Wood <cwood@first100llc.com>
Sent: Thursday, March 28, 2013 2:58 PM
To: Robert Atkinson
Cc: Michelle Sergent
Subject: Re: What was the Mountain's Edge community that signed the PSA?

Not sure about the Mountain's Edge part, but we did get the executed PSA back on Tuscano. Michelle can give you the details on addresses, etc.

Chris Wood
National Sales Manager
First 100, LLC

o. 702.823.3600 ext. 107 | m. 702.219.8026

11920 Southern Highlands Parkway, Suite 200
Las Vegas, Nevada 89141

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On Mar 28, 2013, at 10:02 AM, Robert Atkinson <Robert@nv-lawfirm.com> wrote:

Chris,

Was there a PSA signed that has not come back yet? Vistana, or Tuscano?

-Robert

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600
✉ Email: robert@nv-lawfirm.com
☎ Fax: (702) 614-0647

8965 South Eastern Ave Suite 350
Las Vegas, NV 89123

Notice: If this email was sent to a client or prospective client, then it is a PRIVILEGED and CONFIDENTIAL communication.

Robert Atkinson

From: Michelle Sergent <msergent@first100llc.com>
Sent: Thursday, May 09, 2013 3:38 PM
To: Robert Atkinson; Chris Wood; Gregg Hale
Subject: 7255 W. Sunset #2140

Robert:

Please cancel the sale for this property as it is being placed back with Association.

Thank You,

Michelle Sergent
Office Manager

First 100, LLC
10620 Southern Highlands Parkway, Suite 110-485
Las Vegas, Nevada 89141
(702) 823-3600 ext. 114

Robert Atkinson

From: Robert Atkinson
Sent: Sunday, June 23, 2013 11:48 AM
To: 'anne.moore@red.state.nv.us'
Subject: Auction results - June 22
Attachments: June 22 auction results.pdf

Anne,

Please see attached.

Thank you,

-Robert

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600
✉ Email: robert@nv-lawfirm.com
☎ Fax: (702) 614-0647

**8965 South Eastern Ave Suite 350
Las Vegas, NV 89123**

Notice: If this email was sent to a client or prospective client,
then it is a PRIVILEGED and CONFIDENTIAL communication.

Robert Atkinson

From: Michelle Sergent <msergent@first100llc.com>
Sent: Tuesday, January 22, 2013 1:32 PM
To: Robert Atkinson; Chris Wood; Bart Rendel; Jay Bloom
Subject: PSA for Tuscano Homeowners' Association

Listed below is the table:

1	7255 W. Sunset Rd., #1088	\$ 4,745.74	\$ 1,476.00
2	7255 W. Sunset Rd., #2046	\$ 3,138.98	\$ 1,476.00
3	7255 W. Sunset Rd., #2050	\$ 3,608.00	\$ 1,476.00
4	7255 W. Sunset Rd., #2141	\$ 5,817.00	\$ 1,476.00
5	7255 W. Sunset Rd., #1008	\$ 6,002.00	\$ 1,476.00
6	7255 W. Sunset Rd., #2017	\$ 6,804.00	\$ 1,179.00
7	7255 W. Sunset Rd., #2018	\$ 3,922.00	\$ 1,179.00
8	7255 W. Sunset Rd., #1173	\$ 4,305.84	\$ 1,179.00
9	7255 W. Sunset Rd., #2140	\$ 5,266.00	\$ 1,476.00
	7255 W. Sunset Rd., #2024	\$ 6,269.00	\$ 1,179.00
	Total	\$ 49,878.56	\$ 13,572.00

--

Michelle Sergent
Office Manager

First 100, LLC
11920 Southern Highlands Parkway, Suite 200
Las Vegas, Nevada 89141

Robert Atkinson

From: Michelle Sergent <msergent@first100llc.com>
Sent: Wednesday, January 16, 2013 5:18 PM
To: Robert Atkinson; Chris Wood; Jay Bloom; bartr@first100llc.com
Subject: PSA

Robert:

Can you please prepare a PSA for Tuscano Homeowners' Association?

Thanks,

--

Michelle Sergent
Office Manager

First 100, LLC
11920 Southern Highlands Parkway, Suite 200
Las Vegas, Nevada 89141

Robert Atkinson

From: Michelle Sergent <msergent@first100llc.com>
Sent: Friday, April 05, 2013 3:25 PM
To: Robert Atkinson
Subject: Fwd: Tuscano

FYI

Sent from my iPhone

Begin forwarded message:

From: Jennifer Mercer <JMercer@rrfs.com>
Date: April 5, 2013, 3:10:59 PM PDT
To: Michelle Sergent <msergent@first100llc.com>
Cc: Cameron Starner <Cstarnr@rrfs.com>
Subject: RE: Tuscano

It was postponed until 6/13/13.

Jennifer Mercer
Development and Support Services Supervisor
Red Rock Financial Services
A FirstService Residential Management Company

***Please note: Our **Corporate Office** will be moving effective April 2nd! The new address will be: 4775 W. Teco Ave. Suite #140, Las Vegas, NV 89118

o. 702.483.2981 | f. 702.341.7733 | www.RRFS.com

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

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From: Michelle Sergent [<mailto:msergent@first100llc.com>]
Sent: Friday, April 05, 2013 2:26 PM
To: Jennifer Mercer; Cameron Starner
Subject: Tuscano

What happened at the senior sale scheduled for 3/6/13 for property 7255 W. Sunset #2046?

Thanks,

Michelle Sergent
Office Manager

First 100, LLC
10620 Southern Highlands Parkway, Suite 110-485
Las Vegas, Nevada 89141
(702) 823-3600 ext. 114

Robert Atkinson

From: Michelle Sergent <msergent@first100llc.com>
Sent: Tuesday, January 22, 2013 12:41 PM
To: Robert Atkinson
Subject: Re: PSA

I am finishing that one now- should have it to you by 3

On Tue, Jan 22, 2013 at 12:38 PM, Robert Atkinson <Robert@nv-lawfirm.com> wrote:

Need excel table for Tuscano too.

-Robert

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600

✉ Email: robert@nv-lawfirm.com

☎ Fax: (702) 614-0647

8965 South Eastern Ave Suite 350

Las Vegas, NV 89123

*Notice: If this email was sent to a client or prospective client,
then it is a PRIVILEGED and CONFIDENTIAL communication.*

From: Michelle Sergent [mailto:msergent@first100llc.com]
Sent: Wednesday, January 16, 2013 5:18 PM

To: Robert Atkinson; Chris Wood; Jay Bloom; bartr@first100llc.com
Subject: PSA

Robert:

Can you please prepare a PSA for Tuscano Homeowners' Association?

Thanks,

--

Michelle Sergent

Office Manager

First 100, LLC

11920 Southern Highlands Parkway, Suite 200

Las Vegas, Nevada 89141

--

Michelle Sergent
Office Manager

First 100, LLC

11920 Southern Highlands Parkway, Suite 200

Las Vegas, Nevada 89141

Robert Atkinson

From: Robert Atkinson
Sent: Friday, March 29, 2013 9:10 AM
To: 'Michelle Sergent (msergent@first100llc.com)'
Subject: New invoice
Attachments: ULS-009.pdf

For Somerset, Tuscano, and Southgate

Thx

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600
✉ Email: robert@nv-lawfirm.com
☎ Fax: (702) 614-0647

8965 South Eastern Ave Suite 350
Las Vegas, NV 89123

*Notice: If this email was sent to a client or prospective client,
then it is a PRIVILEGED and CONFIDENTIAL communication.*

Robert Atkinson

From: Robert Atkinson
Sent: Thursday, January 17, 2013 10:30 AM
To: 'Michelle Sergent'
Subject: RE: PSA

Hi, do you have the excel table for them?

-Robert

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600
✉ Email: robert@nv-lawfirm.com
☎ Fax: (702) 614-0647

8965 South Eastern Ave Suite 350
Las Vegas, NV 89123

Notice: If this email was sent to a client or prospective client,
then it is a PRIVILEGED and CONFIDENTIAL communication.

From: Michelle Sergent [<mailto:msergent@first100llc.com>]
Sent: Wednesday, January 16, 2013 5:18 PM
To: Robert Atkinson; Chris Wood; Jay Bloom; bartr@first100llc.com
Subject: PSA

Robert:

Can you please prepare a PSA for Tuscano Homeowners' Association?

Thanks,

--

Michelle Sergent
Office Manager

First 100, LLC
11920 Southern Highlands Parkway, Suite 200
Las Vegas, Nevada 89141

Robert Atkinson

From: Robert Atkinson
Sent: Tuesday, June 25, 2013 12:21 PM
To: 'Dustin Lewis'
Cc: 'Jay L. Bloom (jbloom@first100llc.com)'; 'Jen Ransom'
Subject: RE: PRR June 25
Attachments: PRR 06-25-13.xlsx

PRR attached.

-Robert

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600
✉ Email: robert@nv-lawfirm.com
☎ Fax: (702) 614-0647

8965 South Eastern Ave Suite 350
Las Vegas, NV 89123

Notice: If this email was sent to a client or prospective client,
then it is a PRIVILEGED and CONFIDENTIAL communication.

From: Dustin Lewis [<mailto:dmlewis@llbradford.com>]
Sent: Tuesday, June 25, 2013 9:40 AM
To: Robert Atkinson
Cc: Jay L. Bloom (jbloom@first100llc.com); Jen Ransom
Subject: Re: PRR June 25

Should a PRR be attached?

On Jun 25, 2013, at 8:23 AM, "Robert Atkinson" <Robert@nv-lawfirm.com> wrote:

\$12,880.95 wired to F100 today.

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600
✉ Email: robert@nv-lawfirm.com
☎ Fax: (702) 614-0647

8965 South Eastern Ave Suite 350
Las Vegas, NV 89123

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IRS Circular 230 Notice Requirement: this communication is not given in the form of a covered opinion, within the meaning of Circular 230 issued by the United States Secretary of the Treasury. Thus, we are required to inform you that you cannot rely upon any tax advice contained in this communication for the purpose of avoiding United States federal tax penalties. In addition, any tax advice contained in this communication may not be used to promote, market or recommend a transaction to another party.

The information contained in this e-mail is intended only for the personal and confidential use of the recipient named above. If you have received this communication in error, please notify us immediately by e-mail and delete the original message.

Robert Atkinson

From: Robert Atkinson
Sent: Tuesday, January 22, 2013 12:38 PM
To: 'Michelle Sergent'
Subject: RE: PSA

Need excel table for Tuscano too.

-Robert

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600
✉ Email: robert@ny-lawfirm.com
☎ Fax: (702) 614-0647

8965 South Eastern Ave Suite 350
Las Vegas, NV 89123

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then it is a PRIVILEGED and CONFIDENTIAL communication.

From: Michelle Sergent [<mailto:msergent@first100llc.com>]
Sent: Wednesday, January 16, 2013 5:18 PM
To: Robert Atkinson; Chris Wood; Jay Bloom; bartr@first100llc.com
Subject: PSA

Robert:

Can you please prepare a PSA for Tuscano Homeowners' Association?

Thanks,

--

Michelle Sergent
Office Manager

First 100, LLC
11920 Southern Highlands Parkway, Suite 200
Las Vegas, Nevada 89141

Robert Atkinson

From: Robert Atkinson
Sent: Tuesday, January 22, 2013 2:03 PM
To: 'Michelle Sergent'; 'Chris Wood'; 'Bart Rendel'; 'Jay Bloom'
Cc: Mia Fregeau
Subject: RE: PSA for Tuscano Homeowners' Association
Attachments: PSA - Tuscano.docx; PSA - Tuscano.pdf

Attached.

-Robert

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600
✉ Email: robert@ny-lawfirm.com
☎ Fax: (702) 614-0647

8965 South Eastern Ave Suite 350
Las Vegas, NV 89123

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then it is a PRIVILEGED and CONFIDENTIAL communication.

From: Michelle Sergent [<mailto:msergent@first100llc.com>]
Sent: Tuesday, January 22, 2013 1:32 PM
To: Robert Atkinson; Chris Wood; Bart Rendel; Jay Bloom
Subject: PSA for Tuscano Homeowners' Association

Listed below is the table:

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	7255 W. Sunset Rd., #2024	\$ 6,269.00	\$ 1,179.00
	Total	\$ 49,878.56	\$ 13,572.00

--

Michelle Sergent
Office Manager

First 100, LLC
11920 Southern Highlands Parkway, Suite 200
Las Vegas, Nevada 89141

Robert Atkinson

From: Michelle Sergent <msergent@first100llc.com>
Sent: Thursday, January 17, 2013 10:39 AM
To: Robert Atkinson
Subject: Re: PSA

I'm sorry, promise I'll get this right. In a meeting, will send when I get to office.

Sent from my iPhone

On Jan 17, 2013, at 10:29 AM, Robert Atkinson <Robert@nv-lawfirm.com> wrote:

Hi, do you have the excel table for them?

-Robert

Robert Atkinson, Esq.

Attorney

☎ Office: (702) 614-0600
✉ Email: robert@nv-lawfirm.com
☎ Fax: (702) 614-0647

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Las Vegas, NV 89123

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From: Michelle Sergent [<mailto:msergent@first100llc.com>]
Sent: Wednesday, January 16, 2013 5:18 PM
To: Robert Atkinson; Chris Wood; Jay Bloom; bartr@first100llc.com
Subject: PSA

Robert:

Can you please prepare a PSA for Tuscano Homeowners' Association?

Thanks,

--

Michelle Sergent
Office Manager

First 100, LLC
11920 Southern Highlands Parkway, Suite 200
Las Vegas, Nevada 89141

1 EIGHTH JUDICIAL DISTRICT COURT
2 CLARK COUNTY, NEVADA
3
4 WEST SUNSET 2050 TRUST, a)
Nevada Trust,)
5)
Plaintiff,)
6)
v.) CASE NO. A-13-691323-C
7) DEPT. NO. XXI
NEW FREEDOM MORTGAGE)
8 CORPORATION, a Foreign)
Corporation; BANK OF AMERICA,)
9 N.A., a National Association;)
NATIONSTAR MORTGAGE, LLC, a)
10 Foreign Limited Liability) DEPOSITION OF
Company; COOPER CASTLE LAW)
11 FIRM, LLP, a Nevada Limited) 30(B)(6) DESIGNEE
Liability Partnership;)
12 STEPHANIE TABLANTE, an) RED ROCK FINANCIAL
individual; DOES I through X;)
13 and ROE CORPORATIONS I) SERVICES
through X, inclusive,)
14) JULIA THOMPSON
Defendants.)
15) MONDAY, MAY 11, 2015
NATIONSTAR MORTGAGE, LLC,)
16) LAS VEGAS, NEVADA
Counterclaimant,)
17)
v.)
18)
WEST SUNSET 2050 TRUST, a)
19 Nevada Trust,)
Counter-Defendant.)
20)
21
22 Reported By Kele R. Smith, NV CCR No. 672, CA CSR No.
13405
23 JOB NO.: 245765-B
24
25

1 DEPOSITION OF JULIA THOMPSON,
2 taken at 1160 Town Center, Suite 330, Las Vegas, Nevada,
3 on Monday, May 11, 2015, at 1:33 p.m., before Kele R.
4 Smith, Certified Court Reporter, in and for the State of
5 Nevada.

6

7 APPEARANCES:

8 For the Witness and Red Rock Financial Services:

9 KOCH SCOW
10 BY: STEVEN R. SCOW, ESQ.
11 11500 South Eastern Avenue
12 Suite 210
Henderson, Nevada 89052
(702) 269-5629

13 For the Plaintiff:

14 MAIER GUTIERREZ AYON
15 BY: KATHRYN BUTLER, ESQ.
16 2500 West Sahara Avenue
Suite 106
Las Vegas, Nevada 89102
(702) 629-7900

17 For the Defendants NationStar Mortgage:

18 AKERMAN
19 BY: ALLISON SCHMIDT, ESQ.
20 1160 Town Center Drive
21 Suite 330
Las Vegas, Nevada 89144
(702) 634-5000
allison.schmidt@akerman.com

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I N D E X

WITNESS: JULIA THOMPSON

EXAMINATION

PAGE

By Ms. Schmidt

4

EXHIBITS

MARKED

PAGE

None

1 LAS VEGAS, NEVADA; MONDAY, MAY 11, 2015

2 1:33 P.M.

3 -oOo-

4 (The Reporter was relieved of her duties
5 under NRCP 30(b)(4).)

6 Whereupon,

7 JULIA THOMPSON,
8 having first been called as a witness, was duly sworn
9 and testified as follows:

10

11 BY MS. SCHMIDT:

12 Q. Good afternoon. Can you state your name and
13 spell your last name for the record?

14 A. It's Julia Thompson, T-H-O-M-P-S-O-N.

15 Q. And I am Allison Schmidt. I am counsel for both
16 Bank of America and NationStar Mortgage in the action
17 designated as Case No. A-13-691323.

18 So before we get started today, have you been
19 deposed before?

20 A. Yes.

21 Q. Approximately how many times?

22 A. Two.

23 Q. And when was that?

24 A. The last one, about a month ago.

25 Q. And were you testifying in the same role in that

1 case as a person most knowledgeable for Red Rock
2 Financial Services?

3 A. Yes.

4 Q. Okay. And what was the nature of the litigation
5 in those cases, if you know?

6 A. I don't recall.

7 Q. Did they deal with HOA foreclosures?

8 A. Yes. One did.

9 Q. And did you have the same counsel with you on
10 those depositions as you have with you today?

11 A. Yes.

12 Q. Okay. So you've been identified as someone with
13 knowledge about this case which we are litigating. As a
14 witness you may be required to give testimony at trial
15 when the case gets tried. Do you understand that?

16 A. Yes.

17 Q. What we're doing is essentially out from you what
18 you will say if the case gets tried. Do you understand
19 that?

20 A. Yes.

21 Q. Do you understand that the oath you just took is
22 the same oath you would take in a court of law and
23 carries with it the same obligations to tell the truth
24 and the same penalties of perjury?

25 A. Yes.

1 Q. There are two reasons why we are taking your
2 deposition today. First, we want to know what you're
3 going to say at the trial. Second, if you're not
4 available at the time of trial, we can use the
5 transcript as substitute for your testimony. Third, if
6 you were to be at trial and gave a statement that is
7 inconsistent with the you say today, we can question you
8 about the inconsistency. Do you understand that?

9 A. Yes.

10 Q. And since you've been deposed recently, I'll give
11 you some abridged deposition ground rules. But you
12 understand that it's important for me to finish my
13 questions and for me to let you finish your answers
14 since we're making a record today, and they can only
15 take down what one person is saying at a time?

16 A. Yes.

17 Q. And your attorney might make some objections to
18 my questions. Unless he instructs you not to answer,
19 we'll let him make his objection and then you'll give
20 your answer. Do you understand that?

21 A. Yes.

22 Q. If you don't understand a question I'm asking or
23 you're confused about words I'm using, you can let me
24 know. Is that okay?

25 A. Yes.

1 Q. Is there any reason you're unable to testify
2 truthfully today?

3 A. No.

4 Q. Are you taking any medication that might affect
5 your testimony today?

6 A. No.

7 Q. Are you under the influence of alcohol or drugs?

8 A. No.

9 Q. And --

10 MR. SCOW: That can be an important
11 question.

12 BY MS. SCHMIDT:

13 Q. Did you prepare for this deposition today?

14 A. Yes.

15 Q. Can you describe for me how you prepared?

16 A. I went through the file briefly.

17 Q. Okay. And when you say "the file,"
18 is it the file related to 7255 West Sunset Road, Unit
19 2050 in Las Vegas, Nevada, 89113?

20 A. Yes.

21 Q. Do you have any questions for me before we start?

22 A. No.

23 Q. Where do you work?

24 A. Red Rock Financial Services.

25 Q. Whether's your job title there?

1 A. Account Coordinator.

2 Q. And what are your duties as account coordinator?

3 A. I prepare correspondence, letters to homeowners,
4 take phone calls, prepare files for subpoenas.

5 Q. Okay. Do you recall if you prepared the response
6 to the subpoena that Red Rock gave in this case?

7 A. No.

8 Q. No, you don't recall? I'm sorry. I should have
9 asked that question better. No, you don't recall or you
10 didn't participate in the response?

11 A. I don't recall.

12 Q. Okay. Are you familiar with the property located
13 at 7255 West Sunset Road, Unit 2050?

14 A. Somewhat.

15 Q. In what way are you familiar with the property?

16 A. I've seen it in collections with our office and
17 preparing the file this morning.

18 Q. Okay. And what was the relationship between Red
19 Rock Financial Services and the Tuscano homeowners
20 association?

21 A. We are a collection agent for the association.

22 Q. And in that role is there a contract that governs
23 that relationship?

24 A. Yes. There's a collection agreement.

25 Q. Have you reviewed that contract in preparation

1 for today's deposition?

2 A. I did not.

3 Q. Are you familiar with the contents of the
4 contract?

5 A. Somewhat.

6 Q. What duties does Red Rock Financial Services
7 undertake on behalf of the HOA?

8 A. We record documents on their behalf, attempt to
9 collect the debt.

10 Q. When you are attempting to collect a debt, what
11 does that entail?

12 A. Collecting the balance owed from the homeowner to
13 the association.

14 Q. Is Red Rock Financial Services responsible for
15 providing notice to the unit owner?

16 A. Yes.

17 Q. And are they responsible for providing notice to
18 any persons or entities with interests in the
19 properties?

20 A. At a certain point, yes.

21 Q. Can you describe for me what that certain point
22 is?

23 A. When we get to the Notice of Default and the
24 Notice of Sale, we're provided reports by our title
25 company that list interested parties, and at that time

1 we'll provide notice to them.

2 Q. So prior to -- actually, let me ask you: At what
3 point in the collections does Red Rock Financial
4 Services obtain a title report?

5 A. At the Notice of Default stage.

6 Q. Okay. So there would be a Notice of Lien, and
7 prior to the Notice of Default, a title report would be
8 obtained?

9 A. Yes.

10 Q. And where do you obtain a title report from?

11 A. From a title company.

12 Q. Do you use different title companies or is there
13 one?

14 A. We use different ones.

15 Q. How does the HOA notify Red Rock Financial
16 Services about the amount that is owed?

17 A. They provide an accounting ledger.

18 Q. Does Red Rock Financial Services add any amounts
19 to that ledger?

20 A. Yes.

21 Q. Or excuse me. Add any amounts to the amount
22 that's owed?

23 A. Yes.

24 Q. What are things that Red Rock Financial Services
25 would add to the amount owed?

1 A. The cost of collecting and the fees associated
2 with that.

3 Q. And to your knowledge are those governed by
4 Nevada law?

5 A. Yes, they are.

6 Q. Would Red Rock add any amounts to the amount due
7 and owing from a homeowner other than those described in
8 the NAC, Nevada Administrative Code, governing the fees?

9 A. Not that I'm aware of.

10 Q. Does Red Rock Financial Services take any steps
11 to verify the information that's provided by the HOA is
12 true and complete?

13 A. Yes.

14 Q. What are those steps?

15 A. Well, we verify public record to ensure the owner
16 is the current owner.

17 Q. Does Red Rock Financial Services contact or
18 attempt to contact the unit owners prior to recording a
19 Notice of Delinquent Assessment Lien?

20 A. Yes.

21 Q. What kind of contact is that?

22 A. We send an Intent to Lien letter. It's certified
23 and first class mail.

24 Q. And assuming there's no response to your Intent
25 to Lien letter, does Red Rock Financial Services take

1 any other steps prior to recording the Notice of
2 Delinquent Assessment Lien?

3 A. No.

4 Q. So some of our deposition topics include the word
5 "superpriority." Have you heard that phrase before?

6 A. Yes.

7 Q. Can you explain what your understanding of a
8 superpriority lien is?

9 A. The superpriority would be the amount owed by the
10 first deed of trust in the event of a foreclosure.

11 Q. And does Red Rock Financial Services have a
12 position as to what that is?

13 A. What do you mean?

14 Q. What the amount is or what it includes?

15 A. Yes. It includes nine months -- usually nine
16 months of assessments, late fees, interest, and all the
17 collection fees and costs.

18 Q. In this specific file it appears that the
19 association's lien was sold to a company called First
20 100, LLC. Are you familiar with that company?

21 A. Somewhat.

22 Q. Have you seen other files in which the liens were
23 sold to First 100, LLC?

24 A. Yes.

25 Q. When a lien is sold by the HOA to First 100, LLC,

1 what usually happens at Red Rock Financial Services when
2 that occurs?

3 A. Our fees are paid and the files are pulled from
4 our office.

5 Q. And do you know where the files go to?

6 A. To the person we're directed to. Usually the
7 association --

8 Q. Okay.

9 A. -- or their agent as authorized.

10 Q. And does First 100 pay the fees that are owed to
11 Red Rock?

12 A. I don't remember. I'm not sure.

13 Q. Okay. Have you had direct contact with anyone
14 from First 100, LLC?

15 A. I don't recall.

16 Q. Okay. I'm going to hand you a document. It's
17 Bates numbered NSM 00039. It's entitled Lien For
18 Delinquent Assessments. Are you familiar with this type
19 of document?

20 A. Yes.

21 Q. And do the documents usually only have one page?

22 A. Yes.

23 Q. And do you recognize this specific Lien For
24 Delinquent Assessments?

25 A. Yes.

1 Q. And were you involved, to your recollection, in
2 the preparation of this document?

3 A. No.

4 Q. And how can you tell that you were not involved?

5 A. Well, my name's not on it, and at the time, I was
6 not working in a position that would have been dealing
7 with this document.

8 Q. So usually is it the person who executes it is
9 the person who prepared it at Red Rock Financial
10 Services?

11 A. Yes. The prepared by.

12 Q. And so this was prepared by Rebecca Tom it
13 appears?

14 A. Yes.

15 Q. Is she still employed by Red Rock Financial
16 Services?

17 A. No, she's not.

18 Q. Do you know approximately when she left the
19 company?

20 A. No.

21 Q. Can you describe for me the purpose of this
22 document?

23 A. It's to put on notice that there is a debt owed
24 against this property.

25 Q. And does the document state the amount of the

1 debt owed?

2 A. Yes.

3 Q. In this case it looks like it says the amount
4 owing as of the date of preparation of this lien is
5 \$2,695.10. Is that correct?

6 A. Yes.

7 Q. Do you know how that amount is calculated?

8 A. That would have been the full balance that was
9 owed as of that date.

10 Q. Would that include some of the fees of Red Rock
11 for preparing the document --

12 A. Yes. That includes Red Rock fees to date and the
13 association balance to date.

14 Q. And does the HOA provide a ledger of any sort
15 immediately preceding the recording of these documents
16 to allow them to calculate the amount due and owing?

17 A. Yes.

18 Q. Does the person that signs the documents from Red
19 Rock Financial Services verify independently that the
20 information in the document they prepare is true and
21 correct?

22 A. Yes.

23 Q. Can you sort of describe for me what steps they
24 go through to ensure that the documents are correct?

25 A. They'll check public records, make sure the owner

1 is the correct owner, spelling is correct, legal
2 description is correct, spelled correctly. They'll
3 verify that the association balance is correct per the
4 association's records.

5 Q. Did Red Rock Financial Services request this
6 document be recorded?

7 A. Yes.

8 Q. Does Red Rock Financial Services provide copies
9 of the Lien For Delinquent Assessments to anybody?

10 A. The homeowner.

11 Q. Just the homeowner?

12 A. Yes.

13 MS. SCHMIDT: I'll take this back.

14 BY MS. SCHMIDT:

15 Q. I'm going to hand you a document Bates numbered
16 NSM 00040. Can you tell me what this document is?

17 A. It's a Notice of Default.

18 Q. And can you verify that the document is one-page
19 long?

20 A. Yes.

21 Q. Do you recognize this type of document?

22 A. Yes.

23 Q. Do you recognize this specific document?

24 A. Yeah.

25 Q. What do you recognize it -- or, strike that. Can

1 **you tell from this document who prepared it?**

2 A. Yes.

3 **Q. Who prepared it?**

4 A. Rebecca Tom.

5 **Q. Can you tell me the purpose of the document?**

6 A. My understanding is it's the first step in the
7 foreclosure process.

8 **Q. Does the document state an amount due and owing**
9 **under the association's lien?**

10 A. Yes.

11 **Q. And what amount was due and owing?**

12 A. \$4,018.40.

13 **Q. Do you know how that amount is calculated?**

14 A. It's the association balance in full plus all the
15 collection fees that have been incurred as of the date
16 of preparation.

17 **Q. And did Red Rock Financial Services request that**
18 **document be recorded?**

19 A. Yes.

20 **Q. And once the document is -- let me ask you this:**
21 **Are copies of this document provided to anybody?**

22 A. To the homeowner and any parties who appear on
23 our report.

24 **Q. Okay. And is that done before the recording or**
25 **after?**

1 A. After.

2 Q. Okay. And can you tell me with respect to this
3 specific file who was provided with a copy of this
4 Notice of Default?

5 A. I don't remember. I'm not sure.

6 MS. SCHMIDT: Can we go off the record for a
7 second?

8 MR. SCOW: Uh-huh.

9 (Discussion off the record.)

10 BY MS. SCHMIDT:

11 Q. Looking at the document Bates numbered NSM 00075,
12 can you tell me what this document is?

13 A. It's our title report.

14 Q. Okay. And what do you use a title report for?

15 A. To obtain contact information for interested
16 parties.

17 Q. And so is this the document that you would have
18 used to determine what parties to send the Notice of
19 Default to?

20 A. Yes.

21 Q. Okay. And can you tell me, based on your review
22 of this document, which parties received the Notice of
23 Default?

24 A. It was New Freedom Mortgage Corporation.

25 Q. Based on your review of this document, was notice

1 provided to Bank of America?

2 A. No.

3 Q. And based on your review of this document, was
4 notice provided to NationStar Mortgage?

5 A. No.

6 Q. Okay. Do you recall approximately when this file
7 was transferred to United Legal Services?

8 A. Not exactly.

9 Q. Let me show you what we've marked as Bates No.
10 NSM 00043. I'll represent to you this is a Notice of
11 Foreclosure Sale which appears to be recorded by United
12 Legal Services. Based on your review of that document,
13 would you say the file was transferred prior to the date
14 on which that was recorded?

15 A. Yes.

16 Q. And when the files were transferred, based on a
17 First 100 agreement, would Red Rock just immediately
18 cease work on that file?

19 A. Yes.

20 Q. Okay. If Red Rock Financial Services received
21 return mail, would there been any further effort to
22 locate a good address for that person or entity?

23 A. Not that I'm aware of.

24 Q. On this file did United Legal Services ever
25 contact Red Rock Financial Services to find out what had

1 been done to the file transfer?

2 A. I'm not sure.

3 Q. Did Red Rock Financial Services often have
4 contact with United Legal Services?

5 A. I'm not really sure.

6 Q. Does Red Rock Financial Services maintain in its
7 file a copy of all correspondence related to a certain
8 property?

9 A. Yes.

10 Q. So if there were correspondence, it would be
11 saved in the file?

12 A. It should be, yes.

13 Q. And does Red Rock Financial Services maintain a
14 call log with each file?

15 A. Yes.

16 Q. So if there was a call that had come in related
17 to a property, there would be some sort of written log
18 about that call?

19 A. There should be, yes.

20 Q. On this file do you know if Red Rock Financial
21 Services received any correspondence or a phone call
22 from any agent of Bank of America?

23 A. I'm not -- I don't know.

24 Q. In cases where a beneficiary of a first deed of
25 trust contacted Red Rock Financial Services and

1 requested payoff figures, what was the procedure that
2 Red Rock Financial Services would follow?

3 A. They would have to submit their request in
4 writing, and we would provide the requested information
5 within 10 business days.

6 Q. If a sale is eminent, is there any way they could
7 get the information faster?

8 A. Yes.

9 Q. What information would then be provided?

10 A. If they requested payoff?

11 Q. Yes.

12 A. It depends on the reason for the request.

13 Q. Let's say it's preforeclosure HOA sale and that
14 there's no foreclosure by the beneficiary. So in this
15 hypothetical, we'll say they want to protect their
16 interest in the property prior to the HOA foreclosure
17 sale. They request a payoff for that purpose. What
18 would be the procedure that Red Rock Financial Services
19 followed?

20 A. At the time of the file or currently?

21 Q. We'll say at the time of the Notice of Default in
22 this case which is recorded on --

23 MR. SCOW: Did we give that back? It's 39.

24 BY MS. SCHMIDT:

25 Q. Which was recorded on May 29th, 2012?

1 A. We would have provided them the full balance
2 owing. So a cover letter that outlines the payoff
3 demand, payoff amount, and then the account ledger.

4 **Q. What would the accounting ledger contain?**

5 A. All charges that are currently outstanding to
6 include the association balance, assessments, late fees,
7 interest, and collection charges.

8 **Q. At the time of this Notice of Default, which we**
9 **decided was May of 2012, if a beneficiary of a deed of**
10 **trust submitted an amount equal to nine months of common**
11 **assessments but nothing more, what was Red Rock's**
12 **procedure for accepting or declining those payments?**

13 A. If the payment was submitted under the terms that
14 it was to satisfy a superpriority amount, it would have
15 been rejected.

16 **Q. In what situations would it be accepted?**

17 A. If it was submitted as a partial payment. Not to
18 satisfy any lien's superpriority portions.

19 **Q. If a partial payment was made -- when I say**
20 **"partial payment," I should say if any payment from a**
21 **beneficiary of a deed of trust was made, was that**
22 **disclosed either by recorded notice or disclosed at**
23 **sales?**

24 A. At this time?

25 **Q. Yes. In 2012.**

1 A. No, it would not have.

2 MR. SCOW: Can you clarify that though? I
3 know she answered, but what do you mean?

4 MS. SCHMIDT: Sure.

5 BY MS. SCHMIDT:

6 Q. Well, I wanted to know if a payment from a
7 beneficiary was received -- perhaps I should ask this
8 more than one question. Was there any document that
9 would be recorded against the property saying that some
10 payment had been received at this time, mid-2012?

11 MR. SCOW: Do you mean received or accepted?

12 MS. SCHMIDT: Well, start with received.

13 A. No.

14 BY MS. SCHMIDT:

15 Q. If a payment was accepted by Red Rock Financial
16 Services during this time in mid-2012, would they record
17 anything against the property saying that some payment
18 had been accepted for the beneficiary of the deed of
19 trust?

20 A. No.

21 Q. And at this time, if the payment had been
22 accepted by Red Rock Financial Services, would that be
23 information that would be announced prior to the sale?

24 A. Currently or back then?

25 Q. In 2012.

1 A. No.

2 Q. And if payment had been received but not accepted
3 at this time, mid-2012, would Red Rock announce that
4 information at the sale?

5 A. No.

6 Q. Looking at what's marked in the subpoena response
7 as MSN 00054, it appears to be a check that comes from
8 the First 100, LLC operating account. Do you know what
9 this check was for?

10 A. I believe the collection charges incurred by Red
11 Rock.

12 Q. Do you know if this also included any
13 assessments?

14 A. It should not have, but I'm not sure.

15 MS. SCHMIDT: I think those are all my
16 questions.

17 If you have any --

18 MS. BUTLER: Nope.

19 MR. SCOW: I've got a few. Do you have
20 another hour or so?

21 I don't have any questions.

22 MS. SCHMIDT: I think we're all done.

23 (Proceedings concluded at 2:07 p.m.)

24

25

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
3) ss:
4 COUNTY OF CLARK)

5 I, KELE R. SMITH, a duly commissioned
6 Notary Public, Clark County, State of Nevada, do hereby
7 certify: That I reported the taking of the deposition
8 of JULIA THOMPSON, commencing on Monday, May 11, 2015,
9 at 1:33 p.m.

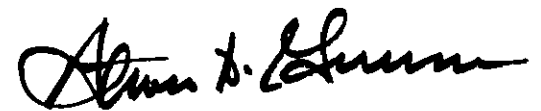
10 That prior to being deposed, the witness was by
11 me duly sworn to testify to the truth. That I
12 thereafter transcribed my said shorthand notes into
13 typewriting and that the typewritten transcript is a
14 complete, true, and accurate transcription of said
15 shorthand notes and that witness's attorney waived
16 review and correction of the transcript.

17 I further certify that I am not a relative or
18 employee of counsel of any of the parties, nor a
19 relative or employee of the parties involved in said
20 action, nor a person financially interested in the
21 action.

22 IN WITNESS WHEREOF, I have set my hand in my
23 office in the County of Clark, State of Nevada, this
24 12th day of May, 2015.



25 KELE R. SMITH, NV CCR #672, CA CSR #13405



CLERK OF THE COURT

MSJD

LUIS A. AYON, ESQ.

Nevada Bar No. 9752

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Attorneys for Plaintiff/Counterdefendant

West Sunset 2050 Trust

DISTRICT COURT

CLARK COUNTY, NEVADA

WEST SUNSET 2050 TRUST, a Nevada Trust

Plaintiff,

vs.

NEW FREEDOM MORTGAGE
CORPORATION, a Foreign Corporation;
BANK OF AMERICA, N.A., a National
Association; NATIONSTAR MORTGAGE
LLC, a Foreign Limited Liability Company,
COOPER CASTLE LAW FIRM, LLP, a
Nevada Limited Liability Partnership
STEPHANIE TABLANTE, an individual,
DOES I through X; and ROE
CORPORATIONS I through X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-13-691323-C

Dept. No.: XXI

**WEST SUNSET 2050 TRUST'S MOTION
FOR SUMMARY JUDGMENT**

Hearing Date:

Hearing Time:

Plaintiff/Counterdefendant West Sunset 2050 Trust ("Plaintiff" or "West Sunset"), by and through its attorneys of record, the law firm MAIER GUTIERREZ AYON, hereby moves this Court pursuant to Rule 56 of the Nevada Rules of Civil Procedure for entry of summary judgment in its favor against all defendants on all claims and counterclaims.

///

1 This motion is made and based upon the following memorandum of points and authorities,
2 the declaration and exhibits attached hereto, the papers and pleadings on file in this matter and the
3 argument of counsel at the time of the hearing.

4 DATED this 22nd day of May, 2015.

5 Respectfully submitted,

6 **MAIER GUTIERREZ AYON**

7
8 /s/ Luis A. Ayon

9 LUIS AYON, ESQ.
Nevada Bar No. 9752
MARGARET E. SCHMIDT, ESQ.
Nevada Bar No. 12489
400 South Seventh Street, Suite 400
Las Vegas, Nevada 89101
Attorneys for Plaintiff/Counterdefendant West
Sunset 2050 Trust

13
14 **NOTICE OF MOTION**

15 PLEASE TAKE NOTICE that the undersigned will bring this **WEST SUNSET 2050**
16 **TRUST'S MOTION FOR SUMMARY JUDGMENT** on for a hearing on the ²⁴ ____ day of
17 JUNE, 2015, at 9:30 A a.m./~~p.m.~~, in Department XXI of the above-entitled Court, or
18 as soon thereafter as counsel may be heard.

19 DATED this 22nd day of May, 2015.

20 Respectfully submitted,

21 **MAIER GUTIERREZ AYON**

22
23 /s/ Luis A. Ayon

24 LUIS AYON, ESQ.
Nevada Bar No. 9752
MARGARET E. SCHMIDT, ESQ.
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400 South Seventh Street, Suite 400
Las Vegas, Nevada 89101
Attorneys for Plaintiff/Counterdefendant West
Sunset 2050 Trust

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In 2011, Stephanie Tablante’s mortgage, like many others in the Las Vegas area, was underwater. Ms. Tablante signed and recorded a Deed in Lieu of Foreclosure, conveying her interest in her property to the lender, Defendant New Freedom Mortgage Corporation (“New Freedom”) in full satisfaction of her debt. The Deed in Lieu of Foreclosure fully satisfied the loan and extinguished the Deed of Trust, which secured the loan. Defendants Bank of America, N.A., (“BANA”) and Nationstar Mortgage (“Nationstar”) nevertheless claim to hold an interest in the property as assignees of the Deed of Trust.

Following the Deed in Lieu of Foreclosure, New Freedom owned the property free and clear of any liens. New Freedom, however, failed to pay fees to the property’s homeowners’ association (“HOA”), and Plaintiff ultimately purchased the property at the HOA foreclosure sale.

Notwithstanding the lack of any legal interest in the property, Defendant Nationstar Mortgage (“Nationstar”), through its agents, has instituted foreclosure proceedings. Plaintiff brought the instant action for declaratory relief/quiet title and injunctive relief. The material facts are not in dispute, and Plaintiff is entitled to summary judgment on all of the claims as a matter of law.

II. FACTUAL AND PROCEDURAL SUMMARY

A. Statement of Undisputed Facts

The property at issue in this case is commonly known as 7255 W. Sunset Road, Unit 2050, Las Vegas, NV 89113, and bears Assessor’s Parcel Number 176-03-510-102 (the “Property”). The Property is within a common-interest community governed by non-party Tuscano Homeowners Association (the “Association”), a common-interest community association created pursuant to NRS Chapter 116. *See, e.g.,* Declaration of Covenants, Conditions and Restrictions for Tuscano Condominiums (“Tuscano CC&Rs”), attached hereto as **Exhibit 1**.¹

¹ In moving for summary judgment, a party may use judicial notice as a method to establish undisputed facts where the facts are “[c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, so that the [facts are] not subject to reasonable dispute.” NRS 47.130(2). Thus, matters of public record are subject to judicial notice. *See, e.g., Caballero v. Seventh Judicial Dist. Ct.*, 123 Nev. 316, 167 P.3d 415 (2007); *see also*

Stephanie Tablante purchased the Property on or about December 2, 2005. *See* Grant, Bargain and Sale Deed (NSM00001-NSM00004), attached hereto as **Exhibit 2**. Ms. Tablante borrowed money from New Freedom Mortgage Corporation (“New Freedom”), in the amount of \$176,760.00. *See* Deed of Trust (NSM00005–23), attached hereto as **Exhibit 3**. A deed of trust securing the loan was recorded on December 7, 2005, in the Official Records of the Clark County Recorder as Instrument Number 20051207-0002367 (the “Deed of Trust”). *See* Exhibit 3, at NSM00005. The Deed of Trust listed Mortgage Electronic Registration Systems, Inc. (“MERS”), as the beneficiary. *See* Exhibit 3, at NSM00006.

Five years later, on or about March 1, 2011, Ms. Tablante transferred the Property to New Freedom in “full satisfaction of all obligations secured by the Deed of Trust,” by executing a Deed in Lieu of Foreclosure (“Deed in Lieu”). *See* Deed in Lieu of Foreclosure (NSM00025–29), attached hereto as **Exhibit 4**. A few months later, the Deed in Lieu was corrected to include the legal description of the Property and was re-recorded on June 21, 2011. *See* Corrected Deed in Lieu of Foreclosure (NSM00030–35), attached hereto as **Exhibit 5**.

New Freedom—as the owner of record following the Deed in Lieu—failed to pay the Property’s HOA dues, and the Association through its agent recorded a Lien for Delinquent Assessments on April 4, 2012. *See* Lien for Delinquent Assessments (NSM00039), attached hereto as **Exhibit 6**. More than thirty (30) days later, on May 29, 2012, the Association recorded a Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments. *See* Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments (NSM00040), attached hereto as **Exhibit 7**. More than ninety (90) days following the recording of the Notice of Default and Election to Sell Under Homeowners Association Lien, May 29, 2013, the Association recorded a Notice of Foreclosure Sale Under the Lien for Delinquent Assessments, setting the foreclosure sale

Breliant v. Preferred Equities Corp., 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993) (on a motion to dismiss, holding that a court may consider matters of public record). More specifically, courts routinely take judicial notice of records filed with the county recorder. *See, e.g., Niles v. Nat’l Default Servicing Corp.*, No. 54758, 2010 WL 5550640, at *2 (Nev. Dec. 20, 2010) (“In particular, courts make take judicial notice of publicly recorded notices of default.”). Therefore, in the case at hand, the Court may take judicial notice of the documents referenced and attached hereto, which are matters of public record, as all have been recorded in the Official Records of the Clark County Recorder, and which are not subject to reasonable dispute. Furthermore, except for the CC&Rs, the recorded documents referenced

for June 22, 2013. *See* Notice of Foreclosure Sale Under the Lien for Delinquent Assessments (NSM00043), attached hereto as **Exhibit 8**. On that day, the Association sold the Property at public auction to Plaintiff. *See* Foreclosure Deed Upon Sale (NSM00044-NSM00046), attached hereto as **Exhibit 9**. A Foreclosure Deed Upon Sale was properly recorded on June 24, 2013. *See id.* The Foreclosure Deed recited, in part, that the sale complied with all requirements of law including proper notice:

This conveyance is made pursuant to the powers conferred upon Agent by NRS Chapter 116, the foreclosing Association's governing documents (CC&R's), and the notice of the Lien for Delinquent Assessments, recorded on April 4, 2012 as instrument 201204040001017 in the Official Records of the Recorder of Clark County, Nevada. Default occurred as set forth in the Notice of Default and Election to Sell, recorded on May 29, 2012 as instrument 201205290001690 in the Official Records of the Recorder of Clark County, Nevada. **All requirements of law have been complied with, including, but not limited to, the elapsing of the 90 days, the mailing of copies of the notice of Lien of Delinquent Assessment, and Notice of Default, and the mailing, posting, and publication of the Notice of Foreclosure Sale.** Agent, in compliance with the Notice of Foreclosure Sale and in exercise of its power under NRS § 116.31164, sold the property at public auction on June 22, 2013.

Id. (emphasis added). Robert Atkinson, the attorney responsible for conducting the foreclosure auction, testified that his firm had mailed notice of the Foreclosure Sale to New Freedom, BANA, Nationstar, and Cooper Castle; and he provided documentation of certified mailing in his deposition. *See* Deposition of Robert Atkinson, attached hereto as **Exhibit 10**, at 23; **Exhibit B** to Deposition of Robert Atkinson, at 6, 9, 14.

Meanwhile, notwithstanding the fact that all obligations secured by the Deed of Trust had been satisfied and the Deed of Trust consequently extinguished, on or about July 29, 2011, MERS purportedly assigned the Deed of Trust to BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing LP ("BANA"). *See* Assignment of Deed of Trust (NSM00036-NSM00037), attached hereto as **Exhibit 11**. BANA substituted The Cooper Castle Law Firm, LLP ("Cooper Castle"), as the Trustee, *see* Substitution of Trustee (NSM00038), attached hereto as **Exhibit 12**, and then on March 20, 2013, BANA purportedly assigned the deed of trust to Nationstar. *See*

herein were mutually produced by the parties in their initial disclosures; thus, their authenticity is not disputed. "NSM" refers to Nationstar's own bate-stamp.

Corporation Assignment of Deed of Trust (NSM00041–42), attached hereto as **Exhibit 13**. At the time of the assignment to Nationstar, Nationstar was on record notice of the Deed in Lieu of Foreclosure, as well as the Association’s pending foreclosure sale.

On September 18, 2013, Cooper Castle, as Trustee of the Deed of Trust, instituted foreclosure proceedings by filing a Notice of Breach and Default and of Election to Cause Sale of Real Property Under Deed of Trust. *See* Notice of Breach and Default and of Election to Cause Sale of Real Property Under Deed of Trust (NSM00047–51), attached hereto as **Exhibit 14**.

B. Procedural History

Plaintiff promptly filed this action on November 6, 2013, against New Freedom, BANA, Nationstar, Cooper Castle, and Stephanie Tablante. Plaintiff asks this Court to quiet title to the Property in Plaintiff and to grant injunctive relief preventing Defendants from any further efforts to foreclose upon the extinguished Deed of Trust, or from otherwise asserting any interest in the Property. On February 3, 2014, this Court dismissed Cooper Castle as a party.

BANA filed its Answer on December 19, 2013. Nationstar filed its Answer, Counterclaim against Plaintiff, and Cross-Claim against Stephanie Tablante on May 20, 2014. Plaintiff filed its Answer to Nationstar’s Counterclaim on June 18, 2014.

Discovery has now closed, and the case is set for a non-jury trial on a two-week stack to begin on July 20, 2015.

III. LEGAL ARGUMENT

A. Standard of Review

In Nevada, “[s]ummary judgment is appropriate under NRCP 56 when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law.” *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005) (citation omitted); *see also* Nev. R. Civ. P. 56(c). “The substantive law controls which factual disputes are material and will preclude summary judgment; other factual disputes are irrelevant.” *Wood*, 121 Nev. at 731, *citing* *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S.Ct. 2505, 2510 (1986). “[C]onclusory statements along with general allegations do not create an

issue of fact.” *Yeager v. Harrah’s Club, Inc.*, 111 Nev. 830, 833, 897 P.2d 1093, 1095 (1995). Rather, a genuine issue of material fact exists only where the evidence is sufficient for a reasonable jury to return a verdict for the nonmoving party. *Valley Bank of Nevada v. Marble*, 105 Nev. 366, 367, 775 P.2d 1278, 1279 (1989).

“Although evidence presented in support of a motion for summary judgment must be construed in the light most favorable to the nonmoving party, that party must set forth facts demonstrating the existence of a genuine issue in order to withstand a disfavorable summary judgment.” *Sustainable Growth Initiative Comm. v. Jumpers, LLC*, 122 Nev. 53, 61, 128 P.3d 452, 458 (2006). Here, the material facts are not in dispute, and Plaintiff is entitled to summary judgment in its favor on all claims and counterclaims.

B. The Deed in Lieu of Foreclosure Extinguished Any Interest Nationstar or BANA May Have in the Property.

In an action for quiet title, the court must determine who holds superior title to real property. *McKnight Family, LLP v. Adept Mgmt. Servs.*, 310 P.3d 555, 559 (Nev. 2013). When considering a quiet title claim, the record title is presumed valid. *Brelant v. Preferred Equities Corp.*, 112 Nev. 663, 669, 918 P.2d 314, 318 (1996); *see also Biasi v. Leavitt*, 101 Nev. 86, 90, 692 P.2d 1301, 1304 (1985) (referring to the “presumption that possession of the land is under the regular title”).

Here, Plaintiff holds superior title to Defendants because the Deed in Lieu of Foreclosure extinguished the interests of Stephanie Tablante, BANA, and Nationstar. The HOA foreclosure thereafter extinguished the interests of New Freedom.

The Deed in Lieu of Foreclosure shows that Ms. Tablante conveyed the Property to New Freedom “for valuable consideration”. *See* Exhibit 5, at NSM00032. The Deed explains in more detail:

THIS DEED is an absolute conveyance, [Stephanie Tablante] having sold said land to [New Freedom] for a fair and adequate consideration, **such consideration being full satisfaction of all obligations secured by the [Deed of Trust]**.

Id. at NSM00033–34. The Deed in Lieu of Foreclosure was recorded twice: once identifying the Property by its common address, and a second time correcting the document to identify the Property

1 by its legal description. *Compare* Exhibit 4, *with* Exhibit 5. Both the original and the corrected
2 Deeds in Lieu request that the document be returned to New Freedom after recording. *See* Exhibit
3 4, at NSM00026, and Exhibit 5, at NSM00032. The first Deed in Lieu also shows that Real
4 Property Transfer Tax of \$499.80 was paid.

5 The Deed in Lieu was accepted for filing by the Clerk's Office, and New Freedom did not
6 contest its validity. From March 1, 2011, to June 24, 2013, New Freedom was the record title owner
7 of the Property, and all property tax notices would have been sent to New Freedom. In addition,
8 according to the recitals in the Foreclosure Deed:

9 All requirements of law [were] complied with, including, but not limited to,
10 the elapsing of the 90 days, the mailing of copies of the notice of Lien of
11 Delinquent Assessment, and Notice of Default, and the mailing, posting, and
publication of the Notice of Foreclosure Sale.

12 Exhibit 9. The recitals are conclusive proof that notices of the Lien, the Notice of Default, and the
13 Notice of Foreclosure Sale were all mailed to New Freedom. NRS 116.31166(1); *see also*
14 Deposition of Julia Thompson, attached hereto as **Exhibit 15**, at 11, 18 (stating that the record
15 owner [New Freedom] would have received copies of an Intent to Lien letter, the Lien for
16 Delinquent Assessments, and the Notice of Default); Exhibit 10, at 23 (reviewing certified mailing
17 receipts of the mailing of the Notice of Foreclosure Sale to New Freedom, BANA, Nationstar, and
18 Cooper Castle). Over its two years as record owner, New Freedom did not dispute—nor has it ever
19 disputed—that it had accepted the Deed in Lieu in full satisfaction of the underlying debt and was
20 the proper owner of the Property.

21 Nationstar and BANA nevertheless claim an interest in the Property stemming from a
22 July 29, 2011, Assignment of Deed of Trust from MERS to BANA, and a March 20, 2013,
23 Corporation Assignment of Deed of Trust from BANA to Nationstar. BANA, however, was on
24 notice at the time of the first assignment in July 2011, that Ms. Tablante had transferred the Property
25 to New Freedom by the Deed in Lieu. Nationstar was, of course, also on notice of the Deed in Lieu
26 at the time of the second assignment in 2013.

27 A simple search on the Clark County Recorder's public website at the time of either
28 assignment would have shown that that New Freedom was the record title owner of the Property

1 following recording of the Deed in Lieu. Now, four years after New Freedom accepted the Deed in
2 Lieu of Foreclosure in full satisfaction of the original mortgage, and after two recorded assignments
3 of the Deed of Trust, Defendants cannot be heard to complain that the Deed in Lieu was ineffective
4 to vest absolute title in New Freedom, free and clear of the Deed of Trust.

5 Plaintiff is the record title holder, and Plaintiff's title is presumed valid under *Breliant*.
6 Plaintiff does not need to rest on the presumption, however: on or about March 1, 2011, Ms.
7 Tablante conveyed the Property to her lender, New Freedom, in full satisfaction of her mortgage.
8 Because the mortgage was fully satisfied, the Deed of Trust and any purported interests derived
9 from that Deed of Trust have been extinguished. Plaintiff's title is therefore superior to that of
10 Defendants Stephanie Tablante, BANA, and Nationstar.

11 **C. The Association Foreclosure Sale Extinguished New Freedom's Interest in the**
12 **Property.**

13 NRS Chapter 116 affirms an HOA's right to collect from units within the community a share
14 of real estate taxes, insurance premiums, maintenance, and other expenses. *See, e.g.*, NRS 116.021;
15 116.3101. In order to provide the HOA with leverage in collecting delinquent assessments,
16 NRS 116.3116(1) grants the HOA a statutory lien against a unit for unpaid assessments.²
17 NRS 116.3116(2) provides HOA liens with priority over all other liens, with a few exceptions
18 inapplicable here. NRS 116.31162(1) authorizes an HOA to foreclose on its lien by sale upon
19 fulfillment of the notice requirements, and the foreclosure sale "vests in the purchaser the title of the
20 unit's owner without equity or right of redemption." NRS 116.31166(3).

21 Following the recording of the Deed in Lieu, New Freedom was the record title holder. New
22 Freedom failed to pay the homeowners dues for the Property, and the Association recorded a lien
23 against it. The Association complied with the statutory requirements for a Notice of Default and
24 Notice of Sale, and then sold the Property to Plaintiff at the foreclosure sale. As with any
25 foreclosure sale, the HOA foreclosure sale here extinguished any junior interests, including New
26

27 ² NRS 116.3116(1) states, in relevant part: "The association has a lien on a unit for any construction penalty that is
28 imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines
imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due."

1 Freedom's interest as the prior owner. The sale vested absolute title of the Property in Plaintiff.

2 Accordingly, Plaintiff's title is superior to that of Defendant New Freedom.

3 **D. Even if the Deed in Lieu of Foreclosure Was Fraudulently Recorded, Plaintiff**
4 **Nevertheless Holds Title as a Bona Fide Purchase at a Foreclosure Sale.**

5 Any dispute as to the validity of the Deed in Lieu of Foreclosure is not material for purposes
6 of this summary judgment motion because Plaintiff's title is protected by the bona fide purchaser
7 doctrine.

8 The bona fide purchaser doctrine protects a subsequent purchaser's title against competing
9 legal or equitable claims of which the purchaser had no notice at the time of the conveyance. 25
10 *Corp. v. Eisenman Chem. Co.*, 101 Nev. 664, 675, 709 P.2d 164, 172 (1985). NRS 111.180(1)
11 defines a bona fide purchaser as a purchaser who "purchases an . . . interest in any real property in
12 good faith and for valuable consideration and who does not have actual knowledge, constructive
13 notice of, or reasonable cause to know that there exists a defect in, or adverse rights, title or interest
14 to, the real property." *See also Hewitt v. Glaser Land & Livestock Co.*, 97 Nev. 207, 208, 626 P.2d
15 268, 269 (1981) (holding that a bona fide purchaser is someone who purchases a property without
16 notice of outstanding equities).

17 Here, Plaintiff purchased the Property at the HOA foreclosure sale without any notice or
18 reasonable cause to suspect a defect in New Freedom's title as record owner. The Deed in Lieu is
19 valid; but to the extent that Defendants dispute that fact, the dispute is immaterial. Plaintiff was a
20 bona fide purchaser for value at the Association's foreclosure sale, and his title cannot now be
21 attacked.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **III. CONCLUSION**

2 Plaintiff holds superior title to all defendants in this action because the Deed in Lieu and the
3 HOA foreclosure sale extinguished all other interests the Defendants may have previously held.
4 Plaintiff, therefore, respectfully requests that summary judgment be entered in its favor on all claims
5 in the Complaint and Nationstar's Counterclaims.

6 DATED this 22nd day of May, 2015.

7 Respectfully submitted,

8 **MAIER GUTIERREZ AYON**

9 /s/ Luis A. Ayon

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11 Nevada Bar No. 9752
12 MARGARET E. SCHMIDT, ESQ.
13 Nevada Bar No. 12489
14 400 South Seventh Street, Suite 400
15 Las Vegas, Nevada 89101
16 Attorneys for Plaintiff/Counterdefendant West
17 Sunset 2050 Trust

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Administrative Order 14-2, a copy of the **WEST SUNSET 2050 TRUST'S**
3 **MOTION FOR SUMMARY JUDGMENT** was electronically filed on the 22nd day of May, 2015
4 and served through the Notice of Electronic Filing automatically generated by the Court's
5 facilities to those parties listed on the Court's Master Service List and by depositing a true and
6 correct copy of the same, enclosed in a sealed envelope upon which first class postage was fully
7 prepaid, in the U.S. Mail at Las Vegas, Nevada, addressed as follows (*Note: All Parties Not*
8 *Registered Pursuant to Administrative Order 14-2 Have Been Served By Mail.*):

9
10 Ariel E. Stern, Esq.
Allison R. Schmidt, Esq.
AKERMAN LLP
11 1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144
12 *Attorneys for Defendant Bank of America, N.A., and Nationstar Mortgage LLC*

13
14
15 /s/ Charity Barber
16 An Employee of MAIER GUTIERREZ AYON
17
18
19
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21
22
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EXHIBIT 1

EXHIBIT 1

APN: 176-03-510-001
through 176-03-510-352

When Recorded Mail To:

SANTORO, DRIGGS, WALCH,
KEARNEY, JOHNSON & THOMPSON
400 SOUTH 4TH STREET, THIRD FLOOR
LAS VEGAS, NEVADA 89101
ATTN: MICHELLE D. BRIGGS, ESQ.



20050405-0002422

Fee: \$68.00
N/C Fee: \$0.00

04/05/2005 13:11:51
T20050060642

Requestor:
SANTORO DRIGGS WALCH KEARNEY JOHNSON &

Frances Deane GWC
Clark County Recorder Pgs: 55

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND GRANT AND RESERVATION OF EASEMENTS FOR
TUSCANO TOWNHOMES**

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND
GRANT AND RESERVATION OF EASEMENTS FOR
TUSCANO TOWNHOMES**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANT AND RESERVATION OF EASEMENTS FOR TUSCANO TOWNHOMES (the "Declaration") is made as of this 4th day of April, 2005, by Tuscano Associates, LLC, a Nevada limited liability company, with an office at 630 Trade Center Drive, Las Vegas, Nevada 89119 ("Declarant") for the purpose of submitting that certain real property located in the County of Clark, State of Nevada described below to the provisions of the Uniform Common Interest Ownership Act, Chapter 116 of the Nevada Revised Statutes, for the purpose of creating a condominium common interest community. Unless otherwise defined, all Capitalized terms used herein shall have the meanings set forth in Article I.

R E C I T A L S:

A. Declarant intends to own the Property which currently contains a total of 352 residential dwelling units by a developer other than Declarant. The Property was constructed as an apartment complex.

B. Declarant desires to convert the units located on the Property from rental units into for sale condominium units and desires to establish the Property together with all improvements, as a condominium common interest community to be known as Tuscano Townhomes. Declarant intends that the Project be a condominium common interest community under the provisions of the Act providing for separate title to living units appurtenant to which will be an undivided fractional interest in the Project other than living units and pursuant to a general plan for the maintenance, care, use and management of the Project. Therefore, Declarant intends to convey the real property within the Project subject to certain protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all running with the real property as hereinafter set forth.

C. There have been no structural changes or alterations made to the Property in connection with the conversion of the Property from rental units into for sale condominium units.

D. The Project contains a total of 352 Units, together with Common Elements and Limited Common Elements. The Project will be consistent with any overall development plan of the Project submitted to the U.S. Department of Veterans Affairs and Federal Housing Administration.

E. Each Unit shall have appurtenant to it a membership in 'Tuscano Townhomes Homeowners' Association, a Nevada nonprofit corporation, which will be the management body for the overall Project.

F. Before selling or conveying any interest in the Property, Declarant desires to subject the Property in accordance with a common plan to certain covenants, conditions, and restrictions for the benefit of Declarant and any and all present and future owners of the Property.

NOW THEREFORE, Declarant hereby declares that the Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title, or interest in the described

properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1.1 Act. "Act" shall mean the Uniform Common Interest Ownership Act, NRS Chapter 116, as it may be amended from time to time.

Section 1.2 Allocated Interests. "Allocated Interests" shall mean the undivided interest in the Common Elements and Limited Common Elements, the Liability for Common Expenses, and the votes in the Association which are allocated to Units in the Project. The Allocated Interests are described in Article VIII of this Declaration.

Section 1.3 Architectural Committee. "Architectural Committee" shall mean the architectural committee created pursuant to Section 12.1 hereof.

Section 1.4 Architectural Rules. "Architectural Rules" shall mean the rules adopted by the Architectural Committee pursuant to Section 12.3 hereof.

Section 1.5 Articles. "Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as they may from time to time be amended.

Section 1.6 Assessment, Capital Improvement. "Assessment, Capital Improvement" shall mean a charge against each Owner and his Unit representing a portion of the costs to the Association for installation or construction of any Improvements on any portion of the Common Elements which the Association may from time to time authorize, pursuant to the provisions of this Declaration.

Section 1.7 Assessment, Common or Common Expense. "Assessment, Common or Common Expense" shall mean the annual charge against each Owner and his Unit representing a portion of the total, ordinary costs of maintaining, improving, repairing, replacing, managing, insuring and operating the Common Elements or other Common Expenses, which are to be paid by each Owner to the Association, as provided herein and shall also include any extraordinary expenses resulting from an Emergency Situation.

Section 1.8 Assessment, Reconstruction. "Assessment, Reconstruction" shall mean a charge against each Owner and his Unit, representing a portion of the cost to the Association for reconstruction of any portion of the Improvements on the Common Elements, pursuant to the provisions of this Declaration.

Section 1.9 Assessment, Special. "Assessment, Special" shall mean a charge against a particular Owner and his Unit, directly attributable to or reimbursable by the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration (including, if applicable, the amount of any deductible payable in connection with an insured loss), or levied by the Board as a reasonable fine or penalty for non-compliance with the Restrictions, plus interest and other charges on such Special Assessment as provided for in this Declaration.

Section 1.10 Assessment Unit. "Assessment Unit" shall mean that portion of the total of any given assessment from which the liability to a particular Owner and Unit is determined. Each bedroom in the Project shall represent one Assessment Unit. The total number of bedrooms in the Project is 624, therefore the entire Project, as a whole, consists of 624 Assessment Units.

Section 1.11 Association. "Association" shall mean Tuscano Homeowners' Association, a nonprofit corporation organized under NRS Chapter 82 organized as the Association of Owners pursuant to the Act (NRS 116.011).

Section 1.12 Board of Directors. "Board" or "Board of Directors" shall mean the board of directors of the Association.

Section 1.13 Bylaws. "Bylaws" shall mean the Bylaws of the Association, as they may be amended from time to time.

Section 1.14 Common Elements. "Common Elements" shall mean all of the Project, except Units, and shall include the real property described in Exhibit "B" attached hereto, including without limitation, the following components:

(a) The buildings (including, but not by way of limitation, the foundation, columns, girders, beams, supports, perimeter and supporting walls, chimneys, chimney chases, roofs, stairs, patios, balconies, entrances and exits, and the mechanical installations of a building consisting of the equipment and materials making up any central services such as power, light, gas, hot and cold water, sewer, and heating and central air conditioning which exist for use by one or more of the Owners, including the pipes, vents, ducts, flues, cable conduits, wires, telephone wire, and other similar utility installations used in connection therewith), except for the Units, and

(b) The sidewalks, walkways, paths, grass, shrubbery, trees, driveways, roadways, landscaping, recreation areas, parking areas, entrance gates, crash gates, trash enclosures, fences, pool, community center, maintenance building, carports, and related facilities upon the Property; and

(c) The pumps, tanks, motors, fans, storm drainage structures, compressors, ducts, and, in general, all apparatus, installations, and equipment of the building existing for the use of one or more of the Owners; and

(d) In general, all other parts of the Project designated by Declarant as Common Elements or Limited Common Elements and existing for the use of one or more of the Owners.

The Common Elements shall be owned by the Owners of the Units, each Owner of a Unit having an undivided interest in the Common Elements as provided below.

Section 1.15 Common Expenses. "Common Expenses" shall mean the expenses or financial liabilities for the operation of the Project together with any allocations to reserves and shall include:

(a) Expenses of administration, insurance, operation, maintenance, repair or replacement of the Common Elements except to the extent such repairs and replacements are the responsibility of an Owner pursuant to the terms of this Declaration;

(b) Expenses declared to be Common Expenses under the Documents or the Act;

(c) Sums lawfully assessed against the Units by the Board of Directors;

(d) Expenses agreed upon as Common Expenses by the Members of the Association (including without limitation the painting and maintenance of the exterior or the perimeter walls);

(e) Reserves established by the Association for repair, replacement and restoration of the major components of the Common Elements; and

(f) Expenses, fees, and other charges imposed upon the Association by any governmental entity because the Project is a community interest community pursuant to the Act.

Section 1.16 Declarant. "Declarant" shall mean Tuscano Associates, LLC, a Nevada limited liability company, or its successor as defined in the Act (NRS 116.035).

Section 1.17 Declarant Control Period. "Declarant Control Period" shall mean the period to time during which the Declarant is entitled to appoint a majority of the members of the Board of Directors pursuant to Section 7.6.

Section 1.18 Declaration. "Declaration" shall mean this document, including any amendments.

Section 1.19 Director. "Director" shall mean a member of the Board of Directors.

Section 1.20 Documents. "Documents" shall mean the Declaration, the Articles, the Plat and Plans, the Bylaws and the Rules as they may be amended from time to time. Any exhibit, schedule or certification accompanying a Document shall be deemed to be a part of that Document.

Section 1.21 Eligible Insurer. "Eligible Insurer" shall mean an insurer or guarantor of a first Security Interest in a Unit. An Eligible Insurer shall notify the Association in writing of its name and address and inform the Association that it has insured or guaranteed a first Security Interest in a Unit and must provide the Association with the Unit number and address of the Unit on which it is the insurer or guarantor of a Security Interest. Such notice shall be deemed to include a request that the Eligible Insurer be given the notices and other rights described in Article XVII.

Section 1.22 Eligible Mortgagee. "Eligible Mortgagee" shall mean the holder of a first Security Interest in a Unit, when the holder has notified the Association, in writing, of its name and address and that it holds a first Security Interest in a Unit. The notice must include the Unit number and address of the Unit on which it has a security interest. This notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XVII.

Section 1.23 Emergency Situation. "Emergency Situation" shall mean those emergency situations set forth in Section 18.8(b) of this Declaration.

Section 1.24 HUD. "HUD" shall mean the U.S. Department of Housing and Urban Development.

Section 1.25 Improvements. "Improvements" shall mean any construction, structure, fixture or facilities existing or to be constructed on the real property which is included in the Project, including, but not limited to: buildings, pool, utility wires, pipes, light poles, walls, and trees and shrubbery planted by the Declarant or the Association.

Section 1.26 Liability for Common Expenses. "Liability for Common Expenses" shall mean the liability for common expenses allocated to each Unit pursuant to Article VIII.

Section 1.27 Limited Common Elements. "Limited Common Elements" shall mean the portion of the Common Elements allocated for the exclusive use of fewer than all Owners under the Declaration or the Act and are described in Article V of this Declaration.

Section 1.28 Majority of Owners or Majority of Members. "Majority of Owners" or "Majority of Members" shall mean the Owners of more than 50% of the total number of Units contained in the Project.

Section 1.29 Member. "Member" shall mean a person entitled to membership in the Association as provided in the Documents. A "Member in Good Standing" shall mean a Member whose voting rights have not been suspended in accordance with the Bylaws.

Section 1.30 Manager. "Manager" shall mean a person, firm or corporation possessing all licenses and certifications required by the Act, employed or engaged to perform management services for the Project and the Association.

Section 1.31 Notice and Comment. "Notice and Comment" shall mean the right of an Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon, the procedure for which is set forth in Section 23.1 of this Declaration.

Section 1.32 Notice and Hearing. "Notice and Hearing" shall mean the right of an Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to be heard thereon, the procedure for which is set forth in Section 23.2 of this Declaration.

Section 1.33 NRS. "NRS" shall mean the Nevada Revised Statutes.

Section 1.34 Owner. "Owner" shall mean the Declarant or other Person who owns a Unit, however, Owner does not include a Person having an interest in a Unit solely as security for an obligation. The Declarant is the initial owner of each Unit created by this Declaration.

Section 1.35 Person. "Person" shall mean an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency or other legal or commercial entity.

Section 1.36 Plat and Plans. "Plat and Plans" means the Final Plat of Tuscano Condominiums (a Common Interest Condominium Subdivision), recorded in Book 122 of Plats, page 11, in the Office of the County Recorder, Clark County, Nevada on January 31, 2005, together with such other diagrammatic plans and information regarding the Project as may be required by the Act or other applicable law, or as may be included in the discretion of Declarant, as each such survey may be amended and supplemented from time to time, and all as recorded in the Office of the County Recorder, Clark County, Nevada.

Section 1.37 Project. "Project" shall mean the Property together with the Common Elements and all Improvements constructed thereon.

Section 1.38 Property. "Property" shall mean the real property described in Exhibit "A" together with the Common Elements and all Improvements, easements, rights, appurtenances which have been or are hereafter submitted to the provisions of the Act by this Declaration.

Section 1.39 Public Offering Statement. "Public Offering Statement" shall mean the current document pertaining to the Project prepared pursuant to the Act as it may be amended from time to time, and provided to purchasers prior to the time of execution of a binding purchase agreement.

Section 1.40 Report. "Report" shall mean the construction defect inspection report concerning the Property prepared by Swainston Consulting Group for Declarant which is incorporated herein by this reference and shall be provided by the Association to all Members in advance of their purchase of a Unit and otherwise upon request by any Member.

Section 1.41 Rules. "Rules" shall mean the rules and regulations for the use of Common Elements and the conduct of persons in connection therewith within the Project as adopted by the Board of Directors pursuant to this Declaration and the Bylaws.

Section 1.42 Security Interest. "Security Interest" shall mean the interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.43 Special Declarant Rights. "Special Declarant Rights" shall mean those rights reserved for the benefit of Declarant to (1) make such repairs or alterations to any Improvements as Declarant deems to be necessary or appropriate for the sale of one or more Units; (2) maintain sales offices, management offices, advertisement signs and models within the Project for the benefit of the Property and any other real property owned by Declarant; (3) use easements through the Common Elements for the purpose of making repairs to the Improvements within the Project, and any other real property owned by Declarant; or (4) appoint

or remove an officer of the Association or a master association or any Board of Directors member during the Declarant Control Period.

Section 1.44 Subsidy Agreement. "Subsidy Agreement" shall mean an agreement between Declarant and the Association of the type described in Section 18.14 of this Declaration.

Section 1.45 Trustee. "Trustee" shall mean the entity which may be designated by the Board of Directors as the Trustee for the receipt, administration and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses and other sources as defined in the Bylaws. If no Trustee has been designated, the Trustee shall be the Board of Directors acting by majority vote, as executed by the president and attested by the secretary.

Section 1.46 Unit. "Unit" shall mean the fee simple interest in and to a single unit depicted on the Plat and Plans designated for separate ownership and occupancy the boundaries of which are described in Section 4.2 of this Declaration, together with the Limited Common Elements appurtenant to the Unit as specified in Article V and the undivided interest in the Common Elements appurtenant to the Unit as specified in Exhibit "C".

Section 1.47 VA. "VA" shall mean and refer to the U.S. Department of Veterans Affairs.

ARTICLE II PROJECT AND ASSOCIATION

Section 2.1 Project. The name of the Project is Tuscano Townhomes. Tuscano Townhomes is a condominium common interest community under the Act.

Section 2.2 Association. The name of the Association is Tuscano Homeowners' Association. The Association is charged with the duties and vested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed so as to be inconsistent with this Declaration. If there should exist any ambiguity in any provision of the Articles or Bylaws, then such provision shall be consistent with the provisions of this Declaration.

ARTICLE III DESCRIPTION OF PROPERTY

The Property is situated in Clark County, Nevada, and is more particularly described on Exhibit "A" attached hereto.

ARTICLE IV UNIT AND BOUNDARY DESCRIPTIONS

Section 4.1 Maximum Number of Units. When created, the Project shall contain 352 Units. Declarant has not reserved any right to add additional Units to the Project.

Section 4.2 Boundaries. The Boundaries of each Unit created by the Declaration are the unit lines shown on the Plat and Plans as numbered units, along with their identifying number, and are described as follows:

(a) Upper Boundary: The horizontal or sloping plane or planes of the unfinished lower surfaces of the ceiling bearing structure surfaces, beams and rafters, extended to an intersection with the vertical perimeter boundaries.

(b) Lower Boundary: The horizontal plane or planes of the undecorated or unfinished upper surfaces of the floors, extended to an intersection with the vertical perimeter boundaries and open horizontal unfinished surfaces of trim, sills and structural components.

(c) Vertical Perimeter Boundaries: The planes defined by the inner surfaces of the studs and framing of the perimeter walls; the unfinished inner surfaces of poured concrete walls; the unfinished surfaces of the interior trim, and thresholds along perimeter walls and floors; the unfinished (inner/outer) surfaces of closed windows and closed perimeter doors; and the innermost unfinished planes of all interior bearing studs and framing of bearing walls, columns, bearing partitions and partition walls between separate Units.

(d) Inclusions: Each Unit will include the spaces and Improvements lying within the boundaries described in (a), (b) and (c) above, and will also include the spaces and the Improvements within those spaces containing any space heating, water heating and air conditioning apparatus, all electrical switches, wiring, pipes, ducts, conduits, smoke detector systems and television, telephone, electrical receptacles and light fixtures and boxes serving that Unit exclusively. The surface of the foregoing items will be the boundaries of that Unit, whether or not those items are contiguous to the unit.

(e) Exclusions: Except when specifically included by other provisions of this Section, the following are excluded from each Unit: The spaces and Improvements lying outside of the boundaries described in (a), (b) and (c) above; and all chutes, pipes, flues, ducts, wires, conduits, skylights and other facilities running through or within any interior wall or partition for the purpose of furnishing utility and similar services to other Units and Common Elements or both.

(f) Noncontiguous Portions: Certain Units may include special portions, pieces or equipment such as air conditioning compressors, meter boxes, utility connection structures and storage portions situated in buildings or structures that are detached or semi-detached from the buildings containing the principal occupied portion of the Units. This special equipment and storage portions are a part of the Unit, even though they are not contiguous with the residential portions.

(g) Inconsistency with Plat and Plans: If this definition is inconsistent with the information contained in the Plat and Plans, then the Plat and Plans definition will control.

ARTICLE V LIMITED COMMON ELEMENTS

Section 5.1 Assigned Limited Common Elements. The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

(a) If a chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, the portion serving only the Unit is a Limited Common Element, allocated solely to the Unit, the use of which is limited to that Unit and any portion serving more than one Unit or a portion of the Common Elements is a part of the Common Elements.

(b) Any shutters, awnings, window boxes, doorsteps, storage areas, entry areas, stoops, porches, balconies, patios and exterior doors and windows or other fixtures designed to serve a single Unit and identified on the Plat and Plans as Limited Common Areas, located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit and their use is limited to that Unit.

(c) Entry areas, stairs, stoops, steps and walls above door openings at the entrances to each building which provide access to less than all Units, the use of which is limited to the Units to which they provide access.

(d) Exterior surfaces, trim, siding, doors and windows will be Limited Common Elements allocated to the Units sheltered.

(e) Mailboxes, name plates and exterior lighting affixed to the building will be Limited Common Elements allocated to the Units served.

(f) Garages shall be assigned by Declarant by deed for the exclusive use of the grantee thereunder. The exclusive use of a garage shall be transferable only with the transfer of the Unit to which it is assigned hereunder.

Section 5.2 Subsequently Allocated Limited Common Elements. Those portions of the Common Elements shown as unnumbered or unassigned parking spaces on the Plat and Plans may be allocated as Limited Common Elements in accordance with Article XI of this Declaration, or alternatively, the Board of Directors may assign parking spaces to Owners and/or limited parking spaces to visitor parking only through the Rules.

ARTICLE VI MAINTENANCE

Section 6.1 Common Elements. The Association shall maintain, repair and replace all of the Common Elements, except the portions of the Limited Common Elements which are required by this Declaration or the Act to be maintained, repaired or replaced by an Owner.

(a) Specific Maintenance Obligations. In order to ensure that the Common Elements are maintained, repaired and replaced, the Association shall have the following specific obligations:

(i) Roof. The Board shall cause the roofs of all buildings in the Property to be inspected annually, and at least one such inspection each year shall be conducted by a licensed Nevada roofing contractor, who shall provide a written report to the Board. The Board shall cause any necessary or prudent repairs to be undertaken and completed without delay in a manner and to the extent necessary to prevent avoidable deterioration.

(ii) Painting. The Board shall cause all exterior portions of all buildings and structures in the Property to be repainted as necessary to maintain the original appearance thereof (minor wear and fading excepted).

(iii) Drainage and Landscaping. The Board shall cause all drainage related systems and related landscape installations on the Property to be inspected at semi-annually, and at least one such inspection each year shall be done by a licensed and qualified contractor or architect with expertise in the construction and maintenance of such drainage and landscape installations, who shall provide a written report to the Board. The Board shall cause any and all

necessary or prudent repairs to be undertaken and completed without delay in a manner and to the extent necessary to prevent avoidable deterioration or property damage.

(b) Reports. Throughout the term of this Declaration, the Board shall provide to Declarant copies of all inspection reports and checklists rendered pursuant to Sections 6.1(a), (b) and (d), above. Such shall be delivered to Declarant within ten (10) days after they are received by the Board.

Section 6.2 Units. Each Owner shall maintain, repair and replace, at his or her own expense, all portions of his or her Unit, except the portions of the Unit required by this Declaration or the Act to be maintained, repaired or replaced by the Association.

Section 6.3 Limited Common Elements. Any Common Expense associated with the maintenance, repair or replacement of heat exchanger, heater outlet, enclosures and mechanical attachments will be assessed against the Unit or Units to which the Limited Common Element is assigned.

(a) Common Expenses associated with the maintenance, repair or replacement of components and elements attached to, planted on, or a part of yards, patios, balconies, exterior surfaces, trim, siding, doors, and windows will be assessed against the Unit or Units to which the Limited Common Element is assigned. No additional component or element may be attached without consent of the Board of Directors in accordance with Article XII. In the event any additional component or element becomes deteriorated or unsightly, or is inconsistent with conditions of installation, it may be removed or repaired at the Owner's expense as a Common Expense assessment under this section, after Notice and Hearing.

(b) If any such Limited Common Element is assigned to more than one Unit, the Common Expenses attributable to the Limited Common Element will be assessed equally among the Units to which it is assigned.

(c) Common Expenses associated with the cleaning, maintenance, repair or replacement of any Limited Common Elements will be assessed against all Units in accordance with the Allocated Interests in the Common Expenses.

(d) Each Owner shall be responsible for removing snow, leaves and debris from all patios and balconies which are Limited Common Elements appurtenant to the Unit. If any such Limited Common Element is appurtenant to two or more Units, the owners of those Units will be jointly responsible for such removal.

Section 6.4 Right of Access. The Declarant and any person authorized by the Board of Directors shall have the right of access to all portions of the Project for the purpose of performing emergency repairs or to do other work reasonably necessary for the proper maintenance of the Project, for the purpose of performing installations, alterations or repairs, and for the purpose of reading, repairing and replacing utility meters and related pipes, valves, wires and equipment, provided that requests for entry are made in advance and that any entry is at a time reasonably convenient to the affected Owner. In case of an emergency, no request or notice is required and the right of entry shall be immediate, and with as much force as is reasonably necessary to gain entrance, whether or not the Owner is present at the time.

Section 6.5 Repairs Resulting From Negligence. Each Owner will reimburse the Association for any damages to any other Unit or to the Common Elements caused intentionally, negligently or by his or her failure to properly maintain, repair or make replacements to his or her Unit or to those Limited Common Elements for which such Owner is responsible under this Declaration. The Association will be responsible for damage to Units which is caused intentionally, negligently or by its failure to maintain, repair or make replacements to the Common Elements. If such damage is caused by misconduct, it will be assessed following Notice and Hearing.

ARTICLE VII SPECIAL DECLARANT RIGHTS

Section 7.1 Special Declarant Rights. Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Project:

- (a) To make such repairs or alterations to any Improvements as Declarant deems necessary or appropriate for the sale of one or more Units;
- (b) To maintain sales offices, management offices, signs advertising the Project and models which are reasonably necessary to market the Units or any other real property owned by Declarant regardless of whether such real property is part of the Project;
- (c) To use easements through the Common Elements for the purpose of making Improvements within the Project or any other real property owned by Declarant regardless of whether such real property is part of the Project;
- (d) To make the Project subject to a master association;
- (e) To merge or consolidate the Project with another common interest community of the same form of ownership;
- (f) To appoint or remove any officer of the Association or an Board of Directors member during the Declarant Control Period; and
- (g) At Declarant's sole discretion, to make reasonable repairs upon the Units, Common Elements or the Limited Common Elements.

Section 7.2 Models, Sales Offices and Management Offices. For so long as Declarant is an Owner, Declarant, its duly authorized agents, representatives and employees reserves the right to use any portion of the Project, including without limitation any clubhouse for sales offices and/or management offices. Declarant further reserves the right to maintain any Unit owned by Declarant or any portion of the Common Elements as a model Unit, sales office or management office.

Section 7.3 Construction; Declarant's Easement. Declarant reserves the right to perform warranty work, repairs and construction work in Units and Common Elements, to store materials in secure areas, and to control and have the full right of access to perform work, repairs, construction and take any other actions within the Units, the Common Elements and the entire Project, as may be deemed to be appropriate by Declarant in the performance of its obligations hereunder to the Association or any Owner. All work may be performed by

Declarant without the consent or approval of the Board of Directors. Declarant has an easement through the Common Elements (including but not limited to that portion of the Common Elements consisting of the private streets and entry gates) as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in this Declaration. This easement includes the right to convey utility and drainage easements to public utilities, municipalities, the State, riparian owners or upland owners to fulfill the plan of development.

Section 7.4 Signs and Marketing. Declarant reserves the right to post signs and displays in the Common Elements in order to promote sales of Units. Declarant also reserves the right to conduct general sales activities in a manner which will not unreasonably disturb the rights of Owners.

Section 7.5 Declarant's Personal Property. Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Project that has not been represented as property of the Association. Declarant reserves the right to remove from the Project (promptly after the sale and close of escrow of the last Unit) any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

Section 7.6 Declarant Control of the Association. Subject to Subsection 7.6(b), there shall be a Declarant Control Period during which the Declarant, or persons designated by Declarant, may appoint and remove the officers and members of the Board of Directors. The Declarant Control Period terminates no later than the earlier of:

- (i) 60 days after conveyance of 75% of the Units to Owners other than a Declarant; or
- (ii) 5 years after Declarant has ceased to offer Units for sale in the ordinary course of business; or
- (iii) 5 years after the date this Declaration is recorded in the Recorder's Office for Clark County, Nevada.

Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before the termination of the Declarant Control Period. In that event, Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective.

(b) Not later than 60 days after conveyance of 25% of the Units to Owners other than a Declarant, at least one member and not less than 25% of the members of the Board of Directors shall be elected by Owners other than Declarant. Not later than 60 days after conveyance of 50% of the Units to Owners other than a Declarant, not less than 33-1/3% of the members of the Board of Directors must be elected by Owners other than Declarant.

(c) Not later than the termination of the Declarant Control Period, each member of the Board of Directors must have been elected by the Owners as provided in the Bylaws.

(d) Notwithstanding any provision of this Declaration to the contrary, the termination of the Declarant Control Period shall not affect Declarant's rights as an Owner to exercise the vote allocated to Units which Declarant owns.

Section 7.7 Limitations on Special Declarant Rights. Unless terminated earlier by an amendment to this Declaration executed by Declarant, any Special Declarant Right may be exercised by Declarant until the later of the following: as long as Declarant (a) is obligated under any warranty or obligation, (b) owns any Unit; (c) owns any Security Interest in any Units; or (d) fifteen years have elapsed after recording of this Declaration. Earlier termination of certain rights may occur by statute.

Section 7.8 Interference with Special Declarant Rights. Neither the Association nor any Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of Declarant.

Section 7.9 Lender Protection. During the Declarant Control Period, the following actions will require the prior approval of the VA and HUD to the extent necessary to meet any VA and/or HUD requirements which are applicable to the Project: annexation or de-annexation of any additional properties, any merger or consolidation of the Association, any special assessment, mortgaging of the Common Elements, dedication of the Common Elements, any amendment of the Declaration, any amendment to the Bylaws, and the removal of any portion of the Common Elements.

Section 7.10 Declarant's Rights to Complete Development. No provision of this Declaration shall be construed to prevent or limit Declarant's rights to promote, market, sale and lease properties within the boundaries of the Project; to repair or alter Improvements on any property owned by Declarant within such boundaries; to maintain model homes, offices for sales or leasing purposes or similar facilities on any property owned by Declarant or located within the boundaries of the Project; or to post signs incidental to the development, promotion, marketing, sale and leasing of property within such boundaries. Nothing contained in this Declaration shall limit the right of Declarant or require Declarant to obtain approval to: (a) excavate, cut, fill or grade any property owned by Declarant or to alter, remodel, or repair any Improvements on any part of the Property or any property owned by Declarant; (b) use any structure on any part of the Property or any property owned by Declarant as a construction, model home or real estate sales or leasing office in connection with the sale of any property within such boundaries; or (c) require Declarant to seek or obtain the approval of the Board of Directors, the Architectural Committee or the Association for any such activity or Improvement to property by Declarant on any part of the Property or any property owned by Declarant. Nothing in this Section shall limit or impair the reserved rights of Declarant as elsewhere provide in this Declaration.

Section 7.11 Priority of Declarant's Rights and Reservations. Declarant shall have, and hereby retains and reserves, certain rights as set forth in this Declaration with respect to the Association and the Project. The rights and reservations of Declarant set forth in this Declaration shall be deemed excepted and reserved in each conveyance of property by Declarant to the Association and in each deed or other instrument by which any property encumbered hereby is conveyed by Declarant, whether or not specifically stated therein. The rights, reservations and easements of Declarant set forth in this Declaration shall be prior and superior to any other provisions of this Declaration and may not, without Declarant's prior written consent, be

modified, amended, rescinded or affected by any amendment of this Declaration, including any amendment of this Section. Declarant's consent to any one such amendment shall not be construed as consent to any other or subsequent amendment.

Section 7.12 Assignment of Declarant's Rights and Duties. Any and all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant to any person, corporation or association which will assume any or all of the duties of Declarant hereunder, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment, said assignee shall, to the extent of such assignment, assume Declarant's duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Upon such assignment, and to the extent thereof, Declarant shall be relieved from all liabilities, obligations and duties hereunder.

ARTICLE VIII ALLOCATED INTERESTS

Section 8.1 Allocation of Interests. The Allocated Interest attributable to each Unit are allocated and calculated in accordance with the formulas set forth in this Article.

Section 8.2 Formulas for the Allocation of Interests. The interests allocated to each Unit have been calculated by the following formulas:

(a) Undivided Interest in the Common Elements. The percentage of the undivided interest in the Common Elements allocated to each Unit is based on one share for each Unit compared with the total shares allocated to all the Units in the Project. The percentage of the undivided interest in the Common elements allocable to a Unit is equal to 1/352.

(b) Liability for Common Expenses. The percentage of Liability for Common Expenses allocated to each Unit (except as otherwise set forth herein) will be as follows:

- (i) one bedroom Units are liable for one (1) Assessment Unit;
- (ii) two bedroom Units are liable for one and one-quarter (1.25) Assessment Units; and
- (iii) three bedroom Units are liable for one and one-half (1.5) Assessment Units.

Cost per Assessment Unit shall be determined by a formula consisting of a fraction, the numerator of which shall be the total expense to be assessed and the denominator shall be the total assessments represented by the Units subject to such expense. For example, a Common Expense apportioned to all the Units would be determined by dividing the total expense by 624 (representing the total number of Assessment Units in the Project). Then that figure shall be multiplied by the Assessment Unit(s) applicable to a particular Unit to determine an individual Unit's charge. Nothing contained in this Subsection shall prohibit certain Common Expenses from being apportioned to particular Units under this Declaration.

(c) Votes. Each Unit in the Project shall have one equal vote. Any specified percentage, portion or fraction of Owners, unless otherwise stated in the Documents, means the specified percentage, portion or fraction of all of the votes as allocated under this Article VIII.

ARTICLE IX
RESTRICTION ON USE, ALIENATION AND OCCUPANCY

Section 9.1 Use Restrictions. Subject to the Special Declarant Rights reserved under Article VII, the following use restrictions apply to all Units and to the Common Elements:

(a) The use of each Unit is restricted to that of a single-family residence and accessory uses as permitted herein. Except for those activities conducted as a part of the marketing and development program of Declarant, no industry, business, trade or commercial activities shall be conducted, maintained or permitted in any part of a Unit, nor shall any Unit be used or rented for transient, hotel or motel purposes. The provisions of this Section shall not preclude a professional or administrative occupation, or an occupation of child care provided not more than 5 non-family children, provided that there is no external evidence of any such occupation, for so long as such occupations are conducted in conformance with all applicable governmental ordinances and are merely incidental to the use of the Unit as a residential home.

(b) No immoral, improper, offensive or unlawful use may be made of the Property; Owners shall comply with and conform to all applicable laws and regulations of the United States and of the State of Nevada and all applicable county or city ordinances, rules and regulations. The violating Owner shall hold harmless the Association and other Owners from all fines, penalties, costs and prosecutions for any violation or noncompliance.

Section 9.2 Occupancy Restrictions. Subject to the Special Declarant Rights reserved under Article VII, the following occupancy restrictions apply to all Units, Limited Common Elements and to the Common Elements: No electrical device creating overloading of standard circuits may be used without permission from the Board of Directors. Misuse or abuse of appliances or fixtures within a Unit which affects other Units or the Common Elements is prohibited. Any damage resulting from such misuse shall be the responsibility of the Owner who caused such damage. Total electrical usage in any Unit shall not exceed the capacity of the circuits as labeled on the circuit breaker boxes.

(b) All Owners shall maintain their Units in a clean and well maintained condition. No storage of trash will be permitted in or outside any Unit in a manner which may permit the spread of fire, odors, seepage or encouragement of vermin. No bicycles, refrigerators, boxes, refuse or debris or other items which may be deemed storage items may be placed on balconies or patio areas where they can be seen and laundry may not be placed to dry on balcony or patio areas.

(c) Any parking spaces which are designated as visitor parking by the Board of Directors are for the sole use of visitors and guests only and may not be used by Owners. Such parking spaces may be used only for vehicles, but specifically excluding oversized trucks, commercial vehicles, motorhomes, boats, personal watercrafts, campers and trailers. Furthermore, no motorhomes, boats, personal watercrafts, campers or trailers may be parked in any parking space within the Project, regardless of whether the parking space is designated for use by visitors or residents.

(d) No noxious, offensive, dangerous or unsafe activity shall be conducted in any Unit, nor shall anything be done, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners or occupants of Units. No Owner or occupant of a

Unit shall make or permit any disturbing noises nor do or permit anything to be done by others that will interfere with the rights, comforts or convenience of other Owners or Unit occupants.

(e) No animals, birds or reptiles of any kind shall be kept in a Unit, except for a maximum of two household pets (exclusive of aquarium fish) of a gentle disposition which individually weigh not more than twenty (20) pounds at maturity, without the prior written consent of the Board of Directors. Pets may not be kept for any commercial purposes. Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Project upon three days' written notice following Notice and Hearing from the Board of Directors. Each Owner shall hold the Association harmless from any claim resulting from any action of their pets. Seeing eye dogs and hearing ear dogs will be permitted for those persons holding certificates of necessity.

(f) Except as otherwise approved by the Board, no signs, window displays or advertising visible from outside a Unit (except for a name plate or sign not exceeding nine square inches in area, on the main door to each Unit) shall be maintained or permitted in any part of a Unit. All draperies which can be seen from the outside of the Unit must have a white or off-white backing.

(g) There will be no changes made to the appearance of any Unit without permission of the Association under Article XII.

(h) The Common Elements shall be improved and used only for the following purposes:

(i) Affording vehicular passage and pedestrian movement within the Project, including access to the Units;

(ii) Recreation use by the Owners and occupants of Units in the Project and their guests, subject to rules established by the Board of Directors;

(iii) Beautification of the Common Elements and providing privacy to the residents of the Project through landscaping and such other means as the Board of Directors shall deem appropriate;

(iv) Parking of automotive passenger vehicles in areas provided therefor upon such terms and conditions as may from time to time be determined by the Board of Directors;

(v) The following uses are hereby expressly prohibited:

(a. No garbage or refuse may be placed or left in the Common Elements except in receptacles provided for that use.

(b. No planting may be done in the Common Elements by any Owner, except at the direction of the Board of Directors.

(c. No recreational vehicle parking within the project.

(i) No part of the Common Elements shall be obstructed so as to interfere with its use for the purposes hereinabove permitted, nor shall any part of the Common Elements be used for storage purposes (except as incidental to one of such permitted uses, or for storage of maintenance equipment used exclusively to maintain the Common Elements or in storage areas designated by the Board of Directors), nor in any manner which shall increase the rate at which insurance against loss by fire, or the perils of the extended coverage endorsement to the Fire

Policy Form, or bodily injury or property damage liability insurance covering the Common Elements and the improvements situated thereon may be obtained, or cause such premises to be uninsurable against such risks or any policy or policies representing such insurance to be canceled or suspended or the company issuing the same to refuse renewal thereof.

Section 9.3 Mold. Each Owner, by acceptance of a deed to a Unit, acknowledges and understands that there is, and will always be, the presence of certain biological organisms within the Unit. Most typically, this will include the common occurrence of mold and/or mildew. It is important to note that mold and mildew tend to proliferate in warm, wet areas. As such, it is each Owner's responsibility to maintain his Unit so as to avoid the accumulation of moisture and/or mold and mildew within the Unit. Such mitigation matters should include, without limitation, the frequent ventilation of the Unit, removal of standing water, prompt repair of any leaks which permit water intrusion into the Unit, and prompt repair of plumbing leaks within the Unit (irrespective of who may have caused any such leaks). Each Owner also understands that the presence of indoor plants may also increase moisture and/or mold and mildew. Also, the propping of large pieces of furniture against wall surfaces may lead to mold or mildew accumulation. It is the responsibility of each Owner to monitor and maintain his Unit so as to mitigate and avoid the conditions which are likely to lead to the existence and/or growth of mold and/or mildew. In the event that mold does appear and/or grow within the Unit, it is also the Owner's responsibility to promptly and properly treat such mold to minimize the spreading thereof and/or unhealthy conditions likely to arise as a result thereof. Such measures frequently include, but are not limited to, cleaning mold-affected surfaces with chlorine bleach. Each Owner is responsible to learn how to clean any affected Improvements. **THE ASSOCIATION HEREBY WAIVES ANY AND ALL CLAIMS OR DAMAGES ARISING FROM OR RELATING TO THE PRESENCE OF MOLD OR MOLD-RELATED DAMAGE IN, ON OR ABOUT THE PROPERTY AND/OR ANY UNIT.**

Section 9.4 Notice Regarding Water Intrusion. Notwithstanding any other provision herein, in the event that there shall be intrusion of water into any Unit (including, without limitation, as a result of any Roof, window, siding or other leaks (including, without limitation, plumbing leaks), and whether or not the cause of such leak constitutes a construction defect, the Owner of the affected Unit shall be obligated to immediately notify Declarant of such event, and Owner shall take all necessary and appropriate action to stop any such water intrusion. Declarant shall thereafter have all of the rights afforded Declarant under Section 27.2 to inspect the condition, including the right to assess the likelihood of mold or mildew, and to offer recommendations for mitigation of mold or mildew. Nothing herein shall obligate Declarant to take any action, nor shall any rights of Declarant under this subsection constitute an admission or acknowledgment that any causes of any water intrusion are the result of defective construction. Failure of any Owner to timely notify Declarant of any such water intrusion shall be cause to deny future claims against Declarant relating thereto, which claims could have been mitigated had earlier action been taken.

Section 9.5 Noise Attenuation; Floor Coverings. General Noise Guidelines. In the event that any Owner other than Declarant desires to modify any Improvement to such Owner's Unit, including, without limitation, the floor coverings in such Owner's Unit, then, in addition to all other requirements set forth herein, each Owner shall be, and remain, obligated to comply with the terms of this Section.

(a) Floor Coverings. With respect to carpeting installed in an Owner's Unit by any Owner, padding shall be used, and such carpeting and padding shall be of a total weight of no less than 70 ounces per square yard. With respect to hardwood, marble, ceramic tile or other hard floor coverings, if permitted, such flooring shall be installed only with appropriate acoustic underlayment. The particular underlayment may be dictated by the nature of the floor covering. It shall remain the responsibility of each Owner to abide by the sound and noise reduction requirements set forth in this Declaration. It shall be required for any such Owner contemplating the installation of hardwood flooring, marble, ceramic tile or other hard floor coverings on the floor directly above a Unit owned by another Owner, to request the Association's approval to permit the Owner to install same. Under no circumstances shall any Owner modify, alter or impair the floor/ceiling assembly of any Unit. Any Owner desiring to install hard-surface flooring in any Unit to replace any originally-installed flooring shall provide at such Owner's sole expense the following information to the Association for its reference in connection with its review of any request to permit the installation of such hard-surface flooring (subject to the waiver by the Association of the requirement that any particular materials or information be submitted):

(i) Information, including, if appropriate, construction plans and/or drawings, clearly indicating the type of flooring to be installed and the underlayment to be provided to mitigate impact noises such as foot-falls. The information must clearly identify all materials, their composition, and thickness. This information, including any plans and/or drawings, must be approved, at Owner's sole expense, by the resilient underlayment manufacturer for acoustical and structural integrity and performance and compliance with the acoustical requirements of this Declaration;

(ii) A copy of the installation instructions from the resilient underlayment manufacturer, which instructions shall be followed by the installing contractor;

(iii) The name, qualifications, and experience of the contractor who will install the hard-surface flooring and resilient underlayment, with a listing of such contractor's experience in the installation of floors utilizing impact installation materials; and

(iv) Evidence that the newly-installed flooring will not create greater noise impacts than the test results for the floor/ceiling assembly yielded when tested as described above.

(b) Noise Reduction. Acoustical privacy is in the mutual interest and benefit of all Owners, lessees and other occupants of the Project. Acoustical privacy can only be achieved through understanding and compliance with certain limitations and restrictions. It is recognized that total isolation from an adjacent Unit in a manner comparable to a single-family residence is difficult if not impossible to attain. There will usually be some awareness of one's neighbors. Efforts have been made in the basic design of the Property to alleviate airborne noise, structure-borne noise and impact noise transmission from and to each Unit. The design and construction of this Project attempts to meet the standards and criteria imposed by the applicable governmental authorities related to sound insulation to the extent permitted by construction practices today. Modification of design of the structures or related components thereof by any Owner, or installation of noise generating instruments or equipment, could then alter the resultant expected isolation. The following restrictions are intended to maximize the acoustical privacy of all Owners, lessees and other occupants of the Property.

(i) Impacts from Improvements; Noise Study. Any improvement, equipment, or activity which may create noise impacts for any Unit or Common Elements (other than those related to Declarant's activities within the Project) shall be subject to the strict noise reduction requirements and guidelines set forth herein and/or in any guidelines adopted by the Association from time to time (the "Noise Guidelines"). The Board shall have the right to request that any Owner desiring to install any such improvements or equipment submit the results of a noise study prepared by a qualified consultant reasonably acceptable to the Architectural Committee or the Board, as applicable.

(ii) Sound System Loudspeakers and Pianos. Prior to attaching sound system loudspeakers to ceilings, walls, shelves or cabinets in a Unit, and prior to the placement of a piano in a Unit, the Owner, lessee or other occupant of said Unit shall submit a written description to the Association of the measures that the Owner intends to take to ensure that said equipment or instrument shall not disturb the Owners, lessees and other occupants of the Property (the "Noise Reduction Measures"). The Association shall review the proposed Noise Reduction Measures submitted by an Owner, lessee or other occupant of a Unit and, if in its sole discretion, determines that said measures will be adequate to minimize noise, the Association shall provide written notice of approval to said Owner, lessee or occupant within 30 days of receipt of the Noise Reduction Measures. If the Association, in its sole discretion, determines that the Noise Reduction Measures are inadequate, then the Owner shall be prohibited from making the desired installation. If the Association fails to provide written notice to the Owner, lessee or occupant within said 60 day period, it shall be conclusively presumed that the Association has not approved the Noise Reduction Measures.

(iii) Washing Machines and Dishwashers. In order to avoid transmitting vibration to other Units, resilient pads must be placed under all washing machines and dishwashers that were not installed by Declarant as part of the original construction. If the Association approves replacement of any plumbing lines and fixtures within a Unit, such plumbing lines and fixtures shall be vibration isolated consistent with the existing isolation.

(iv) Other Devices and Decorations. Many other devices and decorations or uses or misuses thereof, can likewise be the cause of unacceptable sound or vibration in adjacent (along side, above or below as the case may be) Units, including, but not limited to, rotating, oscillating or vibrating devices. The Unit Owners are forewarned and on notice that the criteria for acoustical privacy set forth herein shall apply for any condition resulting in annoyance and complaint by other Unit occupants within the Property. Without limiting any other guidelines or restrictions now or hereafter affecting the Property, no Owner or other person (other than Declarant) shall install or permit the installation of any therapeutic spa or similar device or equipment, whether portable or otherwise, without the prior written approval of the Architectural Committee. Any installed shelving or hanging pictures shall only be installed or hung with toggle bolts into the drywall. No Owner or other person shall fasten shelving or hanging pictures directly to studs.

(v) Indemnity. In the event that any flooring installation by an Owner, other than Declarant, does not comply with the sound attenuation requirements set forth herein, irrespective of any approval by the Association, the non-complying Owner shall indemnify, defend and hold harmless Declarant and the Association from any claims for defects, damages, liabilities, costs, and/or expenses (including reasonable attorneys' fees) arising out of, caused by, or associated with such non-compliance.

(vi) Noise Field Testing. In the event a complaint is made for non-compliance with the Noise Guidelines, the Board may retain the services of a recognized acoustical engineer to field test the area of complaint. The costs shall be chargeable to the complaining party in the event the field test shows that conditions meet the criteria of the applicable guidelines. If such field tests show non-compliance, then the costs of the testing shall be borne by the offending party. In the event an Owner fails to comply with the provisions of this Section or any Noise Guidelines (a "Noise Violation"), the Association shall have the right, after Notice and Hearing and reasonable opportunity to cure such Noise Violation as determined by the Board pursuant to this Section, to enter into the Owner's Unit for the purpose of remedying the Noise Violation. The Association shall not be liable for trespass in connection with such entry. At any hearing on a noise issue, the Owner will have an opportunity to discuss with the Board the merits of the claims set forth in the Association's original notice of Noise Violation, and the Board will determine what action, if any, needs to be taken by the Owner to remedy the Noise Violation and the time within which it must be accomplished. The cost to the Association of remedying such Owner's failure to comply with the provisions of this Section, as well as any damages suffered by the Association with respect thereto, shall be assessed to the Owner as a Special Assessment, enforceable in the manner provided in this Declaration.

THE ASSOCIATION HEREBY WAIVES ANY AND ALL CLAIMS OR DAMAGES ARISING FROM OR RELATING TO THE PRESENCE OF NOISE IN, ON OR ABOUT THE PROPERTY AND/OR ANY UNIT.

Section 9.6 Laws and Insurance Requirements. Nothing shall be done to or kept on any Unit or improvement thereon that might increase the rate of, or cause the cancellation of, insurance for the Project, or any portion of the Project, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his or her Unit or any improvement thereon that violates any of the restrictions contained in this Declaration or any law, ordinance, statute, rule, or regulation of any local, city, county, state or federal body, including, without limitation, local ordinances relating to zoning and building codes.

Section 9.7 Restrictions on Alienation. A Unit may not be conveyed pursuant to a time-sharing plan. A Unit may not be leased or rented for an initial term of less than thirty (30) days. All leases and rental agreements shall be in writing and subject to the requirements of the Documents and the Association. All leases shall be submitted to the Association no more than ten (10) days prior to the commencement of the tenancy.

All leases of a Unit shall include a provision that the tenant will recognize and attorn to the Association as landlord, solely for the purpose of having the power to enforce a violation of the provisions of the Documents against the tenant, provided the Association gives the Owner notice of its intent to so enforce and a reasonable opportunity to cure the violation directly, prior to the commencement of an enforcement action. Notwithstanding the foregoing, the Owner shall be responsible for the actions of any tenant, guest, invitee, contractor, employee, or any other Person on the Property at the Owner's request or for the Owner's benefit.

No right of first refusal to purchase a Unit in favor of any party or similar restriction on the ability of an Owner to sell the Owner's Unit shall be deemed to exist solely as a result of this Declaration or the inclusion of any Unit in the Project.

Section 9.8 **Declarant's Rights.** As long as Declarant is an Owner, Declarant and its duly authorized agents, representatives and employees may maintain any Unit owned by Declarant or any portion of the Common Elements, as model units or sales offices. Declarant may also maintain management offices and signs and display advertising the Project.

ARTICLE X EASEMENTS AND LICENSES

Section 10.1 **Easements of Record.** All easements or licenses to which the Project is presently subject to are shown on the Plat and Plans or otherwise contained herein. In addition, the Project may be subject to other easements or licenses granted by Declarant pursuant to its powers under Article VII of this Declaration, liens created under Article XVIII of this Declaration, and easements granted by the Association pursuant to its powers under Article XXIV of this Declaration.

Section 10.2 **Encroachment Easement.** In the Property, and all portions thereof, shall be subject to an easement of up to 1 foot from the Unit or Common Elements boundaries for the actual extent of encroachments created by construction as designed or constructed by Declarant and for settling, shifting, and movement of any portion of the Property, except that no such easement is created for an encroachment which is the result of willful conduct on the part of Declarant, an Owner, a tenant, the Association, or any other person or entity. A valid easement for said encroachments and for the maintenance thereof shall exist. Such encroachments shall not be considered to be encumbrances upon any part of the Project. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of improvements constructed on any Unit, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of any improvements on the Property.

ARTICLE XI ALLOCATION OF LIMITED COMMON ELEMENTS

A Common Element not previously allocated as a Limited Common Element may be so allocated only pursuant to the provisions of this Article. All allocations will be made by amendments to the Declaration specifying to which Unit or Units the Limited Common Element is allocated.

All amendments shall specify to which Unit or Units the Limited Common Element is allocated. Such amendment shall require the approval of all holders of Security Interests in the affected Units. The person executing the amendment shall provide an executed copy of the amendment to the Association, which shall record it, provided that the amendment complies with the provisions of this Declaration and the Act. The amendment shall contain words of conveyance and must be recorded and indexed in the names of the parties and the Project.

The parties executing the amendment shall be responsible for the preparation of the amendment and shall reimburse the Association for its reasonable attorneys' fees in connection with the review of the amendment and for the recording costs.

Notwithstanding the forgoing, garages, identified on the Plat and Plans, may be assigned to a particular Unit by reference in the deed to the Owner of the Unit from Declarant.

ARTICLE XII
ADDITIONS, ALTERATIONS AND IMPROVEMENTS

Section 12.1 **Requisite Approvals and Procedures for Owner Alteration.** No Owner may make or commence any structural addition, alteration or Improvement in the Project, including without limitation, the alteration or construction of a building, fence, wall or structure or the placement, erection or alteration of any Limited Common Element without the prior written consent of the Board of Directors or an architectural committee appointed by the Board of Directors composed of from one to three members ("Architectural Committee").

(a) Any request for approval of anything prohibited under Section 12.1 or Section 12.1(b)(i) or (ii) must be submitted in writing to the Board of Directors or the Architectural Committee, as applicable. The Board of Directors or the Architectural Committee shall answer any written request for approval within 60 days after the request. Failure to answer the request within this time shall not constitute a consent or approval by the Board of Directors or the Architectural Committee to the proposed action. Any such request shall be reviewed in accordance with any Architectural Committee Rules then in effect.

(b) Subject to this Section 12.1, an Owner:

(i) May make any improvements or alterations to the interior of their Units that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Project.

(ii) May not change the appearance of the Common Elements, the exterior appearance of a Unit or any other portion of the Project, without permission of the Board of Directors or the Architectural Committee.

(iii) After acquiring an adjoining Unit, may remove or alter any intervening partition or create apertures therein even if the partition in whole or in part is a Common Element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Project. Removal of partitions or creation of apertures under this subsection is not an alteration of boundaries. If a part of an adjoining Unit is acquired, boundaries will be relocated in accordance with Article XIII.

(c) Any applications to any department or governmental authority for a permit to make any addition, alteration or improvement in or to any Unit shall be executed by the Association only. This execution will not, however, create any liability on the part of the Association or any of its members to any contractor, subcontractor or materialman on account of the addition, alteration or improvement or to any person because of any claim for injury to person or damage to property arising from the permit.

(d) Any member or authorized consultant of the Board of Directors or the Architectural Committee, or any authorized officer, employee or agent of the Association may enter upon any Unit at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect any structural addition, alteration or Improvement constructed or under construction in the Unit to determine whether the work has been or is being built in compliance with the plans and specifications approved by the Board of Directors or the Architectural Committee.

(e) All additions, alterations and improvements to the Units and Common Elements shall not, except pursuant to prior approval by the Board of Directors, cause any increase in the premiums of any insurance policies carried by the Association or by the Owners of any Units other than those affected by such change.

Section 12.2 Limitation on Liability of Architectural Committee. Provided that the Architectural Committee or a particular member of the Architectural Committee has acted in good faith on the basis of the information as may be possessed by the Architectural Committee or the member, as the case may be, then neither the Architectural Committee nor any member thereof shall be liable to the Association, to any Owner, or any other person for any damage, loss, or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings, and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any property subject to this Declaration. Without limiting the generality of the foregoing, the Architectural Committee and any member thereof may, but it is not required to, consult with knowledgeable outsiders with respect to any plans, drawings, specifications, or any other proposal submitted to the Architectural Committee.

Section 12.3 Architectural Committee Rules. The Architectural Committee shall, upon request of the Board of Directors and subject to the approval of the Board of Directors, prepare and promulgate Architectural Committee Rules containing guidelines and review procedures on behalf of the Association. The Architectural Committee Rules shall be those of the Association, and the Architectural Committee shall have sole and full authority to prepare and to amend the Architectural Committee Rules, provided the Architectural Committee Rules are otherwise in compliance with the Articles, the Bylaws and this Declaration. The Architectural Committee shall make Architectural Committee Rules available to Owners.

Section 12.4 Board of Directors and Architectural Committee Discretion. Except as may be expressly provided in this Declaration, any consent or approval of the Board of Directors, Architectural Committee, or Association that is required under the provisions hereof may be granted or withheld in the sole and absolute discretion of the Board of Directors, Architectural Committee, or Association, as applicable. In that regard, the granting or withholding of such consent or approval shall not be subject to any objective standards of "reasonableness" or otherwise. Further, the approval of or consent to any matter shall not be deemed to be a waiver of the right to disapprove the same or similar matters in subsequent requests for consents or approvals from the same or other parties.

Section 12.5 No Applicability to Construction by Declarant. The provisions of this Article XII shall not apply to any additions, alterations, repairs, reconstruction, or other Improvements made by Declarant in the Project whether structural or non-structural in nature, and neither the Board of Directors nor any Architectural Committee appointed by the Board of Directors shall have any authority or right to approve or disapprove any such addition, alteration, repairs, reconstruction, or other Improvement made or to be made by Declarant in the Project.

Section 12.6 No Applicability to Board of Directors. Subject to the limitations of Sections 13.1 and 13.2 of this Declaration, the Board of Directors may make any additions, alterations or improvements to the Common Elements which, in its judgment, it deems necessary.

ARTICLE XIII BOUNDARIES

Section 13.1 Application and Amendment. The boundaries between adjoining Units may not be relocated without the approval of the Board of Directors or the Architectural Committee under Article XII. In addition to the plans and specifications required for approval under Section 12.1, a request for a boundary adjustment must be accompanied by the written consent of all Owners of the Units affected by the relocation. If the Owners of the adjoining Units have specified a reallocation between their Units of their Allocated Interests, the application shall state the proposed reallocation. In the event that the Board of Directors or the Architectural Committee approves the request for boundary adjustment, the Association shall prepare an amendment that identifies the Units involved, states the reallocations and indicates the Association's consent. The amendment must be executed by those Unit Owners affected and contain words of conveyance between them. The approval of all holders of Security Interests in the affected Units shall be endorsed on the conveyance. On recordation, the amendment shall be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the Association.

Section 13.2 Recording Amendments. The Association shall prepare and record an amendment to the Plat and Plans as necessary to show the altered boundaries between adjoining Units, along with the Units' dimensions and identifying numbers. The applicants will pay for the costs of preparation of the amendment and its recording, as well as any reasonable consultant fees incurred by the Association.

ARTICLE XIV AMENDMENTS TO DECLARATION

Section 14.1 In General. Except in cases of amendments that may be executed (i) by Declarant under Section 28.8, (ii) by the Association under Article X of this Declaration and NRS 116.1107 or (iii) by certain Owners under Article XIII and Section 13.1 of this Declaration, Section 28.9 of this Declaration, and NRS 116.2118, and except as limited by Section 14.5 and Article XVII of this Declaration, including the Plat and Plans, may be amended only by vote or agreement of Seventy-five percent (75%) of the Owners. The procedure for amendment must follow the procedures set forth in NRS 116.2117.

Section 14.2 Consent of Declarant Required for Certain Amendments. Declarant has reserved and retained certain rights under the terms of this Declaration. In furtherance of the Declarant's rights hereunder, any amendment which operates to change or remove any of the provisions contained in Article VII and/or Article XXVII of this Declaration may only occur if the requisite number of Owners have approved the amendment in accordance with Section 15.1, and the Declarant has approved the amendment.

Section 14.3 Limitation of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one year after the amendment is recorded.

Section 14.4 **Recordation of Amendments.** Each amendment to this Declaration must be recorded in the Clark County Recorder's Office, and the amendment is effective only upon recording.

Section 14.5 **Unanimous Consent.** Except to the extent expressly permitted or required by other provisions of this Declaration or the Act, an amendment may not create, increase or decrease Special Declarant Rights, increase the number of Units, change the boundaries of any Unit, change the Allocated Interests of a Unit or change the uses to which any Unit is restricted, except by unanimous consent of the Owners affected and the consent of a Majority of Owners.

Section 14.6 **Execution of Amendments.** An amendment to this Declaration required by the Act to be recorded by the Association, which has been adopted in accordance with this Declaration and the Act, must be prepared, executed, recorded and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

Section 14.7 **Special Declarant Rights.** Provisions in this Declaration creating Special Declarant Rights may not be amended without the consent of Declarant.

Section 14.8 **Consent of Holders of Security Interests and VA.** Amendments are subject to the consent requirements of Article XVII, and, to the extent that any Security Interests are held by or insured by FNMA, FHLMC, VA, or HUD, such amendments shall be in accordance with applicable rules and regulations of FNMA, FHLMC, VA, or HUD.

Section 14.9 **Amendments To Create Units:** Declarant must record an amendment to this Declaration to create additional Units within the Project. Declarant shall also record new Plat and Plans to the extent as necessary to conform to the requirements of NRS 116.2109(1), (2) and (4).

ARTICLE XV AMENDMENTS TO BYLAWS

The Bylaws may be amended or repealed by the vote or written consent of a Majority of the Owners and in accordance with Article 12 of the Bylaws. Furthermore, any amendment of the Bylaws during the Declarant Control Period shall require the prior approval of the VA and HUD to the extent necessary to meet any VA and/or HUD requirements applicable to the Project.

ARTICLE XVI TERMINATION

Termination of the Project may be accomplished only upon the approval of the Owners of 100% of the total number of Units within the Project, and then in accordance with the provisions of the Act.

ARTICLE XVII MORTGAGEE PROTECTION

Section 17.1 **Introduction.** This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain Security Interests.

This Article is supplemental to, not a substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

Section 17.2 Percentage of Eligible Mortgagees. Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean the approval or consent of Eligible Mortgagees holding Security Interests in Units which in the aggregate have allocated to them that specified percentage of votes as compared to the total votes allocated to all Units in the Association then subject to Security Interests held by all Eligible Mortgagees.

Section 17.3 Notice of Actions. The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit in which there is a first Security Interest held, insured or guaranteed by that Eligible Mortgagee or Eligible Insurer, as applicable;
- (b) Any delinquency in the payment of Common Expense Assessments owed by an Owner which remains uncured for a period of 60 days and whose Unit is subject to a first Security Interest held, insured or guaranteed by that Eligible Mortgagee or Eligible Insurer, as applicable;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 17.4 of the Declaration; and
- (e) Any judgment rendered against the Association.

Section 17.4 Consent and Notice Required. Document Changes. Notwithstanding any requirement permitted by this Declaration or the Act, no amendment of any material provision of the Documents by the Association or Owners described in this Section may be effective without notice to all Eligible Mortgagees and Eligible Insurers, as required by Section 17.3 above, without the vote of at least a 67% of the Owners (or any greater Owner vote required in this Declaration or the Act) and without approval by at least 51% of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by this Declaration). The foregoing approval requirements do not apply to amendments effected by the exercise of any right reserved by Declarant hereunder. A change to any of the following would be considered material:

- (i) Any provision of this Declaration pertaining to voting rights;
- (ii) Any provision of this Declaration pertaining to assessments, assessment liens or priority of assessment liens;
- (iii) Any provision of this Declaration pertaining to reserves for maintenance, repair and replacement of Common Elements;
- (iv) Any provision of this Declaration pertaining to responsibility for maintenance and repairs;

- (v) Any provision of this Declaration pertaining to expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project;
- (vi) Any provision of this Declaration pertaining to insurance or fidelity bonds;
- (vii) Any provision of this Declaration pertaining to leasing of Units;
- (viii) Any provision of this Declaration pertaining to imposition of any restrictions on Owners' right to sell or transfer their Units; or
- (ix) Any provision of this Declaration that expressly benefits holders, insurers or guarantors of Security Interests.

(b) Actions. Notwithstanding any lower requirement permitted by this Declaration or the Act, the Association may not take any of the following actions, other than rights reserved to Declarant as Special Declarant Rights, without notice to all Eligible Mortgagees and Eligible Insurers, as required by Section 17.3 above, and approval of at least 51% (or the indicated percentage, if higher) of the Eligible Mortgagees:

- (i) Reallocation of interests in the Common Elements or Limited Common Elements, except that when Limited Common Elements are reallocated by agreement between Owners, only those Owners and only the Eligible Mortgagees holding Security Interests in those Units need approve the action;
- (ii) Redefinitions of boundaries of Units, except that when boundaries of only adjoining Units are involved, or a Unit is being subdivided, then only those Owners and the Eligible Mortgagees holding Security Interests in the Unit or Units need approve the action;
- (iii) Convertibility of Units into Common Elements or Common Elements into Units;
- (iv) A decision by the Association to establish self-management when professional management had been required previously by the Documents or any Eligible Mortgagee;
- (v) Termination of the Project after occurrence of substantial destruction or condemnation;
- (vi) Convey or encumber the Common Elements or any portion of the Common Elements, for which approval of at least 67% of the Eligible Mortgagees is required. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Project will not be deemed a transfer within the meaning of this clause);
- (vii) The termination of the Project for reasons other than substantial destruction or condemnation, for which approval of at least 67% of Eligible Mortgagees is required;
- (viii) The alteration of any partition or creation of any aperture between adjoining Units (when Unit boundaries are not otherwise being affected), for which only the Owners of Units affected and Eligible Mortgagees of those Units need approve the action;

(ix) The granting of any easements, leases, licenses or concessions through or over the Common Elements (excluding, however, any utility easements serving or to serve the Project and also excluding any leases, licenses or concessions lasting for no more than one year);

(x) The restoration or repair of the Project after hazard damage or a partial condemnation in a manner other than specified in the Documents;

(xi) The merger of the Project with any other common interest community, for which the prior written approval of the VA must also be obtained to the extent required under Section 7.9 hereof;

(xii) The assignment of the future income of the Association, including its right to receive Common Expense Assessments; or

(xiii) Any action taken not to repair or replace the Project in the event of substantial destruction of any part of a Unit or the Common Elements.

(c) Limitations. The Association may not change the period for collection of regularly budgeted Common Expense Assessments to other than monthly collection without the consent of all Eligible Mortgagees.

(d) VA Approval. The prior approval of the VA and HUD shall be required during the Declarant Control Period for those Association actions set forth in Section 7.9 to the extent necessary to meet any VA and/or HUD requirements which are applicable to the Project.

(e) Implied Approval. The failure of an Eligible Mortgagee or Insurer to respond within 30 days to any written request for approval of an addition or amendment to the Document wherever Eligible Mortgagee or Insurer approval is required, when such request is delivered by certified or registered mail, return receipt requested, shall constitute an implied approval of the addition or amendment.

Section 17.5 Inspection of Books. The Association must maintain current copies of the Declaration, Bylaws, Rules, the Articles of Incorporation, books, records and financial statements of the Association. The Association shall permit any Eligible Mortgagee or Eligible Insurer, or other first mortgagee of Units, to inspect the books and records of the Association during normal business hours.

Section 17.6 Financial Statements. The Association shall provide any Eligible Mortgagee or Eligible Insurer who submits a written request with a copy of an annual financial statement. It shall be provided within 120 days following the end of each fiscal year of the Association. This financial statement shall be audited by an independent certified public accountant if:

(a) The Project contains 50 or more Units, in which case the cost of the audit shall be a Common Expense; or

(b) Any Eligible Mortgagee or Eligible Insurer requests it, in which case the Eligible Mortgagee or Eligible Insurer shall bear the cost of the audit.

Section 17.7 Enforcement. The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers and their successors and may be enforced by any of them by any available means, at law or in equity.

Section 17.8 Attendance at Meetings. Any representative of an Eligible Mortgagee or Eligible Insurer may attend and address any meeting which an Owner may attend.

Section 17.9 Appointment of Trustee. In the event of damage or destruction under Article XXII or condemnation of all or a portion of the Project, any Eligible Mortgagee may require that such proceeds be payable to a Trustee established pursuant to this Declaration. This Trustee may be required to be a corporate trustee licensed by the State of Nevada. Proceeds will then be distributed pursuant to Article XXII or pursuant to a condemnation award. Unless otherwise required, the members of the Board of Directors, acting by majority vote through the president, may act as Trustee.

ARTICLE XVIII ASSESSMENT AND COLLECTION OF COMMON EXPENSES

Section 18.1 Apportionment of Common Expenses. Except as provided in Section 18.2, all Common Expenses shall be assessed at a uniform rate for all Units in accordance with the percentage of Liability for Common Expenses as set forth in Article VIII of this Declaration.

Section 18.2 Common Expenses Attributable to Fewer than all Units; Exempt Property. Any Common Expense associated with the maintenance, repair or replacement of components and elements attached to, planted on, or a part of yards, patios, balconies, entries, exterior surfaces, trim, siding, doors, and windows shall be assessed against the Unit or Units to which the Limited Common Element is assigned. If any such Limited Common Element is assigned to more than one Unit, the Common Expenses attributable to the Limited Common Element shall be assessed equally among the Units to which it is assigned.

(a) Any Common Expense or portion thereof benefiting fewer than all of the Units shall be assessed exclusively against the Units benefited.

(b) The costs of insurance shall be assessed in proportion to risk and the cost of utilities shall be assessed in proportion to usage.

(c) An assessment to pay a judgment against the Association may be made only against the Units in the Project at the time the judgment was entered, in proportion to the respective Liability for Common Expense.

(d) If a Common Expense is caused by the misconduct of an Owner, the Association may assess that expense exclusively against that Owner's Unit.

(e) If the Liability for Common Expenses are reallocated, Common Expenses Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated liabilities.

(f) Fees, charges, late charges, fines, collection costs and interest charged against an Owner pursuant to the Documents and the Act are enforceable as Common Expense Assessments against that Owner's Unit.

Section 18.3 Lien. The Association has a lien on a Unit for an assessment levied against the Unit or fines imposed against its Owner from the time the assessment or fine becomes due. Fees, charges, late charges, fines and interest charged pursuant to the Act and the Documents are enforceable as assessments under this Section; provided, however, that unless otherwise permitted by law, the Association may not foreclose upon a lien for unpaid assessments which is comprised solely of fines levied against an Owner for violation of the Documents unless the violation is of a type that threatens the health and welfare of the residents of the Project. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due.

(a) Except to the extent permitted under the Act (NRS 116.3116(2)), a lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of this Declaration; (2) a first Security Interest on the Unit recorded before the date on which the assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this Section is also prior to all Security Interests described in Subdivision (2) of this Subsection to the extent that the Common Expense assessments are based on the periodic budget adopted by the Association pursuant to Section 18.4 and 18.5 of this Article and would have become due in the absence of acceleration, during the six months immediately preceding institution of an action to enforce the Association's lien. This Subsection does not affect the priority of mechanics' or materialmen's liens or the priority of a lien for other assessments made by the Association.

(b) Recording of the Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for assessment under this Section is not required.

(c) A lien for an unpaid assessment is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessment becomes due, except that if an Owner of a Unit subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the time period for instituting proceedings to enforce the Association's lien shall be tolled until thirty days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

(d) This Section does not prohibit an action to recover sums for which Subsection (a) of this Section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

(e) A judgment or decree in any action brought under this Section shall include costs and reasonable attorney's fees for the prevailing party.

(f) The Association's lien must be foreclosed by the same procedure set forth in NRS 116.31162 and NRS 116.31164.

(g) In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver for the Owner to collect all sums alleged to be due to that Owner from third parties prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense Assessments, based on a periodic budget adopted by the Association pursuant to Section 18.4 of this Declaration.

(h) If a holder of a first Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid assessments against that Unit which

became due before the sale, other than the assessments which are prior to that Security Interest under Subsection (b) of this section of this Declaration. Any unpaid assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Owners, including the purchaser.

(i) A Request for Notice of Default and Sale recorded in accordance with NRS 107.090 shall apply to the foreclosure of an Association lien. The Request must identify the lien by stating the names of the Owner and the Project.

(j) In the case of foreclosure under NRS 116.31162 and NRS 116.31164, the Association shall give reasonable notice of its intent to foreclose to each lien holder of the affected Unit known to the Association.

(k) Any payments received by the Association in the discharge of an Owner's obligation may be applied to the oldest balance due; provided, however, that the Association may not apply any assessment, fee or other charge that is paid by an Owner toward a fine imposed against the Owner by the Association unless otherwise directed by the Owner or as permitted by law.

Section 18.4 Budget Adoption and Ratification. Each year the Board of Directors shall adopt a proposed budget of the Common Expenses of the Project, which shall include the budget for the daily operation of the Association and an adequate reserve (the "Reserve Funds") for the repair, replacement and restoration of the major components of the Common Elements. Such budget must be adopted by the Board of Directors before the beginning of each Fiscal Year and distributed to the Members in accordance with the Bylaws and the Act. Within 30 days after adoption of a proposed budget for the Project, the Board of Directors shall provide the budget or a summary thereof to each Owner and shall set a date for a meeting of the Owners to consider ratification of the budget. The meeting shall be not less than 14 or more than 30 days after mailing of the summary. Unless at that meeting a Majority of Owners reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Owners continues until the Owners ratify a subsequent budget proposed by the Board of Directors.

Section 18.5 Capital Improvement Assessments. If the Board of Directors votes to levy a Capital Improvement Assessment the Board of Directors shall submit the assessment to the Owners for ratification in the same manner as budget under Section 18.4. A Capital Improvement Assessment levied pursuant to this Section 18.5 shall include (i) an assessment not included in the current budget, other than one enumerated in Section 18.2 of this Declaration, in an amount greater than 15% of the current annual operating budget, or (ii) an assessment for the cost of construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements.

Section 18.6 Certificate of Payment of Common Expense Assessments. The Association, upon written request, shall furnish an Owner with a statement, in recordable form, setting out the amount of unpaid assessments against the Unit. The statement must be furnished within 10 business days after receipt of the request and is binding on the Association, the Board of Directors and each Owner.

Section 18.7 Monthly Payment of Common Expenses. All Common Expenses assessed under Sections 18.1 and 18.2 of this Declaration shall be due and payable monthly, at 1/12th of the annual total (in cases where an annual total is applicable).

Section 18.8 Limitations on Maximum Annual Assessment.

(a) Limitation Increases. From and after January 1st of the year immediately following the first conveyance of a Unit to an Owner other than Declarant, the maximum annual Common Expense Assessment may not be increased by more than 20% of the annual budget for the previous year unless approved by the vote or written assent of a Majority of Owners.

(b) Emergency Situation Exemptions. Notwithstanding the foregoing, this Section shall not operate to limit increases in the Common Expense Assessments that are necessary due to any "Emergency Situation." As used in this Section 18.8(b), an Emergency Situation shall mean the occurrence of any one of the following:

- (i) An extraordinary expense required by an order of a court;
- (ii) An extraordinary expense necessary to repair or maintain the Project or any portion thereof for which the Association is responsible when a threat to personal safety on the Property or the Project is discovered; and
- (iii) An extraordinary expense necessary to repair or maintain the Property, the Project, or any portion thereof for which the Association is responsible that could not have been reasonably foreseen by the Board when preparing the budget pursuant to Section 18.4 hereof.

The Board shall have the power to increase the Common Expense Assessments above the amount set forth in the budget adopted pursuant to Section 18.4, if prior to the imposition or collection of an Common Expense Assessment increase pursuant to this Section 18.8(b), the Board passes a resolution containing written findings that the extraordinary expense involved is necessary and, for any increases made under Section 18.8(b)(iii) an additional finding that expense was not or could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Members with a notice of Common Expense Assessment increase not less than 30 nor more than 60 days prior to the increased Common Expense Assessment becoming due.

Section 18.9 Acceleration of Common Expense Assessments. In the event of default in which any Owner does not make the payment of any Common Expense Assessment levied against his or her Unit within 10 days after the date due, the Board of Directors shall have the right, after Notice and Hearing, to declare all unpaid assessments for the pertinent fiscal year immediately due and payable.

Section 18.10 Commencement of Common Expense Assessments. The Common Expense Assessments provided for herein shall begin as to all Units in the Project (other than unsold Units owned by Declarant if a Subsidy Agreement is in effect) on the first day of the month following the first conveyance of a Unit to an Owner other than Declarant. The first assessment shall be adjusted according to the number of months remaining in the calendar year. If a Subsidy Agreement is in effect, regular assessments as to all unsold Units owned by Declarant shall commence upon termination or expiration of the Subsidy Agreement.

Section 18.11 No Waiver of Liability for Common Expenses. No Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the assessments are made.

Section 18.12 Personal Liability of Owners. The Owner of a Unit, at the time a Common Expense Assessment or portion of the assessment is due and payable, is personally liable for the assessment. Additionally, the Owner of a Unit, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in such deed or such other instrument, is deemed to covenant and agree to pay to the Association (1) annual Common Expense Assessments, (2) Capital Improvement Assessments, (3) Special Assessments, and (4) Reconstruction Assessments; such assessments to be established and collected as herein provided. All Assessments, together with interest, costs, and reasonable attorneys' fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Unit against which such assessment is made.

(a) No Owner may exempt himself from the personal liability for assessments levied by the Association, nor release the Unit owned by him from the liens and charges thereof by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his/her Unit.

(b) Personal liability for the assessment shall not pass to a successor in title to the Unit unless the successor agrees to assume the obligation. The successor in title shall be personally liable for any Common Expense Assessments thereafter due.

Section 18.13 Capitalization of Association. A working capital fund is to be established in the amount of 2 months' regularly budgeted initial Common Expense Assessments, measured as of the date of the first assessment levied by the Association. Any amounts paid into this fund shall not be considered as advance payment of assessments. Each Unit's share of the working capital fund may be collected and then contributed to the Association by Declarant at the time the sale of the Unit is closed or at the termination of the Declarant Control Period, if earlier. Until paid to the Association, the contribution to the working capital shall be considered an unpaid Common Expense Assessment, with a lien on Declarant's unsold Units pursuant to the Act. Until termination of Declarant control of the Board of Directors, the working capital shall be deposited without interest in a segregated fund. While Declarant is in control of the Board of Directors, Declarant cannot use any of the working capital funds to defray its expenses, reserve contributions or construction costs or to make up budget deficits.

Section 18.14 Subsidy Agreements. The Association is specifically authorized and empowered to enter into a subsidy agreement or other similar agreement with the Declarant whereby assessments otherwise payable by the Declarant on Units owned by the Declarant are suspended in exchange for the payment by the Declarant of shortfalls in the Associations' operating expenses or the provision of maintenance of the Common Elements and/or the performance of certain other services which are Common Expenses of the Association. Any such agreement shall provide that it may be terminated upon the vote of the Owners of 67% of the total number of Units in the Project, other than those Units owned by Declarant, in which event, after the date of such termination, all Owners, including Declarant shall be liable for the

full amount of the regular assessments which would otherwise be payable in accordance with this Article XVIII.

ARTICLE XIX RIGHT TO ASSIGN FUTURE INCOME

The Association may assign its future income, including its right to receive Common Expense Assessments, only upon the approval of a Majority of Owners, at a meeting called for that purpose, and with the Eligible Mortgagee consent described in Article XVII.

ARTICLE XX PERSONS AND UNITS SUBJECT TO DOCUMENTS

Section 20.1 Membership in the Association. Every Owner of a Unit shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Unit. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale of a Unit to which it is appurtenant, and then only to the purchaser of such Unit. Any attempt to make a prohibited transfer is void. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in his or her name to the purchaser of his or her Unit, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

Section 20.2 Compliance with Documents. All Owners, tenants, mortgagees and occupants of Units shall comply with the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the occupancy of a Unit constitutes agreement that the provisions of the Documents are accepted and ratified by that Owner, tenant, mortgagee or occupant. All provisions of the Documents recorded in the Clark County Recorder's Office are covenants running with the land and shall bind any Persons having at any time any interest or estate in any Unit. Owners are responsible for any violations of this Declaration or any other Document committed by any tenant, occupant of the Owner's Unit, invitee, employee, family member, agent, or any other Person on the Property at the request or for the benefit of Owner (collectively, "Owner's Invitees"). An Owner may be assessed fines for violations of the Documents committed by Owner's Invitees, as if the Owner committed the violation.

Section 20.3 Adoption of Rules. The Board of Directors may adopt Rules regarding the use and occupancy of Units as it affects the Common Elements, the Limited Common Elements and the activities of occupants, subject to Notice and Comment.

ARTICLE XXI INSURANCE

Section 21.1 Coverage. To the extent reasonably available, the Board of Directors shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Board of Directors determines that any insurance described in this Article will not be maintained, the Board of Directors shall promptly cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Owners and Eligible Mortgagees at their respective last known addresses.

Section 21.2 Property Insurance Coverage.

(a) Coverage. Property insurance will cover:

(i) The facilities of the Project including all buildings on the Property, for example, the Units and all fixtures, equipment and any improvements and betterments whether part of a Unit or a Common Element, and such personal property of Owners as is normally insured under building coverage, but excluding land, excavations, portions of foundations below the undersurface of the lowest basement floors, underground pilings, piers, pipes, flues and drains and other items normally excluded from property policies; and

(ii) All personal property owned by the Association.

(b) Amounts. The insurance will be for an amount (after application of any deductions) equal to 100% of the actual cash value of the covered items at the time the insurance is purchased and at each renewal date.

The Board of Directors is authorized to obtain appraisals periodically for the purpose of establishing replacement cost of the insured items, and the cost of such appraisals shall be a Common Expense.

(c) Risks Insured Against. The insurance shall afford protection against "all risks" of direct physical loss commonly insured.

(d) Other Provisions. Insurance policies required by this Section shall provide that:

(i) Each Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association.

(ii) The insurer waives the right to subrogation under the policy against an Owner or member of the household of an Owner.

(iii) An act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will not void the policy or be a condition of recovery under the policy.

(iv) If, at the time of a loss under the policy, there is other insurance in the name of an Owner which covers the same risk covered by the policy, the Association's policy provides primary insurance.

(v) Losses must be adjusted with the Association.

(vi) Insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and otherwise to the Association, but, in any case, it is to be held in trust for each Owner and the Owner's mortgagee.

(vii) The insurer may not cancel or refuse to renew the policy until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, to each Owner and to each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

(viii) The name of the insured shall be substantially as follows:

Tuscano Homeowners' Association, for the use and benefit of the individual Owners.

Section 21.3 Liability Insurance. Liability insurance, including medical payments insurance, will be maintained as determined by the Board of Directors. This insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements and the activities of the Association.

Insurance policies carried pursuant to this Section shall provide that:

(i) Each Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association;

(ii) The insurer waives the right to subrogation under the policy against an Owner or member of the household of an Owner.

(iii) An act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy.

(iv) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance.

(v) Losses must be adjusted with the Association.

(vi) Insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and otherwise to the Association, but, in any case, it is to be held in trust for each Owner and the Owner's mortgagee.

(vii) The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their last known addresses.

Section 21.4 Flood Insurance. If HUD/FHA or FNMA is a holder or insurer of first mortgages on Units within the Project, and if the Project or portions thereof are identified as being within a flood hazard area and if flood hazard insurance is available under the National Flood Insurance Program, the Association shall be required to acquire such insurance, as a Common Expense, in an amount not less than: (a) the maximum coverage available; or (b) 100% of the replacement costs of all buildings and other property. The maximum deductible allowed with such policy shall be the lesser of \$5,000 or one percent (1%) of the face amount of coverage.

Section 21.5 Fidelity Bonds. A blanket fidelity bond shall be provided for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the Manager at any time while the bond is in force. In no event shall the bond be for an amount less than the sum of three months' assessments plus reserve funds. The bond shall include a provision that calls for 10 days' written notice to the Association, each holder of a Security Interest in a Unit, each servicer that services a FNMA-owned or FALMC-owned mortgage on a Unit and the insurance trustee, if any, before the bond can be canceled or substantially modified for any

reason. The bond shall be in an amount equal to the maximum amount of funds in the custody and control of the Association when the bond is in effect. When either: (a) separate bank accounts for working funds and reserves are maintained and monthly checks are sent directly to the Association, (b) a management company maintains separate records and bank accounts for each reserve account of the Association, or (c) two Directors must sign any check written on the reserve account, then the fidelity bond may be in an amount equal to three months Common Expense Assessments on all Units.

Section 21.6 Owner Policies. An insurance policy issued to the Association does not preclude Owners from obtaining insurance for their own benefit.

Section 21.7 Workers' Compensation Insurance. The Board of Directors shall obtain and maintain Workers' Compensation Insurance to meet the requirements of the laws of the State of Nevada.

Section 21.8 Directors' and Officers' Liability Insurance. The Board of Directors shall obtain and maintain directors' and officers' liability insurance, if available, covering all of the directors and officers (including without limitation the members of the Architectural Committee) of the Association. This insurance will have limits determined by the Board of Directors.

Section 21.9 Other Insurance. The Association may carry other insurance which the Board of Directors considers appropriate to protect the Association and/or the Owners.

Section 21.10 Premiums. Insurance premiums for insurance carried or to be carried by the Association shall be a Common Expense.

ARTICLE XXII DAMAGE TO OR DESTRUCTION OF PROPERTY

Section 22.1 Duty to Restore. Any portion of the Project for which insurance is required under the Act (NRS 116.31135) that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (a) The Project is terminated; or
- (b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or
- (c) The Owners of 80% of the total number of Units in the Project, including each Owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild.

Section 22.2 Cost. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

Section 22.3 Plans. The Property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Board of Directors, a Majority of Owners and 51% of Eligible Mortgagees.

Section 22.4 Replacement of Less Than Entire Property. The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Project.

(a) Except to the extent that other persons will be distributees:

(i) The insurance proceeds attributable to a Unit and Limited Common Elements that are not rebuilt must be distributed to the Owner of the Unit and the Owner of the Unit to which the Limited Common Elements were allocated, or to lien holders, as their interests may appear; and

(ii) The remainder of the proceeds must be distributed to each Owner or lien holder, as their interests may appear, in proportion to the Common Element interests of all the Units.

(b) If the Owners vote not to rebuild a Unit, the Allocated Interests shall be automatically reallocated upon the vote as if the Unit had been condemned under the Act (NRS 116.1107(1)), and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting the reallocation of the Allocated Interests.

Section 22.5 Insurance Proceeds. The Trustee, or if there is no Trustee, then the Board of Directors of the Association, acting by the President, shall hold any insurance proceeds in trust for the Association, Owners and lien holders as their interests may appear. Subject to the provisions of Subsection 22.1(a) through Subsection 22.1(c) of this Declaration, the proceeds shall be disbursed first for the repair or restoration of the damaged Property. The Association, Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus after the Property has been completely repaired or restored, or unless the Project is terminated.

Section 22.6 Certificates By Board of Directors. The Trustee, if any, may rely on the following certifications in writing made by the Board of Directors:

(a) Whether or not damaged or destroyed Property is to be repaired or restored; and

(b) The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

Section 22.7 Certificates by Title Insurance Companies. If payments are to be made to Owners or mortgagees, then the Board of Directors and the Trustee, if any, shall obtain and may rely on a title insurance company's certificate or a title insurance policy based on a search of the Records in the Clark County Recorder's Office from the date of the recording of the original Declaration, stating the names of the Owners and the mortgagees.

ARTICLE XXIII NOTICE AND HEARING

Section 23.1 Right to Notice and Comment. Before the Board of Directors amends the Bylaws or the Rules, whenever the Documents require that an action be taken after "Notice and Comment," and at any other time the Board of Directors determines, the Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action either shall be given to each Owner in writing, delivered

personally or by mail to all Owners at such address as appears in the records of the Association, or it shall be published in a newsletter or similar publication which is routinely circulated to all Owners. The notice shall be given not less than five days before the proposed action is to be taken. It shall invite comment to the Board of Directors orally or in writing before the scheduled time of the meeting.

Section 23.2 Right to Notice and Hearing. Whenever the Documents require that an action be taken after "Notice and Hearing," the following procedure shall be observed: The party proposing to take the action (e.g., the Board, a committee, an officer, the Manager, etc.) shall give written notice of the proposed action to all Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing, and if the notice relates to a proposed violation of the Documents, a statement of the alleged violation. At the hearing, the affected Person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Any evidence shall be duly considered, but is not binding in making the decision. The affected Person shall be notified of the decision in the same manner in which notice of the meeting was given. No fine for a violation of the Documents may be imposed until after a hearing before the Board or committee authorized by the Board, and the requirements of the Act are followed. The Board or committee authorized by the Board may impose an initial fine for the violation of the Documents in the amount of \$100, or such other minimum amount as allowed by the Act, and may impose additional fines in accordance with the Act. If a violation goes uncured, the Board or the committee may consider the violation a continuing violation and proceed with fines of \$100 for each seven-day period the violation remains uncured. After the initial Notice and Hearing, no further notice or hearings are required for the Board or the committee to assess additional fines for the continuing violation. In all actions by the Board or by a committee authorized by the Board to enforce the provisions of the Documents the minimum standards set forth in the Act, as amended, shall be followed.

Section 23.3 Appeals. Any person having a right to Notice and Hearing shall have the right to appeal to the Board of Directors from a decision of persons other than the Board of Directors by filing a written notice of appeal with the Board of Directors within 10 days after being notified of the decision. The Board of Directors shall conduct a hearing within 30 days, giving the same notice and observing the same procedures as were required for the original meeting.

ARTICLE XXIV BOARD OF DIRECTORS

Section 24.1 Association Records and Minutes of Board of Directors Meetings. The Board of Directors shall maintain and make available, subject to the provisions of the Bylaws and the Act, to any Owner, or holder, insurer or guarantor of a first mortgage secured by a Unit, current copies of this Declaration, the Articles, the Bylaws, the Rules, and all other books, records and other papers of the Association, including but not limited to the financial statements, budgets and reserve studies.

Section 24.2 Powers and Duties. The Board of Directors may act in all instances on behalf of the Association, except as provided in this Declaration, the Bylaws or the Act. The Board of Directors shall have, subject to the limitations contained in this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Project, which shall include, but not be limited to, the powers set forth in the Bylaws.

Section 24.3 Board of Directors Limitations. The Board of Directors may not act on behalf of the Association to amend this Declaration, to terminate the Project or to elect members of the Board of Directors or determine the qualifications, powers and duties or terms of office of Board of Directors members, but the Board of Directors may fill vacancies in its membership for the unexpired portion of any term, subject to the terms of the Bylaws and the provisions of the Act.

Section 24.4 Legal Proceedings. The Association, acting through the Board, shall have the power and the duty to reasonably defend the Association (and, in connection therewith, to raise counterclaims) in any pending or potential lawsuit, arbitration, mediation or governmental proceeding (collectively hereinafter referred to as a "Proceeding"). The Association, acting through the Board, shall, based on the standards imposed under the business judgment rules, have the power, but not the duty, to reasonably institute, prosecute, maintain and/or intervene in a Proceeding, in its own name, but only on matters affecting or pertaining to this Declaration or the Common Elements and as to which the Association is a proper party in interest, and any exercise of such power shall be subject to full compliance with the following provisions:

(a) Any Proceeding commenced by the Association: (i) to enforce the payment of an assessment or an assessment lien or other lien against an Owner as provided for in this Declaration, or (ii) to otherwise enforce compliance with the Governing Documents by, or to obtain other relief from, any Owner who has violated any provision thereof, or (iii) to protect against any matter which imminently and substantially threatens or effects the health, safety and of not less than 75% of the Owners based upon a physical inspection by a third party licensed Professional with expertise in the area, or (iv) against a supplier, vendor, contractor or provider of services, pursuant to a contract or purchase order with the Association and in the ordinary course of business, or (v) for money damages wherein the total amount in controversy for all matters arising in connection with the action is not likely to exceed Ten Thousand Dollars (\$10,000.00) in the aggregate; shall be referred to herein as an "Operational Proceeding." The Board from time to time may cause an Operational Proceeding to be reasonably commenced and prosecuted, without the need for further authorization.

(b) Any and all pending or potential Proceedings other than Operational Proceedings, including demands or notices, prior to the commencement of litigation, regarding potential or actual construction defects, shall be referred to herein as a "Non-Operational Controversy" or "Non-Operational Controversies." To protect the Association and the Owners from being subjected to potentially costly or prolonged Non-Operational Controversies without full disclosure, analysis and consent; to protect the Board and individual Directors from any charges of negligence, breach of fiduciary duty, conflict of interest or acting in excess of their authority or in a manner not in the best interests of the Association and the Owners; and to ensure voluntary and well-informed consent and clear and express authorization by the Owners, strict

compliance with all of the following provisions of this Section 24.4 shall be mandatory with regard to any and all Non-Operational Controversies commenced, instituted or maintained by the Board:

(i) The Board shall first endeavor to resolve any Non-Operational Controversy by good faith negotiations with the adverse party or parties. In the event that such good faith negotiations fail to reasonably resolve the Non-Operational Controversy, the Board shall then endeavor in good faith to resolve such Non-Operational Controversy by mediation, provided that the Board shall not incur liability for or spend more than Five Thousand Dollars (\$5,000.00) in connection therewith (provided that, if more than said sum is reasonably required in connection with such mediation, then the Board shall be required first to reasonably seek approval of a majority of the voting power of the Members for such additional amount for mediation before proceeding to either arbitration or litigation). In the event that the adverse party or parties refuse mediation, or if such good faith mediation still fails to reasonably resolve the Non-Operational Controversy, the Board shall not be authorized to commence, institute or maintain any arbitration or litigation of such Non-Operational Controversy until the Board has fully complied with the following procedures:

(1) The Board shall first investigate the legal merit, feasibility and expense of prosecuting the Non-Operational Controversy, by obtaining the written opinion of a licensed Nevada attorney regularly residing in Clark County, Nevada, with a Martindale-Hubbell rating of "av", expressly stating that such attorney has reviewed the underlying facts and data in sufficient, verifiable detail to render the opinion, and expressly opining that the Association has a substantial likelihood of prevailing on the merits with regard to the Non-Operational Controversy, without substantial likelihood of incurring any material liability with respect to any counterclaim which may be asserted against the Association. The Board shall be authorized to spend up to an aggregate of Five Thousand Dollars (\$5,000.00) to obtain such legal opinion, including all amounts paid to said attorney therefor, and all amounts paid to any consultants, contractors and/or experts preparing or processing reports and/or information in connection therewith. The Board may increase said \$5,000.00 limit, with the express consent of more than fifty percent (50%) or more of all of the Members of the Association, at a special meeting called for such purpose.

(2) Said attorney opinion letter shall also contain the attorney's best good faith estimate of the aggregate maximum "not-to-exceed" amount of legal fees and costs, including, without limitation, court costs, costs of investigation and all further reports or studies, costs of court reporters and transcripts, and costs of expert witnesses and forensic specialists (all collectively, "Quoted Litigation Costs") which are reasonably expected to be incurred for prosecution to completion (including appeal) of the Non-Operational Controversy. Said opinion letter shall also include a draft of any proposed fee agreement with such attorney. If the attorney's proposed fee arrangement is contingent, the Board shall nevertheless obtain the Quoted Litigation Costs with respect to all costs other than legal fees, and shall also obtain a written draft of the attorney's proposed contingent fee agreement. (Such written legal opinion, including the Quoted Litigation Costs, and also including any proposed fee agreement, contingent or non-contingent, are collectively referred to herein as the "Attorney Letter"). Said Attorney Letter shall also set forth the expected length of the Civil Proceeding and the expected impact on the Members of the Association.

(3) Upon receipt and review of the Attorney Letter, if two-thirds (2/3) or more of the Board affirmatively vote to proceed with the institution or prosecution of, and/or intervention in, the Non-Operational Controversy, the Board thereupon shall duly notice and call a special meeting of the Members. The written notice to each Member of the Association shall include a copy of the Attorney Letter, including the Quoted Litigation Costs and any proposed fee agreement, contingent or non-contingent, together with a written report ("Special Assessment Report") prepared by the Board: (A) itemizing the amount necessary to be assessed to each Member ("Special Litigation Assessment"), on a monthly basis, to fund the Quoted Litigation Costs, and (B) specifying the probable duration and aggregate amount of such Special Litigation Assessment. At said special meeting, following review of the Attorney Letter, Quoted Litigation Costs, and the Special Assessment Report, and full and frank discussion thereof, including balancing the desirability of instituting, prosecuting and/or intervening in the Non-Operational Controversy against the desirability of accepting any settlement proposals from the adversary party or parties, the Board shall call for a vote of the Members, whereupon: (x) if not more than sixty-seven percent (67%) of the total voting power of the Association votes in favor of pursuing such Non-Operational Controversy and levying the Special Litigation Assessment, then the Non-Operational Controversy shall not be pursued further, but (y) if more than fifty percent (50%) of the total voting power of the Association (i.e., more than sixty-seven percent (67%) of all of the Members of the Association) affirmatively vote in favor of pursuing such Non-Operational Controversy, and in favor of levying a Special Litigation Assessment on the Members in the amounts and for the duration set forth in the Special Assessment Report, then the Board shall be authorized to proceed to institute, prosecute, and/or intervene in the Non-Operational Controversy. In such event, the Board shall engage the attorney who gave the opinion and quote set forth in the Attorney Letter, which engagement shall be expressly subject to the Attorney Letter. The terms of such engagement shall require (i) that said attorney shall be responsible for all attorneys' fees and costs and expenses whatsoever in excess of one hundred twenty percent (120%) of the Quoted Litigation Costs, and (ii) that said attorney shall provide, and the Board shall distribute to the Members, not less frequently than quarterly, a written update of the progress and current status of, and the attorney's considered prognosis for, the Non-Operational Controversy, including any offers of settlement and/or settlement prospects, together with an itemized summary of attorneys fees and costs incurred to date in connection therewith.

(4) In the event of any bona fide settlement offer from the adverse party or parties in the Non-Operational Controversy, if the Association's attorney advises the Board that acceptance of the settlement offer would be reasonable under the circumstances, or would be in the best interests of the Association, or that said attorney no longer believes that the Association is assured of a substantial likelihood of prevailing on the merits without prospect of material liability on any counterclaim, then the Board shall have the authority to accept such settlement offer. In all other cases, the Board shall submit any settlement offer to the Owners, who shall have the right to accept any such settlement offer upon a majority vote of all of the Members of the Association.

In no event shall any Association Reserve Fund be used as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding (including, but not limited to, any Non-Operational Controversy). Association Reserve Funds, pursuant to Section 6.3, are to be used only for the specified replacements, painting and repairs of Common Elements, and for no other purpose whatsoever.

THE ASSOCIATION IS PROHIBITED FROM BRINGING ANY CLAIMS FOR DEFECTS IN RELATION TO APPURTENANCES WITHIN THE PROPERTY DUE TO DISCLOSURES MADE BY THE DECLARANT IN THE PUBLIC OFFERING STATEMENT AND/OR THE RELEVANT PURCHASE DOCUMENTS. SPECIFICALLY, THE FOLLOWING DISCLOSURES WERE MADE WITH RESPECT TO THE CONDITION OF THE PROPERTY: THE PROPERTY WAS NOT CONSTRUCTED BY THE DECLARANT AND MAY CONTAIN CONDITIONS WHICH MAY CONSTITUTE DEVIATIONS FROM THE PLANS AND/OR INTENDED MANNER OF CONSTRUCTION, SUCH CONDITIONS MAY RESULT FROM THE TYPE OF MATERIALS PROCESSED AND PROCEDURES USED TO CONSTRUCT A CONDOMINIUM UNIT AND MAY INCLUDE, BUT ARE NOT LIMITED TO SUCH CONDITIONS AS ARE SET FORTH IN THE REPORT. THE ASSOCIATION ACKNOWLEDGES THAT THE REPORT IS INCORPORATED HEREIN BY THIS REFERENCE AND SHALL BE PROVIDED BY THE ASSOCIATION TO ALL MEMBERS IN ADVANCE OF THEIR PURCHASE OF A RESIDENTIAL UNIT AND OTHERWISE UPON REQUEST BY ANY MEMBER.

AS SUCH, EVEN THOUGH SUCH CONDITIONS MAY EXIST, THEY DID NOT INTERFERE WITH THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY BY THE LOCAL GOVERNMENTAL ENTITY. THE MEMBERS OF THE ASSOCIATION FURTHER AGREE THAT AS LONG AS THERE IS NO PHYSICAL DAMAGE TO THE PROPERTY, AND THERE IS NO DETERMINATION THAT THERE IS AN IMMEDIATE THREAT TO THE HEALTH, SAFETY AND WELFARE OF THE OCCUPANTS OF THE PROPERTY BY A BUILDING INSPECTOR REPRESENTATIVE OF THE NEVADA CONTRACTOR'S BOARD, OR A LICENSED ENGINEER, ARCHITECT OR CONTRACTOR, THE ASSOCIATION WILL NOT CLAIM THAT THERE ARE ANY CONSTRUCTION DEFECTS AND HEREBY SPECIFICALLY WAIVES ANY CLAIMS IN THAT REGARD PURSUANT TO NRS 40.640(5) AND NRS 116.4115.

THE ASSOCIATION FURTHER SPECIFICALLY ACKNOWLEDGES THAT IT IS WAIVING ANY AND ALL CLAIMS AGAINST DECLARANT, DECLARANT'S PREDECESSORS, THE GENERAL CONTRACTOR (OXBOW CONSTRUCTION, LLC), ALL SUBCONTRACTORS, DESIGN PROFESSIONALS AND SUPPLIERS, BROUGHT UNDER NRS 40.600 ET SEQ.; WHICH MAY AFFECT THE RIGHTS TO RECOVER ATTORNEYS' FEES; CLAIMS FOR BREACH OF EXPRESS WARRANTY; CLAIMS FOR BREACH OF IMPLIED WARRANTY; AND NEGLIGENCE. THIS WAIVER SHALL BE BINDING ON ALL SUCCESSORS AND ASSIGNS. IN MAKING THIS WAIVER, THE ASSOCIATION SPECIFICALLY UNDERSTANDS THAT AT THE TIME THE PROJECT WAS BUILT, IT WAS INTENDED TO BE USED AS AN APARTMENT COMPLEX, NOT AS A RESIDENCE AS DEFINED BY NRS 40.630. THUS THE PROVISIONS OF NRS 40.600 ARE NOT APPLICABLE TO THIS PROJECT.

(c) Any provision in this Declaration notwithstanding: (i) other than as set forth in this Section 24.4, the Association shall have no power whatsoever to institute, prosecute, maintain, or intervene in any Proceeding, (ii) any institution, prosecution, or maintenance of, or intervention in, a Proceeding by the Board without first strictly complying with, and thereafter

continuing to comply with, each of the provisions of this Section 24.4, shall be unauthorized and ultra vires (i.e., an unauthorized and unlawful act, beyond the scope of authority of the corporation or of the person(s) undertaking such act) as to the Association, and shall subject any Director who voted or acted in any manner to violate or avoid the provisions and/or requirements of this Section 24.4 to personal liability to the Association for all costs and liabilities incurred by reason of the unauthorized institution, prosecution, or maintenance of, or intervention in, the Proceeding; and (iii) this Section 24.4 may not be amended or deleted at any time without the express prior written approval of both: (1) Members representing not less than seventy-five percent (75%) of the total voting power of Association, and (2) not less than seventy-five percent (75%) of the total voting power of the Board of Directors; and any purported amendment or deletion of this Section 24.4, or any portion hereof, without both of such express prior written approvals shall be void.

ARTICLE XXV OPEN MEETINGS

Section 25.1 Access. All meetings of the Board of Directors will be open to the Owners, except as hereinafter provided.

Section 25.2 Executive Sessions. Meetings of the Board of Directors may be held in executive session, without giving notice and without the requirement that they be open to Owners, only if the action taken at the executive session involves (i) consultation with the Association's attorney regarding proposed or pending litigation which consultation involves privileged attorney-client information; (ii) personal matters; (iii) alleged violations of the Documents committed by an Owner; or (iv) any other matter permitted by law to be discussed in an executive session.

ARTICLE XXVI CONDEMNATION

If part or all of the Project is taken by any person or entity having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with the Act (NRS 116.1107).

ARTICLE XXVII AS-IS SALE; DECLARANT MADE NO IMPROVEMENTS TO THE PROPERTY

Section 27.1 As-Is Sale. By accepting a deed conveying an interest in a portion of the Property, each Owner agrees that each Unit has been sold by Declarant without any warranties, expressed or implied, unless specifically agreed to by Declarant in a separate agreement or unless specifically implied by law. All express and implied warranties of quality under NRS 116.4113 and 116.4114 and specifically excluded from the sale of a Unit by Declarant and by accepting a deed conveying an interest in any portion of the Property Buyer expressly waives any such express or implied warranty of quality.

Section 27.2 Declarant Made No Improvements to the Property. Each Owner hereby acknowledges that Declarant is not the developer of the Property and made no Improvements to the Property. The Property was completely constructed and subdivided prior to Declarant's purchase of the Property. Each Owner acknowledges that the Property was initially