

Loan Number: 1000113450

PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 31st day of AUGUST, 2006, 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 ComUnity Lending, Incorporated, a California Corporation, DBA Advantage Funding Group (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

2102 LOGSDON DRIVE, NORTH LAS VEGAS, NEVADA 89032

[Property Address]

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in

COVENANTS, CONDITIONS AND RESTRICTIONS OF RECORD

(the "Declaration"). The Property is a part of a planned unit development known as

CAMBRIDGE HEIGHTS

[Name of Planned Unit Development]

(the "PUD"). The Property also includes Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

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

A. PUD Obligations. Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of the Owners Association. 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 insuring the Property 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, for which Lender requires insurance, then: (i) Lender waives the provision in 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.

Borrower Initials: ARM

MULTISTATE PUD RIDER--Single Family
Fannie Mae/Freddie Mac UNIFORM INSTRUMENT
Form 3150 1/01

Page 1 of 3

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www.docmagic.com

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, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds 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 or the common areas and facilities of the PUD, 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 PUD, 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 PUD 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.

Borrower Initials: ARM

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

Amanda R. Munar (Seal)
AMANDA R MUNAR -Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

CERTIFIED COPY, THIS
DOCUMENT IS A TRUE AND
CORRECT COPY OF THE
RECORDED DOCUMENT MINUS
ANY REDACTED PORTIONS

OCT. 12. 2015

Debbie Conway
RECORDER

EXHIBIT D

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# 99613134163954471
Tax ID: 139-20-612-037
Property Address:
2102 Logsdon Dr
North Las Vegas, NV 89032-4828
NV0-ADT 15387399 9/27/2011

Inst #: 201110120002706
Fees: \$15.00
N/C Fee: \$0.00
10/12/2011 02:33:14 PM
Receipt #: 944373
Requestor:
CORELOGIC
Recorded By: MSH Pgs: 2
DEBBIE CONWAY
CLARK COUNTY RECORDER



610 131341639 D8 001 003

This space for Recorder's use

MIN #: 1000285-1000113450-5

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 BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING LP FKA COUNTRYWIDE HOME LOANS SERVICING LP whose address is 9062 OLD ANNAPOLIS RD, COLUMBIA, MD 21045 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: **COMUNITY LENDING, INCORPORATED, A CALIFORNIA CORPORATION, DBA ADVANTAGE FUNDING GROUP**

Made By: **AMANDA R. MUNAR, A MARRIED WOMAN AS HER SOLE AND SEPERATE PROPERTY**

Trustee: **TICOR TITLE OF NEVADA, INC.**

Date of Deed of Trust: 8/31/2006 Original Loan Amount: \$196,000.00

Recorded in Clark County, NV on: 9/7/2006, book N/A, page N/A and instrument number 20060907-0004388

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

9-28-2011

**MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.**

By: *Martha Munoz*

Martha Munoz Vice President

State of California
County of Ventura

On SEP 28 2011 before me, Carol Marie Littleford, Notary Public, personally appeared
Martha Munoz

, 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:

My Commission Expires:

(Seal)



CERTIFIED COPY, THIS
DOCUMENT IS A TRUE AND
CORRECT COPY OF THE
RECORDED DOCUMENT MINUS
ANY REDACTED PORTIONS

OCT. 12. 2015

Debbie Conway
RECORDER

EXHIBIT E

Assessor's/Tax ID No. 139-20-612-037

Recording Requested By:
SELECT PORTFOLIO SERVICING, INC.

When Recorded Return To:
BILL KOCH
SELECT PORTFOLIO SERVICING, INC.
3815 SOUTH WEST TEMPLE
SALT LAKE CITY, UT 84115

Inst #: 201212270001359

Fees: \$18.00

N/C Fee: \$0.00

12/27/2012 10:13:28 AM

Receipt #: 1435538

Requestor:

LSI TITLE AGENCY INC.

Recorded By: SCA Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

120123180



CORPORATE ASSIGNMENT OF DEED OF TRUST

Clark, Nevada REFERENCE #: 400191999 "MUNAR"

INVESTOR #: U61

THE UNDERSIGNED DOES HEREBY AFFIRM THAT THIS DOCUMENT SUBMITTED FOR
RECORDING DOES NOT CONTAIN A SOCIAL SECURITY NUMBER.

Assignment Prepared on: December 7th, 2012.

Assignor: BANK OF AMERICA NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO BAC
HOME LOANS SERVICING LP, FKA COUNTRYWIDE HOME LOANS SERVICING, LP BY
SELECT PORTFOLIO SERVICING, INC., FKA FAIRBANKS CAPITAL CORP. ITS ATTORNEY IN
FACT at c/o SELECT PORTFOLIO SERVICING, INC., 3815 SOUTH WEST TEMPLE, SALT LAKE
CITY, UT 84115.

Assignee: WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE
HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12 at C/O SELECT PORTFOLIO SERVICING, INC. 3815 SOUTH
WEST TEMPLE, SALT LAKE CITY, UT 84115.

Executed By: AMANDA R. MUNAR, A MARRIED WOMAN AS HER SOLE AND SEPERATE
PROPERTY To: MORTAGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE
FOR COMUNITY LENDING, INCORPORATED, A CALIFORNIA CORPORATION, DBA
ADVANTAGE FUNDING GROUP

Date of Deed of Trust: 08/31/2006 Recorded: 09/07/2006 in Book: 20060907 as Instrument No.:
0004388 In Clark County , State of Nevada .

Assessor's/Tax ID No. 139-20-612-037

Property Address: 2102 LOGSDON DRIVE, NORTH LAS VEGAS, NV 89032

KNOW ALL MEN BY THESE PRESENTS that in consideration of the sum of TEN and NO/100ths
DOLLARS and other good and valuable consideration, paid to the above named Assignor, the receipt and
sufficiency of which is hereby acknowledged, the said Assignor hereby assigns unto the above-named
Assignee, the said Deed of Trust together with other evidence of indebtedness, said Deed of Trust having
an original principal sum of \$196,000.00 with interest, secured thereby, together with all moneys now

owing or that may hereafter become due or owing in respect thereof, and the full benefit of all the powers and of all the covenants and provisos therein contained, and the said Assignor hereby grants and conveys unto the said Assignee, the Assignor's beneficial interest under the Deed of Trust.

TO HAVE AND TO HOLD the said Deed of Trust, and also the said property unto the said Assignee forever, subject to the terms contained in said Deed of Trust. IN WITNESS WHEREOF, the assignor has executed these presents the day and year first above written:

BANK OF AMERICA NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO BAC HOME
LOANS SERVICING LP, FKA COUNTRYWIDE HOME LOANS SERVICING, LP BY SELECT
PORTFOLIO SERVICING, INC., FKA FAIRBANKS CAPITAL CORP. ITS ATTORNEY IN FACT
On 12-11-2012

By: [Signature]
BARBARA NEALE, DOCUMENT CONTROL
OFFICER

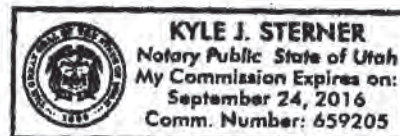


STATE OF UTAH
COUNTY OF SALT LAKE

On 12-11-2012, before me, KYLE J STERNER, a Notary Public in and for SALT LAKE in the State of UTAH, personally appeared BARBARA NEALE, DOCUMENT CONTROL OFFICER, BANK OF AMERICA NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING LP, FKA COUNTRYWIDE HOME LOANS SERVICING, LP BY SELECT PORTFOLIO SERVICING, INC., FKA FAIRBANKS CAPITAL CORP. ITS ATTORNEY IN FACT, 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, and that by his/her/their signature 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]
KYLE J STERNER
Notary Expires: 09/24/2016 #659205



(This area for notarial seal)

Mail Tax Statements To: AMANDA MUNAR, 2102 LOGSDON DRIVE, NORTH LAS VEGAS, NV
89032

CERTIFIED COPY, THIS
DOCUMENT IS A TRUE AND
CORRECT COPY OF THE
RECORDED DOCUMENT MINUS
ANY REDACTED PORTIONS

OCT. 12. 2015

Debbie Conway
RECORDER

EXHIBIT F

960830.01713

35
WHEN RECORDED, RETURN TO:

STEVEN L. LISKER, ESQ.
O'Connor, Cavanagh, et al.
One E. Camelback Road
Suite 1100
Phoenix, Arizona 85012-1656

2/3
(54)

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

CAMBRIDGE HEIGHTS, a planned community

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CAMBRIDGE HEIGHTS, a planned community**

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2025.07.13

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CAMBRIDGE HEIGHTS, a planned community**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CAMBRIDGE HEIGHTS, a planned community (this "Declaration") is made as of this 22nd day of July, 1996, by Canterbury Communities, Inc., a Michigan corporation (the "Declarant").

ARTICLE 1

DEFINITIONS

1.1 General Definitions. Capitalized terms not otherwise defined in this Declaration shall have the meanings specified for such terms in the Uniform Common-Interest Ownership Act, N.R.S. § 116.1101, et seq., as amended from time to time.

1.2 Defined Terms. The following capitalized terms shall have the general meanings described in the Act and for purposes of this Declaration shall have the specific meanings set forth below:

1.2.1 "Act" means the Uniform Common-Interest Ownership Act, N.R.S. § 116.1101, et seq., as amended from time to time.

1.2.2 "Additional Property" means the real property located in Clark County, Nevada, which is described on **Exhibit B** attached to this Declaration, together with all buildings and other Improvements located thereon, and any other real property contiguous to or in the vicinity of the Community, together with all buildings and other Improvements located thereon.

1.2.3 "Architectural Committee" means the committee of the Association to be created pursuant to **Section 6.11** of this Declaration.

1.2.4 "Architectural Committee Rules" means the rules and guidelines adopted by the Architectural Committee pursuant to **Section 6.11** of this Declaration, as amended or supplemented from time to time.

1.2.5 "Articles" means the Articles of Incorporation of the Association, as amended from time to time.

1.2.6 "Assessments" means the Common Expense Assessments and Special Assessments levied and assessed against each Unit pursuant to Article 7 of this Declaration.

1.2.7 "Assessment Lien" means the lien granted to the Association by the Act to secure the payment of Assessments, fines and other charges owed to the Association.

1.2.8 "Association" means Cambridge Heights Community Association, a Nevada nonprofit corporation, its successors and assigns.

1.2.9 "Board of Directors" means the Board of Directors of the Association.

1.2.10 "Bylaws" means the Bylaws of the Association, as amended from time to time.

1.2.11 "Common Elements" means any real estate within the Community owned or leased by the Association, other than the Units.

1.2.12 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves, including, without limitation, (i) the cost of maintenance, management, operation, repair and replacement of the Common Elements and all Improvements thereon, including clustered mailboxes, private streets and guard gates (ii) the cost of insurance premiums for fire, liability, workers' compensation, errors and omissions and directors, officers and agents liability, the costs of bonding the members of the Board of Directors, and the cost of compensation, wages, services, supplies and other expenses required for the administration and operation of the Association; (iii) the costs of rendering to the Units' Owners all services required to be rendered by the Association under the Community Documents; (iv) such other funds as may be necessary to provide general operating reserves and reserves for contingencies and replacements deemed appropriate by the Board of Directors; and (v) the cost of any other item or items incurred by the Association, for any reason whatsoever in connection with the Community for the common benefit of the Units' Owners.

1.2.13 "Common Expense Assessment" means the assessment levied against the Units pursuant to **Section 7.2** of this Declaration.

1.2.14 "Common Expense Liability" means the liability for Common Expenses allocated to each Unit by this Declaration.

1.2.15 "Community" means the real property located in Clark County, Nevada, which is described in **Exhibit A** attached to this Declaration, together with all Improvements located thereon, and any portion of the Additional Property which is annexed by the Declarant pursuant to **Section 2.8** of this Declaration, together with all Improvements located thereon.

1.2.16 "Community Documents" means this Declaration and the Articles, Bylaws, the Rules and the Architectural Committee Rules.

9/26/00, 01:13

1.2.17 "Declarant" means Canterbury Communities, Inc., a Michigan corporation, and its successors and any person or entity to whom it may transfer any Special Declarant's Right.

1.2.18 "Declaration" means this Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

1.2.19 "Developmental Rights" means any right or combination of rights reserved by the Declarant in this Declaration to do any of the following:

- (i) Add real estate to the Community;
- (ii) Create Units and Common Elements within the Community;
- (iii) Subdivide Units or convert Units into Common Elements; or
- (iv) Withdraw real estate from the Community.

1.2.20 "Dwelling" means any building, or portion of a building, situated upon a Unit and designed and intended for independent ownership and for use and occupancy as a residence.

1.2.21 "First Mortgage" means any mortgage or deed of trust on a Unit with first priority over any other mortgage or deed of trust on the same Unit.

1.2.22 "First Mortgagee" means the holder of any First Mortgage.

1.2.23 "Identifying Numbers" means the number assigned to a particular Unit which identifies only that one Unit in the Community.

1.2.24 "Improvement" means any physical structure, fixture or facility existing or constructed, placed, erected or installed on the land included in the Community, including, but not limited to, buildings, basketball hoops and poles, play equipment, private drives, paving, fences, walls, hedges, plants, trees and shrubs of every type and kind.

1.2.25 "Member" means any Person who is or becomes a member of the Association.

1.2.26 "Period of Declarant Control" means the time period commencing on the date this Declaration is Recorded with the County Recorder of Clark County, Nevada, and ending on the earlier of:

- (i) Sixty (60) days after the conveyance of seventy-five percent (75%) of the Units that may be created to Units' Owners other than the Declarant; or

9/23/00 07:15

(ii) Five (5) years after all Declarants have ceased to offer Units for sale in the ordinary course of business; or

(iii) Five (5) years after any right to add new Units was last exercised.

1.2.27 "Person" means a natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.2.28 "Plans" means the plans referred to in Subsection 5 of N.R.S. 116.2109, including drawings of improvements which are filed with agencies which issue permits but do not need to be Recorded.

1.2.29 "Plat" means the plat for Cambridge Heights Phase I, which plat has been Recorded in Book 74 of Maps, page 41, Instrument No. 01414, records of Clark County, Nevada, and any amendments, supplements or corrections thereto, and any plat which may be Recorded over any part of the Additional Property which is annexed by the Declarant pursuant to **Section 2.8** of this Declaration, and any amendments, supplements or corrections thereto.

1.2.30 "Purchaser" means any Person, other than the Declarant, who by means of a voluntary transfer becomes a Unit's Owner, except for a Person who purchases a Unit and then leases it to the Declarant for use as a model in connection with the sale of other Units, or a Person who, in addition to purchasing a Unit, is assigned any Special Declarant's Right.

1.2.31 "Recording" means placing an instrument of public record in the office of the County Recorder of Clark County, Nevada, and **"Recorded"** means having been so placed of public record.

1.2.32 "Resident" means each individual occupying or residing in any Unit.

1.2.33 "Rules" means the rules and regulations adopted by the Association, as amended from time to time.

1.2.34 "Special Assessment" means any assessment levied against the Units pursuant to **Section 7.4** of this Declaration.

1.2.35 "Special Declarant's Rights" means rights reserved for the benefit of the Declarant in this Declaration or by the Act to do any of the following:

(i) Construct Improvements provided for in this Declaration or shown on the Plat or the Plans;

- (ii) Exercise any Developmental Right;
- (iii) Maintain sales offices, management offices, models, and signs advertising the Community and models;
- (iv) Use easements through the Common Elements for the purpose of making Improvements within the Community or within the Additional Property;
- (v) Make the Community subject to a master association;
- (vi) Merge or consolidate the Community with another common-interest community of the same form of ownership; or
- (viii) Appoint or remove any officer of the Association or any member of the Board of Directors during the Period of Declarant Control.

1.2.36 "Unit" means a physical portion of the Community designated for separate ownership or occupancy (and referred to as a "Lot" on the Plat), the boundaries of which are described in **Section 2.5** of this Declaration.

1.2.37 "Unit's Owner" means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Unit. Unit's Owner shall not include Persons having an interest in a Unit merely as security for the performance of an obligation, or a lessee or tenant of a Unit. Unit's Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to executory contracts pending the closing of a sale or purchase transaction. In the case of a Unit, the fee simple title to which is vested in a trustee under a deed of trust, the Trustor shall be deemed to be the Unit's Owner. In the case of a Unit, the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the Unit shall be deemed to be the Unit's Owner.

1.2.38 "Visible From Neighboring Property" means, with respect to any given object, that such object is or would be visible to a person six (6) feet tall, standing at ground level on any part of such neighboring property; provided, however, that an object shall not be considered as being Visible From Neighboring Property if the object is visible to a person six (6) feet tall, standing at ground level on any part of neighboring property only by such person being able to see the object through a wrought iron fence and such object would not be visible to such person if the wrought iron fence were a solid fence.

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ARTICLE 2

SUBMISSION OF PROPERTY; UNIT BOUNDARIES; ALLOCATION OF PERCENTAGE INTERESTS, VOTES AND COMMON EXPENSE LIABILITIES

2.1 Submission of Property. Declarant hereby submits the real property described on **Exhibit A** attached to this Declaration, together with all Improvements situated thereon and all easements, rights and appurtenances thereto, to the provisions of the Act for the purpose of creating a planned community in accordance with the provisions of the Act and hereby declare that the real property described on **Exhibit A** attached to this Declaration, together with all Improvements situated thereon, and all easements, rights and appurtenances thereto, and any part of the Additional Property annexed pursuant to **Section 2.8** of this Declaration, together with all Improvements situated thereon and easement, rights and appurtenances thereto, shall be held and conveyed subject to the terms, covenants, conditions and restrictions set forth in this Declaration.

2.2 Name of Planned Community. The name of the planned community created by this Declaration is Cambridge Heights.

2.3 Name of Association. The name of the Association is Cambridge Heights Community Association.

2.4 Identifying Numbers of Units. The Identifying Numbers of the Units are Lots 1 and 43 through 63, inclusive, of Block 1; Lots 64 through 76, inclusive, of Block 2; Lots 77 through 90, inclusive, of Block 3; Lots 91 through 103, inclusive, of Block 4; and Lots 122 through 127, inclusive, of Block 5.

2.5 Unit Boundaries.

2.5.1 The boundaries of each Unit are as shown on the Plat.

2.5.2 Declarant reserves the right to relocate the boundaries between adjoining Units owned by the Declarant and to reallocate each such Unit's votes in the Association and Common Expense Liabilities subject to and in accordance with the Act.

2.6 Allocation of Common Expense Liabilities. The liability for the Common Expenses of the Association shall be allocated equally among the Units. Accordingly, each Unit's percentage interest in the Common Expenses of the Association shall be 1/68. If the Community is expanded by the annexation of all or any part of the Additional Property pursuant to **Section 2.8** of this Declaration, the votes in the Association and the liability for the Common Expenses of the Association shall be reallocated in the manner set forth in **Subsection 2.8.1(iv)** of this Declaration. The maximum possible percentage of Common Expense Liability allocatable to a Unit is equal to 1/68. The minimum possible percentage

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of Common Expense Liability allocatable to a Unit is equal to 1/267. Nothing contained in this **Section 2.6** shall prohibit certain Common Expenses from being apportioned to particular Unit(s) under **Articles 5, 7** and other provisions of this Declaration.

2.7 Allocation of Votes in the Association. The total votes in the Association shall be equal to the number of Units in the Community. The votes in the Association shall be allocated equally among all the Units, with each Unit having one (1) vote.

2.8 Expansion of the Planned Community.

2.8.1 Declarant hereby expressly reserves the right, but not the obligation, to expand the planned community created by this Declaration, without the consent of any other Unit's Owner, by annexing and submitting to this Declaration all or any portion of the Additional Property. The Declarant shall exercise its right to expand the planned community by preparing and Recording in the records of every county in which any portion of the Community is located an amendment to this Declaration containing the following:

(i) a legal description of the portion of the Additional Property being annexed;

(ii) the number of Units being added by the annexation and the Identifying Number assigned to each new Unit;

(iii) a description of the Common Elements created;

(iv) a reallocation to each Unit of a percentage liability in the Common Expenses of the Association and in the votes in the Association, all of which shall be allocated equally to each Unit; and

(v) a description of any Developmental Rights reserved by the Declarant within the Additional Property being annexed.

2.8.2 Unless otherwise provided in the amendment adding Additional Property, the effective date for reallocating to each Unit a percentage undivided interest in the Common Expenses of the Association and in the votes in the Association shall be the date on which the amendment annexing additional Units is Recorded in the records of every county in which any portion of the Community is located.

2.8.3 This option to expand the planned community shall expire seven (7) years from the date of the Recording of this Declaration.

2.8.4 The Additional Property may be added as a whole at one time or in one or more portions at different times, or it may never be added, and there are no limitations upon the order of addition or the boundaries thereof. The property submitted

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to the Community need not be contiguous, and the exercise of the option as to any portion of the Additional Property shall not bar the further exercise of the option as to any other portions of the Additional Property.

2.8.5 There are no limitations on the locations or dimensions of Improvements to be located on the Additional Property. No assurances are made as to what, if any, further Improvements will be made by Declarant on any portion of the Additional Property.

2.8.6 The Additional Property, when and if added to the Community, shall be subject to the use restrictions contained in this Declaration and shall be subject in all respect to the Community Documents.

2.8.7 Any Improvements placed, constructed, replaced, or reconstructed on the Additional Property will be consistent with the existing Units in the Community as to quality of construction.

2.8.8 Declarant reserves the right to create and develop, directly or through merchant builders to which the various Units may be conveyed, up to an aggregate maximum of Two Hundred Sixty-Seven (267) improved Units in the Community to wit: Sixty-Eight (68) Units on the real property described in **Exhibit A** and One Hundred Ninety-Nine (199) Units on the Additional Property, in the event Declarant exercises its right of annexation pursuant to the terms of this Declaration. Declarant makes no representations, assurances or warranties whatsoever that: (i) all of such Units and Improvements will be created or developed, nor that the Community will be completed in accordance with the plans for the Community as they exist on the date this Declaration is Recorded; (ii) any property subject to this Declaration will be committed to or developed for a particular use or for any use; (iii) the sequence, timing or location of further development; (iv) the use of any property subject to this Declaration will not be changed in the future. Unless otherwise expressly provided elsewhere herein, any "Developmental Rights" or "Special Declarant's Rights" (as those terms are defined in the Act) reserved to Declarant in this Declaration may be exercised with respect to different portions of the Community or Additional Property at different times, and the exercise of such rights in a portion of the Community or Additional Property shall not necessitate the exercise of any such right in all or any portion of the remaining Community or Additional Property.

ARTICLE 3

EASEMENTS

3.1 Utility Easement. There is hereby created an easement upon, across, over and under the Common Elements for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to, gas, water, sewer, telephone, cable

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television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Common Elements, but no sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Elements except as initially designed, approved and constructed by the Declarant or as approved by the Board of Directors. This easement shall in no way affect any other Recorded easements on the Common Elements.

3.2 Easements for Ingress and Egress. There is hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks, and lanes that from time to time may exist upon the Common Elements. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes. Such easements shall run in favor of and be for the benefit of the Units' Owners and occupants of the Units and their guests, families, tenants and invitees.

3.3 Units' Owners' Easements of Enjoyment.

3.3.1 Every Unit's Owner shall have a right and easement of enjoyment in and to the Common Elements, which right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

(i) The right of the Association to adopt reasonable rules and regulations governing the use of the Common Elements;

(ii) The right of the Association to convey the Common Elements or subject the Common Elements to a mortgage, deed of trust, or other security interest, in the manner and subject to the limitations set forth in the Act;

(iii) All rights and easements set forth in this Declaration including, but not limited to, the rights and easements granted to the Declarant by Sections 3.4 and 3.5 of this Declaration; and

(iv) The right of the Association to suspend the right of a Unit's Owner and any Resident of the Unit to use the Common Elements for any period during which the Unit's Owner or any Resident of the Unit is in violation of any provision of the Community Documents; provided, however, that any such suspension shall not affect the easement granted pursuant to Section 3.2 of this Declaration.

3.3.2 If a Unit is leased or rented, the lessee and the Residents residing with the lessee shall have the right to use the Common Elements during the term of the lease, and the Unit's Owner shall have no right to use the Common Elements until the termination or expiration of the lease.

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3.3.3 The guests and invitees of any Unit's Owner or other person entitled to use the Common Elements pursuant to **Subsection 3.3.1** of this Declaration or of any lessee who is entitled to use the Common Elements pursuant to **Subsection 3.3.2** of this Declaration may use the Common Elements provided they are accompanied by a Unit's Owner, lessee or other person entitled to use the Common Elements pursuant to **Subsection 3.3.1 or 3.3.2** of this Declaration. The Board of Directors shall have the right to limit the number of guests and invitees who may use the Common Elements at any one time and may restrict the use of the Common Elements by guests and invitees to certain specified times.

3.3.4 A Unit's Owner's right and easement of enjoyment in and to the Common Elements shall not be conveyed, transferred, alienated or encumbered separate and apart from a Unit. Such right and easement of enjoyment in and to the Common Elements shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Unit, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement.

3.4 Declarant's Use for Sales And Leasing Purposes.

3.4.1 Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Community and to maintain one or more advertising signs on the Common Elements. Declarant reserves the right to place models, management offices and sales and leasing offices in any Units owned by Declarant and on any portion of the Common Elements in such number, of such size and in such locations as Declarant deems appropriate.

3.4.2 Declarant may from time to time relocate models, management offices and sales and leasing offices to different locations within the Community. Upon the relocation of a model, management office or sales and leasing office from a portion of the Community constituting a Common Element, Declarant may remove all personal property and fixtures therefrom.

3.4.3 The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Community that has not been represented to the Association as property of the Association. The Declarant reserves the right to remove from the Community any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

3.5 Declarant's Rights and Easements.

3.5.1 Declarant shall have the right and an easement on and over the Common Elements to construct the Common Elements and the Units shown on the Plat, the Plans and all other Improvements the Declarant may deem necessary and to use the Common Elements and any Units owned by Declarant for construction or renovation related

purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work in the Community.

3.5.2 Declarant shall have the right and an easement on, over and under those portions of the Common Elements not located within the buildings for the purpose of maintaining and correcting drainage of surface, roof or storm water. The easement created by this Subsection expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil or to take any other action reasonably necessary.

3.5.3 The Declarant shall have an easement through the Units for any access necessary to complete any renovations, warranty work or modifications to be performed by Declarant.

3.5.4 The Declarant shall have the right and an easement on, over, and through the Common Elements as may be reasonably necessary for the purpose of discharging its obligations and exercising Special Declarant's Rights whether arising under the Act or reserved in this Declaration.

3.6 Common Elements Easement in Favor of the Association. The Common Elements shall be subject to an easement in favor of the Association and the agents, employees and independent contractors of the Association for the purpose of the inspection, upkeep, maintenance, repair and replacement of the Common Elements and for the purpose of exercising all rights of the Association and discharging all obligations of the Association.

3.7 Units Easement in Favor of Association. The Units are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

3.7.1 For inspection of the Units in order to verify the performance by Unit Owners of all items of maintenance and repair for which they are responsible;

3.7.2 For inspection, maintenance, repair and replacement of the Common Elements situated in or accessible from such Units;

3.7.3 For correction of emergency conditions in one or more Units or casualties to the Common Elements or the Units;

3.7.4 For the purpose of enabling the Association, the Board of Directors or any other committees appointed by the Board of Directors to exercise and discharge their respective rights, powers and duties under the Community Documents; and

3.7.5 For inspection, at reasonable times and upon reasonable notice to the Units' Owners, of the Units in order to verify that the provisions of the Community

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Documents are being complied with by the Units' Owners, their guests, tenants, invitees and the other occupants of the Units.

3.8 Easement Data. The Recording data, required to be contained herein pursuant to NRS 116.2105(1)(m), for any easements or licenses appurtenant to or included in this common-interest community or to which any portion of this common-interest community is or may become subject by means of a reservation of this Declaration is as follows: The Recording data for all easements and licenses reserved pursuant to the terms of this Declaration is the same as the Recording data for this Declaration. The Recording data for any easements and licenses created by the Plat is the same as the Recording data for the Plat.

3.9 Easement for Unintended Encroachments. To the extent that any Unit or Common Element encroaches on any other Unit or Common Element as a result of the original construction shifting or settling, or alteration or restoration authorized by this Declaration or any other reason other than the intentional encroachment on the Common Elements or any Unit by a Unit's Owner, a valid easement for the encroachment, and for the maintenance thereof, exists.

ARTICLE 4

PERMITTED USES AND RESTRICTIONS

4.1 Architectural Control.

4.1.1 All Improvements constructed on Units shall be of new construction, and no buildings or other structures shall be removed from other locations on to any Unit.

4.1.2 No excavation or grading work shall be performed on any Unit without the prior written approval of the Architectural Committee.

4.1.3 No Improvement shall be constructed or installed on any Unit without the prior written approval of the Architectural Committee.

4.1.4 No addition, alteration, repair, change or other work which in any way alters the exterior appearance, including but without limitation, the exterior color scheme of any Unit, or the Improvements located thereon, from their appearance on the date this Declaration is Recorded shall be made or done without the prior written approval of the Architectural Committee.

4.1.5 Any Unit's Owner desiring approval of the Architectural Committee for excavation or grading, or for the construction, installation, addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of such Unit, or the Improvements located thereon, shall submit to the Architectural Committee a written request for approval specifying in detail the nature and extent of the addition, alteration, repair, change or other work which the Unit's Owner desires to perform. Any Unit's Owner requesting the approval of the Architectural Committee shall also submit to the Architectural Committee any additional information, plans and specifications which the Architectural Committee may request. In the event that the Architectural Committee fails to approve or disapprove an application for approval within thirty (30) days after the application, together with all supporting information, plans and specifications requested by the Architectural Committee have been submitted to it, approval will not be required and this Section will be deemed to have been complied with by the Unit's Owner who had requested approval of such plans.

4.1.6 The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval.

4.1.7 Upon receipt of approval from the Architectural Committee for any construction, installation, addition, alteration, repair, change or other work, the Unit's Owner

who had requested such approval shall proceed to perform, construct or make the addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Committee.

4.1.8 Any change, deletion or addition to the plans and specifications approved by the Architectural Committee must be approved in writing by the Architectural Committee.

4.1.9 The Architectural Committee shall have the right to charge a fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change or other work pursuant to this Section, which fee shall be payable at the time the application for approval is submitted to the Architectural Committee.

4.1.10 The provisions of this Section do not apply to, and approval of the Architectural Committee shall not be required for, the construction, erection, installation, addition, alteration, repair, change or replacement of any improvements made by, or on behalf of, the Declarant.

4.1.11 The approval required of the Architectural Committee pursuant to this Section shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

4.1.12 The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section shall not be deemed a warranty or representation by the Architectural Committee as to the quality of such construction, installation, addition, alteration, repair, change or other work or that such construction, installation, addition, alteration, repair, change or other work conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

4.2 Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings, trailers or other structures used during the construction of Improvements approved by the Architectural Committee shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailer or other structures be maintained or kept on any property for a period in excess of twelve (12) months without the prior written approval of the Architectural Committee.

4.3 Nuisances: Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Unit, and no odors or loud

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noises shall be permitted to arise or emit therefrom, so as to render any such Unit or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Unit so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Normal construction activities and parking in connection with the building of Improvements on a Unit or other property shall not be considered a nuisance or otherwise prohibited by this Declaration, but Units shall be kept in a neat and attractive condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved in writing by the Architectural Committee. In addition, any construction equipment and building materials stored or kept on any Unit or other property during the construction of Improvements may be kept only in areas approved in writing by the Architectural Committee, which may also require screening of the storage areas. The Architectural Committee in its sole discretion shall have the right to determine the existence of any such nuisance. The provisions of this Section shall not apply to construction activities of the Declarant.

4.4 Diseases and Insects. No person shall permit any thing or condition to exist upon any Unit or other property which shall induce, breed or harbor infectious plant diseases or noxious insects.

4.5 Repair of Building. No Dwelling, building or structure on any Unit shall be permitted to fall into disrepair and each such Dwelling, building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any Dwelling, building or structure is damaged or destroyed, then, subject to the approvals required by Section 4.1 of this Declaration, such Dwelling, building or structure shall be immediately repaired or rebuilt or shall be demolished.

4.6 Antennas. The Architectural Committee may regulate, to the extent permitted under federal, state and local law, any antenna, aerial, satellite television dish or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation proposed to be erected, used or maintained outdoors on any portion of the Community whether attached to a Dwelling or structure or otherwise. To the extent permitted by applicable law, the prior approval of the Architectural Committee may be required for the installation, use or maintenance of any such device, which approval the Architectural Committee may condition upon the satisfaction of certain conditions including, but not limited to, the size, placement, height, means of installation and screening of such devices.

4.7 Mineral Exploration. No Unit shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

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4.8 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Unit, except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from Units and other property and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Unit. The Board of Directors shall have the right to contract with one or more third parties (including a municipality) for the collection of garbage, trash or recyclable materials for the benefit of the Units' Owners and Residents, with any costs to be Common Expenses or billed separately to the Units' Owners. The Board of Directors shall have the right to adopt and promulgate rules and regulations regarding garbage, trash, trash containers and collection.

4.9 Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Unit so as to be Visible From Neighboring Property.

4.10 Utility Service. No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Unit unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Architectural Committee.

4.11 Overhead Encroachments. No tree, shrub, or planting of any kind on any Unit shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way or other area from ground level to a height of eight (8) feet without the prior approval of the Architectural Committee.

4.12 Residential Use. All Dwellings shall be used, improved and devoted exclusively to residential use. No trade or business may be conducted on any Unit or in or from any Dwelling, except that an Owner or other Resident of a Dwelling may conduct a business activity within a Dwelling so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Community; (iii) the business activity does not involve persons coming on to the Unit or the door-to-door solicitation of Owners or other Residents in the Community and; (iv) the business activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other Residents in the Community, as may be determined from time to time in the sole discretion of the Board of Directors. The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without

limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the Residents of a Unit and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended or does generate a profit; or (iii) a license is required for such activity. The leasing of a Dwelling by the Unit's Owner thereof shall not be considered a trade or business within the meaning of this Section.

4.13 Animals. No animal, bird, fowl, poultry, reptile or livestock may be kept on any Unit, except that two (2) dogs, cats, parakeets (or similar household birds) or common domestic pets ("Permitted Pets") may be kept on a Unit if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. All Permitted Pets shall be confined to an Owner's Unit except that a dog or cat may be permitted to leave an Owner's Unit if such dog or cat is at all times kept on a leash not to exceed six (6) feet in length and is not permitted to enter upon any other Unit. No Permitted Pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any Permitted Pet shall be maintained so as to be Visible From Neighboring Property. Upon the written request of any Owner or Resident, the Architectural Committee shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular Permitted Pet is a nuisance or making an unreasonable amount of noise. Any decision rendered by the Architectural Committee shall be enforceable in the same manner as other restrictions set forth in this Declaration. Any Unit's Owner, Resident or other person who brings or permits an animal to be on the Common Elements or any Unit shall be responsible for immediately removing any solid waste deposited by said animal.

4.14 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Unit, except: (i) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures, or other Improvements; (ii) that which Declarant or the Association may require for the operation and maintenance of the Community.

4.15 Signs. No signs whatsoever (including, but not limited to, commercial, political, "for sale", "for rent" and similar signs) which are Visible From Neighboring Property shall be erected or maintained on any Unit except:

- (i) Signs required by legal proceedings;
- (ii) Residence identification signs provided the size, color, content and location of such signs have been approved in writing by the Architectural Committee; and
- (iii) One (1) "For Sale" sign placed by a professional residential real estate brokerage company or placed by the Unit's Owner of the Unit, provided that the

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Architectural Committee shall reserve the right to request reasonable modifications to such signs if deemed appropriate.

4.16 Restriction on Further Subdivision, Property Restrictions and Rezoning. No Unit shall be further subdivided or separated into smaller units or parcels by any Unit's Owner other than the Declarant, and no portion less than all of any such Unit shall be conveyed or transferred by any Unit's Owner other than the Declarant, without the prior written approval of the Architectural Committee. No further covenants, conditions, restrictions or easements shall be Recorded by any Unit's Owner or other Person other than the Declarant against any Unit without the provisions thereof having been first approved in writing by the Architectural Committee. No application for rezoning, variances or use permits pertaining to any Unit shall be filed with any governmental authority by any Person other than the Declarant unless the application has been approved by the Architectural Committee and the proposed use otherwise complies with this Declaration.

4.17 Trucks, Trailers, Campers and Boats. No truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Unit or Common Element or on any street so as to be Visible From Neighboring Property without the prior written approval of the Architectural Committee, except for: (i) the temporary parking of any such vehicle or equipment on a Unit or on a street for a period of not more than forty-eight (48) hours within any seven (7) day period; (ii) temporary construction trailers or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved by the Architectural Committee; (iii) boats and vehicles parked in garages of Dwellings so long as such vehicles are in good operating condition and appearance and are not under repair; (iv) motor vehicles not exceeding seven (7) feet in height and twenty (20) feet in length parked on concrete driveways of Units; or (v) a mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or other similar equipment or vehicle not exceeding twelve (12) feet in height parked on the side yard of a Unit in the area enclosed by the side yard wall and the wall that separates the front yard from the side and back yards.

4.18 Motor Vehicles.

4.18.1 Except for emergency vehicle repairs, no automobile or other motor vehicle shall be constructed, reconstructed or repaired upon a Unit or other property in the Community, and no inoperable vehicle may be stored or parked on any such Unit so as to be Visible From Neighboring Property or to be visible from any Common Element or any street.

4.18.2 No motorcycle, motorbike, all-terrain vehicle, off-road vehicle or any similar vehicle shall be parked, maintained or operated on any portion of the Community except in garages on Units.

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4.18.3 No automobile or other motor vehicle shall be parked on any road or street in the Community, except for automobiles or motor vehicles of guests of Owners which may be parked on a road or street in the Community for a period of not more than forty-eight (48) hours.

4.19 Towing of Vehicles. The Board of Directors shall have the right to have any truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle, motorbike, or other motor vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Community Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by a Unit's Owner, any amounts payable to the Association shall be secured by the Assessment Lien, and the Association may enforce collection of such amounts in the same manner provided for in the Declaration for the collection of Assessments.

4.20 Variances; Diminution of Restrictions. The Architectural Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this **Article 4** if the Architectural Committee determines in its discretion that: (i) a restriction would create an unreasonable hardship or burden on a Unit's Owner or Resident or a change of circumstances since the Recordation of this Declaration has rendered such restriction obsolete; and (ii) that the activity permitted under the variance will not have any substantial adverse effect on the Unit's Owners and Residents and is consistent with the high quality of life intended for Residents of the Community. If any restriction set forth in this **Article 4** is adjudged or deemed to be invalid or unenforceable as written by reason of any federal, state or local law, ordinance, rule or regulation, then a court or the Board of Directors, as applicable, may interpret, construe, rewrite or revise such restriction to the fullest extent allowed by law, so as to make such restriction valid and enforceable. Such modification shall not serve to extinguish any restriction not adjudged or deemed to be unenforceable.

4.21 Change of Use. Upon (i) adoption of a resolution by the Board of Directors stating that in the Board of Directors' opinion the then present use of a designated part of the Common Elements is no longer in the best interests of the Units' Owners and (ii) the approval of such resolution by Members casting more than fifty percent (50%) of the votes entitled to be cast by Members who are present in person or by proxy at a meeting duly called for such purpose and who are entitled to use such part of the Common Elements under the terms of this Declaration, the Board of Directors shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and Improvements thereon in any manner deemed necessary by the Board of Directors to accommodate the new use), provided such new use shall be for

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the benefit of the Units' Owners and shall be consistent with any zoning regulations restricting or limiting the use of that part of the Common Elements.

4.22 Drainage. No Dwelling, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Community, or any part thereof, or for any Unit as shown on the drainage plans on file with the county or municipality in which the Community is located.

4.23 Garages and Driveways. Garages shall be used only for the parking of vehicles and shall not be used or converted for living or recreational activities without the prior written approval of the Architectural Committee.

ARTICLE 5

MAINTENANCE AND REPAIR OF COMMON ELEMENTS AND UNITS

5.1 Duties of the Association. The Association shall maintain, repair and replace all Common Elements. The cost of all such maintenance, repairs and replacements shall be a Common Expense and shall be paid for by the Association. The Board of Directors shall be the sole judge as to the appropriate maintenance of the Common Elements, and all Units' Owners shall cooperate with the Board of Directors in any way required by the Board of Directors in order for the Board of Directors to fulfill its obligations under this Section.

5.2 Duties of Unit's Owners.

5.2.1 Each Unit's Owner shall maintain, repair and replace, at such Unit's Owner's expense, all portions of such Unit's Owner's Unit and all Improvements situated thereon in good condition and repair. All grass, hedges, shrubs, vines, and plants shall be irrigated, mowed, trimmed, and cut at regular intervals so as to be maintained in a neat and attractive manner. Trees, shrubs, vines, plants, and grass which die shall be promptly replaced with living foliage of like kind, unless different foliage is approved by the Architectural Committee. No yard equipment, wood piles or storage areas may be maintained so as to be Visible From Neighboring Property. All Units upon which no Dwelling has been constructed shall be maintained in a weed free and attractive manner.

5.2.2 Each Unit's Owner shall be liable to the Association for any damage to the Common Elements or the Improvements, landscaping or equipment thereon which results from the negligence or willful conduct of the Unit's Owner. The cost to the Association of any such repair, maintenance or replacements required by such act of a Unit's Owner shall be paid by the Unit's Owner, upon demand, to the Association. The

Association may enforce collection of any such amounts in the same manner and to the same extent as provided for in this Declaration for the collection of Assessments.

5.3 Unit's Owner's Failure to Maintain. If a Unit's Owner fails to maintain the Unit's Owner's Unit in good condition and repair as required by this Declaration and the required maintenance, repair or replacement is not performed within fifteen (15) days after written notice has been given to the Unit's Owner by the Association, the Association shall have the right, but not the obligation, to perform the required maintenance, repair or replacement. The cost of any such maintenance, repair or replacement shall be assessed against the nonperforming Unit's Owner pursuant to **Subsection 7.2.4** of this Declaration.

5.4 Common Walls. The rights and duties of Unit's Owners of Units with respect to common walls shall be as follows:

5.4.1 The Unit's Owners of contiguous Units who have a common wall shall both equally have the right to use such wall provided that such use by one Unit's Owner does not interfere with the use and enjoyment of same by the other Unit's Owner;

5.4.2 In the event that any common wall is damaged or destroyed through the act of a Unit's Owner, it shall be the obligation of such Unit's Owner to rebuild and repair the common wall without cost to the other Unit's Owner or Units' Owners;

5.4.3 In the event any such common wall is damaged or destroyed by some cause other than the act of one of the adjoining Units' Owners, his agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then, in such event, both such adjoining Units' Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense;

5.4.4 The right of any Unit's Owner to contribution from any other Unit's Owner under this Section shall be appurtenant to the land and shall pass to such Unit's Owner's successors in title;

5.4.5 In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Unit's Owner proposing to modify, make additions to or rebuild a common wall shall first obtain the written consent of the adjoining Units' Owners; and

5.4.6 In the event any common wall encroaches upon a Unit or the Common Elements, a valid easement for such encroachment and for the maintenance of the common wall shall and does exist in favor of the Units' Owners of the Units which share such common wall,

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5.5 Maintenance of Walls other than Common Walls.

5.5.1 Walls (other than common walls) located on a Unit shall be maintained, repaired and replaced by the Unit's Owner.

5.5.2 Any wall which is placed on the boundary line between a Unit and the Common Elements shall be maintained, repaired and replaced by the Unit's Owner, except that the Association shall be responsible for the repair and maintenance of the side of the wall which faces the Common Elements.

5.5.3 Any wall which is placed on the boundary line between a Unit and public right-of-way, the outside of which is decorative (i.e., patterned block or stuccoed and/or painted) as installed by Declarant to promote the identity of the Community, shall be maintained, repaired and replaced by the Association except that the Unit's Owner of the Unit shall be responsible for the repair and replacement of the surface of the wall which faces the Unit.

ARTICLE 6

THE ASSOCIATION

6.1 **Rights, Powers and Duties of the Association.** No later than the date on which the first Unit is conveyed to a Purchaser, the Association shall be organized as a Nevada nonprofit corporation. The Association shall be the entity through which the Units' Owners shall act. The Association shall have such rights, powers and duties as are prescribed by law and as are set forth in the Community Documents, together with such rights, powers and duties as may be reasonably necessary in order to effectuate the objectives and purposes of the Association as set forth in this Declaration and the Act. The Association shall have the right to finance capital improvements in the Community by encumbering future Assessments if such action is approved by the written consent or affirmative vote of Units' Owners representing more than fifty percent (50%) of the votes in the Association.

6.2 Directors and Officers.

6.2.1 During the Period of Declarant Control, the Declarant shall have the right to appoint and remove the members of the Board of Directors and the officers of the Association, whom do not have to be Units' Owners.

6.2.2 Upon the termination of the Period of Declarant Control, the Units' Owners shall elect the Board of Directors which must consist of at least three (3) members, at least a majority of whom must be Units' Owners. The Board of Directors elected by the Units' Owners shall then elect the officers of the Association.

6.2.3 The Declarant may voluntarily surrender his right to appoint and remove the members of the Board of Directors and the officers of the Association before termination of the Period of Declarant Control, and in that event the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Board of Directors, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

6.2.4 No later than sixty (60) days after the conveyance of twenty-five percent (25%) of the Units that may be created to Units' Owners other than the Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Directors must be elected by Units' Owners other than the Declarant. Not later than sixty (60) days after the conveyance of fifty percent (50%) of the Units that may be created to Units' Owners other than the Declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the Board of Directors must be elected by Units' Owners other than the Declarant.

6.2.5 The affairs of the Association shall be conducted by the Board of Directors and such officers as the Board of Directors may elect or appoint in accordance with the Articles and the Bylaws. Unless the Community Documents specifically require the vote or written consent of the Members, approvals or actions to be given or taken by the Association shall be valid if given and taken by the Board of Directors. The Board of Directors shall have the power to levy reasonable fines against a Unit's Owner for a violation of the Community Documents by the Unit's Owner, a lessee of the Unit's Owner or by any Resident of the Unit's Owner's Unit.

6.3 **Rules.** The Board of Directors, from time to time and subject to the provisions of this Declaration and the Act, may adopt, amend, and repeal rules and regulations (collectively, the "Rules"). The Rules may, among other things, restrict and govern the use of any area by any Unit's Owner, by the family of such Unit's Owner, or by any invitee, licensee or lessee of such Unit's Owner.

6.4 **Composition of Members.** Each Unit's Owner shall be a Member of the Association. The membership of the Association at all times shall consist exclusively of all the Units' Owners. A Unit's Owner (including Declarant) of a Unit shall automatically, upon becoming the Unit's Owner thereof, be a Member of the Association and shall remain a Member of the Association until such time as such Unit's Owner's ownership ceases for any reason, at which time, such Unit's Owner's membership in the Association shall automatically cease.

6.5 **Personal Liability.** Neither Declarant nor any member of the Board of Directors or of any committee of the Association, any officer of the Association nor any manager or other employee of the Association shall be personally liable to any Member, or to any other person or entity, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Declarant,

the Association, the Board of Directors, the manager, any representative or employee of the Association, or any committee, committee member or officer of the Association; provided, however, the limitations set forth in this Section shall not apply to any person who has failed to act in good faith or has engaged in wilful or intentional misconduct.

6.6 Implied Rights. The Association may exercise any right or privilege given to the Association expressly by the Community Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Community Documents or reasonably necessary to effectuate any such right or privilege.

6.7 Voting Rights. Subject to Section 6.8 below, each Unit's Owner of a Unit, including Declarant, shall be entitled to cast one (1) vote for each Unit owned by such Unit's Owner, on any Association matter which is put to a vote of the membership in accordance with this Declaration, the Articles and/or Bylaws.

6.8 Voting Procedures. No change in the ownership of a Unit shall be effective for voting purposes unless and until the Board of Directors is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Unit must be cast as a unit, and fractional votes shall not be allowed. In the event that a Unit is owned by more than one (1) Person and such Unit's Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Unit, it will thereafter be conclusively presumed for all purposes that such Unit's Owner was acting with the authority and consent of all other Unit's Owners of the same Unit unless objection thereto is made at the time the vote is cast. In the event more than one (1) vote is cast by a Member for a particular Unit, none of the votes shall be counted and all of the votes shall be deemed void.

6.9 Transfer of Membership. The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Unit and then only to the transferee of ownership to the Unit. A transfer of ownership to a Unit may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Nevada. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Unit shall operate to transfer the membership appurtenant to said Unit to the new Unit's Owner thereof. Each Purchaser of a Unit shall notify the Association of its purchase within ten (10) days after becoming the Unit's Owner of a Unit.

6.10 Suspension of Voting Rights. If any Unit's Owner fails to pay any Assessments or other amounts due to the Association under the Community Documents within fifteen (15) days after such payment is due, the Board of Directors shall have the right to suspend such Unit's Owner's right to vote until such time as all payments, including interest and

attorneys' fees, are brought current. Such voting rights may also be suspended by the Board of Directors for a period not to exceed sixty (60) days for infraction of rules and regulations adopted by the Board of Directors in accordance with the Declaration if such infraction has not been cured within fifteen (15) days after notice.

6.11 Architectural Committee. The Association may, in the discretion of the Board of Directors from time to time, have an Architectural Committee to perform the functions of the Architectural Committee set forth in this Declaration. In the event no Architectural Committee is formed, the Board of Directors shall perform all functions of the Architectural Committee except as provided herein to the contrary or as waived in writing by the Board of Directors. The Architectural Committee shall be a Committee of the Board of Directors. The Architectural Committee shall consist of such number of regular members and alternate members as may be provided for in the Bylaws. So long as the Declarant owns any Unit, the Declarant shall have the sole right to appoint and remove the members of the Architectural Committee. At such time as the Declarant no longer owns any Unit, the members of the Architectural Committee shall be appointed by the Board of Directors. The Declarant may at any time voluntarily surrender its right to appoint and remove the members of the Architectural Committee, and in that event the Declarant may require, for so long as the Declarant owns any Unit, that specified actions of the Architectural Committee, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective. The Architectural Committee shall promulgate architectural guidelines and standards to be used in rendering its decisions. The decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. The Architectural Committee may establish a reasonable processing fee to defer the costs of the Association in considering any requests for approvals submitted to the Architectural Committee, which fee shall be paid at the time the request for approval is submitted.

6.12 Conveyance or Encumbrance of Common Element. The Common Elements shall not be mortgaged, transferred, dedicated or encumbered without the prior written consent or affirmative vote of Units' Owners representing at least two-thirds (2/3) of the votes allocated to Units' Owners other than the Declarant.

ARTICLE 7

ASSESSMENTS

7.1 Preparation of Budget.

7.1.1 At least sixty (60) days before the beginning of each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the Board of Directors shall adopt a budget for the Association containing an

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estimate of the total amount of funds which the Board of Directors believes will be required during the ensuing fiscal year to pay all Common Expenses. The budget shall separately reflect any Common Expenses to be assessed against less than all of the Units pursuant to **Subsection 7.2.4 or 7.2.5** of this Declaration.

7.1.2 Within thirty (30) days after the adoption of a budget, the Board of Directors shall send to each Unit's Owner a summary of the budget and a statement of the amount of the Common Expense Assessment assessed against the Unit of the Unit's Owner in accordance with **Section 7.2** of this Declaration and shall set a date for the meeting of the Units' Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all Units' 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 Units' Owners must be continued until such time as the Units' Owners ratify a subsequent budget proposed by the Board of Directors. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit's Owner's obligation to pay such Unit's Owner's allocable share of the Common Expenses as provided in **Section 7.2** of this Declaration, and each Unit's Owner shall continue to pay the Common Expense Assessment against such Unit as established for the previous fiscal year until notice of the Common Expense Assessment for the new fiscal year has been established by the Board of Directors.

7.2 Common Expense Assessment.

7.2.1 For each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the total amount of the estimated Common Expenses set forth in the budget adopted by the Board of Directors (except for the Common Expenses which are to be assessed against less than all of the Units pursuant to **Subsections 7.2.4 and 7.2.5** of this Declaration) shall be assessed against each Unit in proportion to the Unit's Common Expense Liability as set forth in **Section 2.6** of this Declaration, for the purpose of providing funds for the Association to pay Common Expenses. The amount of the Common Expense Assessment assessed pursuant to this **Subsection 7.2.1** shall be in the sole discretion of the Board of Directors. If the Board of Directors determines during any fiscal year that its funds budgeted or available for that fiscal year are, or will, become inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the Common Expense Assessment for that fiscal year and the revised Common Expense Assessment shall commence on the date designated by the Board of Directors.

7.2.2 The maximum Common Expense Assessment for each fiscal year of the Association shall be as follows:

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(i) Until January 1 of the year immediately following the conveyance of the first Unit to a Purchaser, the maximum annual Common Expense Assessment for each Unit shall be Three Hundred Dollars (\$300.00).

(ii) From and after January 1 of the year immediately following the conveyance of the first Unit to a Purchaser, the Board of Directors may, without a vote of the Members, increase the maximum Common Expense Assessment during each fiscal year of the Association by the greater of (a) five percent (5%) of the maximum Common Expense Assessment for the immediately preceding fiscal year or (b) an amount based upon the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) U.S. City Average (1982-84=100), issued by the United States Department of Labor, Bureau of Labor Statistics (the "Consumer Price Index"), which amount shall be computed in the last month of each fiscal year in accordance with the following formula:

X = Consumer Price Index for September of the calendar year immediately preceding the year in which the Common Expense Assessments commenced.

Y = Consumer Price Index for September of the year immediately preceding the calendar year for which the maximum Common Expense Assessment is to be determined.

$\frac{Y-X}{X}$ multiplied by the maximum Common Expense Assessment for the then current fiscal year equals the amount by which the maximum Common Expense Assessment may be increased.

In the event the Consumer Price Index ceases to be published, then the index that shall be used for computing the increase in the maximum Common Expense Assessment permitted under this Subsection shall be the substitute recommended by the United States government for the Consumer Price Index or, in the event no such successor index is recommended by the United States government, the index selected by the Board of Directors.

(iii) From and after January 1 of the year immediately following the conveyance of the first Unit to a Purchaser, the maximum Common Expense Assessment may be increased by an amount greater than the maximum increase allowed pursuant to (ii) above, only by a vote of Members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

7.2.3 Except as otherwise expressly provided for in this Declaration, all Common Expenses shall be assessed against all of the Units in accordance with **Subsection 7.2.1** of this Declaration.

7.2.4 If any Common Expense is caused by the misconduct of any Unit's Owner, the Association shall assess that Common Expense exclusively against such Unit's Owner's Unit.

7.2.5 Assessments to pay a judgment against the Association may be made only against the Units in the Community at the time the judgment was entered, in proportion to their Common Expense Liabilities.

7.2.6 All Assessments, fines and other fees and charges levied against a Unit shall be the personal obligation of the Unit's Owner of the Unit at the time the Assessments, fines or other fees and charges became due. The personal obligation of a Unit's Owner for Assessments, fines and other fees and charges levied against such Unit shall not pass to the Unit's Owner's successors in title unless expressly assumed by them.

7.3 Uniform Rate of Assessment. The amount of the Common Expense Assessment levied against each Unit shall be equal and at the uniform rate established by the Board of Directors, and shall be determined by dividing the budgeted Association funds by the number of Units then subject to assessment. Accordingly, the Common Expense Assessment shall be allocated to each Unit based upon a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units then subject to assessment.

7.4 Special Assessments. In addition to Common Expense Assessments, the Association may levy, in any fiscal year of the Association, a Special Assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the Common Elements, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any Special Assessment shall have first been approved by Units' Owners representing two-thirds (2/3) of the votes in the Association who are voting in person or by proxy at a meeting duly called for such purpose. Unless otherwise specified by the Board of Directors, Special Assessments shall be due thirty (30) days after they are levied by the Association and notice of the Special Assessment is given to the Units' Owners.

7.5 Assessment Period. The period for which the Common Expense Assessment is to be levied (the "Assessment Period") shall be the calendar year. The first Assessment Period, and the obligation of the Units' Owners to pay Common Expense Assessments, shall commence upon the conveyance of the first Unit to a Purchaser and shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board of Directors, in its sole discretion from time to time may change the Assessment Period.

7.6 Commencement Date of Assessment Obligation. All Units described on **Exhibit A** to this Declaration shall be subject to Assessments upon the conveyance of the first Unit to a Purchaser. Units annexed pursuant to **Section 2.8** of this Declaration shall be subject to Assessments on the date which the amendment annexing the additional Units is Recorded. Upon the annexation of any portion of the Additional Property, the amount of the Common Expense Assessment levied against each Unit shall be recalculated based upon a fraction, the numerator of which is one (1) and the denominator of which is the new number of Units then subject to Assessments.

7.7 Rules Regarding Billing and Collection Procedures. Common Expense Assessments shall be collected on a quarterly basis or such other basis as may be selected by the Board of Directors. Special Assessments may be collected as specified by the Board of Directors. The Board of Directors shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments, provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed as set forth in **Section 7.10** below until the Member has been given not less than thirty (30) days written notice prior to such foreclosure that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Unit changes during an Assessment Period, but successor Units' Owners of Units shall be given credit for prepayments, on a prorated basis, made by prior Units' Owners.

7.8 Effect of Nonpayment of Assessments; Remedies of the Association.

7.8.1 Any Assessment, or any installment of an Assessment, not paid within five (5) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the maximum rate allowable under Nevada law. In addition, the Board of Directors may establish a late fee to be charged to any Unit's Owner who has not paid any Assessment, or any installment of an Assessment, within five (5) days after such payment was due.

7.8.2 The Association shall have a lien on each Unit for: (i) all Assessments levied against the Unit; (ii) all interest, lien fees, late charges and other fees and charges assessed against the Unit or payable by the Unit's Owner of the Unit; (iii) all fines levied against the Unit's Owner of the Unit; (iv) all attorneys' fees, court costs, title report fees, costs and fees charged by any collection agency either to the Association or to a Unit's Owner and any other fees or costs incurred by the Association in attempting to collect Assessments or other amounts due to the Association by the Unit's Owner of a Unit; and (v) any amounts payable to the Association pursuant to **Section 5.2 or 5.3** of this Declaration. The Recording of this Declaration constitutes record notice and perfection of

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the Assessment Lien, and no further recordation of any claim of lien shall be required. The Association may, at its option, record a Notice of Lien setting forth the name of the delinquent Unit's Owner as shown in the records of the Association, the legal description or street address of the Unit against which the Notice of Lien is Recorded and the amount claimed to be past due as of the date of the Recording of the Notice of Lien, including interest, lien recording fees and reasonable attorneys' fees. Before Recording any Notice of Lien against a Unit, the Association shall make a written demand to the delinquent Unit's Owner for payment of the delinquent Assessments, together with interest, late charges and reasonable attorneys' fees, if any. The demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand, but any number of defaults may be included within the single demand. If the delinquency is not paid within ten (10) days after delivery of the demand, the Association may proceed with recording a Notice of Lien against the Unit.

7.8.3 The Assessment Lien shall have priority over all liens and encumbrances except for: (i) liens and encumbrances recorded prior to the Recordation of this Declaration; (ii) tax liens for real property taxes; (iii) assessments in favor of any municipal or other governmental body; and (iv) the lien of any bona fide First Mortgage Recorded prior to the date the delinquent Assessment(s) first accrued; provided, however, that the Assessment Lien is also prior to any such First Mortgage to the extent of Common Expense Assessments which became due during the six (6) months immediately preceding the date of filing the Notice of Lien described in Section 7.9 below. Any First Mortgagee or any other Person acquiring title or coming into possession of a Unit through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee's sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title free and clear of any claims for unpaid Assessments and charges against the Unit which became payable prior to the acquisition of such Unit by the First Mortgagee or other Person except for Common Expense Assessments which became due during the six (6) months immediately prior to the date of filing of the Notice of Default described in Section 7.10 below. Any Assessments and charges against the Unit which accrue prior to such sale or transfer shall remain the obligation of the defaulting Unit's Owner of the Unit. Any delinquent Assessments, fines and other fees and charges which are extinguished pursuant to this Section may be reallocated and assessed to all Units as a Common Expense.

7.8.4 Except as otherwise provided in Section 7.9 or in the Act, the Association shall not be obligated to release the Assessment Lien until all delinquent Assessments, interest, lien fees, fines, reasonable attorneys' fees, court costs, title report fees, collection costs and all other sums payable to the Association by the Unit's Owner of the Unit have been paid in full.

7.8.5 The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, (i) bringing an action at law against the Unit's Owner personally obligated to pay

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the delinquent Assessments, and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments, or (ii) bringing an action to foreclose the Assessment Lien against the Unit in the manner provided under the Act. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Units purchased at such sale.

7.9 Notice of Lien. No action shall be brought to enforce any Assessment Lien herein unless a "Notice of Lien" is deposited in the United States mail, certified or registered, postage prepaid, to the Unit's Owner of the Unit and a copy thereof has been Recorded by the Association. Such Notice of Lien must state (i) the amount of the Assessment and interest, costs (including attorneys' fees) and penalties, (ii) a description of the Unit against which the assessment was made, and (iii) the name of the record Unit's Owner of the Unit. The Notice of Lien shall be signed and acknowledged by an officer of the Association. The lien shall continue until fully paid or otherwise satisfied. However, a lien for unpaid Assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the Assessment becomes due, except that if a Unit's Owner subject to the lien under this Article 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 under thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Court is lifted.

7.10 Foreclosure Sale. In the event that a Unit's Owner has failed to comply with the thirty (30) days written notice provided for in Section 7.7 above, the Association may enforce the lien by sale of the applicable Unit. In exercising its power of sale, the Association shall comply with such requirements and conditions and shall follow such procedure as may be established under the Act relative to the enforcement of such liens. Unless otherwise permitted by law, no sale to foreclose an Assessment Lien may be conducted until (i) the Association, its agent or attorney has first executed and recorded a notice of default and election to sell the Unit or cause its sale to satisfy the Assessment Lien ("Notice of Default"), and (ii) the delinquent Unit's Owner or such Unit's Owner's successor in interest has failed to pay the amount of the delinquent assessment and interest, costs (including attorneys' fees) and expenses incident to its enforcement for a period of sixty (60) days. Such sixty (60) day period shall commence on the later of (a) the day on which the Notice of Default is recorded, or (b) the day upon which a copy of the Notice of Default is mailed by certified mail with postage prepaid to the Unit's Owner or such Unit's Owner's successor in interest at his address, if the address is known, and otherwise to the address of the Unit. The Notice of Default must describe the deficiency in payment, the name of the Unit's Owner and a legal description of the Unit. The Association, its agent or attorney shall, after the expiration of such (60) day period and before the foreclosure sale, give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that a copy of the notice of sale must be mailed on or before the first publication or posting by certified mail with postage prepaid to the Unit's Owner or such Unit's Owner's successor in interest at his address if known, and otherwise to the address of the Lot.

7.11 Curing of Default. Upon the timely curing of any default for which a Notice of Lien was filed by the Association, the Association shall record an appropriate Release of Lien, upon payment by the defaulting Unit's Owner of a reasonable fee to be determined by the Board of Directors to cover the cost of preparing and recording such release.

7.12 Cumulative Remedies. The Assessment Liens and the rights of foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

7.13 Exemption of Unit's Owner. No Unit's Owner may claim an exemption from liability for payment of Assessments, fines and other fees and charges levied pursuant to the Community Documents by waiver and nonuse of any of the Common Elements and facilities or by the abandonment of his Unit.

7.14 Certificate of Payment. The Association on written request shall furnish to a lienholder, Unit's Owner or person designated by a Unit's Owner a Recordable statement setting forth the amount of unpaid Assessments against his Unit. The statement shall be furnished within twenty (20) business days after receipt of the request and is binding on the Association, the Board of Directors, and every Unit's Owner. The Association may charge a reasonable fee in an amount established by the Board of Directors for each such statement.

7.15 No Offsets. All Assessments, fines and other fees and charges shall be payable in accordance with the provisions of this Declaration, and no offsets against such Assessments, fines, other fees and charges shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Community Documents or the Act.

7.16 Working Capital Fund. To insure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each Purchaser of a Unit from the Declarant shall pay to the Association, immediately upon becoming the Unit's Owner of the Unit, a sum equal to one-sixth (1/6) of the current annual Common Expense Assessment for the Unit. Such amount shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

7.17 Surplus Funds. Surplus funds of the Association remaining after payment of or provisions for Common Expenses and any prepayment of reserves may in the discretion of the Board of Directors either be returned to the Units' Owners pro rata in accordance with each Unit's Owner's Common Expense Liability or be credited on a pro rata basis to the Units' Owners to reduce each Unit's Owner's future Common Expense Assessments.

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7.18 Transfer Fee. Each Purchaser of a Unit shall pay to the Association immediately upon becoming the Unit's Owner a transfer fee in such amount as is established from time to time by the Board of Directors.

ARTICLE 8

INSURANCE

8.1 Scope of Coverage.

8.1.1 Commencing not later than the date of the first conveyance of a Unit to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

(i) Property insurance on the Common Elements insuring against all risks of direct physical loss commonly insured. The total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from a property insurance policy.

(ii) Commercial general liability insurance, for a limit to be determined by the Board of Directors, but not less than \$1,000,000.00 for any single occurrence. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use or ownership of the Common Elements or arising out of or incident to the performance by the Association of its maintenance and other obligations under the Community Documents, whether on the Common Elements, any Unit or any public or private right-of-way. Such policy shall include (a) a cross liability clause to cover liabilities of the Units' Owners as a group to a Unit's Owner, (b) medical payments insurance and contingent liability coverage arising out of the use of hired and nonowned automobiles, and (c) coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

(iii) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Nevada.

(iv) Directors' and officers' liability insurance covering all the directors, officers and committee members of the Association in such limits as the Board of Directors may determine from time to time.

(v) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association, the members of the Board of Directors, the officers, the members of any committee or the Units' Owners.

(vi) The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(a) Each Unit's Owner shall be an insured under the policy with respect to liability arising out of his ownership of an undivided interest in the Common Elements or his membership in the Association.

(b) There shall be no subrogation with respect to the Association, its agents, servants, and employees against Unit's Owners and members of their household.

(c) No act or omission by any Unit's Owner, unless acting within the scope of his authority on behalf of the Association, shall void the policy or be a condition to recovery on the policy.

(d) The coverage afforded by such policy shall be primary and shall not be brought into contribution or proration with any insurance which may be purchased by Unit's Owners or their mortgagees or beneficiaries under deeds of trust.

(e) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit's Owner because of the negligent acts of the Association or other Unit's Owners.

(f) The Association shall be the insured for use and benefit of the individual Units' Owners (designated by name if required by the insurer).

(g) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the Association and each First Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial change in coverage or cancellation of the policy.

(h) Any insurance trust agreement will be recognized by the insurer.

(vii) "Agreed Amount" and "Inflation Guard" endorsements.

8.1.2 If, at the time of a loss insured under an insurance policy purchased by the Association, the loss is also insured under an insurance policy purchased by a Unit Owner, the Association's policy shall provide primary coverage.

8.2 Payment of Premiums. Premiums for all insurance and fidelity bonds obtained by the Association pursuant to this Article shall be Common Expenses and shall be paid for by the Association.

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8.3 Insurance Obtained by Unit Owners. The issuance of insurance policies to the Association pursuant to this Article shall not prevent a Unit's Owner from obtaining insurance for his own benefit and at his own expense covering his Unit, his personal property and providing personal liability coverage.

8.4 Payment of Insurance Proceeds. Any loss covered by property insurance obtained by the Association in accordance with this Article shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. The Association shall hold any insurance proceeds in trust for Units' Owners and lienholders as their interests may appear, and the proceeds shall be disbursed and applied as provided for in N.R.S. § 116.31135.

8.5 Certificate of Insurance. An insurer that has issued an insurance policy pursuant to this Article 8 shall issue certificates or memoranda of insurance to the Association and, on written request, to any Unit's Owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy shall not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Unit's Owner, and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

8.6 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Elements which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Units' Owners representing at least eighty percent (80%) of the total authorized votes in the Association vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If all of the Common Elements are not repaired or replaced, insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either (i) be retained by the Association as an additional capital reserve, or (ii) be used for payment of operating expenses of the Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Members representing more than fifty percent (50%) of the votes in the Association.

ARTICLE 9

RIGHTS OF FIRST MORTGAGEES

9.1 First Mortgagee's Right of Inspection of Records. Any First Mortgagee will be entitled, upon written request, to: (i) inspect the books and records of the Association during normal business hours; (ii) receive within ninety (90) days following the end of any

fiscal year of the Association, a financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party; and (iii) receive written notice of all meetings of the Members of the Association and be permitted to designate a representative to attend all such meetings.

9.2 Limitation on Partition and Subdivision. No Unit shall be partitioned or subdivided without the prior written approval of the holder of any First Mortgage on such Unit.

9.3 Prior Written Approval of First Mortgagees. Except as provided by statute in case of condemnation or substantial loss to the Units or the Common Elements, unless at least two-thirds (2/3) of the First Mortgagees (based upon one (1) vote for each First Mortgage owned) of Units' Owners (other than the Declarant or other sponsor, developer or builder of the Community) of the Units have given their prior written approval, the Association shall not be entitled to:

9.3.1 Seek to abandon, partition, subdivide, sell or transfer the Common Elements owned, directly or indirectly, by the Association for the benefit of the Units. The granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Elements shall not be deemed a transfer within the meaning of this Subsection;

9.3.2 Change the method of determining the obligations, Assessments, dues or other charges which may be levied against a Unit's Owner;

9.3.3 Change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Units or the maintenance of the Common Elements;

9.3.4 Fail to maintain fire and extended coverage insurance for all Common Elements on a current replacement cost basis in an amount of at least one hundred percent (100%) of insurable value; or

9.3.5 Use hazard insurance proceeds for losses to any Common Elements for other than the repair, replacement or reconstruction of such Common Elements.

9.4 No Priority over First Mortgagees. No provision of this Declaration gives or shall be construed as giving any Unit's Owner or other Person priority over any rights of a First Mortgagee of a Unit in the case of the distribution to such Unit's Owner of insurance proceeds or condemnation awards for losses to or taking of the Common Elements.

9.5 Failure of First Mortgagees to Respond. Any First Mortgagee who receives a written request from the Board of Directors to respond or consent to any action requiring the consent of the First Mortgagee shall be deemed to have approved such action if the

Association has not received a negative response from such First Mortgagee within thirty (30) days of the date of the Association's request.

9.6 Liens Prior to First Mortgage. All taxes, assessment and charge which may become liens prior to the First Mortgage under local law shall relate only to the individual Unit and not to the Community as a whole.

9.7 Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Article and any other provision of the Community Documents, the provisions of this Article shall prevail; provided, however, that in the event of any conflict or inconsistency between the different Sections of this Article or between the provisions of this Article and any other provisions of the Community Documents with respect to the number or percentage of Units' Owners or First Mortgagees that must consent to (i) an amendment of the Declaration, Articles or Bylaws, (ii) a termination of the Community or (iii) certain actions of the Association as specified in **Section 9.3** of this Declaration, the provision requiring the consent of the greatest number or percentage of Units' Owners or First Mortgagees shall prevail. Notwithstanding the foregoing or anything herein to the contrary, so long as Declarant retains effective control of the Association, the Declarant, and thereafter the Board of Directors, without the consent of any Unit's Owner or First Mortgagee being required, shall have the right to amend this Declaration, the Articles or the Bylaws in order to conform this Declaration, the Articles or the Bylaws to the requirements or guidelines of the Federal National Mortgage Association (the "FNMA"), the Federal Home Loan Mortgage Corporation (the "FHLMC"), the Federal Housing Administration (the "FHA"), the Veterans Administration (the "VA") or any federal, state or local governmental agency whose approval of the Community, the Plat or the Community Documents is required or requested by the Declarant or the Board of Directors.

ARTICLE 10

RESERVATION OF DEVELOPMENTAL AND SPECIAL DECLARANT'S RIGHTS

Pursuant to NRS 116.2105(1)(h), Declarant reserves all of the developmental and special declarant's rights in the Community including any Additional Property annexed hereafter, afforded under NRS 116.11034 and NRS 116.110385, subject to the expiration deadlines set forth below. Specifically, but without limitation, Declarant reserves the following rights:

10.1 Developmental Rights. Declarant hereby reserves, for a period of seven (7) years following the recordation of this Declaration, all developmental rights under NRS 116.11034.

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10.2 Right to Complete Improvements and Construction Easement. Declarant hereby reserves the right, for a period of seven (7) years following the recordation of this Declaration, to complete the construction of Improvements in the Community and an easement over the Community for the purpose of doing so. Any damage caused to a Unit or the Common Elements by Declarant or its agents in the use or exercise of such right and/or easement shall be repaired by and at the expense of Declarant.

10.3 Exercise of Developmental Rights. Declarant reserves the right to exercise all developmental rights reserved pursuant to Section 10.1 above, until the seventh (7th) anniversary of the recordation of this Declaration.

10.4 Offices, Model Homes and Promotional Signs. Declarant reserves the right to maintain offices for sales and management and models as provided in Section 3.4 above, and to maintain signs on the Common Elements for so long as Declarant owns any portion of the Community.

10.5 Use of Easements. Declarant reserves the right to use easements through the Common Elements for the purpose of making Improvements within the Community or within the Additional Property.

10.6 Master Association. Declarant reserves the right to make the Community subject to any additional master homeowners association.

10.7 Merger or Consolidation. Declarant reserves the right to merge or consolidate the Association with another common-interest community of the same form of ownership.

10.8 Appointment and Removal of Directors and Officers. Declarant reserves the right to appoint and remove a majority of the Board of Directors and the officers of the Association or any master association or any member of the Board of Directors as set forth in Section 6.2 above, for the time period set forth therein.

ARTICLE 11

GENERAL PROVISIONS

11.1 Enforcement. The Association, or any Unit's Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Community Documents. Failure by the Association or by any Unit's Owner to enforce any covenant or restriction contained in the Community Documents shall in no event be deemed a waiver of the right to do so thereafter.

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11.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

11.3 Duration. Unless amended in accordance with the provisions of **Section 11.5** below, the covenants and restrictions of this Declaration shall run with and bind the Community, for a term of twenty (20) years from the date this Declaration is Recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

11.4 Termination of Community. The Community may be terminated only in the manner provided for in the Act.

11.5 Amendment.

11.5.1 Except in cases of amendments that may be executed by a Declarant under N.R.S. 116.2109 or 116.2110, by the Association under N.R.S. 116.1107, 116.2106, Subsection 3 of N.R.S. 116.2108 or N.R.S. 116.2113 or by certain Units' Owners under Subsection 2 of N.R.S. 116.2108, 116.2112 or 116.2118 and except as limited by **Section 11.5.2** of this Declaration, this Declaration, including the Plat and Plans, may be amended only by a vote of the Units' Owners to which more than seventy-five percent (75%) of the votes in the Association are allocated.

11.5.2 Except to the extent expressly permitted or required by the Act, an amendment to the Declaration shall not create or increase Special Declarant's Rights, increase the number of Units, change the boundaries of any Unit, change the allocated Interests of a Unit, or change the use as to which any Unit is restricted, in the absence of unanimous consent of the Units' Owners affected and the consent of a majority of the Units' Owners of the remaining Units in the Community.

11.5.3 An amendment to the Declaration shall not terminate or decrease any unexpired Development Right, Special Declarant's Right or Period of Declarant Control unless the Declarant approves the amendment in writing.

11.5.4 During the Period of Declarant Control, the Declarant shall have the right to amend the Declaration, including the Plat, to (i) comply with the Act or any other applicable law if the amendment does not adversely affect the rights of any Unit's Owner, (ii) correct any error or inconsistency in the Declaration if the amendment does not adversely affect the rights of any Unit's Owner, (iii) comply with the rules or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments, including without limitation, the VA, the FHA, the FNMA or the FHLMC, or (iv) the rules or requirements of any federal, state or local governmental entity

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or agency whose approval of the Community, the Plat or the Community Documents is required by law or requested by Declarant.

11.5.5 To the extent that any First Mortgages insured by the FHA or guaranteed by the VA are held on any of the Units at the time of amendment, and to the extent that it is required by any regulations governing FHA/VA mortgages, during the Period of Declarant Control, any amendment to the Declaration or the Plat must be approved by the VA or the FHA.

11.5.6 Any amendment adopted by the Units' Owners pursuant to **Subsection 11.5.1** of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded with the County Recorder of each County in which any portion of the Community is located. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to **Subsection 11.5.4** of this Declaration or the Act shall be executed by the Declarant and shall be Recorded with the County Recorder of each County in which any portion of the Community is located. Any amendment shall be effective only upon Recordation.

11.6 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

11.7 Notices. All notices, demands, statements or other communications required to be given to or served on a Unit's Owner under this Declaration shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by United States mail, postage prepaid, return receipt requested, addressed to the Unit's Owner, at the address which the Unit's Owner shall designate in writing and file with the Association or, if no such address is designated, at the address of the Unit of such Unit's Owner. A Unit's Owner may change his address on file with the Association for receipt of notices by delivering a written notice of change of address to the Association pursuant to this Section. A notice given by mail, whether regular, certified, or registered, shall be deemed to have been received by the person to whom the notice was addressed on the earlier of the date the notice is actually received or three (3) days after the notice is mailed. If a Unit is owned by more than one (1) person, notice to one (1) of the Unit's Owners shall constitute notice to all Unit's Owners of the same Unit. Each Unit's Owner shall file his correct mailing address with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

11.8 Binding Effect. By acceptance of a deed or by acquiring any ownership interest in any portion of the Community, each Person, for himself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by the Community Documents and any amendments thereof. In addition, each such Person by so doing thereby

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acknowledges that the Community Documents set forth a general scheme for the improvement and development of the real property covered thereby and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in the Community Documents shall run with the land and be binding on all subsequent and future Units' Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such Person fully understands and acknowledges that the Community Documents shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Units' Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Units and the membership in the Association and the other rights created by the Community Documents shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit.

11.9 Restriction on Liability of the Association and the Declarant.

11.9.1 The Declarant intends to construct one or more guard gates on the private streets leading into the Community in order to limit access and to provide more privacy for the Units' Owners and Residents; however, there are no guarantees that such guard gates will provide complete security and safety to all Units' Owners, Residents and their families, guests and invitees. Each Unit's Owner and Resident, and their families, guests and invitees, acknowledge that the guard gate may restrict or delay entry into the Community by the police, fire department, ambulances and other emergency vehicles or personnel. Each Unit's Owner and Resident and their families, guests and invitees agree to assume the risk that the guard gate will restrict or delay entry to the Community by emergency vehicles and personnel. Neither the Declarant, the Association nor any director, officer, agent or employee of the Declarant or the Association shall be liable to any Unit's Owner or Resident or their families, guests or invitees for any claims or damages resulting, directly or indirectly, from the construction, existence or maintenance of the guard gate.

11.9.2 Each Unit's Owner and Resident hereby releases Declarant and the Association from any and all claims, actions, suits, demands, causes of action, losses, damages or liabilities related to or arising in connection with any nuisance, inconvenience, disturbance, injury or damage resulting from activities or occurrences described in this **Section 11.9.**

11.10 Gender. The singular, wherever used in this Declaration, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Declaration apply either to corporations or individuals, or men or women, shall in all cases be assumed as though in each case fully expressed.

11.11 Topic Headings. The marginal or topical headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the sections or of this Declaration.

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11.12 Survival of Liability. The termination of membership in the Association shall not relieve or release any such former Unit's Owner or Member from any liability or obligation incurred under, or in any way connected with, the Association during the period of such ownership or membership, or impair any rights or remedies which the Association may have against such former Unit's Owner or Member arising out of, or in any way connected with, such ownership or membership and the covenants and obligations incident thereto.

11.13 Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws, the Rules or the Architectural Committee Rules, the provisions of this Declaration shall prevail.

11.14 Joint and Several Liability. In the case of joint ownership of a Unit, the liabilities and obligations of each of the joint Unit's Owners set forth in, or imposed by, the Community Documents shall be joint and several.

11.15 Guests and Tenants. Each Unit's Owner shall be responsible for compliance by his agents, tenants, guests, invitees, licensees and their respective servants, agents, and employees with the provisions of the Community Documents. A Unit's Owner's failure to insure compliance by such Persons shall be grounds for the same action available to the Association or any other Unit's Owner by reason of such Unit's Owner's own noncompliance.

11.16 Attorneys' Fees. In the event the Declarant, the Association or any Unit's Owner employs an attorney or attorneys to enforce a lien or to collect any amounts due from a Unit's Owner or to enforce compliance with or recover damages for any violation or noncompliance with the Community Documents, the prevailing party in any such action shall be entitled to recover from the other party its reasonable attorneys' fees and costs incurred in the action.

11.17 Number of Days. In computing the number of days for purposes of any provision of the Community Documents, all days shall be counted including Saturdays, Sundays and legal holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the next day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

11.18 Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Unit's Owner of any restriction or provision of the Community Documents. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (i) the name of the Unit's Owner; (ii) the legal description of the Unit against which the notice is being Recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Unit's Owner to cure the violation. Recordation of a notice of

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violation shall serve as a notice to the Unit's Owner and to any subsequent purchaser of the Unit that there is a violation of the provisions of the Community Documents. If, after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the actual violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Unit against which the notice of violation was Recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured, or if such be the case, that it did not exist.

11.19 FHA/VA Approval. To the extent that any First Mortgages insured by the FHA or guaranteed by the VA are held on any of the Units at the time of the following described actions, and to the extent that it is required by any regulations governing FHA/VA mortgages, until the expiration of the Period of Declarant Control, the following actions will require the prior approval of the FHA or the VA: (i) annexation of additional properties; (ii) mergers and consolidations; (iii) mortgaging or dedication of Common Elements; (iv) amendment of this Declaration; and (v) termination of the Community.

11.20 References to VA and FHA. In various places throughout the Community Documents, references are made to the VA and the FHA and, in particular, to various consents or approvals required of either or both of such agencies. Such references are included so as to cause the Community Documents to meet certain requirements of such agencies should Declarant request approval of the Community by either or both of those agencies. However, Declarant shall have no obligation to request approval of the Community by either or both of such agencies. Unless and until the VA or the FHA have approved the Community as acceptable for insured or guaranteed loans and at any time during which such approval, once given, has been revoked, withdrawn, cancelled or suspended and there are no outstanding mortgages or deeds of trust recorded against a Unit to secure payment of an insured or guaranteed loan by either of such agencies, all references herein to required approvals or consents of such agencies shall be deemed null and void and of no force and effect.

11.21 No Absolute Liability. No provision of the Community Documents shall be interpreted or construed as imposing on any Unit's Owner absolute liability for damage to the Common Elements or the Units. A Unit's Owner shall only be responsible for damage to the Common Elements or Units caused by the Unit's Owner's negligence or intentional acts.

11.22 Governing Law. The provisions of this Declaration shall be liberally construed to promote and effectuate the purpose of the Association as set forth in this Declaration. The provisions of this Declaration shall be construed and governed by the laws of the State of Nevada. This Declaration is intended to comply with the provisions of the Act. In the event any provision of this Declaration is held to be in violation of the Act, this Declaration shall be deemed amended to the extent necessary to comply with the Act.

11.23 Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefitted or bound by this Declaration. In the event of any conflict between this Declaration and the Articles, Bylaws, Association Rules or Architectural Committee Rules, this Declaration shall control except to the extent the Declaration is inconsistent with the Act. In the event of any conflict between the Articles and the Bylaws, the Articles shall control. In the event of any conflict between the Bylaws and the Association Rules or the Architectural Committee Rules, the Bylaws shall control.

11.24 References to this Declaration in Deeds. Deeds to and instruments affecting any Unit or any other part of the Community may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall be binding upon the grantee. Unit's Owner or other Person claiming through any instrument and such grantee's, Unit's Owner's or other Person's heirs, executors, administrators, successors and assigns.

11.25 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the rule against perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest. The "lives in being" for computing the period of perpetuities shall be (i) those which would be used in determining the validity of the challenged interest, plus (ii) those of the issue of the Board of Directors who are living at the time the period of perpetuities starts to run on the challenged interest.

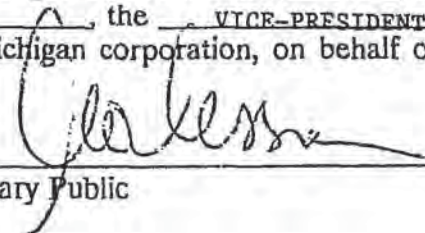
CANTERBURY COMMUNITIES, INC., a
Michigan corporation

By: Kent M. Cady
Its: Vice President

960830.01713

STATE OF NEVADA)
County of Clark) ss.

The foregoing instrument was acknowledged before me this 29TH day of AUGUST, 1996 by KENT A. LAY, the VICE-PRESIDENT of Canterbury Communities, Inc., a Michigan corporation, on behalf of the corporation.


Notary Public

My Commission Expires:

10/12/98

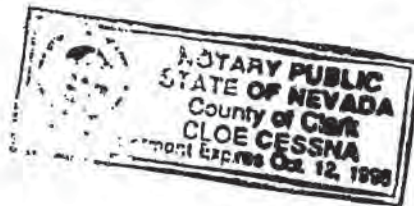


EXHIBIT A**PROPERTY SUBMITTED TO COMMUNITY**

Lots 1 and 43 through 63, inclusive, of Block 1; Lots 64 through 76, inclusive, of Block 2; Lots 77 through 90, inclusive, of Block 3; Lots 91 through 103, inclusive, of Block 4; Lots 122 through 127, inclusive, of Block 5; and all private streets lying with the plat of CAMBRIDGE HEIGHTS PHASE I, recorded in Book 74, page 41 of Plats, Instrument No. 01414, Official Records of Clark County, Nevada.

2008.07.15

EXHIBIT B**ADDITIONAL PROPERTY**

That portion of the Northeast Quarter (NE 1/4) of Section 20, Township 20 South, Range 61 East, M.D.M., City of North Las Vegas, County of Clark, State of Nevada, and being more particularly described as follows:

Parcel Two (2) as shown by Map thereof in File 85 of Parcel Maps, Page 39 in the Office of the County Recorder of Clark County, Nevada.

CONSENT

HOWARD HUGHES PROPERTIES, LIMITED PARTNERSHIP, a Delaware limited partnership, as Beneficiary under that certain Deed of Trust recorded on April 19, 1996 in Book 960419 as Instrument No. 01676, Official Records of Clark County Recorder, Clark County, Nevada (the "Deed of Trust"), which Deed of Trust secures that certain Note Secured By Deed of Trust dated April 19, 1996 in the principal amount of \$453,844.00 (the "Note"), does hereby consent to the foregoing Declaration, provided that (i) the Additional Property encumbered by the Deed of Trust shall not be annexed to the Declaration until all obligations under the Note and Deed of Trust have been satisfied, and (ii) in the event of a foreclosure of all or a portion of the Additional Property encumbered by the Deed of Trust, or in the event Declarant gives a deed in lieu thereof, Beneficiary shall be deemed to have withdrawn its consent herein to the annexation of any such Additional Property.

HOWARD HUGHES PROPERTIES, LIMITED PARTNERSHIP, a Delaware limited partnership

By: The Howard Hughes Corporation
(formerly known as Summa Corporation),
a Delaware corporation, its sole general
partner

By: Michael C. Nichols
Michael C. Nichols
Its: Senior Vice President

State of Nevada)
) ss.
County of Clark)

Acknowledged before me this 26th day of August, 1996, by Michael C. Nichols the Senior Vice President of The Howard Hughes Corporation (formerly known as Summa Corporation), a Delaware corporation, sole general partner of HOWARD HUGHES PROPERTIES, LIMITED PARTNERSHIP, a Delaware limited partnership, on behalf of the partnership..

[Signature]
Notary Public

My Commission Expires:

February 22, 1997



EXHIBIT 2

Inst #: 201309040001985
Fees: \$18.00 N/C Fee: \$0.00
RPTT: \$288.15 Ex: #
09/04/2013 01:45:18 PM
Receipt #: 1768240
Requestor:
TIM RADECKI
Recorded By: SUO Pgs: 3
DEBBIE CONWAY
CLARK COUNTY RECORDER

Please mail tax statement and
when recorded mail to:
Tim Radecki
5225 Rebecca Road
Las Vegas, NV 89130

(3)
1

FORECLOSURE DEED

APN # 139-20-612-037
North American Title #38008

NAS # N71812


The undersigned declares:

Nevada Association Services, Inc., herein called agent (for the Cambridge Heights, a planned community), was the duly appointed agent under that certain Notice of Delinquent Assessment Lien, recorded July 25, 2012 as instrument number 0001162 Book 20120725, in Clark County. The previous owner as reflected on said lien is Amanda R Munar. Nevada Association Services, Inc. as agent for Cambridge Heights, a planned community does hereby grant and convey, but without warranty expressed or implied to: Tim Radecki (herein called grantee), pursuant to NRS 116.31162, 116.31163 and 116.31164, all its right, title and interest in and to that certain property legally described as: CAMBRIDGE HGTS PHASE 2, PLAT BOOK 79, PAGE 58, LOT 38, BLOCK 6 Clark County

AGENT STATES THAT:

This conveyance is made pursuant to the powers conferred upon agent by Nevada Revised Statutes, the Cambridge Heights, a planned community governing documents (CC&R's) and that certain Notice of Delinquent Assessment Lien, described herein. Default occurred as set forth in a Notice of Default and Election to Sell, recorded on 9/13/2012 as instrument # 0001442 Book 20120913 which was recorded in the office of the recorder of said county. Nevada Association Services, Inc. has complied with all requirements of law including, but not limited to, the elapsing of 90 days, mailing of copies of Notice of Delinquent Assessment and Notice of Default and the posting and publication of the Notice of Sale. Said property was sold by said agent, on behalf of Cambridge Heights, a planned community at public auction on 8/23/2013, at the place indicated on the Notice of Sale. Grantee being the highest bidder at such sale, became the purchaser of said property and paid therefore to said agent the amount bid \$4,000.00 in lawful money of the United States, or by satisfaction, pro tanto, of the obligations then secured by the Delinquent Assessment Lien.

Dated: August 23, 2013



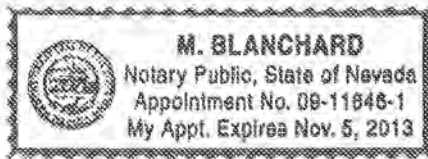
By Elissa Hollander, Agent for Association and Employee of Nevada Association Services

STATE OF NEVADA)
COUNTY OF CLARK)

On August 23, 2013, before me, M. Blanchard, personally appeared Elissa Hollander 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 that he/she executed the same in his/her authorized capacity, and that by signing his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.
WITNESS my hand and seal.

(Seal)

(Signature)



M. Blanchard

STATE OF NEVADA
DECLARATION OF VALUE

1. Assessor Parcel Number(s)

a. 139-20-612-037
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

\$ 56,197.00

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

c. Transfer Tax Value: \$ 56,197.00

d. Real Property Transfer Tax Due \$ 288.15

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 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 [Signature] Capacity: NAS Employee/Agent for HOA

Signature _____ Capacity: _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: Nevada Association Services
Address: 6224 W. Desert Inn Road
City: Las Vegas
State: NV Zip: 89146

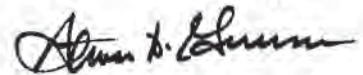
BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Tim Radecki
Address: 5225 Rebecca Road
City: Las Vegas
State: NV Zip: 89130

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



CLERK OF THE COURT

1 **ORDG**
GLENN F. MEIER, ESQ.
2 Nevada Bar No. 006059
gmeier@nvbusinesslawyers.com
3 MARILYN FINE, ESQ.
Nevada Bar No. 005949
4 mfine@nvbusinesslawyers.com
MEIER & FINE, LLC
5 2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
6 Telephone: (702) 673-1000
Facsimile: (702) 673-1001

7 *Attorneys for Plaintiff-in-Intervention*
8 *Tim Radecki*

PLEASE NOTE
DEPARTMENT CHANGE

9
10 **IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA**
11 **IN AND FOR THE COUNTY OF CLARK**

12 -000-

13 WELLS FARGO BANK, N.A., AS TRUSTEE, ON
BEHALF OF THE HOLDERS OF THE
14 HARBORVIEW MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12,

Case No. A-13-676574-C
Dept. No. ~~XXX~~ 4

15 Plaintiff,

ORDER GRANTING MOTION TO
INTERVENE

16 vs.

17 AMANDA R. MUNAR; CAMBRIDGE HEIGHTS, A
18 PLANNED COMMUNITY; DOES I-X; and ROES 1-10
inclusive,

19 Defendants.

20
21 TIM RADECKI,

Plaintiff-in-Intervention,

22 vs.

23 AMANDA MUNAR, WELLS FARGO BANK, N.A.,
24 AS TRUSTEE, ON BEHALF OF THE HOLDERS OF
THE HARBORVIEW MORTGAGE LOAN TRUST
25 MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12,

26 Defendant-in-Intervention.
27
28

MEIER & FINE, LLC
2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
Tel: (702) 673-1000
Fax: (702) 673-1001

This matter came before the Court for hearing on November 12, 2013 at 8:30 a.m., on Plaintiff-in-Intervention, TIM RADECKI'S ("Radecki"), Motion for Leave to Intervene on Order Shortening Time. Glenn F. Meier, Esq. appeared for Radecki and Janice Jacovino, Esq. appeared for Defendant-in-Intervention, WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12 ("Wells"). There being no opposition, based on the Plaintiff-in-Intervention's papers and the arguments of counsel and good cause appearing therefor:

It is hereby Ordered Adjudged and Decreed that Radecki's Motion to Intervene is Granted; and


It is further Ordered Adjudged and Decreed that Radecki shall file the proposed Complaint-in-Intervention within 10 days of the entry of this Order.


Dated this 2 day of December, 2013


DISTRICT COURT JUDGE

Respectfully submitted by:

MEIER & FINE, LLC


Glenn F. Meier, Esq. Nevada Bar No. 006059
Marilyn Fine, Esq., Nevada Bar No. 005949
2300 West Sahara Ave., Suite 1150
Las Vegas, NV 89102
Attorneys for Plaintiff-in-Intervention
Tim Radecki



CLERK OF THE COURT

1 NEOJ
GLENN F. MEIER, ESQ.
2 Nevada Bar No. 006059
gmeier@nvbusinesslawyers.com
3 MARILYN FINE, ESQ.
Nevada Bar No. 005949
4 mfine@nvbusinesslawyers.com
MEIER & FINE, LLC
5 2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
6 Telephone: (702) 673-1000
Facsimile: (702) 673-1001

7 *Attorneys for Tim Radecki*

8
9 IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
10 IN AND FOR THE COUNTY OF CLARK

11 -000-

12 WELLS FARGO BANK, N.A., AS TRUSTEE, ON
BEHALF OF THE HOLDERS OF THE
13 HARBORVIEW MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
14 CERTIFICATES, SERIES 2006-12,

15 Plaintiff,

16 vs.

17 AMANDA R. MUNAR; CAMBRIDGE HEIGHTS, A
PLANNED COMMUNITY; DOES I-X; and ROES 1-10
18 inclusive,

19 Defendants.

20 TIM RADECKI,

21 Plaintiff-in-Intervention,

22 vs.

23 AMANDA MUNAR, WELLS FARGO BANK, N.A.,
AS TRUSTEE, ON BEHALF OF THE HOLDERS OF
24 THE HARBORVIEW MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
25 CERTIFICATES, SERIES 2006-12,

26 Defendant-in-Intervention.
27
28

Case No. A-13-676574-C
Dept. No. IV

NOTICE OF ENTRY OF ORDER
GRANTING MOTION TO
INTERVENE

MEIER & FINE, LLC
2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
Tel: (702) 673-1000
Fax: (702) 673-1001

MEIER & FINE, LLC
2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
Tel: (702) 673-1000
Fax: (702) 673-1001

PLEASE TAKE NOTICE that an ORDER GRANTING MOTION TO INTEREVEVE was entered on the 4th day of December, 2013 a copy of which is attached hereto as Exhibit "A."

DATED this 11th day of December, 2013.

Meier & Fine, LLC

By 

GLENN F. MEIER, ESQ.

Nevada Bar No.: 006059

MARILY FINE, ESQ.

Nevada Bar No.: 005949

2300 West Sahara Avenue, Suite 1150

Las Vegas, Nevada 89102

Attorneys for Tim Radecki

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true copy of the NOTICE OF ENTRY OF ORDER GRANTING MOTION TO INTERVENE was deposited in the United States mail in Las Vegas, Nevada, this 11th day of December, 2013, addressed to the following:

Kristin A. Schuler-Hintz, Esq.
McCarthy & Holthus, LLP
9510 W. Sahara Avenue, Suite 200
Las Vegas, Nevada 89117
Attorneys for Wells Fargo Bank, N.A., As
Trustee, On Behalf of the Holders of the
Harborview Mortgage Loan Trust
Mortgage Loan Pass-Through Certificates,
Series 2006-12

Amanda Munar
3701 Riviera Avenue
Las Vegas, Nevada 89107



Gwen Conant, an Employee of Meier & Fine

EXHIBIT A



CLERK OF THE COURT

1 **ORDG**
GLENN F. MEIER, ESQ.
2 Nevada Bar No. 006059
gmeier@nvbusinesslawyers.com
3 MARILYN FINE, ESQ.
Nevada Bar No. 005949
4 mfine@nvbusinesslawyers.com
MEIER & FINE, LLC
5 2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
6 Telephone: (702) 673-1000
Facsimile: (702) 673-1001

7 *Attorneys for Plaintiff-in-Intervention*
8 *Tim Radecki*

PLEASE NOTE
DEPARTMENT CHANGE

9
10 **IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA**
11 **IN AND FOR THE COUNTY OF CLARK**

12 -also-

13 WELLS FARGO BANK, N.A., AS TRUSTEE, ON
BEHALF OF THE HOLDERS OF THE
14 HARBORVIEW MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12,

Case No. A-13-676574-C
Dept. No. ~~XXX~~ 4

15 Plaintiff,

ORDER GRANTING MOTION TO
INTERVENE

16 vs.

17 AMANDA R. MUNAR; CAMBRIDGE HEIGHTS, A
18 PLANNED COMMUNITY; DOES I-X; and ROES 1-10
inclusive,

19 Defendants.

20 TIM RADECKI,

21 Plaintiff-in-Intervention,

22 vs.

23 AMANDA MUNAR, WELLS FARGO BANK, N.A.,
24 AS TRUSTEE, ON BEHALF OF THE HOLDERS OF
THE HARBORVIEW MORTGAGE LOAN TRUST
25 MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12,

26 Defendant-in-Intervention.
27
28

MEIER & FINE, LLC
2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
Tel: (702) 673-1000
Fax: (702) 673-1001

MEIER & FINE, LLC
2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
Tel: (702) 673-1000
Fax: (702) 673-1001

1 This matter came before the Court for hearing on November 12, 2013 at 8:30 a.m., on
2 Plaintiff-in-Intervention, TIM RADECKI'S ("Radecki"), Motion for Leave to Intervene on
3 Order Shortening Time. Glenn F. Meier, Esq. appeared for Radecki and Janice Jacovino, Esq.
4 appeared for Defendant-in-Intervention, WELLS FARGO BANK, N.A., AS TRUSTEE, ON
5 BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST
6 MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12 ("Wells"). There
7 being no opposition, based on the Plaintiff-in-Intervention's papers and the arguments of counsel
8 and good cause appearing therefor:

9 It is hereby Ordered Adjudged and Decreed that Radecki's Motion to Intervene is
10 Granted; and


11 It is further Ordered Adjudged and Decreed that Radecki shall file the proposed
12 Complaint-in-Intervention within 10 days of the entry of this Order.

13 Dated this 22 day of December, 2013
14
15
16
17
18


DISTRICT COURT JUDGE

19 Respectfully submitted by:

20 MEIER & FINE, LLC

21
22 
23 Glenn F. Meier, Esq. Nevada Bar No. 006059
24 Marilyn Fine, Esq., Nevada Bar No. 005949
25 2300 West Sahara Ave., Suite 1150
26 Las Vegas, NV 89102
27 Attorneys for Plaintiff-in-Intervention
28 Tim Radecki



CLERK OF THE COURT

1 **COMP**
GLENN F. MEIER, ESQ.
2 Nevada Bar No. 006059
gmeier@nvbusinesslawyers.com
3 MARILYN FINE, ESQ.
Nevada Bar No. 005949
4 mfine@nvbusinesslawyers.com
MEIER & FINE, LLC
5 2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
6 Telephone: (702) 673-1000
Facsimile: (702) 673-1001

7 *Attorneys for Tim Radecki*

8
9 **IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA**
10 **IN AND FOR THE COUNTY OF CLARK**

11 -000-

12 WELLS FARGO BANK, N.A., AS TRUSTEE, ON
BEHALF OF THE HOLDERS OF THE
13 HARBORVIEW MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
14 CERTIFICATES, SERIES 2006-12,

15 Plaintiff,

16 vs.

17 AMANDA R. MUNAR; CAMBRIDGE HEIGHTS, A
PLANNED COMMUNITY; DOES I-X; and ROES 1-10
18 inclusive,

19 Defendants.

20 TIM RADECKI,

21 Plaintiff- in-Intervention,

22 vs.

23 AMANDA MUNAR; WELLS FARGO, N.A. AS
24 TRUSTEE, ON BEHALF OF THE HOLDERS OF THE
HARBORVIEW MORTGAGE LOAN TRUST
25 MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12; DOES 1-20; and
26 ROE CORPORATIONS 1-20,

27 Defendant-in-Invention.
28

Case No. A-13-676574-C
Dept. No. XXIX

COMPLAINT-IN-INTERVENTION

MEIER & FINE, LLC
2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
Tel: (702) 673-1000
Fax: (702) 673-1001

COMPLAINT IN INTERVENTION

COMES NOW, Plaintiff In Intervention, TIM RADECKI by and through his attorneys of record MEIER & FINE, LLC, and hereby files this Complaint against Defendants in Intervention, AMANDA MUNAR, WELLS FARGO, N.A. AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12 ("Wells"), DOES 1-20 and ROE CORPORATIONS 1-20 as follows:

GENERAL ALLEGATIONS

1. This lawsuit involves real property situated in Clark County, Nevada, located at 2102 Logsdon Drive, North Las Vegas, Nevada an identified by the Clark County Assessor as APN: 139-20-612-037 (the "Property"). The Property consists of land and a single family home.

2. Plaintiff-in-Intervention, Radecki is an individual and present owner of the Property.

3. Defendant-in-Intervention, Amanda Munar is an individual who resides in Clark County, Nevada and/or was the record owner of the Property. Radecki believes and therefore alleges that said Defendant may claim an interest in the Property adverse to Radecki.

4. Defendant-in-Intervention, Wells is an entity, which does business in Clark County, Nevada and claims and interest in the Property adverse to Radecki's interest in the Property.

5. The true names and capacities whether individual, corporate, associate or otherwise of Defendants DOES 1-20 inclusive, and ROE CORPORATIONS 1-20, inclusive, are unknown to Plaintiff, who therefore sues those defendants by such fictitious names. Plaintiff is informed and believes that upon such, alleges that each of the defendants designated as DOES or ROE CORPORATIONS asserts an interest in the Property adverse to Plaintiff, Radecki, including without limitation, an ownership interest or lien hold interest. Plaintiff asks leave of this Court to amend this Complaint to insert the true names and capacities of DOES 1-20 , inclusive, and ROE CORPORATIONS, 1-20, inclusive, when the same have been ascertained by Plaintiff, together with the appropriate charging allegations, and to join those defendants in this action.

6. The Property is subject to certain Covenants, Conditions, and Restrictions ("CC&Rs") for the Development known as Cambridge Heights. Plaintiff believes and therefore alleges that the

1 CC&Rs were recorded in the official records of the Clark County Recorder in or about 1988.

2 7. The Property is also subject to rules and regulations of the Cambridge Heights
3 Homeowners Association (the "HOA"). Radecki believes and therefore alleges that Amanda
4 Munar acquired the Property in 2001. A deed from Stanley A. Warren and Natividad B. Warren
5 was recorded in the official records of the Clark County Recorder on August 31, 2001. Upon
6 acquisition of the Property, Defendant, Amanda Munar agreed to pay HOA assessments for the
7 Property.

8 8. Radecki is informed and believes and therefore alleges that in 2006, Amanda Munar
9 obtained a mortgage loan from Wells or alternatively, from Wells predecessor-in-interest.
10 Radecki is informed and believes and therefore alleges that a Deed of Trust was recorded on or
11 about September 7, 2006 (the "Deed of Trust"). Radecki believes and therefore alleges that the
12 Deed of Trust reportedly secures a loan in the original amount of \$196,000.00.

13 9. Radecki is informed and believes and therefore alleges that in 2012, Defendant, Amanda
14 Munar failed to pay monthly HOA assessments required by the CC&Rs in the HOA rules and
15 regulations in connection with the budget adopted by HOA.

16 10. The HOA had a statutory lien for assessments levied against the Property (the "HOA
17 Lien"). The HOA lien had priority over all junior liens except for liens resulting from real estate
18 taxes and other governmental assessments.

19 11. A portion of the HOA lien had super priority over the Deed of Trust.

20 12. Radecki is informed and believes and therefore alleges that the HOA took action to
21 foreclose on the HOA lien beginning in 2012. On or about September 13, 2012, HOA caused its
22 agent, Nevada Association Services, Inc. ("NASI"), to record a Notice of Default and Election to
23 Sell under Homeowners Associations lien, which put, Amanda Munar and all interested parties
24 (including Wells and/or Wells Predecessor-In-Interest) on notice that the HOA assessments had
25 not been paid for the past nine (9) months and that failure to cure the delinquency would result in
26 the sale of the Property to satisfy the HOA assessment lien. Radecki believes and therefore
27 alleges that NASI served a copy of the same upon, Amanda Munar and holders of recorded
28 security interests. However, neither Amanda Munar nor any interested party (including Wells or

1 its agents) cured the delinquency by paying the amount of the delinquent HOA assessment lien.

2 13. On or about February 12, 2013 Wells filed or caused to be filed a complaint for judicial
3 foreclosure in the Eighth Judicial District Court, Clark County, Nevada. The Complaint was
4 assigned Case Number A-13-676574 (the "Judicial Foreclosure Action").

5 14. A Notice of HOA Lien Foreclosure Sale was recorded in the official records of the Clark
6 County Recorder on May 13, 2013. Radecki is informed and believes that said notice of HOA
7 lien foreclosure sale scheduled the HOA lien foreclosure for August 23, 2013, and provided
8 notice that the Property would be sold at public auction to the highest cash bidder in satisfaction
9 of the HOA lien. Radecki believes and therefore alleges that NASI published, posted and served
10 a copy of the Notice of HOA Lien Foreclosure Sale upon, Amanda Munar and holders of
11 recorded security interest including Wells.

12 15. Wells, as trustee for the beneficiaries under the Deed of Trust, and its agents and/or
13 representatives had an opportunity to pay the amount owed on the super priority portion of the
14 HOA lien. Wells, its agents and/or representatives had an opportunity to protect the Deed of
15 Trust from extinguishment upon foreclosure of the super priority HOA lien by paying the
16 amount owed on the super priority portion of the HOA lien. However, Wells and its agents
17 and/or representatives failed to pay the amount owed on the super priority portion of the HOA
18 lien.

19 16. Amanda Munar had an opportunity to protect her ownership of the Property by paying
20 the amount owed on the HOA lien. However, she failed to pay amount owed on the HOA lien.

21 17. Radecki is informed and believes and therefore alleges that no person cured the
22 delinquency by paying the amount of delinquent HOA lien before the HOA lien foreclosure sale
23 to place. As a result, the Property was sold at public auction to the highest cash bidder on
24 August 23, 2013. Radecki was the highest cash bidder at the HOA Lien Foreclosure Sale.
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1 18. Radecki acquired the Property at the HOA Lien Foreclosure Sale. A foreclosure deed
2 was executed and delivered to Radecki providing recitals that NASI complied with all
3 requirements of law applicable to mailing copies of the notices and posting/publishing the Notice
4 of HOA Lien Foreclosure Sale (the "Foreclosure Deed"). The Foreclosure Deed was recorded
5 on September 4, 2013.

6
7 19. Radecki acquired the Property free and clear of any interest claimed by Defendants,
8 Amanda Munar, Wells, DOES and ROE CORPORATIONS.

9 20. Plaintiff, Radecki believes that Defendants-in-Intervention, Amanda Munar, Wells,
10 DOES and ROE CORPORATIONS had notice of the HOA Lien Foreclosure Sale but failed to
11 pay the amount owed on any portion of the HOA lien.

12 21. On or about September 10, 2013, a judgment for judicial foreclosure under the Deed of
13 Trust was filed in the Eighth Judicial District Court, Clark County, Nevada in the "Judicial
14 Foreclosure Action". The judgment specifically provides that the Deed of Trust is superior to
15 other liens on the Property "except super priority interests pursuant to NRS § 16.3116."
16 Radecki is informed and believes and therefore alleges that said foreclosure is wrongful because
17 the Deed of Trust was extinguished upon foreclosure of the HOA lien.

18
19 22. Radecki believes that Amanda Munar, Wells, DOES and ROE CORPORATIONS assert
20 an interest in the Property adverse to Radecki's interest in the Property. As a result of the
21 adverse interest, it has become necessary for Radecki to retain legal counsel to protect its interest
22 in the Property.

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FIRST CAUSE OF ACTION

(QUIET TITLE/DECLARATORY RELIEF)

(NRS 40.010, NRS 30.010 and NRS 116.3116, et seq.)

23. Radecki repeats and re-alleges every allegation contained in paragraphs 1-22 of the general allegations of his Complaint as if fully set forth herein.

24. This Court has the power and authority to declare Radecki's rights and interest in the Property and power and authority to resolve all adverse claims of, Amanda Munar, Wells, DOES and ROE CORPORATIONS in the Property.

25. This Court has the power and authority to enjoin Defendants, Wells, DOES and ROE CORPORATIONS from conducting a sale pursuant to the judgment entered in judicial foreclosure action.

26. The Property is subject to the CC&Rs and rules and regulations of the HOA.

27. The CC&Rs were recorded in or about 1988.

28. Amanda Munar acquired the Property in 2001. As owner of the Property, Amanda Munar was obligated to pay monthly HOA assessments to the HOA.

29. The Deed of Trust was recorded against the Property in September, 2006.

30. In or around 2012, Defendant, Amanda Munar failed to pay HOA assessments for the Property as a result, the HOA instituted an action to enforce the HOA lien. A Notice of Default and Election to Sell for the Property was recorded in September, 2012 and mailed to Amanda Munar. However, Amanda Munar failed to cure the delinquency by paying the amount owed on the HOA lien. The HOA received no pay from any other source for the Property's HOA assessments.

31. The Notice of the HOA Lien Foreclosure Sale was recorded, mailed, posted and published in May, 2013. The notice of the HOA Lien Foreclosure Sale scheduled the HOA Lien Foreclosure sale for August 23, 2013. During the period of the recordation of the notice of the HOA Lien Foreclosure sale and the public auction for HOA Lien Foreclosure sale on August 23, 2013 the HOA received no payments for the Property's HOA assessments. As a result, the

1 Property was sold at the HOA Lien Foreclosure Sale to the highest cash bidder, Radecki, in
2 satisfaction of the amount owed on the HOA lien including the super priority portion of the HOA
3 lien.

4 32. Radecki is entitled to a declaratory judgment finding that the HOA had a valid lien
5 against the Property (defined herein as the HOA lien).

6 33. Radecki is entitled to ranking of the priority of liens against the Property immediately
7 prior to the HOA Lien Foreclosure Sale on
8 August 23, 2013. Radecki is informed and believes and therefore alleges that immediately prior
9 to the HOA Lien Foreclosure Sale on August 23, 2013 the Property was encumbered by the
10 Deed of Trust and liens of DOES and ROE CORPORATIONS.

11 34. Radecki is entitled to a declaratory judgment finding the HOA had the right to foreclose
12 on the HOA lien if monthly assessments were not paid and the delinquency was not cured.

13 35. Radecki is entitled to a declaratory judgment finding that the HOA lien had priority over
14 all liens recorded against the Property after recordation of the Deed of Trust, except for lien
15 associated with real estate taxes or other governmental assessments (if any).

16 36. Radecki is entitled to a declaratory judgment finding that foreclosure of the HOA lien
17 extinguished the liens of DOES and ROE CORPORATIONS.

18 37. Radecki is entitled to a declaratory judgment finding that a portion of the HOA lien for
19 nine (9) months of assessments (and if applicable fee and costs) had super priority of the Deed of
20 Trust.

21 38. Radecki is entitled to a declaratory judgment finding that foreclosure of the super priority
22 portion of the HOA lien extinguished the Deed of Trust.

23 39. Plaintiff, Radecki acquired the Property at a HOA lien foreclosure sale. A foreclosure
24 deed was recorded in favor of Radecki providing recitals that NASI complied with all noticing
25 requirements for the HOA lien foreclosure sale.

26 40. Radecki is entitled to a declaratory judgment finding that he acquired the Property free
27 and clear of the Deed of Trust, and any interest of Wells, DOES 1-20 and ROE
28 CORPORATIONS 1-20. In addition, Radecki is entitled to the entry of an injunction enjoining

1 Wells, and its agents, from conducting a sale under the judgment entered in the judicial
2 foreclosure action.

3 41. Radecki is entitled to a declaratory judgment finding that the foreclosure of the HOA lien
4 divested Defendants, Amanda Munar, DOES and ROE CORPORATIONS of their ownership
5 interest. Radecki is entitled to a declaratory judgment finding that the HOA acquired the
6 Property free and clear of any rights and interests of said defendants.

7 PRAYER

8 WHEREFORE, Plaintiff-in-Intervention, TIM RADECKI, prays for judgment against
9 Defendants-in-Intervention, AMANDA MUNAR, WELLS FARGO BANK, N.A., AS
10 TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN
11 TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12, DOES 1-
12 20 and ROE CORPORATIONS 1-20 as follows:

- 13 1. For a judgment declaring that the HOA lien was valid and enforceable.
- 14 2. For a judgment declaring that the HOA had the right to foreclose on the HOA lien.
- 15 3. For a judgment ranking the priority liens against the Property immediately prior to the
16 HOA lien foreclosure sale on August 23, 2013.
- 17 4. For a judgment declaring that the full amount of HOA lien had priority over all liens
18 recorded after the Deed of Trust except for liens associated with real estate taxes or other
19 governmental assessments (if any).
- 20 5. For a judgment declaring that the foreclosure of the HOA lien extinguished the Deed of
21 Trust.
- 22 6. For a judgment declaring that foreclosure of the HOA lien divested, Amanda Munar of
23 her ownership interest in the Property as well as all unknown parties named herein as DOES 1-
24 20 and ROE CORPORATIONS 1-20.
- 25 7. For a judgment declaring that Radecki acquired the Property at the HOA lien foreclosure
26 sale free and clear of the Deed of Trust and liens in favor DOES 1-20 and ROE
27 CORPORATIONS 1-20.
- 28 8. For a judgment entering an injunction against Defendants, Wells and its agents and

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1 representatives stopping any sale or any further action to enforce the judgment and preventing
2 foreclosure under the judgment entered in the judicial foreclosure action.

3 9. For a declaratory judgment quieting title to the Property in favor of Radecki and against
4 Amanda Munar, Wells, DOES 1-20 and ROE CORPORATIONS 1-20, finding that Radecki is
5 the owner of the property free and clear of each defendant's rights and interest in the Property.

6 10. For reasonable attorney's fees and costs incurred in bringing this action.

7 11. For such other and further relief and this Court deems just and proper.

8 DATED this 12th day of December, 2013.

9 Meier & Fine, LLC

10
11 By 

12 GLENN F. MEIER, ESQ.

13 Nevada Bar No.: 006059

14 MARILYN FINE, ESQ.

15 Nevada Bar No.: 005949

16 2300 West Sahara Avenue, Suite 1150

17 Las Vegas, Nevada 89102

18 Attorneys for Tim Radecki

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Las Vegas, Nevada 89102
Tel: (702) 673-1000
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CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true copy of the COMPLAINT-IN-INTERVENTION was deposited in the United States mail in Las Vegas, Nevada, this 12th day of December addressed to the following:

Kristin A. Schuler-Hintz, Esq. McCarthy & Holthus, LLP 9510 W. Sahara Avenue, Suite 200 Las Vegas, Nevada 89117 Attorneys for Wells Fargo Bank, N.A., As Trustee, On Behalf of the Holders of the Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-12	
--	--


An Employee of Meier & Fine, LLC

1 ANS

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7 *Attorneys for Plaintiff Wells Fargo Bank, N.A.,*

8 *As Trustee, On Behalf Of The Holders*

Of The Harborview Mortgage Loan Trust

9 *Mortgage Loan Pass-Through Certificates, Series 2006-12*

10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

12 WELLS FARGO BANK, N.A., AS
13 TRUSTEE, ON BEHALF OF THE
14 HOLDERS OF THE HARBORVIEW
15 MORTGAGE LOAN TRUST MORTGAGE
16 LOAN PASS-THROUGH
17 CERTIFICATES, SERIES 2006-12,

18 Plaintiff,

19 v.

20 AMANDA R. MUNAR; CAMBRIDGE
21 HEIGHTS, A PLANNED COMMUNITY;
22 DOES I-X; and ROES 1-10 inclusive,

23 Defendants.

24 TIM RADECKI,

25 Plaintiff-in-Intervention,

26 v.

27 AMANDA MUNAR; WELLS FARGO,
28 N.A., AS TRUSTEE, ON BEHALF OF
THE HOLDERS OF THE HARBORVIEW
MORTGAGE LOAN TRUST MORTGAGE
LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12; DOES
1-20; and ROE CORPORATIONS 1-20,

Defendant-in-Intervention.

CASE NO. A-13-676574-C

DEPT NO. IV

1 AMENDED ANSWER OF DEFENDANT-IN-INTERVENTION

2 WELLS FARGO BANK N.A., AS TRUSTEE

3 Defendant-in-Intervention Wells Fargo Bank, N.A., as Trustee, on behalf of
4 the Holders of the Harborview Mortgage Loan Trust Mortgage Pass Through
5 Certificates Series 2006-12 ("Wells Fargo"), by and through its counsel of record,
6 submits its Amended Answer to Intervening Plaintiff's Complaint-in-Intervention
7 (the "Complaint") and states as follows:

8 Wells Fargo denies the allegations in the Complaint except as expressly
9 admitted below.

10 GENERAL ALLEGATIONS

11 1. Wells Fargo admits the allegations of paragraph 1.

12 2. Wells Fargo lacks sufficient information to admit or deny the
13 allegations in paragraph 2 and therefore denies them.

14 3. Wells Fargo admits that Amanda Munar may have an ownership
15 interest in the Property (as defined in the Complaint). Wells Fargo lacks sufficient
16 information to admit or deny the remaining allegations in paragraph 3 and
17 therefore denies them.

18 4. Wells Fargo admits that, in its capacity as trustee for Harborview
19 Mortgage Loan Trust Mortgage Pass Through Certificates Series 2006-12 (the
20 "Trust"), it claims an interest in the Property and does business in Clark County,
21 Nevada.

22 5. Wells Fargo lacks sufficient information to admit or deny the
23 allegations in paragraph 5 and therefore denies them.

24 6. Wells Fargo admits that the Property is subject to certain Covenants,
25 Conditions & Restrictions for Cambridge Heights, a planned community, and avers
26 that the records of the Clark County Recorder speak for themselves.

27 7. Wells Fargo admits that Amanda Munar acquired the Property in
28 2001, and avers that the records of the Clark County Recorder speak for

1 themselves. Wells Fargo lacks sufficient information to admit or deny the
2 remaining allegations in paragraph 7 and therefore denies them.

3 8. Wells Fargo denies the allegations of paragraph 8 except Wells Fargo
4 admits that Ms. Munar obtained a loan from ComUnity Lending in the original
5 principal amount of \$196,000, which was secured by a deed of trust recorded with
6 the Clark County Recorder on September 7, 2006.

7 9. Wells Fargo lacks sufficient information to admit or deny the
8 allegations in paragraph 9 and therefore denies them.

9 10. Wells Fargo lacks sufficient information to admit or deny the
10 allegations in paragraph 10 and therefore denies them. Wells Fargo denies that
11 any HOA lien has priority over all liens on the Property.

12 11. Paragraph 11 contains a legal conclusion to which no response is
13 required. To the extent a response is required, Wells Fargo denies the allegations of
14 paragraph 11.

15 12. Paragraph 12 contains a legal conclusion to which no response is
16 required. To the extent a response is required, Wells Fargo denies the allegations of
17 paragraph 12, except Wells Fargo admits that a Notice of Default and Election to
18 Sell was recorded with the Clark County Recorder, and avers that the records of the
19 Clark County Recorder speak for themselves.

20 13. Wells Fargo admits the allegations of paragraph 13.

21 14. Paragraph 14 contains a legal conclusion to which no response is
22 required. To the extent a response is required, Wells Fargo denies the allegations of
23 paragraph 14, except Wells Fargo admits that a Notice of Sale was recorded with
24 the Clark County Recorder, and avers that the records of the Clark County
25 Recorder speak for themselves.

26 15. Wells Fargo denies the allegations of paragraph 15.

27 16. Wells Fargo lacks sufficient information to admit or deny the
28 allegations in paragraph 16 and therefore denies them.

18. Wells Fargo admits that a Foreclosure deed was recorded with the Clark County Recorder. Wells Fargo lacks sufficient information to admit or deny the remaining allegations in paragraph 18 and therefore denies them.

6 19. Paragraph 19 contains a legal conclusion to which no response is
7 required. To the extent a response is required, Wells Fargo denies the allegations of
8 paragraph 19.

9 20. Paragraph 20 contains a legal conclusion to which no response is
10 required. To the extent a response is required, Wells Fargo denies the allegations of
11 paragraph 20.

21. Wells Fargo denies the allegations of paragraph 21, except Wells Fargo admits that a Judgment entered on September 10, 2013, and avers that the Judgment and the records of the Eighth Judicial District Court speaks for themselves.

22. Wells Fargo admits that it has an interest in the Property, in its capacity as trustee. Wells Fargo lacks sufficient information to admit or deny the remaining allegations in paragraph 22 and therefore denies them.

19 FIRST CAUSE OF ACTION

20 QUIET TITLE/DECLARATORY RELIEF

21 | (NRS 40.010, NRS 30.010 and NRS 116.3116, et seq.)

22 23. Wells Fargo incorporates its responses to paragraphs 1 through 22 as if set
23 forth fully herein.

24 24. Paragraph 24 contains legal conclusions to which no response is required. To
25 the extent a response is required, Wells Fargo admits that jurisdiction is proper in
26 this Court.

1 25. Paragraph 25 contains legal conclusions to which no response is required. To
2 the extent a response is required, Wells Fargo admits that jurisdiction is proper in
3 this Court.

4 26. Wells Fargo admits that the Property is subject to Covenants, Conditions,
5 and Restrictions. Wells Fargo lacks sufficient information to admit or deny the
6 remaining allegations in paragraph 26 and therefore denies them.

7 27. Wells Fargo admits the allegations of paragraph 27 and avers that the
8 records of the Clark County Recorder speak for themselves.

9 28. Wells Fargo admits that Ms. Munar acquired the Property in 2001. Wells
10 Fargo lacks sufficient information to admit or deny the remaining allegations in
11 paragraph 28 and therefore denies them.

12 29. Wells Fargo admits the allegations of paragraph 29 and avers that the
13 records of the Clark County Recorder speak for themselves.

14 30. Wells Fargo admits that a Notice of Default and Election to Sell was recorded
15 with the Clark County Recorder, and avers that the records of the Clark County
16 Recorder speak for themselves. Wells Fargo lacks sufficient information to admit or
17 deny the remaining allegations in paragraph 30 and therefore denies them.

18 31. Wells Fargo admits that a Notice of Sale was recorded with the Clark County
19 Recorder, and avers that the records of the Clark County Recorder speak for
20 themselves. Wells Fargo lacks sufficient information to admit or deny the
21 remaining allegations in paragraph 31 and therefore denies them.

22 32-38. Wells Fargo denies the allegations of paragraphs 32 through 38.

23 39. Wells Fargo admits that a Foreclosure deed was recorded with the Clark
24 County Recorder. Wells Fargo lacks sufficient information to admit or deny the
25 remaining allegations in paragraph 39 and therefore denies them.

26 40-41. Wells Fargo denies the allegations of paragraphs 40 and 41.
27
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1 Wells Fargo denies each and every allegation set forth in the "Prayer" section
2 of the Complaint and specifically denies that Plaintiff-in-Intervention is entitled to
3 the relief requested from Wells Fargo.

4 WELLS FARGO ASSERTS THE FOLLOWING AFFIRMATIVE DEFENSES:

5 FIRST AFFIRMATIVE DEFENSE

6 Plaintiffs Complaint fails to state a claim against Wells Fargo upon which
7 relief can be granted.

8 SECOND AFFIRMATIVE DEFENSE

9 The homeowner's association foreclosure sale was not reasonable, and the
10 circumstances of the sale of the property violated the homeowner's association's
11 obligation of good faith under NRS 116.1113 and duty to act in a reasonable
12 manner.

13 THIRD AFFIRMATIVE DEFENSE

14 The homeowner's association foreclosure sale was commercially unreasonable
15 if it eliminated the deed of trust. The sales price, when compared to the
16 outstanding balance of the note and deed of trust and the fair market value of the
17 subject real property, demonstrates that the sale was not conducted in good faith as
18 a matter of law. The circumstances of sale of the Property violated the homeowner's
19 association's obligation of good faith under NRS § 116.1113 and duty to act in a
20 commercially reasonable manner.

21 FOURTH AFFIRMATIVE DEFENSE

22 To the extent this defense may become applicable after further investigation
23 and discovery, Wells Fargo alleges that the Plaintiffs claims are barred by the
24 equitable doctrines of laches, unclean hands, and failure to do equity.

25 FIFTH AFFIRMATIVE DEFENSE

26 The homeowner's association foreclosure sale is void or otherwise insufficient
27 to extinguish the deed of trust based on the failure to provide proper notice of the
28 "super-priority" assessment amounts in accordance with the requirements of NRS

1 Chapter 116, federal, and constitutional law.

2 SIXTH AFFIRMATIVE DEFENSE

3 The homeowner's association foreclosure sale was conducted in violation of
4 NRS 116.3116(6).

5 SEVENTH AFFIRMATIVE DEFENSE

6 To the extent that Plaintiff's interpretation of NRS 116.3116 is accurate, the
7 statute and Chapter 116 as a whole are void for vagueness as applied to this matter.

8 EIGHTH AFFIRMATIVE DEFENSE

9 A senior deed of trust beneficiary cannot be deprived of its property interest
10 in violation of the Procedural Due Process Clause of the 14th Amendment of the
11 United States Constitution and Article 1, Sec. 8, of the Nevada Constitution.

12 NINTH AFFIRMATIVE DEFENSE

13 The homeowner's association foreclosure sale is void or otherwise does not
14 operate to extinguish the first Deed of Trust pursuant to the Due Process Clause of
15 the Nevada Constitution and United States Constitution.

16 TENTH AFFIRMATIVE DEFENSE

17 Plaintiff-in-Intervention purchased the property with record notice of the
18 interest of the senior deed of trust recorded against the property and is not a bona
19 fide purchaser for value.

20 ELEVENTH AFFIRMATIVE DEFENSE

21 To the extent Deutsche Bank paid taxes and insurance after the alleged
22 homeowner's association foreclosure sale, it is entitled to recoup those amounts.

23 TWELFTH AFFIRMATIVE DEFENSE

24 The acts alleged in the Complaint were the acts of third parties over whom
25 Wells Fargo has no control or responsibility.

26 THIRTEENTH AFFIRMATIVE DEFENSE

27 Plaintiff-in-Intervention took title of the Property subject to Wells Fargo's
28 first priority Deed of Trust.

1 FOURTEENTH AFFIRMATIVE DEFENSE

2 Plaintiff-in-Intervention has waived his rights and is estopped from asserting
3 his claims against Wells Fargo.

4 FIFTEENTH AFFIRMATIVE DEFENSE

5 The alleged homeowner's association foreclosure sale is void or otherwise
6 insufficient to extinguish the deed of trust based on the failure to comply with the
7 Declaration and Bylaws governing the Association.

8 SIXTEENTH AFFIRMATIVE DEFENSE

9 The alleged homeowner's association foreclosure sale is void or does not
10 operate to extinguish the first deed of trust based on the provisions of the
11 Declaration and/or Covenants, Conditions and Restrictions.

12 SEVENTEENTH AFFIRMATIVE DEFENSE

13 The alleged homeowner's association foreclosure sale does not operate to
14 extinguish the deed of trust because the homeowners' association waived its
15 interests in the Property and/or is estopped from asserting any interest in the
16 Property.

17 EIGHTEENTH AFFIRMATIVE DEFENSE

18 Plaintiff-in-Intervention's claim is barred in whole or in part because the
19 transfer to Plaintiff-in-Intervention was a fraudulent transfer under NRS 112.190.

20 Wells Fargo reserves the right to assert additional affirmative defenses in the
21 event discovery and/or investigation indicates that additional affirmative defenses
22 are applicable.

23 REQUEST FOR RELIEF

24 WHEREFORE, Wells Fargo requests judgment as follows:

- 25 1. That the Court make a judicial determination that Wells Fargo's
26 ownership interest and/or Deed of Trust is superior to Plaintiff's claim
27 of title;
- 28 2. That the Court make a judicial determination that Wells Fargo's Deed
 of Trust survived the homeowner's association foreclosure sale, and

1 that Plaintiff took title subject to Wells Fargo's Deed of Trust or,
2 alternatively, that the homeowner's association foreclosure sale is
3 invalid and be set aside;

4 3. That Plaintiff recover nothing on account of the claims made in the
5 Complaint;

6 4. For an award of Wells Fargo's reasonable attorney's fees and costs; and

7 5. For any such other and further relief as the Court may deem just and
8 proper.

9 Dated: May __, 2015.

10 BALLARD SPAHR LLP

11 By: /s/ Sylvia O. Semper

12 Abran E. Vigil, Esq.
13 Nevada Bar No. 7548
14 Sylvia Semper, Esq.
15 Nevada Bar No. 12863
16 100 North City Parkway, Suite 1750
17 Las Vegas, Nevada 89106
18 Telephone: (702) 471-7000

19 *Attorneys for Defendant-in-Intervention*
20 *Wells Fargo Bank, N.A., As Trustee, On*
21 *Behalf Of The Holders Of The*
22 *Harborview Mortgage Loan Trust*
23 *Mortgage Loan Pass-Through*
24 *Certificates, Series 2006-12*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the ____ day of May 2015 and pursuant to N.R.C.P. 5(b), I served a true and correct copy of the foregoing AMENDED ANSWER OF DEFENDANT-IN-INTERVENTION WELLS FARGO BANK N.A., AS TRUSTEE, upon all counsel listed below in the following manner:

☐ Hand Delivery

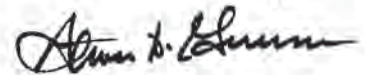
☐ Facsimile Transmission

☐ U.S. Mail, Postage Pre-Paid' and/or

☒ Via the Wiznet E-Service-generated "Service Notification of Filing" upon all counsel set up to receive notice via electronic service in this matter

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An employee of BALLARD SPAHR LLP



CLERK OF THE COURT

1 MSJD

2 Abran E. Vigil
3 Nevada Bar No. 7548
4 Sylvia O. Semper
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7 100 North City Parkway, Suite 1750
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12 E-Mail: sempers@ballardspahr.com

13 *Attorneys for Plaintiff Wells Fargo Bank, N.A.,*
14 *As Trustee, On Behalf Of The Holders*
15 *Of The Harborview Mortgage Loan Trust*
16 *Mortgage Loan Pass-Through Certificates, Series 2006-12*

17 DISTRICT COURT

18 CLARK COUNTY, NEVADA

19 WELLS FARGO BANK, N.A., AS
20 TRUSTEE, ON BEHALF OF THE
21 HOLDERS OF THE HARBORVIEW
22 MORTGAGE LOAN TRUST MORTGAGE
23 LOAN PASS-THROUGH
24 CERTIFICATES, SERIES 2006-12,

25 Plaintiff,

26 v.

27 AMANDA R. MUNAR; CAMBRIDGE
28 HEIGHTS, A PLANNED COMMUNITY;
DOES I-X; and ROES 1-10 inclusive,

Defendants.

TIM RADECKI,

Plaintiff-in-Intervention,

v.

AMANDA MUNAR; WELLS FARGO,
N.A., AS TRUSTEE, ON BEHALF OF
THE HOLDERS OF THE HARBORVIEW
MORTGAGE LOAN TRUST MORTGAGE
LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12; DOES
1-20; and ROE CORPORATIONS 1-20,

Defendant-in-Intervention.

CASE NO. A-13-676574-C

DEPT NO. XXIX

Ballard Spahr LLP
100 North City Parkway, Suite 1750
Las Vegas, Nevada 89106-4617

1 WELLS FARGO BANK N.A.'S MOTION FOR SUMMARY JUDGMENT

2 Pursuant to EDCR 2.20 and N.R.C.P. 56, defendant-in-intervention Wells
3 Fargo Bank, N.A., as Trustee, on behalf of the Holders of the Harborview Mortgage
4 Loan Trust Mortgage Pass Through Certificates Series 2006-12 ("Wells Fargo")
5 moves for summary judgment as to all claims asserted in plaintiff-in-intervention's
6 complaint.

7 Dated: October 12, 2015.

8 BALLARD SPAHR LLP

9
10 By: /s/ Sylvia O. Semper
11 Abran E. Vigil, Esq.
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13 Sylvia Semper, Esq.
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18
19 *Attorneys for Defendant-in-Intervention*
20 *Wells Fargo Bank, N.A., As Trustee, On*
21 *Behalf Of The Holders Of The Harborview*
22 *Mortgage Loan Trust Mortgage Loan Pass-*
23 *Through Certificates, Series 2006-12*
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 This is a quiet title action arising from a homeowner association's foreclosure
3 sale under NRS Chapter 116. Wells Fargo commenced this proceeding to judicially
4 foreclose and determine the rights of all parties to the subject property. Failing to
5 appear and defaulting in this judicial foreclosure action, the Cambridge Heights
6 Homeowners Association subverted the judicial process and raced to sell the
7 property before Wells Fargo could obtain a judgment in this case. After submitting
8 the highest (and only) bid at the sale, plaintiff intervened in this lawsuit requesting
9 a declaration that he acquired the subject property free and clear of Wells Fargo's
10 first deed of trust.

11 The Court should enter summary judgment in favor of Wells Fargo as to all of
12 plaintiff's claims for three independently sufficient reasons. First, the sale is void
13 because the sale price of \$4,000 is grossly inadequate in comparison to the market
14 value of the property. Second, the notice scheme of NRS Chapter 116 is facially
15 unconstitutional because it does not require an association to give notice of a sale to
16 the beneficiary of a first deed of trust. Third, the sale in this case was a
17 constructively fraudulent transfer under the Uniform Fraudulent Transfer Act. For
18 any one of these reasons, the Court should enter summary judgment in favor of
19 Wells Fargo and against plaintiff.

20 **I. STATEMENT OF UNDISPUTED FACTS**

21 1. In August 2006, borrower Amanda Munar obtained a \$196,000
22 mortgage loan from ComUnity Lending, Inc., d/b/a Advantage Funding Group.
23 (Ex. B (Note).)

24 2. The loan was secured by a first-position deed of trust encumbering a
25 property at 2102 Logsdon Dr., North Las Vegas, Nevada, 89032, APN 139-20-612-
26 037 (the "Property"). (Ex. C (Deed of Trust).)

27 3. The deed of trust named Mortgage Electronic Registration Systems,
28 Inc. ("MERS") as nominee-beneficiary. (*Id.*)

1 4. The deed of trust was recorded on September 7, 2006. (*Id.*)

2 5. MERS assigned the deed of trust to Bank of America, N.A. in an
3 assignment recorded October 11, 2011. (Ex. D (Assignment).)

4 6. Bank of America assigned the deed of trust to defendant Wells Fargo,
5 as trustee, in an assignment recorded December 27, 2012. (Ex. E (Assignment).)

6 7. The Property is located within a common-interest community named
7 Cambridge Heights ("Cambridge"). (*See generally* Ex. F (Declaration of Covenants,
8 Conditions and Restrictions and Reservation of Easements for Cambridge Heights).)

9 8. Ms. Munar became delinquent in her monthly mortgage payments
10 beginning with the payment due March 1, 2011. (*See* Ex. A (Declaration of Patrick
11 Pittman) ¶ 11.

12 9. Ms. Munar also became delinquent in her monthly assessments owed
13 to Cambridge, beginning with the assessment due March 1, 2012 (*See* Ex. H
14 (Default letter and table of amounts owed); Ex. G (Dep. Tr. of Susan Rose), 22:21-
15 23:8.)

16 10. Nevada Association Services, Inc. ("NAS"), acting on behalf of
17 Cambridge, recorded a Notice of Delinquent Assessment Lien against the Property
18 on July 25, 2012. (Ex. I (Notice of Assessment Lien).)

19 11. NAS recorded a Notice of Default and Election to Sell under
20 Homeowners Association Lien ("Notice of Default") against the Property on
21 September 13, 2012. (Ex. J (Notice of Default).)

22 12. On February 12, 2013, Wells Fargo filed a complaint in this Court
23 seeking a judicial foreclosure on the Deed of Trust. That same day, Wells Fargo
24 recorded a Notice of Lis Pendens against the Property. (*See* Ex. K (Lis Pendens).)

25 13. Wells Fargo served a copy of the summons and Complaint on
26 Cambridge on February 27, 2013. Cambridge failed to appear or defend in the case.

27 14. A default was entered against Cambridge on April 2, 2013. (*See* Ex. L
28 (Default).)

1 15. Rather than appear and determine the respective rights of the parties
2 in this action, Cambridge proceeded with its private trustee foreclosure. On May 1,
3 2013, NAS recorded a Notice of Foreclosure Sale against the Property. (*See* Ex. M
4 (Notice of Sale).)

5 16. NAS purportedly sold the Property on August 23, 2013.

6 17. Other than Cambridge's opening credit bid, only one person bid on the
7 Property at the sale. (*See* Ex. N (Receipt of Funds); *see also* Ex. G (Dep. Tr. of
8 Susan Rose) 47:16—49:5 (deposition testimony of NAS' Rule 30(b)(6) representative
9 authenticating Receipt of Funds and Instructions).)

10 18. Plaintiff was the highest bidder with a bid of \$4,000. (*See* Ex. N
11 (Receipt of Funds), Ex. O (Foreclosure Deed) & Ex. G (Dep. Tr. of Susan Rose) at
12 50:23-51:15.)

13 19. NAS has no processes or procedures in place to attempt to maximize
14 the bids or the amount obtained for the properties at auction. To the contrary, NAS'
15 corporate representative testified that NAS prefers not to deal with proceeds above
16 the association's lien amount. (*See* Ex. P (Dep. Tr. of Christopher Yergensen) at
17 34:17-35:1.)

18 20. At the time of the sale, the Clark County Assessor assessed the
19 Property's value as \$56,197.00. (*See* Ex. O (Declaration of Value); *see also* Ex. P at
20 (Dep. Tr. of Christopher Yergensen) at 37:19-38:3) (NAS Rule 30(b)(6)
21 representative confirming this amount as property's assessed value).)

22 21. According to the State of Nevada - Declaration of Value, completed by
23 NAS at the time of the sale, the Property had a value of \$56,197.00. (*See id.*)

24 22. The value of property for 2014, as assessed by the Clark County
25 Assessor, increased to \$82,131.00. (*See* Ex. Q (printout from Clark County
26 Assessor's website).¹)

27 ¹ The Court may take judicial notice of facts that are "capable of accurate and ready
28 determination" including public records. *See* Rule 11-201(B)(2); *see also City of Aztec v.*
Gurule, 147 N.M. 693, 228 P.3d 477, 481 (2010).

23. On August 27, 2013, four days after Cambridge purportedly sold the Property, this Court entered a Minute Order granting the motion for summary judgment, and entered the Judgment on September 10, 2013. (Ex. R (Minute Order).)

II. LEGAL STANDARD

“Summary judgment is appropriate under N.R.C.P. 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). Whether an issue of fact is material or irrelevant depends on the substantive law that controls the issue in the case. *Id.* “A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party.” *Id.* (citations omitted).

The nonmoving party “must, by affidavit or otherwise, set forth specific facts demonstrating that the existence of a genuine issue for trial or have summary judgment entered against him.” *Id.* (citation and internal quotation marks omitted).

III. ARGUMENT

A. Under the Restatement Approach, which the Nevada Supreme Court is Likely to Follow, the Sale is Void for Insufficiency of Price.

In *SFR Invs. Pool 1, LLC v. U.S. Bank, N.A.*, the Nevada Supreme Court held that a properly conducted non-judicial sale under NRS Chapter 116 generally extinguishes a first deed of trust. 130 Nev. Adv. Rep. 75, 334 P.3d 408, 419 (2014). The Nevada Supreme Court, however, did not address whether the sale may be challenged or invalidated on the ground that the sale price is inadequate. *SFR* was primarily concerned with whether a “super-lien” under NRS Chapter 116 is a true priority lien and whether an association must foreclose judicially in order to invoke

1 this super-priority. *See id.* Thus, the effect of a grossly inadequate sale price under
2 NRS Chapter 116 is an issue of first impression, and the Court must predict how
3 the Nevada Supreme Court would resolve this issue if presented with it. *See*
4 *Glendale Assocs., Ltd. v. NLRB*, 347 F.3d 1145, 1154 (9th Cir. 2003) (“When the
5 state’s highest court has not squarely addressed an issue, we must predict how the
6 highest state court would decide the issue using intermediate appellate court
7 decisions, decisions from other jurisdictions, statutes, treaties and restatements for
8 guidance.”) (internal citation omitted).

9 The Nevada Supreme Court has previously followed the Restatement (Third)
10 of Property: Mortgages (the “Restatement”) with respect to real property issues.
11 *See Edelstein v. Bank of N.Y. Mellon*, 128 Nev. Adv. Rep. 48, 286 P.3d 249, 257-60
12 (2012) (adopting § 5.4 of Restatement, governing assignments of promissory notes
13 and deeds of trust); *Houston v. Bank of America*, 119 Nev. 485, 490, 78 P.3d 71, 74
14 (2003) (adopting § 7.6 of Restatement, governing equitable subrogation); *see also*
15 *United States Bank Nat’l Ass’n v. Palmilla Dev. Co.*, 131 Nev. Adv. Rep. 9, 343 P.3d
16 603, 605-06 (2015) (citing Restatement in holding that sale of real property by
17 receiver does not constitute trustee’s sale under NRS Chapter 107); *First Fin. Bank,*
18 *N.A. v. Lane*, 130 Nev. Adv. Rep. 96, 339 P.3d 1289, 1290-91 (2014) (citing
19 Restatement in discussing calculation of deficiency judgments under Nevada law).
20 The Nevada Supreme Court also cited the Restatement approvingly in its *SFR*
21 decision. *See SFR Invs. Pool 1, LLC*, 334 P.3d at 412.

22 Further, Arizona, a neighboring jurisdiction to which Nevada has looked for
23 guidance, has adopted Section 8.3 of the Restatement, which specifically governs
24 the sufficiency of the price paid at a foreclosure sale. *See Krohn v. Sweetheart*
25 *Props, LTD (In re Krohn)*, 203 Ariz. 205, 214, 52 P.3d 774, 783 (2002); *see also Foley*
26 *v. Kennedy*, 110 Nev. 1295, 1301-02, 885 P.2d 583, 587 (1994) (following case law
27 from Arizona Supreme Court discussing equitable estoppel). Based on Nevada’s
28 past reliance on the Restatement, and based on Arizona’s explicit adoption of

1 Section 8.3 of the Restatement, the Nevada Supreme Court would likely follow
2 Section 8.3 to decide the sufficiency of the price paid at a sale under NRS Chapter
3 116.

4 Accordingly, this Court should apply Section 8.3 of the Restatement to decide
5 whether the \$4,000 price invalidates the sale in this case. *Cf. Freedom Mortg. Corp.*
6 *v. Trovare Homeowners Ass'n*, No. 2:11-cv-01403-MMD-GWF, 2012 U.S. Dist.
7 LEXIS 169638, at *9-11 (D. Nev. Nov. 28, 2012) (predicting that Nevada Supreme
8 Court would follow § 7.3 of Restatement, governing doctrine of replacement).

9 Section 8.3 of the Restatement governs the adequacy of a price obtained at a
10 foreclosure sale:

11 (a) A foreclosure sale price obtained pursuant to a
12 foreclosure proceeding that is otherwise regularly
13 conducted in compliance with applicable law does not
14 render the foreclosure defective unless the price is grossly
15 inadequate.

16 (b) Subsection (a) applies to both power of sale and
17 judicial foreclosure proceedings.

18 Restatement § 8.3 (emphasis added). Thus, under the Restatement, a foreclosure
19 sale (whether judicial or non-judicial) may be set aside where the price is “grossly
20 inadequate.” The commentary to the Restatement further explains:

21 “Gross inadequacy” cannot be precisely defined in terms
22 of a specific percentage of fair market value. Generally,
23 however, a court is warranted in invalidating a sale
24 where the price is less than 20 percent of fair market
25 value and, absent other foreclosure defects, is usually not
26 warranted in invalidating a sale that yields in excess of
27 that amount. While the trial court’s judgment in matters
28 of price adequacy is entitled to considerable deference, in
extreme cases a price may be so low (typically well under
20% of fair market value) that it would be an abuse of
discretion for the court to refuse to invalidate it.

29 *Id.* § 8.3 cmt. b (internal citation omitted). The Restatement’s illustrations confirm
30 that a court may cancel a foreclosure sale based solely on price where the price is
31 less than 20% of fair market value:

32 1. Mortgagee forecloses a mortgage on Blackacre by
judicial action. The mortgage is the only lien on

1 Blackacre. Blackacre is sold at the foreclosure sale for
2 \$19,000. The fair market value of Blackacre at the time
3 of the sale is \$100,000. The foreclosure proceeding is
4 regularly conducted in compliance with state law. A court
5 is warranted in finding that the sale price is grossly
6 inadequate and in refusing to confirm the sale.

7 2. The facts are the same as Illustration 1, except the
8 foreclosure proceeding is by power of sale and Mortgagor
9 files a judicial action to set aside the sale based on
10 inadequacy of the sale price. A court is warranted in
11 finding that the sale price is grossly inadequate and in
12 setting aside the sale, provided that the property has not
13 subsequently been sold to a bona fide purchaser.

14 *Id.* § 8.3 illus. 1-2.

15 This rule comports with case law from other jurisdictions holding that an
16 extremely low price, by itself, will invalidate a sale. *See Krohn*, 203 Ariz. at 214, 52
17 P.3d at 783 (invalidating sale for 17.5% of fair market value and holding that “a
18 sale of real property under power of sale in a deed of trust may be set aside solely on
19 the basis that the bid price was grossly inadequate.”); *Armstrong v. Csurilla*, 112
20 N.M. 579, 591, 817 P.2d 1221, 1233 (1991) (sale may be set aside “when the
21 disparity is so great as to shock the court’s conscience”); *United Okla. Bank v. Moss*,
22 1990 OK 50, ¶ 20, 793 P.2d 1359, 1364 (1990) (setting aside sale for approximately
23 20% of fair market value, noting that court may refuse to confirm sale where “the
24 sale price is so grossly inadequate that it shocks the conscience of the court...”).
25 This approach also comports with NRS Chapter 116. Under NRS 116.1113, “[e]very
26 contract or duty governed by this chapter imposes an obligation of good faith in its
27 performance or enforcement.” An association (or its foreclosure agent) violates this
28 obligation of good faith by selling a property for a grossly inadequate price.

Turning to the facts of this case, the plaintiff purportedly purchased the
Property for \$4,000. *See* Ex. O (Foreclosure Deed and Declaration of Value). At the
time of the sale, the Property’s assessed value was \$56,197. *See* Ex. O (Declaration
of Value); *see also* Ex. P (Dep. Tr. of Yergensen) 37:19-38:3. Indeed, the Declaration
of Value of the Property for the foreclosure sale was listed as \$56,197 *See* Ex. O.
The assessed value of the Property significantly increased in 2014, indicating that

1 the fair market value for the Property may have been higher than the assessed
2 value at the time of the sale. Thus, the Property sold for only 7.1% of its assessed
3 value well below the 20% threshold imposed by the Restatement.

4 This inadequate price exacerbates the inequity of the foreclosure sale
5 particularly with respect to Ms. Munar. Ms. Munar lost her home to a sale that
6 netted only 7% of the property's value, leaving her obligated on the purchase-loan
7 without the value of the property solely because Cambridge and NAS subverted the
8 judicial process and did not attempt to maximize the amount of the sale.
9 Cambridge ignored the judicial process, the primary purpose of which is to
10 determine the respective interests in the property, and raced to sell the property out
11 from under everyone. Further, NAS admits that it took no steps to maximize the
12 sale proceeds in any way, and, in fact, prefers that the sale price not exceed the lien
13 amount so it can avoid dealing with any excess proceeds. *See* Ex. P, (Dep. Tr. of
14 Yergensen) at 34:20-35:1.

15 Because the sale price was wholly inadequate, the Court should find the
16 foreclosure sale void as a matter of law.

17 **B. The Notice Scheme of NRS Chapter 116 is Facially Unconstitutional.**

18 Even if the Court disagrees with Wells Fargo's argument that the sale is void
19 for inadequacy of price, the Court should enter summary judgment for Wells Fargo
20 because the notice scheme of NRS Chapter 116 is facially unconstitutional.²
21 Chapter 116's notice provisions violate the Due Process Clauses of the Fourteenth
22 Amendment and the Nevada Constitution because they do not require an
23 association to provide notice of its foreclosure to lenders and other secured parties
24 with a recorded interest in a property. Instead, Chapter 116 places the burden on
25 the lender to affirmatively "opt in" and request such notice. By failing to require
26

27 ² By way of a letter dated October 12, 2015, a copy of which is attached hereto as
28 Exhibit S, U.S. Bank has notified the Nevada Attorney General of its challenge to the
constitutionality of NRS 116.3116, *et seq.*

1 associations to take reasonable steps to actually notify interested parties of the
2 association's actions to foreclose, Chapter 116 violates long-established principles of
3 due process.

4 A party may challenge the constitutionality of a statute in two ways: based
5 on the statute's application to the specific facts of a case (*i.e.*, an as-applied
6 challenge) or based on the statute's intrinsic terms, which violated a constitutional
7 right from the day of the law's enactment (*i.e.*, a facial challenge). *See Ezell v. City*
8 *of Chicago*, 651 F.3d 684, 698-99 (7th Cir. 2011); *Seguin v. City of Sterling Heights*,
9 968 F.2d 584, 589-90 (6th Cir. 1992). Unlike as-applied challenges that must
10 consider the facts of a particular case, for a facial challenge, "individual application
11 of the facts do[es] not matter," and "the plaintiff's personal situation becomes
12 irrelevant. It is enough that '[w]e have only the [statute] itself' and the 'statement
13 of basis and purpose that accompanied its promulgation.'" *Ezell*, 651 F.3d at 697
14 (citing *Reno v. Flores*, 507 U.S. 292, 300-01 (1993)); *see also John Doe No. 1 v. Reed*,
15 561 U.S. 186, 194 (2010); *Women's Med. Prof'l Corp. v. Voinovich*, 130 F.3d 187, 193
16 (6th Cir. 1997) ("[I]f a statute is unconstitutional on its face, the State may not
17 enforce the statute under any circumstances.").

18 1. Due Process Requires Notice to Lienholders
19 Before a Foreclosure Sale May Extinguish Their Liens.

20 The due process clause of the United States Constitution requires that, at a
21 minimum, "[the] deprivation of life, liberty or property by adjudication be preceded
22 by notice and opportunity for hearing appropriate to the nature of the case."
23 *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 313, 70 S.Ct. 652, 656-57
24 (1950).³ Thus, state action affecting real property must be accompanied by "notice
25 reasonably calculated, under all circumstances, to apprise interested parties of the
26

27 ³ The Nevada Supreme Court has "consistently relied upon the [United States]
28 Supreme Court's holdings interpreting the federal Due Process Clause to define the
fundamental liberties protected under Nevada's due process clause." *State v. Eighth Jud.*
Dist. Ct. (Logan D.), 306 P.3d 369, 377 (2013).

pendency of the action and afford them an opportunity to present their objections.”
Tulsa Prof'l Collection Services, Inc. v. Pope, 485 U.S. 478, 484, 108 S.Ct. 1340,
1344 (1988).

The United States Supreme Court emphasized the importance of this notice requirement in *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 103 S. Ct. 2706 (1983). In this case, the Court addressed whether a mortgagee was entitled to notice before its lien could be extinguished at a tax sale. The Court held that any reasonably ascertainable party with an interest in the subject property must be provided notice of the sale via mail or an equally effective means of service. Constructive notice is not sufficient:

Since a mortgagee clearly has a legally protected property interest, he is entitled to notice reasonably calculated to apprise him of a pending tax sale. When the mortgagee is identified in a mortgage that is publicly recorded, constructive notice by publication must be supplemented by notice mailed to the mortgagee's last known available address, or by personal service.

Id. at 798, 103 S. Ct. at 2711. “Notice by mail or other means as certain to ensure actual notice is a minimum constitutional precondition to a proceeding which will adversely affect the liberty or property interests of any party, whether unlettered or well versed in commercial practice....” *Id.* at 800, 103 S. Ct. at 2712. Therefore, under *Adams* and *Mullane*, NRS Chapter 116 must require notice to any reasonably ascertainable mortgagee in order to satisfy the demands of due process.

By not requiring a HOA to take reasonable steps to actually notify all reasonably ascertainable interested parties (not merely those parties who happened to request it) of the HOA's actions to foreclose, the Statute violates long-established principles of due process. *See, e.g., Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 799-800 (1983); *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); *Small Engine Shop, Inc. v. Cascio*, 878 F.2d 883, 893 (5th Cir. 1989). At least one court in Nevada has recently concluded that the Statute is facially unconstitutional for this reason. *See Cano-Martinez v. HSBC Bank USA*, No. A-13-

692027-C, Order Granting Defendant HSBC Bank USA's Motion for Summary Judgment (8th Civ. Dist. Ct. Nev. filed May 7, 2015); *G&P Investment Enterprises, LLC v. De Franco*, Case No. 13A689603, 2015 WL 5773862 (8th Civ. Dist. Ct. Nev. Aug. 13, 2015).⁴

2. NRS Chapter 116's "Opt-In" Provisions Do Not Satisfy Due Process.

NRS Chapter 116 does not include any express or mandatory notice provision requiring notice to a lender or other lienholder—an overarching constitutional defect that infects the entire homeowner's association foreclosure scheme. While it addresses notice requirements in four separate provisions, none of those four provisions mandate actual notice to the lender. Instead, each requires the lender to "opt-in" and affirmatively request notice:

⁴ These recent orders are not outliers. They are consistent with the conclusions reached by numerous other courts that have considered the issue and whose decisions, while not binding, provide persuasive guidance. *See, e.g., LN Mgmt. LLC Series 5204 Painted Sands v. Wells Fargo Bank, N.A.*, No. 2:13-cv-1200-LDG-PAL, Opinion, 2013 WL 6535247 at *1 (D. Nev. Dec. 12, 2013) ("[T]his court considers the lack of mandatory notice to prior lienholders to be relevant ... to a due process analysis"); *Premier One Holdings, Inc. v. BAC Home Loans Servicing LP*, No. 2:13-cv-895-JCM-GWF, Order Granting Motion to Dismiss, 2013 WL 4048573 at *4 (D. Nev. Aug. 9, 2013) (granting motion to dismiss because permitting an HOA super priority lien to extinguish a first deed of trust "potentially violate[s] due process"); *First 100, LLC v. Wells Fargo Bank, N.A.*, No. 2:13-cv-00431-JCM-PAL, Order Den. Pl.'s Emergency Mot. for T.R.O., 3:5-7 (D. Nev. Apr. 30, 2013) (holding that extinguishment of a lender's first-in-time deed of trust under the Statute "would be a violation of [the lender's] State and Federal due process rights"); *Paradise Harbor Place Trust v. Deutsche Bank National Trust Co.*, No. A-13-687846, Am. Order on Def.'s Mot. to Dismiss or in the Alternative for Summ. J., 5:20-22 (8th Civ. Dist. Ct. Nev. entered Jan. 22, 2014) (holding that NRS 116.3116 "is unconstitutional because it facially permits subordinate interests to be erased without proper notice or any opportunity to object"); *Thunder Props., Inc. v. Greater Nev. Mortg. Servs., LLC*, No. CV13-01840, Order Granting Def.'s Mot. to Dismiss, 8:24-9:2, (2d Jud. Dist. Ct. Nev. entered Jan. 13, 2014) (granting motion to dismiss because "allowing an HOA to expedite foreclosure, eject the homeowners, engage relaxed notice requirements and extinguish the first deed of trust ... is expressly contrary to Nevada's public policy regarding foreclosures"); *SFR Investments Pool I, LLC v. Nationstar Mortg., LLC*, No. A-13-684596-C, Order Den. Appl. for T.R.O. n. 8 (8th Civ. Dist. Ct. Nev. entered Aug. 5, 2013) (holding that any assertion that notice is not required "would be a violation of Defendant's due process rights ... [and] would be Unconstitutional and hence unenforceable.").

1 (1) NRS 116.31162.⁵ This provision governs mailing of the notice of
2 delinquent assessments, but it does not require homeowners' associations to
3 actually notify lenders of such delinquent assessments. It requires the Association
4 to mail notice to only "the unit's owner or his or her successor in interest, at his or
5 her address, if known, and the address of the unit." NRS 116.31162(1)(a).

6 NRS 116.31162 was recently amended by S.B. 306, which goes into effect on
7 October 1, 2015. Among other changes, S.B. 306 adds the following provision as
8 subpart 5:

9 The association may not foreclose a lien by sale if the association has
10 not mailed a copy of the notice of default and election to sell and a copy
11 of the notice of sale to each holder of a security interest on the unit in
the manner and subject to the requirements set forth in subsection 2 of
NRS 116.31163 and paragraph (d) of subsection 1 of 116.311635.

12 2015 Nevada Laws Ch. 266 (S.B. 306) Nothing in this provision as of the time of the
13 Sale required an association to mail notice to a lender or other lienholder of record,
14 such as Wells Fargo.

15 (2) NRS 116.31163. This provision governs mailing of the notice of default
16 and election to sell, but it, too, fails to require actual notice to lenders. Instead, it
17 requires an association to notify only those parties that have affirmatively "opted-
18 in" and requested notice. *See* NRS 116.31163(1) & (2). While the statutory
19 provisions mention NRS 107.090 and 116.31168, both of those sections also address
20 affirmative requests for notice and, for that reason, fail as well (as discussed below).
21 Once again, the Statute does not require an association to notify lienholders of
22 record of the association's election to foreclose.
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26 ⁵ NRS 116.31162 was amended on October 1, 2013, several months after the Sale, to
27 require associations to provide additional information to unit owners. 2013 Nevada Laws
28 Ch. 552 (S.B. 280). This statute was recently amended again by 2015 Nevada Laws Ch. 266
(S.B. 306), which takes effect on October 1, 2015.

1 (3) NRS 116.311635.⁶ This provision governs mailing of the notice of sale.
2 However, this provision does not require an association to provide a lender with
3 notice of the time and place of the association's foreclosure sale. Like the preceding
4 provisions, NRS 116.311635 only requires notice to "[t]he holder of a recorded
5 security interest or the purchaser of the unit, *if either of them has notified the*
6 *association*, before the mailing of the notice of sale, of the existence of the security
7 interest, lease, or contract of sale, as applicable." NRS 116.311635(1)(b)(2)
8 (emphasis added).

9 (4) NRS 116.31168. Although "[t]he provisions of NRS 107.090 apply to the
10 foreclosure of an association's lien," *see* NRS 116.31168(1), this reference does not
11 require an association to provide actual notice to a lender.⁷ The title of the statute
12 itself demonstrates that the provision governs only *requests* for notice, and does not
13 mandate notice to all recorded lienholders, regardless of their "opt in" efforts. *See*
14 *Benegas v. State Indus. Ins. Sys.*, 117 Nev. 222, 230-31, 19 P.3d 245, 250-51 (2001)
15 (analyzing statute's title to determine statute's meaning); *Minor Girl v. Clark Cnty.*
16 *Juvenile Court Servs.*, 87 Nev. 544, 548, 490 P.2d 1248, 1250 (1971) ("In
17 determining what the Legislature intended, the title of the statute may be
18 considered in construing the statute."). The text likewise refers to *requests* by
19 interested parties. NRS 116.31168(1). Moreover, the statute is limited to the notice
20 of default and election to sell; it does not require the association to notify any lender
21 or other interested party about the date and location of the actual foreclosure sale.

23 ⁶ NRS 116.311635 was amended on October 1, 2013, several months after the Sale, to
24 require that notice under subpart (b) be made by certified or registered mail, return receipt
25 requested. 2013 Nevada Laws Ch. 552 (S.B. 280). This statute was recently amended again
by 2015 Nevada Laws Ch. 266 (S.B. 306), which takes effect on October 1, 2015.

26 ⁷ Moreover, nothing in NRS 107.090 requires sufficient notice. Just like NRS
27 116.31168, the caption of NRS 107.090 indicates that it is another "request for notice"
28 provision, governing only affirmative notice requests. *See* NRS 107.090(1) to (3). Even if
NRS 107.090(3)(b) could apply to a senior lender (which it cannot), the section applies to
only the notice of default and not the notice of sale. This fails to satisfy minimum due
process requirements.

1 Notice of a mere default without corresponding notice of the sale fails to comply
2 with the due process requirements set forth in *Mennonite* and *Mullane*.

3 Courts have repeatedly held that “opt-in” notice provisions, such as those at
4 issue in this case, violate due process. In the years following the *Mullane* and
5 *Adams* decisions, several states attempted to use “opt-in” provisions to circumvent
6 notice requirements when real property was at issue. Under such “opt-in”
7 provisions, a state’s foreclosure statute would require notice to interested parties
8 only if that interested party affirmatively requested it. For example, in *Small*
9 *Engine Shop, Inc. v. Cascio*, 878 F.2d 883 (5th Cir. 1989), the United States Court of
10 Appeals for the Fifth Circuit analyzed Louisiana’s “opt-in” clause and concluded it
11 was insufficient. *Id.* at 893. Louisiana’s “opt-in” statute did not mandate notice to
12 all interested parties. Instead, it required an individual or entity to affirmatively
13 request notice. *Id.* at 885-86. On appeal, the Fifth Circuit held that the “opt-in”
14 scheme “cannot be squared with *Mennonite’s* allocation of notice burdens.” *Id.* at
15 890; accord *Davis Oil Co. v. Mills*, 873 F.2d 774, 787-88 (5th Cir. 1989). Therefore,
16 where a statute’s sole notice provision is a burden-shifting “opt-in” provision, the
17 statute unconstitutionally violates due process.

18 The legislature’s recent adoption of S.B. 306 and A.B. 141 substantially
19 changes NRS Chapter 116, which provides further evidence that the original
20 version of the statute did not require the Association to give notice to those who
21 held an interest in the Property. When the Nevada Legislature substantially
22 amends a statute, it is presumed that the prior version must have had a different
23 meaning. *Metz v. Metz*, 101 P.3d 779, 783-84 (Nev. 2004) (“[W]hen the Legislature
24 makes a substantial change in a statute’s language, it indicates a change in the
25 legislative intent.”); *Pellegrini v. State*, 34 P.3d 519, 528 (Nev. 2001) (noting that
26 that Nevada courts are “bound to presume” that a statutory amendment “was done
27 *ex industria*, for the purpose of effecting the change which is effected in the law.”).

28 ///

1 Among the many revisions contained in S.B. 306 and A.B. 141 is the explicit
2 requirement that an HOA mail the notice of sale and notice of default to all holders
3 of a recorded security interest, regardless of whether the interest holder requested
4 notice. During hearings on the proposed amendments, several legislators noted
5 that the current statute did not require the HOA to send notice to lienholders and
6 that one purpose of the amendments was to require such notice. *See* Hearing on
7 S.B. 306 before the S. Comm. on Jud., 2015 Leg., 78th Sess., at 4 (Nev. 2015)
8 (statement of Senator Aaron D. Ford), available at
9 <https://www.leg.state.nv.us/Session/78th2015/Minutes/Senate/JUD/Final/829.pdf>
10 (stating that a purpose of SB 306 was to “[make] the notice required for the HOA
11 foreclosure similar to the notice required for a nonjudicial bank foreclosure”); *id.*
12 (statement of Senator Scott Hammond) (noting that the bill seeks to require
13 notification of home foreclosure sales); Hearing on S.B. 306 before the Assemb.
14 Comm. on Jud., 2015 Leg., 78th Sess., at 2:03:35 (Nev. 2015) (statement of Senator
15 Ford) (stating that SB 306 “eliminates the current requirement that security
16 holders must notify the association of their interest in order to receive notice” and
17 “adds a requirement” that the HOA’s notice “must be mailed to each holder of a
18 recorded security interest” in every instance);⁸ Hearing on A.B. 141 before the
19 Assemb. Comm. On Jud., 2015 Leg., 78th Sess., at ____ (Nev. 2015), available at
20 <https://www.leg.state.nv.us/Session/78th2015/Minutes/Assembly/JUD/Final/285.pdf>
21 (statement of Assemblyman E. Anderson) (noting that the Fifth Amendment
22 requires notice, “and we have to have notice and cannot live in a state that allows
23 property to be taken without notice”).

24 According to the adopted changes, effective October 1, 2015, HOA's must
25 send all lien holders of record a copy of the notice of default and notice of sale prior
26

27 ⁸ A video recording of the hearing is available at
28 http://nvleg.granicus.com/MediaPlayer.php?view_id=14&clip_id=4497. Official minutes of
the hearing are not yet available.

1 to conducting a foreclosure sale. S.B. 306, sec. 2, 78th Leg., 2015 Nev. Stat. 266;
2 A.B. 141, 78th Leg., 2015 Nev. Stat. 304.

3 In the present case, the foreclosure sale occurred prior to these amendments,
4 and took place under the facially invalid statute which required interest holders to
5 “opt-in” before they could receive notice that their property interest was about to be
6 extinguished. Because these provisions are unconstitutional on their face, the
7 Court should enter summary judgment in favor of Wells Fargo on plaintiff’s quiet
8 title claim.

9 **C. The Foreclosure Sale Was a Constructively Fraudulent Transfer**
10 **Under the Uniform Fraudulent Transfer Act.**

11 The Court should enter summary judgment for Wells Fargo on plaintiff’s
12 quiet title claim because the sale was an avoidable fraudulent transfer.
13 “Fraudulent conveyance law protects creditors from last-minute diminutions of the
14 pool of assets in which they have interests.” *Bonded Fin. Servs. v. European Am.*
15 *Bank*, 838 F.2d 890, 892 (7th Cir. 1988). In Nevada, fraudulent transfers are
16 governed by the Uniform Fraudulent Transfers Act as codified in NRS Chapter 112
17 (the “UFTA”). The UFTA allows a creditor to avoid transfers of property by a debtor
18 that are made with actual intent to hinder, delay, or defraud a creditor. See NRS
19 112.180(1)(a). The UFTA also allows a creditor to avoid a transfer as
20 “constructively fraudulent” if the transfer is for less than reasonably equivalent
21 value and if one of three conditions is met:

- 22 1. The debtor was engaged or was about to engage in a business or
23 transaction for which his remaining assets were unreasonably small,
see NRS 112.180(1)(b)(1);
- 24 2. The debtor intended to incur, believed he would incur, or reasonably
25 should have believed he would incur debts beyond his ability to pay as
they became due, see NRS 112.180(1)(b)(2); or
- 26 3. The debtor was insolvent or the transfer resulted in the debtor
27 becoming insolvent, and the creditor’s claim arose before the transfer,
see NRS 112.190(1).

1 As explained below, Wells Fargo is entitled to avoid the sale as constructively
2 fraudulent. The sale was a transfer of the Property from Ms. Munar to plaintiff
3 within the meaning of the UFTA. The \$4,000 plaintiff paid for the property was not
4 reasonably equivalent value. And finally, at the time of the sale, Ms. Munar was
5 insolvent.

6 1. The Sale of the Property Was a “Transfer” Under the UFTA.

7
8 The UFTA treats involuntary transfers of property—here, Ms. Munar’s loss
9 of the Property through a foreclosure sale—the same as voluntary transfers of
10 property. The UFTA defines the term “transfer” to include both voluntary and
11 involuntary means of parting with an asset. *See* NRS 112.150(12) (“‘Transfer’
12 means every mode...voluntary or involuntary, of disposing of or parting with an
13 asset or an interest in an asset...”). Therefore, the sale was a transfer of the
14 Property from Ms. Munar to plaintiff within the meaning of the UFTA.

15 2. Ms. Munar Did Not Receive Reasonably Equivalent Value.

16 As noted earlier, the \$4,000 plaintiff paid for the Property was 7.1% of the
17 Property’s assessed value. *See* Ex. O. Clearly, this was not reasonably equivalent
18 value. However, plaintiff may argue that the purchase price of \$4,000 should be
19 deemed reasonably equivalent value under NRS 112.170(2). This statute provides:

20 For the purposes of paragraph (b) of subsection 1 of NRS
21 112.180 and NRS 112.190, a person gives a reasonably
22 equivalent value if the person acquires an interest of the
23 debtor in an asset pursuant to a regularly conducted,
24 noncollusive foreclosure sale or execution of a power of
sale for the acquisition or disposition of the interest of the
debtor upon default under a mortgage, deed of trust or
security agreement.

25 NRS 112.170(2) (emphasis added). By its plain terms, this statute only applies to a
26 sale under a “mortgage, deed of trust or security agreement.” An assessment lien
27 under NRS Chapter 116 is not a mortgage, deed of trust, or security agreement.
28 Therefore, NRS 112.170(2) does not apply to sales under NRS Chapter 116. The

1 Nevada Legislature specifically provided that sales under a mortgage, deed of trust,
2 or security agreement cannot be avoided as constructively fraudulent. It could have
3 made a similar exception for a HOA sale, but it chose not to do so. *See State v.*
4 *Javier C.*, 128 Nev. Adv. Rep. 50, 289 P.3d 1194, 1197 (2012) (“Nevada follows the
5 maxim ‘expressio unius est exclusio alterius,’ the expression of one thing is the
6 exclusion of another.”) (internal citation omitted). Therefore, if an HOA-foreclosed
7 property sells for less than reasonably equivalent value, a first mortgagee can avoid
8 the sale under the Nevada UFTA if it establishes the remaining elements of a
9 constructively fraudulent transfer.

10 3. At the Time of the Sale, Ms. Munar Was Insolvent.

11 As explained above, the foreclosure sale constituted a “transfer” of the
12 Property from Ms. Munar to plaintiff and Ms. Munar did not receive reasonably
13 equivalent value in exchange for the Property. Therefore, Wells Fargo can avoid the
14 sale if any one of the three conditions is met. *See* NRS 112.180(1)(b)(1)-(2) &
15 112.190(1).

16 Here, Ms. Munar was insolvent at the time of the sale. “A debtor is insolvent
17 if the sum of the debtor’s debts is greater than all of the debtor’s assets at a fair
18 valuation.” NRS 112.160(1). “A debtor who is generally not paying his or her debts
19 as they become due is presumed to be insolvent.” NRS 112.160(2). Here, Ms.
20 Munar had stopped making mortgage payments in March 2011 and had stopped
21 making payments to Cambridge in March 2012. *See* Ex. A, ¶ 11 & Ex. H.
22 Therefore, under the UFTA, she is presumed to have been insolvent when the sale
23 occurred on August 23, 2013. The plaintiff bears the burden of rebutting this
24 presumption.

25 Finally, Wells Fargo’s claim against Ms. Munar arose before the sale. *See*
26 NRS 112.190(1) (creditor seeking avoid transfer or obligation by insolvent debtor
27 must show that its claim against debtor “arose before the transfer was made or the
28 obligation was incurred”). Wells Fargo’s claim against Ms. Munar arose when she

1 entered into the loan transaction in 2006, or, at the very least, in March 2011 when
2 Ms. Munar defaulted on her loan obligations. The foreclosure sale occurred in 2013.

3 Since Wells Fargo has established all the necessary elements of a
4 constructively fraudulent transfer under the UFTA, the Court should avoid the sale
5 and enter summary judgment for Wells Fargo on plaintiff's quiet title claim.

6 **IV. CONCLUSION**

7 For the reasons set forth above, the Court should grant summary judgment
8 in favor of Wells Fargo as to all claims in the plaintiff-in-intervention's complaint.

9
10 Dated: October 12, 2015.

11 BALLARD SPAHR LLP

12
13 By: /s/ Sylvia O. Semper
14 Abran E. Vigil, Esq.
15 Nevada Bar No. 7548
16 Sylvia Semper, Esq.
17 Nevada Bar No. 12863
18 100 North City Parkway, Suite 1750
19 Las Vegas, Nevada 89106
20 Telephone: (702) 471-7000

21 *Attorneys for Defendant-in-Intervention*
22 *Wells Fargo Bank, N.A., As Trustee, On*
23 *Behalf Of The Holders Of The Harborview*
24 *Mortgage Loan Trust Mortgage Loan Pass-*
25 *Through Certificates, Series 2006-12*
26
27
28

1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that, on the 12th day of October 2015 and pursuant to
3 N.R.C.P. 5(b), I served a true and correct copy of the foregoing **WELLS FARGO**
4 **BANK N.A.'S MOTION FOR SUMMARY JUDGMENT**, upon all counsel listed
5 below in the following manner:

6 ☐ Hand Delivery

7 ☐ Facsimile Transmission

8 ☐ U.S. Mail, Postage Pre-Paid' and/or

9 ☒ Via the Wiznet E-Service-generated "Service Notification of Filing" upon all
10 counsel set up to receive notice via electronic service in this matter

11 MARILYN FINE
12 RACHELE E. DONN
13 HOLLEY DRIGGS WALCH FINE
14 WRAY PUZEY & THOMPSON
15 400 South Fourth Street, 3rd Floor
16 Las Vegas, NV 89101

17 /s/ Mary Kay Carlton

18 An employee of BALLARD SPAHR LLP
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

Abran E. Vigil
Nevada Bar No. 7548
Sylvia O. Semper
Nevada Bar No. 12863
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*Attorneys for Plaintiff Wells Fargo Bank, N.A.,
As Trustee, On Behalf Of The Holders
Of The Harborview Mortgage Loan Trust
Mortgage Loan Pass-Through Certificates, Series 2006-12*

DISTRICT COURT
CLARK COUNTY, NEVADA

WELLS FARGO BANK, N.A., AS
TRUSTEE, ON BEHALF OF THE
HOLDERS OF THE HARBORVIEW
MORTGAGE LOAN TRUST MORTGAGE
LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12,

Plaintiff,

v.

AMANDA R. MUNAR; CAMBRIDGE
HEIGHTS, A PLANNED COMMUNITY;
DOES I-X; and ROES 1-10 inclusive,

Defendants.

TIM RADECKI,

Plaintiff-in-Intervention,

v.

AMANDA MUNAR; WELLS FARGO,
N.A., AS TRUSTEE, ON BEHALF OF
THE HOLDERS OF THE HARBORVIEW
MORTGAGE LOAN TRUST MORTGAGE
LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12; DOES
1-20; and ROE CORPORATIONS 1-20,

Defendant-in-Intervention.

CASE NO. A-13-676574-C

DEPT NO. XXIX

AFFIDAVIT OF PATRICK PITTMAN

I, Patrick Pittman, being first duly sworn on oath states and deposes:

1. I am a Document Control Officer with Select Portfolio Servicing, Inc. ("SPS"), and am authorized to provide this affidavit on its behalf.

2. I make this declaration in support of the motion for summary judgment filed by defendant-in-intervention Wells Fargo Bank, N.A., as Trustee, on behalf of the Holders of the Harborview Mortgage Loan Trust Mortgage Pass Through Certificates Series 2006-12 ("Wells Fargo").

3. SPS services the mortgage loan that is the subject of this action on behalf of Wells Fargo.

4. As servicer, SPS maintains a computer database (the "Loan Records") of acts, transactions, payments, communications, escrow account activity, disbursements, events, and analyses (the "Loan Transactions") with respect to the mortgage loans which SPS services. The information described herein and referenced below is found in the business records of said servicing agent. The entries in those records are made at the time of the events and conditions they describe either by people with first-hand knowledge of those events and conditions or from information provided by people with such first-hand knowledge.

5. I have access to the Loan Records with respect to the subject loan, and have knowledge of how they are maintained. Based upon my review of those records, I have gained knowledge of the facts set forth herein and, if called upon as a witness to testify, I could and would competently testify as to those facts, under penalty of perjury.

6. The Loan Records reflect that on or about August 31, 2006, ComUnity Lending, Inc. d/b/a/ Advantage Funding Group, originated a loan in the amount of \$196,000.00 in favor of Amanda Munar. A true and correct copy of the Note is attached as Exhibit B.

1 7. The Loan Records reflect that the loan was secured by a certain Deed of
2 Trust recorded in the Official Records of Clark County, Nevada as Instrument No.
3 20060907-0004388 ("the Deed of Trust"). The deed of trust named Mortgage
4 Electronic Registration Systems, Inc. ("MERS") as nominee-beneficiary. A true and
5 correct copy of the Deed of Trust is attached as Exhibit C.

6 8. The Loan Records reflect that the Deed of Trust encumbered real
7 property located at 2102 Logsdon Dr., North Las Vegas, Nevada, 89032 , APN 139-20-
8 612-037 (the "Property").

9 9. The Loan Records reflect that MERS assigned the deed of trust to Bank
10 of America, N.A. in an assignment recorded October 11, 2011. A true and correct
11 copy of this assignment is attached as Exhibit D.

12 10. The Loan Records reflect that Bank of America assigned the deed of
13 trust to Wells Fargo, as trustee, in an assignment recorded December 27, 2012. A
14 true and correct copy of this assignment is attached as Exhibit E.

15 11. The Loan Records reflect that that Ms. Munar became delinquent in her
16 loan payments beginning with the payment due March 1, 2011. She has not made
17 any regular monthly payments since that date.

18 12. The Loan Records reflect that on or about February 12, 2013, Wells
19 Fargo filed a complaint seeking a judicial foreclosure on the Deed of Trust. That
20 same day, Wells Fargo recorded a Notice of Lis Pendens against the Property. A true
21 and correct copy of this assignment is attached as Exhibit K..

22 13. I declare under penalty of perjury that the foregoing is true and correct.
23
24
25
26
27
28

1
2 Executed on October 9, 2015, at Salt Lake City, Utah.
3

4
5 
Patrick Pittman

6 Patrick Pittman, Doc. Control Officer

7 SWORN to and subscribed before me, this 9 day of October 2015.
8

9 
10 NOTARY PUBLIC

11 My commission expires:

12 9-25-2019

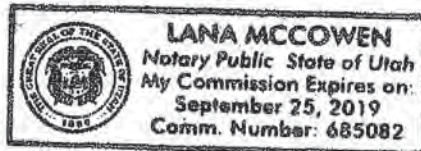


EXHIBIT B

I hereby certify that this is a true
and exact copy of the original.
Ticor Title of Nevada

MIN: 1000285-1000113450-5

Loan Number: 1000113450

ADJUSTABLE RATE NOTE

(MTA-Twelve Month Average Index - Payment Caps)

THIS NOTE CONTAINS PROVISIONS THAT WILL CHANGE THE INTEREST RATE AND THE MONTHLY PAYMENT. THERE MAY BE A LIMIT ON THE AMOUNT THAT THE MONTHLY PAYMENT CAN INCREASE OR DECREASE. THE PRINCIPAL AMOUNT TO REPAY COULD BE GREATER THAN THE AMOUNT ORIGINALLY BORROWED, BUT NOT MORE THAN THE MAXIMUM LIMIT STATED IN THIS NOTE.

AUGUST 31, 2006
[Date]

NORTH LAS VEGAS
[City]

NEVADA
[State]

2102 LOGSDON DRIVE, NORTH LAS VEGAS, NEVADA 89032
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$196,000.00 (this amount is called "Principal"), plus interest, to the order of Lender. The Principal amount may increase as provided under the terms of this Note but will never exceed (ONE HUNDRED FIFTEEN PERCENT) of the Principal amount I originally borrowed. This is called the "Maximum Limit." Lender is Community Lending, Incorporated, a California Corporation, DBA Advantage Funding Group. I will make all payments under this Note in the form of cash, check or money order.

I understand that Lender may transfer this Note. Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

(A) Interest Rate

Interest will be charged on unpaid Principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 1.500 %. The interest rate I will pay may change.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 7(B) of this Note.

(B) Interest Rate Change Dates

The interest rate I will pay may change on the 1st day of NOVEMBER, 2006, and on that day every month thereafter. Each date on which my interest rate could change is called an "Interest Rate Change Date." The new rate of interest will become effective on each Interest Rate Change Date. The interest rate may change monthly, but the monthly payment is recalculated in accordance with Section 3.

(C) Index

Beginning with the first Interest Rate Change Date, my adjustable interest rate will be based on an Index. The "Index" is the "Twelve-Month Average" of the annual yields on actively traded United States Treasury Securities adjusted to a constant maturity of one year as published by the Federal Reserve Board in the Federal Reserve Statistical Release entitled "Selected Interest Rates (H.15)" (the "Monthly Yields"). The Twelve Month Average is determined by adding together the Monthly Yields for the most recently available twelve months and dividing by 12. The most recent Index figure available as of the date 15 days before each Interest Rate Change Date is called the "Current Index".

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(D) Calculation of Interest Rate Changes

Before each Interest Rate Change Date, the Note Holder will calculate my new interest rate by adding THREE AND 575/1000 percentage point(s) 3.575 % ("Margin") to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). This rounded amount will be my new interest rate until the next Interest Rate Change Date. My interest will never be greater than 9.950 %. Beginning with the first Interest Rate Change Date, my interest rate will never be lower than the Margin.

3. PAYMENTS

(A) Time and Place of Payments

I will make a payment every month.

I will make my monthly payments on the 1st day of each month beginning on NOVEMBER 1, 2006. I will make these payments every month until I have paid all the Principal and Interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on OCTOBER 1, 2036, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P.O. Box 2080, Morgan Hill, California 95038

or at a different place if required by the Note Holder.

Borrower Initials: ARM
Pay Option ARM Note - MTA Index
FE-5312 (0511)

(B) Amount of My Initial Monthly Payments

Each of my initial monthly payments until the first Payment Change Date will be in the amount of U.S. \$ 676.44 unless adjusted under Section 3 (F).

(C) Payment Change Dates

My monthly payment may change as required by Section 3(D) below beginning on the 1st day of NOVEMBER, 2007, and on that day every 12th month thereafter. Each of these dates is called a "Payment Change Date." My monthly payment also will change at any time Section 3(F) or 3(G) below requires me to pay a different monthly payment. The "Minimum Payment" is the minimum amount the Note Holder will accept for my monthly payment which is determined at the last Payment Change Date or as provided in Section 3(F) or 3(G) below. If the Minimum Payment is not sufficient to cover the amount of the interest due then negative amortization will occur.

I will pay the amount of my new Minimum Payment each month beginning on each Payment Change Date or as provided in Section 3(F) or 3(G) below.

(D) Calculation of Monthly Payment Changes

At least 30 days before each Payment Change Date, the Note Holder will calculate the amount of the monthly payment that would be sufficient to repay the unpaid Principal that I am expected to owe at the Payment Change Date in full on the maturity date in substantially equal payments at the interest rate effective during the month preceding the Payment Change Date. The result of this calculation is called the "Full Payment." Unless Section 3(F) or 3(G) apply, the amount of my new monthly payment effective on a Payment Change Date, will not increase by more than 7.5% of my prior monthly payment. This 7.5% limitation is called the "Payment Cap." This Payment Cap applies only to the Principal and Interest payment and does not apply to any escrow payments Lender may require under the Security Instrument. The Note Holder will apply the Payment Cap by taking the amount of my Minimum Payment due the month preceding the Payment Change Date and multiplying it by the number 1.075. The result of this calculation is called the "Limited Payment." Unless Section 3(F) or 3(G) below requires me to pay a different amount, my new Minimum Payment will be the lesser of the Limited Payment and the Full Payment. I also have the option to pay the Full Payment for my monthly payment.

(E) Additions to My Unpaid Principal

Since my monthly payment amount changes less frequently than the interest rate, and since the monthly payment is subject to the payment limitations described in Section 3 (D), my Minimum Payment could be less than or greater than the amount of the interest portion of the monthly payment that would be sufficient to repay the unpaid Principal I owe at the monthly payment date in full on the Maturity Date in substantially equal payments. For each month that my monthly payment is less than the interest portion, the Note Holder will subtract the amount of my monthly payment from the amount of the interest portion and will add the difference to my unpaid Principal, and interest will accrue on the amount of this difference at the interest rate required by Section 2. For each month that the monthly payment is greater than the interest portion, the Note Holder will apply the payment as provided in Section 3 (A).

(F) Limit on My Unpaid Principal; Increased Monthly Payment

My unpaid Principal can never exceed the Maximum Limit equal to 115.000 percent of the Principal amount I originally borrowed. My unpaid Principal could exceed that Maximum Limit due to Minimum Payments and interest rate increases. In that event, on the date that my paying my monthly payment would cause me to exceed that limit, I will instead pay a new monthly payment. This means that my monthly payment may change more frequently than annually and such payment changes will not be limited by the 7.5% Payment Cap. The new Minimum Payment will be in an amount that would be sufficient to repay my then unpaid Principal in full on the Maturity Date in substantially equal payments at the current interest rate.

(G) Required Full Payment

On the 5th Payment Change Date and on each succeeding fifth Payment Change Date thereafter, I will begin paying the Full Payment as my Minimum Payment until my monthly payment changes again. I also will begin paying the Full Payment as my Minimum Payment on the final Payment Change Date.

(H) Payment Options

After the first Interest Rate Change Date, Lender may provide me with up to three (3) additional payment options that are greater than the Minimum Payment, which are called "Payment Options." I may be given the following Payment Options:

- (i) **Interest Only Payment:** the amount that would pay the interest portion of the monthly payment at the current interest rate. The Principal balance will not be decreased by this Payment Option and it is only available if the interest portion exceeds the Minimum Payment.
- (ii) **Fully Amortized Payment:** the amount necessary to pay the loan off (Principal and Interest) at the Maturity Date in substantially equal payments.
- (iii) **15 Year Amortized Payment:** the amount necessary to pay the loan off (Principal and Interest) within a fifteen (15) year term from the first payment due date in substantially equal payments. This monthly payment amount is calculated on the assumption that the current rate will remain in effect for the remaining term.

These Payment Options are only applicable if they are greater than the Minimum Payment.

Borrower Initials: A.R.M.
PayOption ARM Note - MTA Index
FE-5312 (0511)

4. NOTICE OF CHANGES

The Note Holder will deliver or mail to me a notice of any changes in the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

5. BORROWER'S RIGHT TO PREPAY ** See attached Prepayment Note Addendum.

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under this Note.

I may make a full Prepayment or partial Prepayments without paying any Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payments. My partial Prepayment may reduce the amount of my monthly payments after the first Payment Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

6. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this 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 me that exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

7. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charges for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of fifteen (15) calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of Principal and Interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal that has not been paid and all the interest that I owe on that amount. The date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. These expenses include, for example, reasonable attorneys' fees.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Unless the Note Holder requires a different method, any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all the amounts owed under this Note.

Borrower Initials: ARM
PayOption ARM Note - MTA Index
PE-5312 (0611)

10. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

11. SECURED NOTE

In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses that might result if I do not keep the promises that I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of these conditions are described as follows:

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. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, 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.

Amanda R. Munar (Seal)
AMANDA R. MUNAR -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

DATE: AUGUST 31, 2006
BORROWER: AMANDA R MUNAR

LOAN #: 1000113450
PROPERTY ADDRESS: 2102 LOGSDON DRIVE
NORTH LAS VEGAS, NEVADA 89032
MIN: 1000285-1000113450-5

PREPAYMENT PENALTY ADDENDUM

THIS PREPAYMENT PENALTY ADDENDUM is dated AUGUST 31, 2006 and is incorporated into and amends and supplements the Note of the same date (the "Note") given by ComUnity Lending, Incorporated, a California Corporation, DBA Advantage Funding Group (the "Lender"). The Note is secured by a Mortgage or Deed of Trust or comparable security instrument (the "Security Instrument") covering the property (the "Property") identified in the Security Instrument.

The section of the Note entitled "Borrower's Right to Prepay" is replaced with the following new section:

BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A prepayment of all of the unpaid Principal is known as a "Full Prepayment." A prepayment of only part of the unpaid Principal is known as a "Partial Prepayment." When I make a Partial or Full Prepayment, I will tell the Note Holder in writing that I am doing so.

Subject to the Prepayment Penalty specified below, I may make a Full Prepayment or Partial Prepayments of my obligation. The Note Holder will use all of my prepayments to reduce the amount of Principal that I owe under the Note. If I make a Partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment.

If within the first THIRTY-SIX months after the execution of this Note, I make prepayment(s), the total of which exceeds twenty (20) percent of the original Principal amount of this Note, I agree to pay a Prepayment Penalty in an amount equal to the payment of six (6) months' advance interest on the amount by which the total of my prepayment(s) during the twelve (12) month period immediately preceding the date of the prepayment exceeds twenty (20) percent of the original Principal amount of this Note. Interest will be calculated using the rate in effect at the time of prepayment. I will pay this Prepayment Penalty regardless of whether I sell the Property or refinance the loan with the same Lender or Note Holder.

All other terms and conditions of the above referenced Note remain in full force and effect.

<u>Amanda R. Munar</u>	Borrower
AMANDA R MUNAR	
_____	Borrower
_____	Borrower
_____	Borrower

EXHIBIT C

20060907-0004388

Fee: \$37.00
N/C Fee: \$0.00

09/07/2006 14:27:07
T20060156093

Requestor:
TICOR TITLE OF NEVADA INC

Frances Deane KGP
Clark County Recorder Pgs: 24

Assessor's Parcel Number: 139-20-612-037

And When Recorded Return To:
ComUnity Lending, Incorporated
P.O. Box 700
Morgan Hill, California 95038--700
Loan Number: 1000113450

Mail Tax Statements To:
ComUnity Lending, Incorporated, a California Corporation, DBA
Advantage Funding Group, 777 N. Rainbow Blvd. Suite 380, Las
Vegas, NV 89107

06010729.TG

[Space Above This Line For Recording Date]

DEED OF TRUST

MIN: 1000285-1000113450-5

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 AUGUST 31, 2006, together with all Riders to this document.

(B) "Borrower" is AMANDA R. MUNAR, A MARRIED WOMAN AS HER SOLE AND SEPERATE PROPERTY

Borrower is the trustor under this Security Instrument.

(C) "Lender" is ComUnity Lending, Incorporated, a California Corporation, DBA Advantage Funding Group

Lender is a

organized

and existing under the laws of CALIFORNIA

Lender's address is 610 Jarvis Drive, Suite 200, Morgan Hill, California 95037

(D) "Trustee" is TICOR TITLE OF NEVADA, INC.
777 NORTH RAINBOW BLVD. #150, LAS VEGAS, NEVADA 89107

Borrower Initials:

ARM

NEVADA--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT - MERS
Form 3029 1/01

Page 1 of 15

DocMagic eForm 800-549-1362
www.docmagic.com

RECORDER'S MEMO
POSSIBLE POOR RECORD DUE TO
QUALITY OF ORIGINAL DOCUMENT

(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 AUGUST 31, 2006. The Note states that Borrower owes Lender ONE HUNDRED NINETY-SIX THOUSAND AND 00/100 Dollars (U.S. \$ 196,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than OCTOBER 1, 2036.

(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 checked="" type="checkbox"/> Adjustable Rate Rider | <input checked="" type="checkbox"/> Planned Unit Development Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Biweekly Payment Rider |
| <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Condominium 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. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional

Borrower Initials: ARM

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

of

CLARK

:

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

LOT THIRTY-EIGHT (38) INBLOCK SIX (6) OF CAMBRIDGE HEIGHTS
PHASE 2, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 79 OF PLATS,
PAGE 58, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY,
NEVADA.
A.P.N.: 139-20-612-037

which currently has the address of

2102 LOGSDON DRIVE

[Street]

NORTH LAS VEGAS

, Nevada

89032

("Property Address"):

[City]

[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 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

Borrower Initials: ARM

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 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

Borrower Initials: ARM

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 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.

Borrower Initials: ARM

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 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

Borrower Initials: ARM

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 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.

Borrower Initials: ARM

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.

(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.

Borrower Initials: ARM

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.

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

Borrower Initials:

A.R.M.

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.

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

Borrower Initials: ARM

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 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

Borrower Initials: ARM

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.

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

Borrower Initials: ARM

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 Lenders' 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. \$

Borrower Initials: ARM

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.

Amanda R. Munar (Seal)
AMANDA R MUNAR -Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

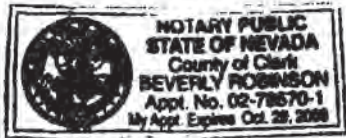
Witness:

Witness:

State of Nevada
County of *Clark*

This instrument was acknowledged before me on
by AMANDA R MUNAR

Sept 1, 2004



[Signature]
Notary Public

(Seal)

My commission expires: *10/29/06*

MIN: 1000285-1000113450-5
Doc ID#:

Loan Number: 1000113450

ADJUSTABLE RATE RIDER
(MTA-Twelve Month Average Index - Payment Caps)

THIS ADJUSTABLE RATE RIDER is made this 31st day of AUGUST 2006, 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 ("Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to CarUnity Lending, Incorporated, a California Corporation, DBA Advantage Funding Group ("Lender") of the same date and covering the property described in the Security Instrument and located at:

2102 LOGSDON DRIVE, NORTH LAS VEGAS, NEVADA 89032
[Property Address]

THE NOTE CONTAINS PROVISIONS THAT WILL CHANGE THE INTEREST RATE AND THE MONTHLY PAYMENT. THERE MAY BE A LIMIT ON THE AMOUNT THAT THE MONTHLY PAYMENT CAN INCREASE OR DECREASE. THE PRINCIPAL AMOUNT TO REPAY COULD BE GREATER THAN THE AMOUNT ORIGINALLY BORROWED, BUT NOT MORE THAN THE MAXIMUM LIMIT STATED IN THE NOTE.

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

A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

The Note provides for changes in the interest rate and the monthly payments, as follows:

2. INTEREST

(A) Interest Rate

Interest will be charged on unpaid Principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 1.500 %. The interest rate I will pay may change.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 7(B) of the Note.

(B) Interest Rate Change Dates

The interest rate I will pay may change on the 1st day of NOVEMBER 2006, and on that day every month thereafter. Each date on which my interest rate could change is called an "Interest Rate Change Date." The new rate of interest will become effective on each Interest Rate Change Date. The interest rate may change monthly, but the monthly payment is recalculated in accordance with Section 3.

Borrower Initials: ARM

PayOption MTA ARM Rider
FE-5315 (0511)

Page 1 of 5

EXHIBIT A

Lot Thirty-Eight (38) in Block Six (6) of CAMBRIDGE HEIGHTS PHASE 2, as shown by map thereof on file in Book 79 of Plats, Page 58, in the Office of the County Recorder of Clark County, Nevada.

(C) Index

Beginning with the first Interest Rate Change Date, my adjustable interest rate will be based on an Index. The "Index" is the "Twelve-Month Average" of the annual yields on actively traded United States Treasury Securities adjusted to a constant maturity of one year as published by the Federal Reserve Board in the Federal Reserve Statistical Release entitled "Selected Interest Rates (H.15)" (the "Monthly Yields"). The Twelve Month Average is determined by adding together the Monthly Yields for the most recently available twelve months and dividing by 12. The most recent Index figure available as of the date 15 days before each Interest Rate Change Date is called the "Current Index".

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(D) Calculation of Interest Rate Changes

Before each Interest Rate Change Date, the Note Holder will calculate my new interest rate by adding THREE AND 575/1000 percentage point(s) 3.575 % ("Margin") to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). This rounded amount will be my new interest rate until the next Interest Rate Change Date. My interest will never be greater than 9.950 %. Beginning with the first Interest Rate Change Date, my interest rate will never be lower than the Margin.

3. PAYMENTS

(A) Time and Place of Payments

I will make a payment every month.

I will make my monthly payments on the 1st day of each month beginning on NOVEMBER 1, 2006. I will make these payments every month until I have paid all the Principal and Interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on OCTOBER 1, 2036, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P.O. Box 2080, Morgan Hill, California 95038
or at a different place if required by the Note Holder.

(B) Amount of My Initial Monthly Payments

Each of my initial monthly payments until the first Payment Change Date will be in the amount of U.S. \$ 676.44 unless adjusted under Section 3 (F).

(C) Payment Change Dates

My monthly payment may change as required by Section 3(D) below beginning on the 1st day of NOVEMBER, 2007, and on that day every 12th month thereafter. Each of these dates is called a "Payment Change Date." My monthly payment also will change at any time Section 3(F) or 3(G) below requires me to pay a different monthly payment. The "Minimum Payment" is the minimum amount Note Holder will accept for my monthly payment which is determined at the last Payment Change Date or as provided in Section 3(F) or 3(G) below. If the Minimum Payment is not sufficient to cover the amount of the interest due then negative amortization will occur.

Borrower Initials: ARM
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FE-5315 (0511)

I will pay the amount of my new Minimum Payment each month beginning on each Payment Change Date or as provided in Section 3(F) or 3(G) below.

(D) Calculation of Monthly Payment Changes

At least 30 days before each Payment Change Date, the Note Holder will calculate the amount of the monthly payment that would be sufficient to repay the unpaid Principal that I am expected to owe at the Payment Change Date in full on the maturity date in substantially equal payments at the interest rate effective during the month preceding the Payment Change Date. The result of this calculation is called the "Full Payment." Unless Section 3(F) or 3(G) apply, the amount of my new monthly payment effective on a Payment Change Date, will not increase by more than 7.5% of my prior monthly payment. This 7.5% limitation is called the "Payment Cap." This Payment Cap applies only to the Principal and Interest payment and does not apply to any escrow payments Lender may require under the Security Instrument. The Note Holder will apply the Payment Cap by taking the amount of my Minimum Payment due the month preceding the Payment Change Date and multiplying it by the number 1.075. The result of this calculation is called the "Limited Payment." Unless Section 3(F) or 3(G) below requires me to pay a different amount, my new Minimum Payment will be the lesser of the Limited Payment and the Full Payment. I also have the option to pay the Full Payment for my monthly payment.

(E) Additions to My Unpaid Principal

Since my monthly payment amount changes less frequently than the interest rate, and since the monthly payment is subject to the payment limitations described in Section 3 (D), my Minimum Payment could be less than or greater than the amount of the interest portion of the monthly payment that would be sufficient to repay the unpaid Principal I owe at the monthly payment date in full on the Maturity Date in substantially equal payments. For each month that my monthly payment is less than the interest portion, the Note Holder will subtract the amount of my monthly payment from the amount of the interest portion and will add the difference to my unpaid Principal, and interest will accrue on the amount of this difference at the interest rate required by Section 2. For each month that the monthly payment is greater than the interest portion, the Note Holder will apply the payment as provided in Section 3 (A).

(F) Limit on My Unpaid Principal; Increased Monthly Payment

My unpaid Principal can never exceed the Maximum Limit equal to ONE HUNDRED FIFTEEN AND 000/1000 percent (115.000 %)of the Principal amount I originally borrowed. My unpaid Principal could exceed that Maximum Limit due to Minimum Payments and interest rate increases. In that event, on the date that my paying my monthly payment would cause me to exceed that limit, I will instead pay a new monthly payment. This means that my monthly payment may change more frequently than annually and such payment changes will not be limited by the 7.5% Payment Cap. The new Minimum Payment will be in an amount that would be sufficient to repay my then unpaid Principal in full on the Maturity Date in substantially equal payments at the current interest rate.

(G) Required Full Payment

On the 5th Payment Change Date and on each succeeding fifth Payment Change Date thereafter, I will begin paying the Full Payment as my Minimum Payment until my monthly payment changes again. I also will begin paying the Full Payment as my Minimum Payment on the final Payment Change Date.

PayOption MTA ARM Rider
FE-5315 (0511)

Page 3 of 5

Borrower Initials: ARM

(H) Payment Options

After the first Interest Rate Change Date, Lender may provide me with up to three (3) additional payment options that are **greater** than the Minimum Payment, which are called "Payment Options." I may be given the following Payment Options:

- (i) **Interest Only Payment:** the amount that would pay the interest portion of the monthly payment at the current interest rate. The Principal balance will not be decreased by this Payment Option and it is only available if the interest portion exceeds the Minimum Payment.
- (ii) **Fully Amortized Payment:** the amount necessary to pay the loan off (Principal and Interest) at the Maturity Date in substantially equal payments.
- (iii) **15 Year Amortized Payment:** the amount necessary to pay the loan off (Principal and Interest) within a fifteen (15) year term from the first payment due date in substantially equal payments. This monthly payment amount is calculated on the assumption that the current rate will remain in effect for the remaining term.

These Payment Options are only applicable if they are greater than the Minimum Payment.

B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

Section 18 of the Security Instrument entitled "Transfer of the Property or a Beneficial Interest in Borrower" is amended to read as follows:

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. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

Borrower Initials: ARM
PayOption MTA ARM Rider
FE-5315 (0511)

If Lender exercises the option to require immediate payment in full, 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.

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

Amanda R. Munar
AMANDA R MUNAR -Borrower

-Borrower

-Borrower

-Borrower

IN THE SUPREME COURT OF THE STATE OF NEVADA

WELLS FARGO BANK, N.A., AS
TRUSTEE ON BEHALF OF THE
HOLDERS OF THE HARBORVIEW
MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12,

Appellant,

vs.

TIM RADECKI
Respondent,

Supreme Court No. 71405
Electronically Filed
Sep 21 2017 08:11 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
District Court Case No.
A-13-676574-C

APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable Jim Crockett, District Judge
District Court Case No. A-13-676574-C

APPELLANT'S APPENDIX – VOLUME 1

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CHRONOLOGICAL INDEX

Document	Date	Volume and Bates Number(s)
Verified Complaint for Judicial Foreclosure and Deficiency Judgment of Deed of Trust	February 12, 2013	AA1 001-047
Default (as to Amanda R. Munar)	April 8, 2013	AA1 048-049
Default (as to Cambridge Heights)	April 8, 2013	AA1 050-051
Judgment	September 10, 2013	AA1 052-056
Notice of Entry of Judgment	September 12, 2013	AA1 057-063
Motion for Leave to Intervene on Order Shortening Time	October 14, 2013	AA1 064-088
Order Granting Motion to Intervene	December 10, 2013	AA1 089-090
Notice of Entry of Order Granting Motion to Intervene	December 11, 2013	AA1 091-095
Complaint-In-Intervention	December 12, 2013	AA1 096-105
Amended Answer of Defendant-In-Intervention Wells Bank N.A. , as Trustee	May 28, 2015	AA1 106-115
Wells Fargo Bank N.A.'s Motion for Summary Judgment	October 12, 2015	AA1 116-238 AA2 239-289
Plaintiff-In-Intervention's Opposition to Wells Fargo Bank's Motion for Summary Judgment	October 29, 2015	AA2 290-324
Reply of Wells Fargo Bank N.A., as Trustee, in Further Support of its Motion for Summary Judgment	November 6, 2015	AA2 325-356
Pertinent Portion of Trial Transcript – Day 1	June 13, 2016	AA2 357-424
Pertinent Portion of Trial Transcript – Day 2 – Part 1	June 14, 2016	AA2 425-456
Pertinent Portion of Trial Transcript – Day 2 – Part 2	June 14, 2016	AA2 457-476 AA3 477-498
Grant, Bargain, Sale Deed (Trial Exhibit 3)	August 31, 2001	AA3 499-500

Document	Date	Volume and Bates Number(s)
Assignment of Deed of Trust (Trial Exhibit 6)	October 12, 2011	AA3 501-503
Letter from M. Molina to A. Munar re: Collection of the Overdue Homeowner's assessments (Trial Exhibit 7)	July 9, 2012	AA3 504-506
Notice of Delinquent Assessment Lien (Trial Exhibit 8)	July 25, 2012	AA3 507-508
Letter from D. Kluska to A. Munar re: Non-Judicial Foreclosure Action	August 23, 2012	AA3 509-510
Cambridge Heights Account Log – A. Munar (Trial Exhibit 10)	September 10, 2012	AA3 511-513
Notice of Default and Election to Sell Under Homeowners Association Lien (Trial Exhibit 11)	September 21, 2012	AA3 514-517
Corporate Assignment of Deed of Trust (Trial Exhibit 12)	December 27, 2012	AA3 518-520
Cambridge Heights Account Log – A. Munar (Trial Exhibit 13)	May 9, 2013	AA3 521-522
Email from M. Blanchard re: HOA Sale Schedule (Trial Exhibit 14)	May 29, 2013	AA3 523-524
Notice of Foreclosure Sale (Exhibit 15)	May 13, 2013	AA3 525-527
Letter from M. Blanchard to A. Munar re: HOA sale being postponed (Trial Exhibit 16)	June 7, 2013	AA3 528-529
Email from M. Blanchard re: HOA sale postponement available(Trial Exhibit 17)	July 11, 2013	AA3 530-531
Email from M. Blanchard re: HOA sale postponement available(Trial Exhibit 18)	August 14, 2013	AA3 532-533
Cambridge Heights Account Log – A. Munar (Trial Exhibit 19)	August 21, 2013	AA3 534-535
Certificate of Sale (Trial Exhibit 20)	August 23, 2013	AA3 536-540
Foreclosure Deed (Trial Exhibit 21)	September 4, 2013	AA3 541-544
Deed of Trust (Trial Exhibit 23)	September 7, 2006	AA3 545-569
NAS Delinquency Log (Trial Exhibit 24)	July 9, 2012	AA3 570-572
Endorsement (Trial Exhibit 36)	May 2, 2013	AA3 573-574

Document	Date	Volume and Bates Number(s)
Cambridge Heights Community Association Account Log for A. Munar (Trial Exhibit 37)	May 6, 2013	AA3 575-583
Email from D. Jordan re: moving forward to foreclosure sale (Trial Exhibit 45)	August 14, 2013	AA3 584-585
Cambridge Heights Community Association Account Log for A. Munar (Trial Exhibit 47)	August 21, 2013	AA3 586-594
NAS Letter re: foreclosure sale (Trial Exhibit 49)	September 20, 2013	AA3 595-596
Adjustable Rate Note (Trial Exhibit 51)	August 31, 2006	AA3 597-602
Referral for Delinquent Accounts – Cambridge Heights for A. Munar (Trial Exhibit 54)	June 15, 2012	AA3 603-605
Notice of Pendency of Action (Trial Exhibit 55)	February 13, 13	AA3 606-610
Default (as to Cambridge Heights) (Trial Exhibit 56)	April 8, 2013	AA3 611-613
Clark County Real Property Information (Trial Exhibit 57)	May 9, 2013	AA3 614-616
Letter from J. Gerber to A. Munar re: Trust Account Check for foreclosure sale (Trial Exhibit 58)	August 29, 2013	AA3 617-618
Letter from J. Gerber to Cambridge Heights re: client trust account check (Trial Exhibit 59)	August 29, 2013	AA3 619-621
Declaration of Value (Trial Exhibit 60)	August 23, 2013	AA3 622-623
Notice of Pendency of Action (Trial Exhibit 61)	December 18, 2013	AA3 624-627
Residential Lease Agreement (Trial Exhibit 62)	April 1, 2014	AA3 628-638
Residential Property Management Agreement (Exhibit 63)	February 7, 2014	AA3 639-647
Residential Lease Agreement (Trial	May 4, 2015	AA3 648-658

Document	Date	Volume and Bates Number(s)
Exhibit 64)		
Clark County Assessor (Trial Exhibit 68)	June 14, 2016	AA3 659-665
Court Minutes (Trial Exhibit 72)	August 27, 2013	AA3 666-667
Cambridge Heights Assessment Log (Trial Exhibit 74)	September 10, 2012	AA3 668-670
Letter from A. Fesel to Giavanna re: Lender's Foreclosure Action (Trial Exhibit 79)	October 7, 2010	AA3 671-672
Findings of Fact, Conclusions of Law	August 26, 2016	AA3 673-688
Declaratory Judgment Quieting Title to Property	August 26, 2016	AA3 689-692
Notice of Entry of Declaratory Judgment Quieting Title to Property	August 26, 2016	AA3 693-695
Notice of Entry of Findings of Fact, Conclusions of Law and Order Granting Judgment in Favor of Plaintiff-In- Intervention	August 29, 2016	AA3 696-698
Notice of Appeal	September 26, 2016	AA3 699-702

ALPHABETICAL INDEX

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Adjustable Rate Note (Trial Exhibit 51)	August 31, 2006	AA3 597-602
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Cambridge Heights Account Log – A. Munar (Trial Exhibit 13)	May 9, 2013	AA3 521-522
Cambridge Heights Account Log – A. Munar (Trial Exhibit 19)	August 21, 2013	AA3 534-535
Cambridge Heights Assessment Log (Trial Exhibit 74)	September 10, 2012	AA3 668-670
Cambridge Heights Community Association Account Log for A. Munar (Trial Exhibit 37)	May 6, 2013	AA3 575-583
Cambridge Heights Community Association Account Log for A. Munar (Trial Exhibit 47)	August 21, 2013	AA3 586-594
Certificate of Sale (Trial Exhibit 20)	August 23, 2013	AA3 536-540
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Deed of Trust (Trial Exhibit 23)	September 7, 2006	AA3 545-569
Default (as to Amanda R. Munar)	April 8, 2013	AA1 048-049
Default (as to Cambridge Heights)	April 8, 2013	AA1 050-051

Document	Filing Date	Volume and Bates Number(s)
Default (as to Cambridge Heights) (Trial Exhibit 56)	April 8, 2013	AA3 611-613
Email from D. Jordan re: moving forward to foreclosure sale (Trial Exhibit 45)	August 14, 2013	AA3 584-585
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Plaintiff-In-Intervention's Opposition to Wells Fargo Bank's Motion for Summary Judgment	October 29, 2015	AA2 290-324

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Wells Fargo Bank N.A.'s Motion for Summary Judgment	October 12, 2015	AA1 116-238 AA2 239-289

Dated: September 20, 2017.

BALLARD SPAHR LLP

By: /s/ Sylvia O. Semper

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Salt Lake City, Utah 84111-2221

Attorneys for Appellant

CERTIFICATE OF SERVICE

I certify that this foregoing **APPELLANT’S APPENDIX – VOLUME 1** was filed electronically with the Nevada Supreme Court on the 20th day of September 2017. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

John Henry Wright
Nevada Bar No. 6182
2340 Paseo Del Prado
Suite D-305
Las Vegas, NV 89102

Attorneys for Tim Radecki

/s/ Charlene Bowman
An employee of Ballard Spahr LLP

Clark County, Nevada

Case No. _____

XXIX

(Assigned by Clerk's Office)

I. Party Information

Plaintiff(s) (name/address/phone): WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12

Attorney (name/address/phone):
Kristin A. Schuler-Hintz, Esq., SBN 7171
McCarthy & Holthus, LLP
9510 W. Sahara Ave., Suite 110
Las Vegas, NV 89117
Phone 855-809-3977
Email: NVJud@McCarthyHolthus.com

Defendant(s) (name/address/phone): Amanda R. Munar / 2102 Logsdon Drive, North Las Vegas, NV 89032

Unknown Spouse of Amanda R. Munar / 2102 Logsdon Drive, North Las Vegas, NV 89032

Cambridge Heights, A Planned Community/ c/o Nevada Association Service, Inc., 6224 W. Desert Inn Road, Suite A, Las Vegas, NV 89146

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input checked="" type="checkbox"/> Title to Property <input checked="" type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

- | | | |
|---|--|--|
| <input type="checkbox"/> NRS Chapters 78-88 | <input type="checkbox"/> Investments (NRS 104 Art. 8) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input checked="" type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90) | <input type="checkbox"/> Trademarks (NRS 600A) | |

February 11, 213

Date

Janice Jacobino, Esq.



CLERK OF THE COURT

Kristin A. Schuler-Hintz, Esq., SBN 7171
Janice Jacobino, Esq., SBN 11612
McCarthy & Holthus, LLP
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Attorneys for Plaintiff,
WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE
HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12

IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

WELLS FARGO BANK, N.A., AS TRUSTEE,) Case No. A - 13 - 676574 - C
ON BEHALF OF THE HOLDERS OF THE)
HARBORVIEW MORTGAGE LOAN TRUST) Dept. No. XXIX
MORTGAGE LOAN PASS-THROUGH)
CERTIFICATES, SERIES 2006-12,)

Plaintiff,

v.

AMANDA R. MUNAR; UNKNOWN
SPOUSE OF AMANDA R. MUNAR;
CAMBRIDGE HEIGHTS, A PLANNED
COMMUNITY; DOES I-X; and ROES 1 -10
inclusive,

Defendants.

**VERIFIED COMPLAINT FOR JUDICIAL
FORECLOSURE AND DEFICIENCY
JUDGMENT OF DEED OF TRUST**

**ARBITRATION EXCEPTION CLAIMED:
TITLE TO REAL ESTATE**

COMES NOW Plaintiff, WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF
OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE
LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12, filing this civil action against
Defendants for (1) Judicial Foreclosure and (2) Deficiency Judgment on Deed of Trust.

INTRODUCTION

1. This action is a judicial foreclosure with money demand within the jurisdictional limits
of this Court and this venue is appropriate because the property involved is within this Court's
jurisdiction. Plaintiff is authorized to bring this action in the state of Nevada by NRS 40.430.

2. The real property on which Plaintiff seeks foreclosure consists of a single-family
residence commonly known as 2102 Logsdon Drive, North Las Vegas, NV 89032 and more

MCCARTHY & HOLTHUS, LLP
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LAS VEGAS, NV 89117
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Email NVJud@McCarthyHolthus.com

specifically described in Exhibit "1" attached hereto and incorporation herein by this reference.

3. Plaintiff, WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12, is an Entity authorized to do business within the State of Nevada. Select Portfolio Servicing, Inc. is the servicer of the loan.

4. Defendant, Amanda R. Munar, is an individual believed to be residing in Clark County, Nevada who executed the subject Note and Deed of Trust relative to real property located in Clark County, Nevada of which this Complaint arises, or claims an interest in the property, or both.

5. Defendant, Unknown Spouse of Amanda R. Munar, is an individual that may claim an interest in the subject property pursuant to possessory right.

6. Defendant, Cambridge Heights, A Planned Community, is an entity that may claim an interest in the subject property pursuant to a recorded Homeowners Association Lien as instrument number 201209130001442.

7. Plaintiff does not know the true names, capacities or bases of liability of Defendants sued as Does I-X and Roes 1-10 inclusive. Each fictitiously named defendant is in some way liable to Plaintiff or claims some right, title or interest in the subject property that is subsequent to and subject to the interest of Plaintiff, or both. Plaintiff will amend this Complaint to reflect the true names of said Defendants when the same have been ascertained.

FACTUAL BACKGROUND

8. Plaintiff incorporates and re-alleges the allegations of paragraphs 1 through 7 above, as if fully set forth herein.

9. The real property which is the subject matter of this action is commonly known as 2102 Logsdon Drive, North Las Vegas, NV 89032 (hereinafter the "Property"). The Parcel ID Number of the Property is 139-20-612-037. The subject real property is more particularly described in Exhibit "1", attached hereto and incorporated herein by this reference.

10. The Property that is the subject matter of this action is in Clark County, Nevada.

11. On or about August 31, 2006, Amanda R. Munar signed a Note in the principal amount of \$196,000.00, which was secured by a Deed of Trust recorded on September 7, 2006 as

Instrument number 20060907-0004388 in the records of Clark County, Nevada. A copy of the Note (made at or near the time of loan origination), Deed of Trust, and Assignments are attached hereto collectively as Exhibit "1". The Note and Deed of Trust were subsequently assigned to WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12. WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12 is the current holder of the Note and Deed of Trust and the loan is serviced by Select Portfolio Servicing, Inc.

FIRST CAUSE OF ACTION

(Judicial Foreclosure)

12. Plaintiff incorporates and re-alleges the allegations of paragraphs 1 through 11 above, as if fully set forth herein.

13. Counsel is informed and believes and on that basis alleges that Defendant, Amanda R. Munar, ("Trustor") has defaulted under the terms of the Note and Deed of Trust by having failed and refused to make monthly payments of \$903.37 (P&I or PITI) commencing with the payment due on March 1, 2011 and in subsequent months. Counsel is informed and believes that the delinquent monthly installments total \$21,680.88, exclusive of associated, fees, costs and advances.

14. The Deed of Trust provides that, if the Trustor defaults in paying any indebtedness secured by the Deed of Trust, or in the performance of any agreement in the subject agreement or Deed of Trust, the entire principal and interest secured by the Deed of Trust will, upon notice to the Borrower, become immediately due and payable.

15. Pursuant to the terms of the Note and Deed of Trust and the acceleration letter attached hereto as Exhibit "2", WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12, has declared all sums immediately due and payable and accelerated all sums due.

1 16. WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS
2 OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-
3 THROUGH CERTIFICATES, SERIES 2006-12 is entitled to foreclose on its interest in the
4 property.

5 17. WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS
6 OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-
7 THROUGH CERTIFICATES, SERIES 2006-12 is entitled to an award of its attorney's fees and
8 costs pursuant to the terms of the Note and Deed of Trust, including post-judgment attorney's fees
9 and costs.

10 18. WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS
11 OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-
12 THROUGH CERTIFICATES, SERIES 2006-12's lien is prior and paramount to the interest of
13 any Defendants hereto, and all such subordinate interests should be eliminated by this foreclosure
14 action. WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF
15 THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH
16 CERTIFICATES, SERIES 2006-12 is entitled to judgment foreclosing the interests of any
17 Defendant hereto in the Property and forever barring that interest, and that of any successors,
18 assigns or heirs.

19 19. WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS
20 OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-
21 THROUGH CERTIFICATES, SERIES 2006-12 is entitled to decree or judgment of the court
22 directing a sale of the encumbered property and application of the proceeds of sale as provided in
23 NRS 40.462.

24 20. WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS
25 OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-
26 THROUGH CERTIFICATES, SERIES 2006-12 is entitled to a judgment permitting it to bid all
27 or part of its judgment at sale.

28 ///

SECOND CAUSE OF ACTION

(Deficiency Judgment on Deed of Trust)

21. Plaintiff incorporates and re-alleges the allegations of paragraphs 1 through 19 above, as if fully set forth herein.

22. If a Borrower has obtained a bankruptcy discharge then no deficiency will be sought. If there has been no discharge and a deficiency remains after the application of proceeds from the sale, plaintiff is entitled to seek a deficiency judgment against the Borrower, pursuant to NRS 40.455.

WHEREFORE, Plaintiff prays for judgment as follows:

A. Against Defendant, Amanda R. Munar, for the minimum sum of \$207,846.66, plus all pre and post-filing costs and attorney's fees, and interest from March 1, 2011 until paid in full, plus pre and post-judgment interest on all advances, costs and attorney's fees from the date each was due until paid in full, for its costs incurred herein, including post-judgment costs, for its attorney's fees, including post-judgment attorney's fees, pursuant to the terms of the Note and Deed of Trust, and for such other and further relief as the Court deems just and proper.

B. Against Defendant, Amanda R. Munar, Unknown Spouse to Amanda R. Munar, Cambridge Heights, A Planned Community, Does I-X inclusive, and Roes 1-10 inclusive, individually and collectively, jointly and severally as follows:

(1) That the sums prayed for and alleged to be secured by the Property are secured and that the Deed of Trust is a valid lien on the Property described in the Complaint and on the whole thereof, and on the rents, issues, and profits of the Property, and all buildings and improvement thereon and fixtures attached thereto as used in connection with the Property;

(2) That the Deed of Trust be declared superior to any right, title, interest, lien, equity or estate of the Defendants;

(3) That it be adjudged and decreed that said Deed of Trust be foreclosed and a decree or judgment of the court directing a sale of the encumbered property and application of the proceeds of sale as provided in NRS 40.462 in satisfaction of the judgment herein;

(4) That the Defendants, and all persons claiming by, through or under them, or any of them, be foreclosed of and forever barred from any and all right, title, claim, interest, or lien in or to the Property or with respect thereto except such rights of redemption as they may have by law;

(5) That WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12 is granted any further relief in satisfaction of the judgment as may be permitted under Nevada law;

(6) That WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12 is entitled at its discretion to the appointment of a receiver to protect the Property from neglect and waste during the pendency of this action and to collect any rents to which any Defendants would be entitled;

(7) That if the proceeds of the sale do not satisfy Plaintiffs' judgment in full, the Plaintiff may amend its complaint to seek a deficiency judgment against Defendant, Amanda R. Munar for the deficiency; No deficiency shall be sought against Defendants, Unknown Spouse of Amanda R. Munar and Cambridge Heights, A Planned Community;

(8) For its costs incurred herein, including post-judgment costs;

(9) For its attorney's fees, including post-judgment fees, pursuant to the Note and Deed of Trust; and

(10) For any other further relief as this court deems just and proper.

Dated: February 11, 2013

Respectfully submitted,
MCCARTHY & HOLTHUS, LLP

By: 
Janice Jacobovino (NSB# 11612)

EXHIBIT “1”

MIN: REDACTED

Loan Number: REDACTED

ADJUSTABLE RATE NOTE

(MTA-Twelve Month Average Index - Payment Caps)

THIS NOTE CONTAINS PROVISIONS THAT WILL CHANGE THE INTEREST RATE AND THE MONTHLY PAYMENT. THERE MAY BE A LIMIT ON THE AMOUNT THAT THE MONTHLY PAYMENT CAN INCREASE OR DECREASE. THE PRINCIPAL AMOUNT TO REPAY COULD BE GREATER THAN THE AMOUNT ORIGINALLY BORROWED, BUT NOT MORE THAN THE MAXIMUM LIMIT STATED IN THIS NOTE.

AUGUST 31, 2006
[Date]

NORTH LAS VEGAS
[City]

NEVADA
[State]

2102 LOGSDON DRIVE, NORTH LAS VEGAS, NEVADA 89032
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$196,000.00 (this amount is called "Principal"), plus interest, to the order of Lender. The Principal amount may increase as provided under the terms of this Note but will never exceed (ONE HUNDRED FIFTEEN PERCENT) of the Principal amount I originally borrowed. This is called the "Maximum Limit." Lender is Community Lending, Incorporated, a California Corporation, DBA Advantage Funding Group. I will make all payments under this Note in the form of cash, check or money order.

I understand that Lender may transfer this Note. Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

(A) Interest Rate

Interest will be charged on unpaid Principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 1.500 %. The interest rate I will pay may change.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 7(B) of this Note.

(B) Interest Rate Change Dates

The interest rate I will pay may change on the 1st day of NOVEMBER, 2006 and on that day every month thereafter. Each date on which my interest rate could change is called an "Interest Rate Change Date." The new rate of interest will become effective on each Interest Rate Change Date. The interest rate may change monthly, but the monthly payment is recalculated in accordance with Section 3.

(C) Index

Beginning with the first Interest Rate Change Date, my adjustable interest rate will be based on an Index. The "Index" is the "Twelve-Month Average" of the annual yields on actively traded United States Treasury Securities adjusted to a constant maturity of one year as published by the Federal Reserve Board in the Federal Reserve Statistical Release entitled "Selected Interest Rates (H.15)" (the "Monthly Yields"). The Twelve Month Average is determined by adding together the Monthly Yields for the most recently available twelve months and dividing by 12. The most recent Index figure available as of the date 15 days before each Interest Rate Change Date is called the "Current Index".

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(D) Calculation of Interest Rate Changes

Before each Interest Rate Change Date, the Note Holder will calculate my new interest rate by adding THREE AND 575/1000 percentage point(s) 3.575 % ("Margin") to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). This rounded amount will be my new interest rate until the next Interest Rate Change Date. My interest will never be greater than 9.950 %. Beginning with the first Interest Rate Change Date, my interest rate will never be lower than the Margin.

3. PAYMENTS

(A) Time and Place of Payments

I will make a payment every month.

I will make my monthly payments on the 1st day of each month beginning on NOVEMBER 1, 2006. I will make these payments every month until I have paid all the Principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on OCTOBER 1, 2036, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P.O. Box 2080, Morgan Hill, California 95038 or at a different place if required by the Note Holder.

Borrower Initials: ARM
PayOption ARM Note - MTA Index
FE-5312 (0511)

(B) Amount of My Initial Monthly Payments

Each of my initial monthly payments until the first Payment Change Date will be in the amount of U.S. \$ 576.44 unless adjusted under Section 3 (F).

(C) Payment Change Dates

My monthly payment may change as required by Section 3(D) below beginning on the 1st day of NOVEMBER, 2007, and on that day every 12th month thereafter. Each of these dates is called a "Payment Change Date." My monthly payment also will change at any time Section 3(F) or 3(G) below requires me to pay a different monthly payment. The "Minimum Payment" is the minimum amount the Note Holder will accept for my monthly payment which is determined at the last Payment Change Date or as provided in Section 3(F) or 3(G) below. If the Minimum Payment is not sufficient to cover the amount of the interest due then negative amortization will occur.

I will pay the amount of my new Minimum Payment each month beginning on each Payment Change Date or as provided in Section 3(F) or 3(G) below.

(D) Calculation of Monthly Payment Changes

At least 30 days before each Payment Change Date, the Note Holder will calculate the amount of the monthly payment that would be sufficient to repay the unpaid Principal that I am expected to owe at the Payment Change Date in full on the maturity date in substantially equal payments at the interest rate effective during the month preceding the Payment Change Date. The result of this calculation is called the "Full Payment." Unless Section 3(F) or 3(G) apply, the amount of my new monthly payment effective on a Payment Change Date, will not increase by more than 7.5% of my prior monthly payment. This 7.5% limitation is called the "Payment Cap." This Payment Cap applies only to the Principal and Interest payment and does not apply to any escrow payments Lender may require under the Security Instrument. The Note Holder will apply the Payment Cap by taking the amount of my Minimum Payment due the month preceding the Payment Change Date and multiplying it by the number 1.075. The result of this calculation is called the "Limited Payment." Unless Section 3(F) or 3(G) below requires me to pay a different amount, my new Minimum Payment will be the lesser of the Limited Payment and the Full Payment. I also have the option to pay the Full Payment for my monthly payment.

(E) Additions to My Unpaid Principal

Since my monthly payment amount changes less frequently than the interest rate, and since the monthly payment is subject to the payment limitations described in Section 3 (D), my Minimum Payment could be less than or greater than the amount of the interest portion of the monthly payment that would be sufficient to repay the unpaid Principal I owe at the monthly payment date in full on the Maturity Date in substantially equal payments. For each month that my monthly payment is less than the interest portion, the Note Holder will subtract the amount of my monthly payment from the amount of the interest portion and will add the difference to my unpaid Principal, and interest will accrue on the amount of this difference at the interest rate required by Section 2. For each month that the monthly payment is greater than the interest portion, the Note Holder will apply the payment as provided in Section 3 (A).

(F) Limit on My Unpaid Principal; Increased Monthly Payment

My unpaid Principal can never exceed the Maximum Limit equal to 115.000 percent of the Principal amount I originally borrowed. My unpaid Principal could exceed that Maximum Limit due to Minimum Payments and interest rate increases. In that event, on the date that my paying my monthly payment would cause me to exceed that limit, I will instead pay a new monthly payment. This means that my monthly payment may change more frequently than annually and such payment changes will not be limited by the 7.5% Payment Cap. The new Minimum Payment will be in an amount that would be sufficient to repay my then unpaid Principal in full on the Maturity Date in substantially equal payments at the current interest rate.

(G) Required Full Payment

On the 5th Payment Change Date and on each succeeding fifth Payment Change Date thereafter, I will begin paying the Full Payment as my Minimum Payment until my monthly payment changes again. I also will begin paying the Full Payment as my Minimum Payment on the final Payment Change Date.

(H) Payment Options

After the first Interest Rate Change Date, Lender may provide me with up to three (3) additional payment options that are greater than the Minimum Payment, which are called "Payment Options." I may be given the following Payment Options:

- (i) **Interest Only Payment:** the amount that would pay the interest portion of the monthly payment at the current interest rate. The Principal balance will not be decreased by this Payment Option and it is only available if the interest portion exceeds the Minimum Payment.
- (ii) **Fully Amortized Payment:** the amount necessary to pay the loan off (Principal and Interest) at the Maturity Date in substantially equal payments.
- (iii) **15 Year Amortized Payment:** the amount necessary to pay the loan off (Principal and Interest) within a fifteen (15) year term from the first payment due date in substantially equal payments. This monthly payment amount is calculated on the assumption that the current rate will remain in effect for the remaining term.

These Payment Options are only applicable if they are greater than the Minimum Payment.

Borrower Initials: A.R.M.

PayOption ARM Note - MTA Index
FE-5312 (0511)

4. **NOTICE OF CHANGES**

The Note Holder will deliver or mail to me a notice of any changes in the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

5. **BORROWER'S RIGHT TO PREPAY ** See attached Prepayment Note Addendum.**

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under this Note.

I may make a full Prepayment or partial Prepayments without paying any Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payments. My partial Prepayment may reduce the amount of my monthly payments after the first Payment Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

6. **LOAN CHARGES**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this 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 me that exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

7. **BORROWER'S FAILURE TO PAY AS REQUIRED**

(A) **Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of fifteen (15) calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of Principal and Interest. I will pay this late charge promptly but only once on each late payment.

(B) **Default**

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) **Notice of Default**

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal that has not been paid and all the interest that I owe on that amount. The date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) **No Waiver By Note Holder**

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) **Payment of Note Holder's Costs and Expenses**

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. These expenses include, for example, reasonable attorneys' fees.

8. **GIVING OF NOTICES**

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Unless the Note Holder requires a different method, any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

9. **OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully and personally obligated to keep all the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all the amounts owed under this Note.

Borrower Initials: ARM
PayOption ARM Note • MTA Index
FE-5312 (0511)

10. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

11. SECURED NOTE

In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses that might result if I do not keep the promises that I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of these conditions are described as follows:

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. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, 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.

Amanda R. Munar (Seal)
-Borrower

____ (Seal)
-Borrower

PAY TO THE ORDER OF

____ (Seal)
-Borrower

Countrywide Bank, N.A.

____ (Seal)
-Borrower

WITHOUT RECOURSE

Jeffrey Smith
Mortgage Master
Community Lending, Incorporated
A California Corporation

PAY TO THE ORDER OF

WITHOUT RECOURSE
COUNTRYWIDE HOME LOANS, INC.

BY: Michele Sjolander

MICHELE SJOLANDER
EXECUTIVE VICE PRESIDENT

PAY TO THE ORDER OF
Countrywide Home Loans, Inc.

WITHOUT RECOURSE
COUNTRYWIDE BANK, N.A.

BY: Enriqueta
ENRIQUETA QUINTEROS
COLLATERAL PROCESSING OFFICER

DATE: AUGUST 31, 2006
BORROWER: AMANDA R MUNAR

LOAN #: REDACTED
PROPERTY ADDRESS: 2102 LOGSDON DRIVE
NORTH LAS VEGAS, NEVADA 89032
MIN: REDACTED

PREPAYMENT PENALTY ADDENDUM

THIS PREPAYMENT PENALTY ADDENDUM is dated AUGUST 31, 2006, and is incorporated into and amends and supplements the Note of the same date (the "Note") given by Community Lending, Incorporated, a California Corporation, DBA Advantage Funding Group (the "Lender"). The Note is secured by a Mortgage or Deed of Trust or comparable security instrument (the "Security Instrument") covering the property (the "Property") identified in the Security Instrument.

The section of the Note entitled "Borrower's Right to Prepay" is replaced with the following new section:

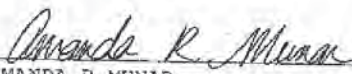
BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A prepayment of all of the unpaid Principal is known as a "Full Prepayment." A prepayment of only part of the unpaid Principal is known as a "Partial Prepayment." When I make a Partial or Full Prepayment, I will tell the Note Holder in writing that I am doing so.

Subject to the Prepayment Penalty specified below, I may make a Full Prepayment or Partial Prepayments of my obligation. The Note Holder will use all of my prepayments to reduce the amount of Principal that I owe under the Note. If I make a Partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment.

If within the first THIRTY-SIX months after the execution of this Note, I make prepayment(s), the total of which exceeds twenty (20) percent of the original Principal amount of this Note, I agree to pay a Prepayment Penalty in an amount equal to the payment of six (6) months' advance interest on the amount by which the total of my prepayment(s) during the twelve (12) month period immediately preceding the date of the prepayment exceeds twenty (20) percent of the original Principal amount of this Note. Interest will be calculated using the rate in effect at the time of prepayment. I will pay this Prepayment Penalty regardless of whether I sell the Property or refinance the loan with the same Lender or Note Holder.

All other terms and conditions of the above referenced Note remain in full force and effect.


AMANDA R. MUNAR Borrower

Borrower

Borrower

Borrower


20060907-0004388

Fee: \$37.00

N/C Fee: \$0.00

09/07/2006

14:27:07

T20060156093

Requestor:

TICOR TITLE OF NEVADA INC

Frances Deane

KGP

Clark County Recorder

Pgs: 24

Assessor's Parcel Number: 139-20-612-037

And When Recorded Return To:
ComUnity Lending, Incorporated
P.O. Box 700
Morgan Hill, California 95038--700
Loan Number: **REDACTED**

Mail Tax Statements To:

ComUnity Lending, Incorporated, a California Corporation, DBA
Advantage Funding Group, 777 N. Rainbow Blvd. Suite 380, Las
Vegas, NV 89107

REDACTED

(Space Above This Line For Recording Data)

DEED OF TRUSTMIN: **REDACTED****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 AUGUST 31, 2006, together with all Riders to this document.
(B) "Borrower" is AMANDA R. MUNAR, A MARRIED WOMAN AS HER SOLE AND SEPERATE PROPERTY

Borrower is the trustor under this Security Instrument.

- (C) "Lender" is ComUnity Lending, Incorporated, a California Corporation, DBA Advantage Funding Group

Lender is a

organized

and existing under the laws of CALIFORNIA

Lender's address is 610 Jarvis Drive, Suite 200, Morgan Hill, California 95037

- (D) "Trustee" is TICOR TITLE OF NEVADA, INC.
777 NORTH RAINBOW BLVD. #150, LAS VEGAS, NEVADA 89107

Borrower Initials: *ARM*

NEVADA--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT - MERS
Form 3028 1/01

Page 1 of 15

DocMagic *CPassport* 800-619-1362
www.docmagic.com

RECORDER'S MEMO
POSSIBLE POOR RECORD DUE TO
QUALITY OF ORIGINAL DOCUMENT

(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 AUGUST 31, 2006. The Note states that Borrower owes Lender ONE HUNDRED NINETY-SIX THOUSAND AND 00/100 Dollars (U.S. \$ 196,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than OCTOBER 1, 2036.

(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 checked="" type="checkbox"/> Adjustable Rate Rider | <input checked="" type="checkbox"/> Planned Unit Development Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Biweekly Payment Rider |
| <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Condominium 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. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional

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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 of CLARK :

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

LOT THIRTY-EIGHT (38) IN BLOCK SIX (6) OF CAMBRIDGE HEIGHTS
PHASE 2, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 79 OF PLATS,
PAGE 58, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY,
NEVADA.

A.P.N. : 139-20-612-037

which currently has the address of

2102 LOGSDON DRIVE

[Street]

NORTH LAS VEGAS

[City]

, Nevada

89032

[Zip Code]

("Property Address"):

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 seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances 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

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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 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

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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 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.

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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 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

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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 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.

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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.

(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.

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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.

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

Borrower Initials: A.R.M.

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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.

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

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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 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

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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 8 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.

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

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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 Lenders' 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. \$

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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.

Amanda R. Munar (Seal)
AMANDA R MUNAR -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

Witness:

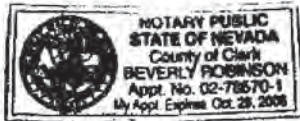
Witness:

State of Nevada
County of

Clark

This instrument was acknowledged before me on
by AMANDA R MUNAR

Sept 1, 2006



(Seal)


Notary Public

My commission expires: *10/29/06*

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MIN: **REDACTED**Loan Number: **REDACTED**

Doc ID#:

ADJUSTABLE RATE RIDER
(MTA-Twelve Month Average Index - Payment Caps)

THIS ADJUSTABLE RATE RIDER is made this 31st day of AUGUST 2006, 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 ("Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to CurUnity Lending, Incorporated, a California Corporation, LRA Advantage Funding Group ("Lender") of the same date and covering the property described in the Security Instrument and located at:

2102 LOGSDON DRIVE, NORTH LAS VEGAS, NEVADA 89032
[Property Address]

THE NOTE CONTAINS PROVISIONS THAT WILL CHANGE THE INTEREST RATE AND THE MONTHLY PAYMENT. THERE MAY BE A LIMIT ON THE AMOUNT THAT THE MONTHLY PAYMENT CAN INCREASE OR DECREASE. THE PRINCIPAL AMOUNT TO REPAY COULD BE GREATER THAN THE AMOUNT ORIGINALLY BORROWED, BUT NOT MORE THAN THE MAXIMUM LIMIT STATED IN THE NOTE.

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

A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

The Note provides for changes in the interest rate and the monthly payments, as follows:

2. INTEREST

(A) Interest Rate

Interest will be charged on unpaid Principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 1.500 %. The interest rate I will pay may change.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 7(B) of the Note.

(B) Interest Rate Change Dates

The interest rate I will pay may change on the 1st day of NOVEMBER 2006, and on that day every month thereafter. Each date on which my interest rate could change is called an "Interest Rate Change Date." The new rate of interest will become effective on each Interest Rate Change Date. The interest rate may change monthly, but the monthly payment is recalculated in accordance with Section 3.

Borrower Initials: ARM

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EXHIBIT A

Lot Thirty-Eight (38) in Block Six (6) of CAMBRIDGE HEIGHTS PHASE 2, as shown by map thereof on file in Book 79 of Plats, Page 58, in the Office of the County Recorder of Clark County, Nevada.

(C) Index

Beginning with the first Interest Rate Change Date, my adjustable interest rate will be based on an Index. The "Index" is the "Twelve-Month Average" of the annual yields on actively traded United States Treasury Securities adjusted to a constant maturity of one year as published by the Federal Reserve Board in the Federal Reserve Statistical Release entitled "Selected Interest Rates (H.15)" (the "Monthly Yields"). The Twelve Month Average is determined by adding together the Monthly Yields for the most recently available twelve months and dividing by 12. The most recent Index figure available as of the date 15 days before each Interest Rate Change Date is called the "Current Index".

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(D) Calculation of Interest Rate Changes

Before each Interest Rate Change Date, the Note Holder will calculate my new interest rate by adding THREE AND 575/1000 percentage point(s) 3.575 % ("Margin") to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). This rounded amount will be my new interest rate until the next Interest Rate Change Date. My interest will never be greater than 9.950 %. Beginning with the first Interest Rate Change Date, my interest rate will never be lower than the Margin.

3. PAYMENTS**(A) Time and Place of Payments**

I will make a payment every month.

I will make my monthly payments on the 1st day of each month beginning on NOVEMBER 1, 2006. I will make these payments every month until I have paid all the Principal and Interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on OCTOBER 1, 2036, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P.O. Box 2080, Morgan Hill, California 95038

or at a different place if required by the Note Holder.

(B) Amount of My Initial Monthly Payments

Each of my initial monthly payments until the first Payment Change Date will be in the amount of U.S. \$ 676.44 unless adjusted under Section 3 (F).

(C) Payment Change Dates

My monthly payment may change as required by Section 3(D) below beginning on the 1st day of NOVEMBER, 2007, and on that day every 12th month thereafter. Each of these dates is called a "Payment Change Date." My monthly payment also will change at any time Section 3(F) or 3(G) below requires me to pay a different monthly payment. The "Minimum Payment" is the minimum amount Note Holder will accept for my monthly payment which is determined at the last Payment Change Date or as provided in Section 3(F) or 3(G) below. If the Minimum Payment is not sufficient to cover the amount of the interest due then negative amortization will occur.

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I will pay the amount of my new Minimum Payment each month beginning on each Payment Change Date or as provided in Section 3(F) or 3(G) below.

(D) Calculation of Monthly Payment Changes

At least 30 days before each Payment Change Date, the Note Holder will calculate the amount of the monthly payment that would be sufficient to repay the unpaid Principal that I am expected to owe at the Payment Change Date in full on the maturity date in substantially equal payments at the interest rate effective during the month preceding the Payment Change Date. The result of this calculation is called the "Full Payment." Unless Section 3(F) or 3(G) apply, the amount of my new monthly payment effective on a Payment Change Date, will not increase by more than 7.5% of my prior monthly payment. This 7.5% limitation is called the "Payment Cap." This Payment Cap applies only to the Principal and interest payment and does not apply to any escrow payments Lender may require under the Security Instrument. The Note Holder will apply the Payment Cap by taking the amount of my Minimum Payment due the month preceding the Payment Change Date and multiplying it by the number 1.075. The result of this calculation is called the "Limited Payment." Unless Section 3(F) or 3(G) below requires me to pay a different amount, my new Minimum Payment will be the lesser of the Limited Payment and the Full Payment. I also have the option to pay the Full Payment for my monthly payment.

(E) Additions to My Unpaid Principal

Since my monthly payment amount changes less frequently than the interest rate, and since the monthly payment is subject to the payment limitations described in Section 3 (D), my Minimum Payment could be less than or greater than the amount of the interest portion of the monthly payment that would be sufficient to repay the unpaid Principal I owe at the monthly payment date in full on the Maturity Date in substantially equal payments. For each month that my monthly payment is less than the interest portion, the Note Holder will subtract the amount of my monthly payment from the amount of the interest portion and will add the difference to my unpaid Principal, and interest will accrue on the amount of this difference at the interest rate required by Section 2. For each month that the monthly payment is greater than the interest portion, the Note Holder will apply the payment as provided in Section 3 (A).

(F) Limit on My Unpaid Principal; Increased Monthly Payment

My unpaid Principal can never exceed the Maximum Limit equal to ONE HUNDRED FIFTEEN AND 000/1000 percent (115.000 %)of the Principal amount I originally borrowed. My unpaid Principal could exceed that Maximum Limit due to Minimum Payments and interest rate increases. In that event, on the date that my paying my monthly payment would cause me to exceed that limit, I will instead pay a new monthly payment. This means that my monthly payment may change more frequently than annually and such payment changes will not be limited by the 7.5% Payment Cap. The new Minimum Payment will be in an amount that would be sufficient to repay my then unpaid Principal in full on the Maturity Date in substantially equal payments at the current interest rate.

(G) Required Full Payment

On the 5th Payment Change Date and on each succeeding fifth Payment Change Date thereafter, I will begin paying the Full Payment as my Minimum Payment until my monthly payment changes again. I also will begin paying the Full Payment as my Minimum Payment on the final Payment Change Date.

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Borrower Initials: ARM

(H) Payment Options

After the first Interest Rate Change Date, Lender may provide me with up to three (3) additional payment options that are greater than the Minimum Payment, which are called "Payment Options." I may be given the following Payment Options:

- (i) **Interest Only Payment:** the amount that would pay the interest portion of the monthly payment at the current interest rate. The Principal balance will not be decreased by this Payment Option and it is only available if the interest portion exceeds the Minimum Payment.
- (ii) **Fully Amortized Payment:** the amount necessary to pay the loan off (Principal and Interest) at the Maturity Date in substantially equal payments.
- (iii) **15 Year Amortized Payment:** the amount necessary to pay the loan off (Principal and Interest) within a fifteen (15) year term from the first payment due date in substantially equal payments. This monthly payment amount is calculated on the assumption that the current rate will remain in effect for the remaining term.

These Payment Options are only applicable if they are greater than the Minimum Payment.

B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

Section 18 of the Security Instrument entitled "Transfer of the Property or a Beneficial Interest in Borrower" is amended to read as follows:

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. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in this Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

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If Lender exercises the option to require immediate payment in full, 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.

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

Amanda R. Munar
AMANDA R. MUNAR -Borrower

-Borrower

-Borrower

-Borrower

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Loan Number: **REDACTED****PLANNED UNIT DEVELOPMENT RIDER**

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 31st day of AUGUST, 2006, 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 Community Lending, Incorporated, a California Corporation, DBA Advantage Funding Group (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

2102 LOGSDON DRIVE, NORTH LAS VEGAS, NEVADA 89032

[Property Address]

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in

COVENANTS, CONDITIONS AND RESTRICTIONS OF RECORD

(the "Declaration"). The Property is a part of a planned unit development known as

CAMBRIDGE HEIGHTS

[Name of Planned Unit Development]

(the "PUD"). The Property also includes Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

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

A. PUD Obligations. Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of the Owners Association. 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 insuring the Property 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, for which Lender requires insurance, then: (i) Lender waives the provision in 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.

Borrower Initials: ARM

MULTISTATE PUD RIDER--Single Family
Fannie Mae/Freddie Mac UNIFORM INSTRUMENT
Form 3150 1/01

Page 1 of 3

DocMagic eForm 800-549-1362
www.docmagic.com

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 blanker policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds 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 or the common areas and facilities of the PUD, 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 PUD, 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 PUD 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.

Borrower Initials: ARM

MULTISTATE PUD RIDER--Single Family
Fannie Mae/Freddie Mac UNIFORM INSTRUMENT
Form 3150 1/01

Page 2 of 3

DocuSign *CPART008* 800-649-1382
www.docuSign.com

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

Amanda R. Munar (Seal)
AMANDA R MUNAR -Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

MULTISTATE PUD RIDER--Single Family
Fannie Mae/Freddie Mac UNIFORM INSTRUMENT
Form 3150 1/01

Page 3 of 3

DocMagic E-Form 800-619-1767
www.docmagic.com

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# REDACTED

Tax ID: 139-20-612-037

Property Address:

2102 Logsdon Dr

North Las Vegas, NV 89032-4828

NV0-ADT 15387399 9/27/2011

Inst #: 201110120002706

Fees: \$15.00

N/C Fee: \$0.00

10/12/2011 02:33:14 PM

Receipt #: 944373

Requestor:

CORELOGIC

Recorded By: MSH Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER



610 REDACTED D8 001 003

This space for Recorder's use

MIN #: REDACTED

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 BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING LP FKA COUNTRYWIDE HOME LOANS SERVICING LP whose address is 9062 OLD ANNAPOLIS RD, COLUMBIA, MD 21045 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: COMMUNITY LENDING, INCORPORATED, A CALIFORNIA CORPORATION,
DBA ADVANTAGE FUNDING GROUP

Made By: AMANDA R. MUNAR, A MARRIED WOMAN AS HER SOLE AND SEPERATE
PROPERTY

Trustee: TICO TITLE OF NEVADA, INC.

Date of Deed of Trust: 8/31/2006 Original Loan Amount: \$196,000.00

Recorded in Clark County, NV on: 9/7/2006, book N/A, page N/A and instrument number 20060907-0004388

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

9-28-2011

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.

By: Martha Munoz

Martha Munoz Vice President

State of California
County of Ventura

On SEP 28 2011 before me, Carol Marie Littleford, Notary Public, personally appeared
Mertha Munoz

, 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: _____
My Commission Expires: _____

(Seal)



Assessor's/Tax ID No. 139-20-612-037

Recording Requested By:
SELECT PORTFOLIO SERVICING, INC.

When Recorded Return To:
BILL KOCH
SELECT PORTFOLIO SERVICING, INC.
3815 SOUTH WEST TEMPLE
SALT LAKE CITY, UT 84115

REDACTED

Inst #: 201212270001359

Fees: \$18.00

N/C Fee: \$0.00

12/27/2012 10:13:28 AM

Receipt #: 1435538

Requestor:

LSI TITLE AGENCY INC.

Recorded By: SCA Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

CORPORATE ASSIGNMENT OF DEED OF TRUST

Clark, Nevada. REFERENCE REDACTED "MUNAR"

INVESTOR # REDACTED

THE UNDERSIGNED DOES HEREBY AFFIRM THAT THIS DOCUMENT SUBMITTED FOR
RECORDING DOES NOT CONTAIN A SOCIAL SECURITY NUMBER.

Assignment Prepared on: December 7th, 2012.

Assignor: BANK OF AMERICA NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO BAC
HOME LOANS SERVICING LP, FKA COUNTRYWIDE HOME LOANS SERVICING, LP BY
SELECT PORTFOLIO SERVICING, INC., FKA FAIRBANKS CAPITAL CORP. ITS ATTORNEY IN
FACT at c/o SELECT PORTFOLIO SERVICING, INC., 3815 SOUTH WEST TEMPLE, SALT LAKE
CITY, UT 84115.

Assignee: WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE
HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12 at C/O SELECT PORTFOLIO SERVICING, INC. 3815 SOUTH
WEST TEMPLE, SALT LAKE CITY, UT 84115.

Executed By: AMANDA R. MUNAR, A MARRIED WOMAN AS HER SOLE AND SEPERATE
PROPERTY To: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE
FOR COMUNITY LENDING, INCORPORATED, A CALIFORNIA CORPORATION, DBA
ADVANTAGE FUNDING GROUP

Date of Deed of Trust: 08/31/2006 Recorded: 09/07/2006 in Book: 20060907 as Instrument No.:
0004388 In Clark County, State of Nevada.

Assessor's/Tax ID No. 139-20-612-037

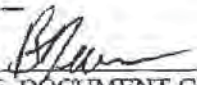
Property Address: 2102 LOGSDON DRIVE, NORTH LAS VEGAS, NV 89032

KNOW ALL MEN BY THESE PRESENTS that in consideration of the sum of TEN and NO/100ths
DOLLARS and other good and valuable consideration, paid to the above named Assignor, the receipt and
sufficiency of which is hereby acknowledged, the said Assignor hereby assigns unto the above-named
Assignee, the said Deed of Trust together with other evidence of indebtedness, said Deed of Trust having
an original principal sum of \$196,000.00 with interest, secured thereby, together with all moneys now

owing or that may hereafter become due or owing in respect thereof, and the full benefit of all the powers and of all the covenants and provisos therein contained, and the said Assignor hereby grants and conveys unto the said Assignee, the Assignor's beneficial interest under the Deed of Trust.

TO HAVE AND TO HOLD the said Deed of Trust, and also the said property unto the said Assignee forever, subject to the terms contained in said Deed of Trust. IN WITNESS WHEREOF, the assignor has executed these presents the day and year first above written:

BANK OF AMERICA NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO BAC HOME
LOANS SERVICING LP, FKA COUNTRYWIDE HOME LOANS SERVICING, LP BY SELECT
PORTFOLIO SERVICING, INC., FKA FAIRBANKS CAPITAL CORP. ITS ATTORNEY IN FACT
On 12-11-2012

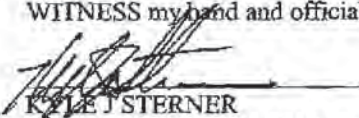
By: 
BARBARA NEALE, DOCUMENT CONTROL
OFFICER



STATE OF UTAH
COUNTY OF SALT LAKE

On 12-11-2012, before me, KYLE J STERNER, a Notary Public in and for SALT LAKE in the State of UTAH, personally appeared BARBARA NEALE, DOCUMENT CONTROL OFFICER, BANK OF AMERICA NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING LP, FKA COUNTRYWIDE HOME LOANS SERVICING, LP BY SELECT PORTFOLIO SERVICING, INC., FKA FAIRBANKS CAPITAL CORP. ITS ATTORNEY IN FACT, 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, and that by his/her/their signature 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,


KYLE J STERNER
Notary Expires: 09/24/2016 #659205



(This area for notarial seal)

Mail Tax Statements To: AMANDA MUNAR, 2102 LOGSDON DRIVE, NORTH LAS VEGAS, NV
89032

EXHIBIT “2”

Select Portfolio Servicing, Inc.
PO BOX 9003
Temecula, CA 92589-9003



2259178941

PRESORT
First-Class Mail
U.S. Postage and
Fees Paid
WSO

Send Payments to:
Select Portfolio Servicing, Inc.
Attn: Remittance Processing
P.O. Box 65450
Salt Lake City, UT 84165-0450

Send Correspondence to:
Select Portfolio Servicing, Inc.
Customer Service
P.O. Box 65250
Salt Lake City, UT 84165-0250

REDACTED

AMANDA R MUNAR
2102 LOGSDON DR
N LAS VEGAS, NV 89032-4828



LR062

01/31/2012

AMANDA R MUNAR
2102 LOGSDON DR
N LAS VEGAS, NV 89032-4828

PLEASE READ THIS NOTICE CAREFULLY. TAKE ACTION TO AVOID THE LOSS OF YOUR PROPERTY.

**NOTICE OF DEFAULT
RIGHT TO CURE**

RE: Loan Number **REDACTED** secured by real property located at
2102 LOGSDON DRIVE
NORTH LAS VEGAS, NV 89032

Dear Customer(s):

This letter constitutes notice that the mortgage on your home is in default and that if you take no action, the lender intends to refer this matter to an attorney for foreclosure. This letter provides information about the notice of default and what rights you have to cure such default. As of the date of this letter, the total amount due and required to cure these defaults on your loan is \$12,136.97. This letter is a formal demand to pay. You can cure the default if, on or before thirty (30) days from the date of this letter (Cure Date), you pay the amount required to cure the default.

Itemization of Amount Required to Cure	
Cure Date: 03/03/2012	
Payments from 03/01/2011 to the date of this letter	\$12,136.97
Accrued late charges	\$0.00
Other advances	\$0.00
Other fees (itemization available upon request)	\$0.00
<u>TOTAL AMOUNT OUTSTANDING</u>	<u>\$12,136.97</u>
<i>Unapplied balance</i>	\$0.00
AMOUNT REQUIRED AS OF 01/31/2012 TO CURE THE DEFAULT	\$12,136.97

Please send the Amount Required to Cure the Default to us on or before the Cure Date listed above. If we do not receive this amount by the Cure Date, or some loss mitigation alternative to foreclosure has not started, we may require immediate payment in full and the lender or another person may acquire the property by means of foreclosure and sale.

PLEASE PROVIDE PAYMENTS TO THE FOLLOWING ADDRESS:

Select Servicing
PO BOX 65450
Salt Lake City, UT 84165-0450



LR062

2259178941
Page 1 of 3

REDACTED

AA1 045

Our acceptance of one or more payments for less than the amount required to cure the default shall not be deemed to waive any rights under the mortgage.

Select Portfolio Servicing, Inc. (SPS) services this mortgage for Bank of America National Association (In care of Select Servicing). SPS intends to invoke specific remedies within your Deed of Trust or Mortgage as applicable. This letter is being sent as notification of those remedies.

Please call (800) 635-9698 or visit our website at www.spservicing.com if you wish to initiate a payment through EZPay. Remember, since EZPay payments clear quickly, you must have the funds in your checking account on the day you ask us to present it for payment. Our customer service representatives or website will advise you if there is a fee for this service of up to \$15.00 and will obtain your consent prior to initiating payment.

You may incur additional fees after the date of this letter pursuant to the terms of your mortgage documents. Payment of these additional fees may not be required to cure the default on your loan, but may be required to bring your loan account current. If foreclosure is initiated, additional amounts for attorney fees and costs may be incurred. These sums can be significant and will be added to amounts secured by the mortgage.

SPS provides consumer assistance programs designed to help customers avoid foreclosures. SPS is a participant in the Obama Administration's Making Home Affordable Program to help you keep your home if you are eligible to participate. Even if you are not eligible for the Making Home Affordable Program, you may be eligible for a workout plan or other similar solution which could include an SPS modification. These services are provided without cost to you. If you would like to learn more about these programs, you may contact an SPS representative at (800) 635-9698 during the following hours:

Monday through Thursday, 8 a.m. to 11 p.m.
Friday, 8 a.m. to 9 p.m.
Saturday, 8 a.m. to 12 p.m.
Eastern Time

You may request mediation to explore options for resolving the default if legal action is commenced.

Home ownership counseling may be available to you by contacting a HUD-approved counseling agency. You may call (800) 569-4287 or TDD (800) 877-8339 for the housing counseling agency nearest you.

If you wish to dispute your delinquency, you may do so by providing a written dispute to SPS at the following address:

Select Portfolio Servicing, Inc.
PO Box 65277
Salt Lake City, Utah 84165-0277

You may call SPS at our toll free number (800) 635-9698 to discuss your dispute. However, you will need to provide written notice to SPS if you believe that your dispute is unresolved to protect your rights under federal law.

If you meet the conditions to reinstate, as provided in the security instrument, you have the right to reinstate your loan and security instrument even after foreclosure has been initiated and prior to sale. This means that once you have met the conditions, the enforcement of the security instrument will be stopped and your note and security instrument will remain effective, as if demand for payment in full had not been made. You will have this right at any time before the earliest of: (a) five days before sale of the property under any power of sale granted by the security instrument; (b) another period as applicable law might specify for the termination of your right to have enforcement of the loan stopped; or (c) a judgment has been entered enforcing your security instrument.

You also have the right to bring a court action if you claim that the loan is not in default or if you believe that you have any other defense to the foreclosure. We are also required by law to inform you that if you notify us that you do not wish us to contact you by telephone at your place of employment, then no such contact by telephone will be made. SPS may require that you pay such reinstatement sums and expenses in one or more of the following forms: (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. If you reinstate, the Mortgage or Deed of Trust shall remain fully effective as if no foreclosure action had started.

It is important that you call us at (800) 635-9698 as soon as possible. While you have options to avoid foreclosure, if you do not contact us that is what will happen and you will lose your home. We do not want that to happen. THE TIME TO ACT IS NOW.

Sincerely,

Select Portfolio Servicing, Inc.

**Esta carta contiene información importante concerniente a sus derechos. Por favor, hágala traducir.
Nuestros representantes bilingües están a su disposición para contestar cualquier
pregunta llamando al teléfono (800) 831-0118 y marque la opción 2.**

**This communication from a debt collector is an attempt to collect a debt and any information
obtained will be used for that purpose.**

**Minnesota - This collection agency is licensed by the Minnesota Department of Commerce
New York City - Collection Agency License #0987252**



LR062

2259178941
Page 3 of 3

REDACTED

AA1 047



CLERK OF THE COURT

1 DFLT
2 Kristin A. Schuler-Hintz, Esq., SBN 7171
3 McCarthy & Holthus, LLP
4 9510 W. Sahara Ave., Suite 110
5 Las Vegas, NV 89117
6 Phone (702) 685-0329
7 Fax (866) 339-5691
8 Email NVJud@McCarthyHolthus.com

9 Attorneys for Plaintiff,
10 WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE
11 HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH
12 CERTIFICATES, SERIES 2006-12

13 **DISTRICT COURT**

14 **CLARK COUNTY NEVADA**

15 WELLS FARGO BANK, N.A., AS TRUSTEE,
16 ON BEHALF OF THE HOLDERS OF THE
17 HARBORVIEW MORTGAGE LOAN TRUST
18 MORTGAGE LOAN PASS-THROUGH
19 CERTIFICATES, SERIES 2006-12,

Case No. A-13-676574-C

Dept.: XXIX

20 Plaintiff,

21 v.

22 AMANDA R. MUNAR; UNKNOWN SPOUSE
23 OF AMANDA R. MUNAR; CAMBRIDGE
24 HEIGHTS, A PLANNED COMMUNITY; DOES
25 I-X; and ROES 1 -10 inclusive,
26 Defendants.

DEFAULT

27 It appearing from the files and records in the above entitled action that:

28 AMANDA R. MUNAR, Defendant herein, being duly served with a copy of the
Summons and Complaint on the 25th day of February, 2013 and that more than 20 days,
exclusive of the day of service, having expired since service upon the Defendant; that no answer
or other appearance having been filed and no further time having been granted; the default of
AMANDA R. MUNAR,

///

///

///

///

1 the above-named Defendant for failing to answer or otherwise plead to Plaintiff's Complaint is
2 hereby entered.

STEVEN D. GRIERSON
CLERK OF THE COURT

APR - 2 2013

3
4 By:

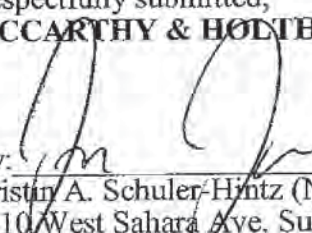

Deputy Clerk

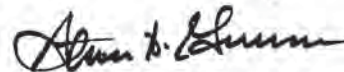
Date

PATRICIA AZUCENA

ALX 574

5
6 Respectfully submitted,
7 MCCARTHY & HOLTHUS, LLP

8
9 By:  11/6/12
10 Kristin A. Schuler-Hintz (NSB# 7171)
11 9510 West Sahara Ave. Suite 110
12 Las Vegas, NV 89117



CLERK OF THE COURT

1 DFLT
Kristin A. Schuler-Hintz, Esq., SBN 7171
2 McCarthy & Holthus, LLP
9510 W. Sahara Ave., Suite 110
3 Las Vegas, NV 89117
Phone (702) 685-0329
4 Fax (866) 339-5691
Email NVJud@McCarthyHolthus.com

5 Attorneys for Plaintiff,
6 WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE
HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH
7 CERTIFICATES, SERIES 2006-12

8 **DISTRICT COURT**

9 **CLARK COUNTY NEVADA**

10 WELLS FARGO BANK, N.A., AS TRUSTEE,
ON BEHALF OF THE HOLDERS OF THE
11 HARBORVIEW MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
12 CERTIFICATES, SERIES 2006-12,

Case No. A-13-676574-C

Dept.: XXIX

13 Plaintiff,

14 v.

15 AMANDA R. MUNAR; UNKNOWN SPOUSE
OF AMANDA R. MUNAR; CAMBRIDGE
16 HEIGHTS, A PLANNED COMMUNITY; DOES
I-X; and ROES 1 -10 inclusive,
17 Defendants.

DEFAULT

18 It appearing from the files and records in the above entitled action that:

19 CAMBRIDGE HEIGHTS, A PLANNED COMMUNITY, Defendant herein, being duly
20 served with a copy of the Summons and Complaint on the 27th day of February, 2013 and that
21 more than 20 days, exclusive of the day of service, having expired since service upon the
22 Defendant; that no answer or other appearance having been filed and no further time having been
23 granted; the default of CAMBRIDGE HEIGHTS, A PLANNED COMMUNITY,

24 ///

25 ///

26 ///

27 ///

28 ///

CLERK OF THE COURT

APR 02 2013

1 the above-named Defendant for failing to answer or otherwise plead to Plaintiff's Complaint is
2 hereby entered.

STEVEN D. GRIERSON
CLERK OF THE COURT

APR - 2 2013

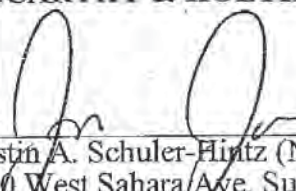
By:

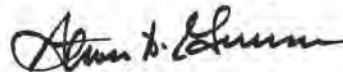
Deputy Clerk

Date

PATRICIA AZUCENA

3
4
5
6 Respectfully submitted,
MCCARTHY & HOLTHUS, LLP

7
8 By:  11/6/12
9 Kristin A. Schuler-Hintz (NSB# 7171)
10 9510 West Sahara Ave. Suite 110
Las Vegas, NV 89117



CLERK OF THE COURT

McCarthy & Holthus, LLP
Kristin A. Schuler-Hintz (NSB# 7171)
Janice Jacovino (SBN# 11612)
9510 West Sahara Avenue, Suite 200
Las Vegas, NV 89117
Telephone: (702) 685-0329
Facsimile: (866) 339-5961

Attorneys for Plaintiff,

WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE
HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12,

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

WELLS FARGO BANK, N.A., AS TRUSTEE,
ON BEHALF OF THE HOLDERS OF THE
HARBORVIEW MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12,

) Case No. A-13-676574-C

) Dept. No. XXIX

) **JUDGMENT**

Plaintiff,

v.

AMANDA R. MUNAR; CAMBRIDGE
HEIGHTS, A PLANNED COMMUNITY; DOES
I-X; and ROES 1 -10 inclusive,

Defendants.

<input type="checkbox"/> Voluntary Dis	<input type="checkbox"/> Stip Dis	<input checked="" type="checkbox"/> Sum Jdgmt
<input type="checkbox"/> Involuntary (stat) Dis	<input type="checkbox"/> Stip Jdgmt	<input type="checkbox"/> Non-Jury Trial
<input type="checkbox"/> Jdgmt on Arb Award	<input type="checkbox"/> Default Jdgmt	<input type="checkbox"/> Jury Trial
<input type="checkbox"/> Min to Dis (by deft)	<input type="checkbox"/> Transferred	

All defendants in this case have been served. Evidence having been introduced by Plaintiff's Affidavit, the Court finding that it has jurisdiction over the subject matter and the parties hereto and being otherwise fully advised in the premises, and good cause appearing,

IT IS ORDERED, AJUDGED, AND DECREED, THAT PLAINTIFF, shall receive a Judgment against Defendant, AMANDA R. MUNAR;

(1) The sum of \$230,069.16 as shown on the breakdown below:

a) Unpaid Principal Balance
on the note and mortgage \$ 207,846.66

b) Accrued interest from 2/1/2011 To 8/27/2013

1 per diem (21.35) \$ 20,505.77
2 c) Other Fee Due \$ 13.09
3 d) Escrow Advance \$ 1,703.64

4 plus costs of \$1967.28 as shown in the Memorandum of Costs and Disbursements
5 plus attorney's fees of \$ 1,500⁰⁰ for the total of \$ 233,536⁴¹, all of which
6 shall bear interest at the rate of 3.875% per annum;

7 (2) The sum above is secured by the Property located at 2102 Logsdon Drive, North Las
8 Vegas, Nevada 89032; APN: 139-20-612-037;

9 (3) That the Deed of Trust recorded on September 07, 2006 as Document Number
10 20060907-0004388 is a valid lien on the Property located at 2102 Logsdon Drive,
11 North Las Vegas, Nevada 89032, and more particularly described on exhibit 1
12 attached hereto; APN: 139-20-612-037 is superior to all right, title, interest, lien,
13 equity or estate of the Defendants with the exception of any super priority lien rights
14 held by any Defendant pursuant to NRS 116.3116;

15 (4) If the total sum with interest at the rate described above and all costs accrued
16 subsequent to this judgment are not paid, the sheriff shall sell the Property at public
17 sale between 9:00 a.m. and 5:00 p.m. to the highest bidder for cash, except as
18 prescribed in paragraph 5 below, in accordance with NRS Chapter 21.

19 (5) Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for
20 them by the sheriff if Plaintiff is not the purchaser of the Property for sale. If Plaintiff
21 is the purchaser, the sheriff shall credit Plaintiff's bid with the total sum with interest
22 and cost accruing subsequent to this judgment, or such part of it, to pay the bid in full.

23 (6) On filing the certificate of sale, the sheriff shall distribute the proceeds of the sale, so
24 far as they are sufficient, by paying: the reasonable expenses of taking possession,
25 maintaining, protecting and leasing the Property, the costs and fees of the foreclosure
26 sale, including reasonable trustee's fees, applicable taxes and the cost of title
27 insurance and, to the extent provided in the legally enforceable terms of the mortgage
28 or lien, any advances, reasonable attorney's fees and other legal expenses incurred by
the foreclosing creditor and the person conducting the foreclosure sale; (b)

1 satisfaction of the obligation being enforced by the foreclosure sale; (c) satisfaction
2 of obligations secured by any junior mortgages or liens on the property, in their order
3 of priority; (d) payment of the balance of the proceeds, if any, to the debtor or the
4 debtor's successor in interest.

5 (7) On filing the certificate of sale, Defendants, and all persons claiming by, through or
6 under them, or any of them, be foreclosed of and forever barred from any and all
7 right, title, claim, interest, or lien in or to the Property or with respect thereto except
8 such rights of redemption as they may have by law and with the exception of any
9 super priority lien rights held by any Defendant pursuant to NRS 116.3116;

10 (8) For any other further relief as this court deems just and proper.

11 DATED this 5th day of Sept., 2013.

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14 
DISTRICT COURT JUDGE 

15 Respectfully submitted,

16 McCARTHY & HOLTHUS, LLP

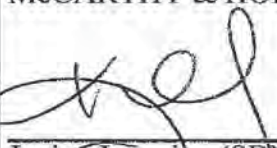
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18  7171 8/27/13
19 Janice Jacovino (SBN# 11612)
20 9510 West Sahara Avenue, Suite 200
21 Las Vegas, NV 89117
22 (702) 685-0329
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EXHIBIT "1"

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CLERK OF THE COURT

Kristin A. Schuler-Hintz, Esq., SBN 7171
McCarthy & Holthus, LLP
9510 W. Sahara, Suite 200
Las Vegas, NV 89117
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Fax (866) 339-5691
nvjud@mccarthyholthus.com

Attorney for Plaintiff,

IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

WELLS FARGO BANK, N.A., AS TRUSTEE,
ON BEHALF OF THE HOLDERS OF THE
HARBORVIEW MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12,

Plaintiff,

v.

AMANDA R. MUNAR; CAMBRIDGE
HEIGHTS, A PLANNED COMMUNITY;
DOES I-X; and ROES 1 -10 inclusive,

Defendants.

Case No. A-13-676574-C

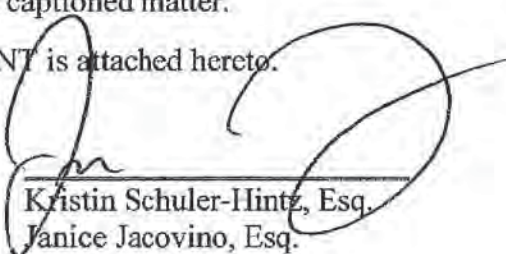
Dept.: XXIX

NOTICE OF ENTRY OF JUDGMENT

YOU AND ALL OF YOU PLEASE TAKE NOTICE that the following JUDGMENT
was entered on September 05, 2013 for the above captioned matter.

A true and correct copy of said JUDGMENT is attached hereto.

Dated: September 12 2013

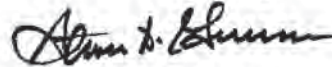


Kristin Schuler-Hintz, Esq.
Janice Jacovino, Esq.
Attorney for Plaintiff

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AMANDA R. MUNAR
3701 Riviera Ave
Las Vegas, NV 89107

/s/ Christina M. Reeves
An employee of McCarthy & Holthus, LLP



CLERK OF THE COURT

1 **McCarthy & Holthus, LLP**
Kristin A. Schuler-Hintz (NSB# 7171)
2 Janice Jacobino (SBN# 11612)
9510 West Sahara Avenue, Suite 200
3 Las Vegas, NV 89117
Telephone: (702) 685-0329
4 Facsimile: (866) 339-5961

5 Attorneys for Plaintiff,

6 **WELLS FARGO BANK, N.A., AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE**
7 **HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH**
8 **CERTIFICATES, SERIES 2006-12,**

9 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR THE COUNTY OF CLARK**

11 **WELLS FARGO BANK, N.A., AS TRUSTEE,**
12 **ON BEHALF OF THE HOLDERS OF THE**
13 **HARBORVIEW MORTGAGE LOAN TRUST**
14 **MORTGAGE LOAN PASS-THROUGH**
15 **CERTIFICATES, SERIES 2006-12,**

) Case No. A-13-676574-C

) Dept. No. XXIX

) **JUDGMENT**

16 Plaintiff,

17 v.

18 **AMANDA R. MUNAR; CAMBRIDGE**
19 **HEIGHTS, A PLANNED COMMUNITY; DOES**
20 **I-X; and ROES 1 -10 inclusive,**

21 Defendants.

<input type="checkbox"/> Voluntary Dis	<input checked="" type="checkbox"/> Slip Dis	<input checked="" type="checkbox"/> Sum Jdgt
<input type="checkbox"/> Involuntary (stat) Dis	<input type="checkbox"/> Slip Jdgt	<input type="checkbox"/> Non-Jury Trial
<input type="checkbox"/> Jdgt on Arbi Award	<input type="checkbox"/> Default Jdgt	<input type="checkbox"/> Jury Trial
<input type="checkbox"/> Min to Dis (by def)	<input type="checkbox"/> Transferred	

22 All defendants in this case have been served. Evidence having been introduced by
23 Plaintiff's Affidavit, the Court finding that it has jurisdiction over the subject matter and the
24 parties hereto and being otherwise fully advised in the premises, and good cause appearing,

25 IT IS ORDERED, AJUDGED, AND DECREED, THAT PLAINTIFF, shall receive a
26 Judgment against Defendant, AMANDA R. MUNAR;

27 (1) The sum of \$230,069.16 as shown on the breakdown below:

- 28 a) Unpaid Principal Balance \$ 207,846.66
on the note and mortgage
b) Accrued interest from 2/1/2011 To 8/27/2013

1	per diem (21.35)	\$	20,505.77
2	c) Other Fee Due	\$	13.09
3	d) Escrow Advance	\$	1,703.64

4 plus costs of \$1967.28 as shown in the Memorandum of Costs and Disbursements
5 plus attorney's fees of \$1,500⁰⁰ for the total of \$233,536⁴¹, all of which
6 shall bear interest at the rate of 3.875% per annum;

7 (2) The sum above is secured by the Property located at 2102 Logsdon Drive, North Las
8 Vegas, Nevada 89032; APN: 139-20-612-037;

9 (3) That the Deed of Trust recorded on September 07, 2006 as Document Number
10 20060907-0004388 is a valid lien on the Property located at 2102 Logsdon Drive,
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12 attached hereto; APN: 139-20-612-037 is superior to all right, title, interest, lien,
13 equity or estate of the Defendants with the exception of any super priority lien rights
14 held by any Defendant pursuant to NRS 116.3116;

15 (4) If the total sum with interest at the rate described above and all costs accrued
16 subsequent to this judgment are not paid, the sheriff shall sell the Property at public
17 sale between 9:00 a.m. and 5:00 p.m. to the highest bidder for cash, except as
18 prescribed in paragraph 5 below, in accordance with NRS Chapter 21.

19 (5) Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for
20 them by the sheriff if Plaintiff is not the purchaser of the Property for sale. If Plaintiff
21 is the purchaser, the sheriff shall credit Plaintiff's bid with the total sum with interest
22 and cost accruing subsequent to this judgment, or such part of it, to pay the bid in full.

23 (6) On filing the certificate of sale, the sheriff shall distribute the proceeds of the sale, so
24 far as they are sufficient, by paying: the reasonable expenses of taking possession,
25 maintaining, protecting and leasing the Property, the costs and fees of the foreclosure
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27 insurance and, to the extent provided in the legally enforceable terms of the mortgage
28 or lien, any advances, reasonable attorney's fees and other legal expenses incurred by
the foreclosing creditor and the person conducting the foreclosure sale; (b)

1 satisfaction of the obligation being enforced by the foreclosure sale; (c) satisfaction
2 of obligations secured by any junior mortgages or liens on the property, in their order
3 of priority; (d) payment of the balance of the proceeds, if any, to the debtor or the
4 debtor's successor in interest.

5 (7) On filing the certificate of sale, Defendants, and all persons claiming by, through or
6 under them, or any of them, be foreclosed of and forever barred from any and all
7 right, title, claim, interest, or lien in or to the Property or with respect thereto except
8 such rights of redemption as they may have by law and with the exception of any
9 super priority lien rights held by any Defendant pursuant to NRS 116.3116;

10 (8) For any other further relief as this court deems just and proper.

11 DATED this 5th day of Sept., 2013.

12
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14 
DISTRICT COURT JUDGE 

15 Respectfully submitted,

16 McCARTHY & HOLTHUS, LLP

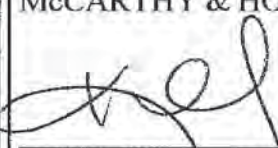
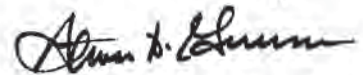
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EXHIBIT "1"

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CLERK OF THE COURT

1 MINV
GLENN F. MEIER, ESQ.
2 Nevada Bar No. 006059
gmeier@nvbusinesslawyers.com
3 MARILYN FINE, ESQ.
Nevada Bar No. 005949
4 mfine@nvbusinesslawyers.com
MEIER & FINE, LLC
5 2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
6 Telephone: (702) 673-1000
Facsimile: (702) 673-1001

7 Attorneys for Tim Radecki



8
9 IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
10 IN AND FOR THE COUNTY OF CLARK

11 -000-

12 WELLS FARGO BANK, N.A., AS TRUSTEE, ON
BEHALF OF THE HOLDERS OF THE
13 HARBORVIEW MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
14 CERTIFICATES, SERIES 2006-12,

Case No. A-13-676574-C
Dept. No. XXIX

15 Plaintiff,

16 vs.

17 AMANDA R. MUNAR; CAMBRIDGE HEIGHTS, A
PLANNED COMMUNITY; DOES I-X; and ROES 1-10
18 inclusive,

19 Defendants.

20 TIM RADECKI,

21 Plaintiff-in-Intervention,

22 vs.

23 AMANDA MUNAR, WELLS FARGO BANK, N.A.,
AS TRUSTEE, ON BEHALF OF THE HOLDERS OF
24 THE HARBORVIEW MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
25 CERTIFICATES, SERIES 2006-12,

26 Defendant-in-Intervention.
27
28

MOTION FOR LEAVE TO
INTERVENE ON ORDER
SHORTENING TIME

MEIER & FINE, LLC
2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
Tel: (702) 673-1000
Fax: (702) 673-1001

MOTION FOR LEAVE TO INTERVENE

COMES NOW, Plaintiff In Intervention, TIM RADECKI ("Radecki") by and through his attorneys of record MEIER & FINE, LLC, and hereby moves to intervene in the above entitled action for purposes of filing a Complaint in Intervention against Defendants in Intervention, AMANDA MUNAR, WELLS FARGO BANK, N.A. AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12 ("Wells"). A copy of the proposed Complaint-in-Intervention is attached hereto as Exhibit "1". This motion is based upon the attached memorandum of points and authorities, all the papers and pleadings on file herein and any argument the Court may entertain on this motion.

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DECLARATION OF GLENN F. MEIER
IN SUPPORT OF AN ORDER SHORTENING TIME

1
2
3 I am partner with the Law Firm of Meier & Fine, LLC, counsel for Plaintiff in
4 Intervention, Tim Radecki, in the above entitled matter. Unless stated otherwise I make this
5 Affidavit upon personal knowledge and would be competent to testify to the matters stated
6 herein. There exists good cause to hear Radecki's Motion for Leave to Intervene On Order
7 Shortening Time.

8 2. This lawsuit involves real property situated in Clark County, Nevada located at
9 2102 Logsdon Drive, North Las Vegas, Nevada and identified by the Clark County Assessor's
10 APN 139-20-612-037 (the "Property").

11 3. On or about August 23, 2013, Radecki purchased the Property at a foreclosure sale
12 conducted by the Cambridge Heights Homeowner's Association. Your Affiant is informed and
13 believes that the sale at which Radecki purchased the Property was a duly authorized foreclosure
14 sale to foreclose a homeowner's association lien.

15 4. Plaintiff/Defendant-in-Intervention, Wells initiated this action in February of 2012
16 to commence proceeding for judicial foreclosure against the Property based on a Deed of Trust
17 held by Wells in trust for other beneficiaries (the "DOT").

18 5. On or about September 10, 2012, this Court entered a Judgment pursuant to a
19 summary judgment motion filed by Wells in this litigation.

20 6. The judgment declared that the DOT is a security interest that was superior to all
21 interests except for super priority interests pursuant to NRS § 116.3116.

22 7. Your Affiant is informed and believes that the sale at which Plaintiff in
23 Intervention, Radecki, acquired the subject Property was a foreclosure of a super priority interest
24 granted pursuant to NRS § 116.3116. Accordingly, Radecki believes that the sale through which
25 he acquired title of the Property extinguished the DOT.

26 8. Based upon the judgment obtained by Wells, Radecki is concerned that Wells may
27 attempt initiate a sale of the Property to a third party. Radecki believes that such sale would be
28 contrary to law in that Wells, has no valid claim to the Property. In order for Radecki to be able

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Las Vegas, Nevada 89102
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Las Vegas, Nevada 89102
Tel: (702) 673-1080
Fax: (702) 673-1001

1 to protect his rights in the subject Property it is necessary from him to intervene in this litigation
2 at the earliest possible time. Accordingly, the Court should hear Radecki's Motion For Leave to
3 Intervene on an Order Shortening Time.

4
5
6 DATED this 11th day of October, 2013.

7 Meier & Fine, LLC

8
9 By 

10 GLENN F. MEIER, ESQ.

11 Nevada Bar No.: 006059

12 2300 West Sahara Avenue, Suite 1150

13 Las Vegas, Nevada 89102

14 Attorney for Tim Radecki
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MEIER & FINE, LLC
2300 West Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102
Tel: (702) 673-1000
Fax: (702) 673-1001

ORDER SHORTENING TIME

This matter having been brought on the Application for Order Shortening Time on the Motion for Leave to Intervene, the Court having examined the pleadings and papers on file herein and the Points and Authorities and Affidavit of Counsel, and good cause appearing therefor, it is hereby:

ORDERED, ADJUDGED AND DECREED that the time for hearing of the Motion for Leave to Intervene on Order Shortening Time to be 2nd day of Oct., 2013, at the hour of 10:00 a.m. before The Honorable ESAN SEANA, Dept. 29 of the Eighth Judicial District Court of the State of Nevada at 200 Lasix Ave. Las Vegas, Nevada or as soon thereafter as the matter may be heard.

DATED this 11th day of October, 2013.


DISTRICT COURT JUDGE

Submitted by:

MEIER & FINE, LLC

By 

GLENN F. MEIER, ESQ.

Nevada Bar No. 6059

MARILYN FINE, ESQ.

Nevada Bar No. 5949

2300 West Sahara Avenue, Suite 1150

Las Vegas, Nevada 89102

Attorneys for Tim Radecki

STATEMENT OF FACTS

This case concerns real property located in Clark County, Nevada, specifically a single family residence on land located at 2102 Logsdon Drive in North Las Vegas, Nevada. This Property is identified by the Clark County Assessor as APN: 139-20-612-037. Plaintiff in Intervention, Tim Radecki, acquired the subject Property at a foreclosure sale conducted on or about August 23, 2013. A copy of the Foreclosure Deed to Radecki is attached hereto as Exhibit "2". The Deed was recorded on September 4, 2013.

Radecki is informed and believes that the foreclosure sale for which he acquired title was a foreclosure by the Cambridge Heights Homeowners Association which foreclosure was conducted in order to satisfy a homeowners association lien. At least a portion of the homeowners association's lien amounts for which the Cambridge Heights Homeowners Association enjoyed a super priority lien pursuant to NRS § 116.3116.

Based upon the above facts, Radecki believes that the foreclosure sale through which he acquired title to the Property extinguished the security interest in the Property held by Wells. Radecki also believes that the sale through which he acquired title to the Property extinguished the ownership interest in the Property of Defendant, Amanda Munar.

Based upon the Court records available in this case, Radecki understands that Wells, has obtained a judgment from this Court consummating a judicial foreclosure of the Property. *However, in that the sale by which Radecki acquired title to the Property occurred prior to the entry of judgment, and because the foreclosure sale through which Radecki acquired title to the Property was of an interest super to the security interest held by Wells, Radecki believes that the sale through which he acquired title to the Property extinguished the security interest of Wells in the Property.*

Based on the fact that Defendant, Wells, has obtained a judgment completing a judicial foreclosure, Radecki is concerned that, Wells may attempt to conduct a sale of the Property.

1 Accordingly, it is necessary for Radecki, Radecki, to intervene in this litigation in order to have
2 the Court adjudicate the rights of the parties.

3 LEGAL AUTHORITY AND ARGUMENT

4 Rule 24 of the Nevada Rules of Civil Procedure set requirements for a party to intervene
5 in ongoing litigation.

6 NRCP 24 provides in pertinent part as follows:

7
8 **Intervention of Right.** (a) Upon timely application anyone shall be
9 permitted to intervene in an action: (1) when a statute confers an unconditional
10 right to intervene; or (2) when the applicant claims an interest relating to the
11 property or transaction which is the subject of the action and the applicant is so
12 situated that the disposition of the action may as a practical matter impair or
impede the applicant's ability to protect that interest, unless the applicant's
interest is adequately represented by existing parties.

13 **Permissive Intervention.** (b) Upon timely application anyone may be
14 permitted to intervene in an action: (1) when a statute confers a conditional right
15 to intervene; or (2) when an applicant's claim or defense and the main action have
a question of law or fact in common. In exercising its discretion the court shall
consider whether the intervention will unduly delay or prejudice the adjudication
of the rights of the original parties.

16 **Procedure.** (c) A person desiring to intervene shall serve a motion to
17 intervene upon the parties as provided in Rule 5. The motion shall state the
18 grounds therefor and shall be accompanied by a pleading setting forth the claim or
19 defense for which intervention is sought. The same procedure shall be followed
when a statute gives a right to intervene.

20 A "Complaint in Intervention" is a pleading by which a third party to an existing lawsuit
21 may intervene into the ongoing lawsuit in order to protect interests the third party may have in
22 the subject matter of the litigation. See, Ryan vs. Landis, 58 Nev. 253, 75 P. 2nd 734 (1938).
23 Pursuant to Rule 24(a) of the NRCP, intervention of right is allowed "when the applicant claims
24 an interest relating to the property or transaction which is the subject of the action and applicant
25 is so situated that the disposition of the action may as a practical matter impair or impede the
26 applicant's ability to protect that interest, unless the applicant's interest is adequately represented
27 by existing parties." NRCP 24(a)(2) Therefore, a party seeking to intervene in a lawsuit as a
28

1 matter of right under NRCP 24(a) must demonstrate; first, that the application was timely;
2 second, that the applicant has sufficient interest in the subject matter of the underlying lawsuit;
3 third, that the applicant's rights could be impaired if it does not intervene; and four, the
4 applicant's interest is not adequately represented by the existing parties. See, American Home
5 Assurance Co. vs. Eighth Judicial District, 122 Nev. 129, 1238, 1227 P. 2nd 1120, 1126 (2006).

6 In this case, Radecki can demonstrate all four (4) of these requirements

7
8 A. The Application is Timely.

9 In this case, Radecki acquired title to the subject property in late August, and the deed
10 conveying that title was recorded in early September of 2013. In mid-September of 2013, less
11 than 30 days ago, Wells, obtained a judgment from this Court indicating that it could proceed to
12 foreclose the subject property. Radecki has moved promptly to intervene in this matter. Wells
13 cannot claim any undue prejudice would occur due to the timing of Radecki's application to
14 intervene. Accordingly, Radecki's application to intervene is timely.

15
16 B. Radecki has Sufficient Interest in the Subject Matter of this
17 Lawsuit and Radecki's Rights Could be Impaired if he Does Not Intervene.

18 The second and third factors under the Home Assurance case can be analyzed together.
19 In this case Radecki clearly has sufficient interest in the subject matter of the litigation to
20 authorize him to intervene as a matter of right. This case concerns and relates to title to the
21 subject Property. Radecki is presently the record title holder for the subject Property. Therefore,
22 Radecki has ample interest in the subject matter of the litigation. Indeed he could not be more
23 interested. Moreover, Radecki's rights in the Property could be impaired if he does not
24 intervene. Wells, has obtained a judgment pursuant to which it could begin to initiate a
25 foreclosure sale on the subject Property. Such a sale or other efforts by Wells, to enforce its
26 judgment could clearly lead Wells or a third-party to claiming an interest in the Property adverse
27 to Radecki's. Accordingly, if Radecki does not intervene in this action, then his interests will
28

1 almost certainly be impaired. The second and third prongs of the American Home Assurance
2 test are clearly met in this case.

3 C. Radecki's Interest is not Adequately Represented by Existing Parties

4 None of the existing parties in this action will represent Radecki's interest. First,
5 Radecki, would note that two (2) of the defendants in the lawsuit, Amanda Munar , and the
6 Cambridge Heights Homeowner's Association have failed to respond following service of
7 process in this case and accordingly are in default. Clearly, neither of those parties, will
8 adequately represent Radecki's interest since they are not participating in the lawsuit,¹
9 Furthermore, Wells, clearly will not represent in Radecki's interest in this case as Wells' interest
10 are adverse Radecki's interest. Quite simply, there is no party presently participating in the case
11 who can represent Radecki's interest. Accordingly, it is necessary for Radecki to intervene in
12 the subject action and proceed to ask the Court to adjudicate the respective rights of Radecki and
13 Wells in the subject Property.
14
15

16 CONCLUSION

17 This case concerns title to the subject Property. Radecki is the current record title holder
18 to the Property and contends that the sale by which he acquired title to the subject Property
19 extinguished the interest Well's, in the subject Property. Radecki clearly has an interest in the
20 subject matter of this litigation and his interest in the Property could be impaired if he is not
21 allowed to intervene. Accordingly, Radecki has met the standards for intervention set forth
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25 ¹ In an unusual procedural step, following the default of the defendants in the lawsuit, rather than them applying for
26 a default judgment, Wells, moved for summary judgment from this Court. Court minutes indicate that the summary
27 judgment motion was granted on the basis that there had been no opposition filed which is unsurprising considering
28 the fact that no parties other than the summary judgment movant had appeared in the case. Furthermore, the Court
entered judgment without having a default judgment prove up hearing. All of these factors question the validity of
the judgment obtained by Plaintiff/Defendant in Intervention. Foster v. Dingwall, 227 P. 3d 1042,1049 126 Nev.
Adv. Op. 6 (2010)

NRCP 24(a) and is allowed to intervene in this case as a matter of right.²

Therefore, the Court should authorize the filing of the Proposed Complaint in Intervention and allow Radecki, to intervene in this lawsuit

DATED this 11th day of October, 2013.

Meier & Fine, LLC

By 

GLENN F. MEIER, ESQ.

Nevada Bar No.: 006059

MARILY FINE, ESQ.

Nevada Bar No.: 005949

2300 West Sahara Avenue, Suite 1150

Las Vegas, Nevada 89102

Attorneys for Tim Radecki

² Should the Court believe that Radecki should not be entitled to intervene in this case as a matter of right under NRCP 24(a) then alternatively, the Court should allow Radecki to permissively intervene in this case pursuant to NRCP 24(b) which provides in relevant part that a party may permissively intervene "when an applicant's claim or defense in the main action have a question of law or fact in common." NRCP 24(b)(2). In this case since the case revolves around competing claims of interest in the subject Property, there are certainly numerous legal and factual issues in common between the main case and Radecki's claims in intervention. Accordingly, even should the Court not believe that Radecki is entitled to intervene as a matter of right, he would be authorized to permissively intervene pursuant to NRCP 24(b).

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true copy of the MOTION FOR LEAVE TO INTERVENE ON ORDER SHORTENING TIME was deposited in the United States mail in Las Vegas, Nevada, this 14th day of October, 2013, addressed to the following:

Kristin A. Schuler-Hintz, Esq. McCarthy & Holthus, LLP 9510 W. Sahara Avenue, Suite 200 Las Vegas, Nevada 89117 Attorneys for Wells Fargo Bank, N.A., As Trustee, On Behalf of the Holders of the Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-12	Amanda Munar 3701 Riviera Avenue Las Vegas, Nevada 89107

Also sent by email to KHintz@McCarthyHolthus.com on October 14, 2013.

/s/ Gwen Conant
An Employee of Meier & Fine, LLC

EXHIBIT 1

1 **COMP**
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8
9 **IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA**
10 **IN AND FOR THE COUNTY OF CLARK**

11 -o0o-

12 WELLS FARGO BANK, N.A., AS TRUSTEE, ON
BEHALF OF THE HOLDERS OF THE
13 HARBORVIEW MORTGAGE LOAN TRUST
MORTGAGE LOAN PASS-THROUGH
14 CERTIFICATES, SERIES 2006-12,

15 Plaintiff,

16 vs.

17 AMANDA R. MUNAR; CAMBRIDGE HEIGHTS, A
PLANNED COMMUNITY; DOES I-X; and ROES 1-10
18 inclusive,

19 Defendants.

20 TIM RADECKI,

21 Plaintiff- in-Intervention,

22 vs.

23 AMANDA MUNAR; WELLS FARGO, N.A. AS
24 TRUSTEE, ON BEHALF OF THE HOLDERS OF THE
HARBORVIEW MORTGAGE LOAN TRUST
25 MORTGAGE LOAN PASS-THROUGH
CERTIFICATES, SERIES 2006-12; DOES 1-20; and
26 ROE CORPORATIONS 1-20,

27 Defendants-in-Intervention.
28

Case No. A-13-676574-C
Dept. No. XXIX

(PROPOSED)
COMPLAINT-IN-INTERVENTION

COMPLAINT IN INTERVENTION

COMES NOW, Plaintiff-in-Intervention, TIM RADECKI ("Radecki") by and through his attorneys of record MEIER & FINE, LLC, and hereby files this Complaint against Defendants-in-Intervention, AMANDA MUNAR, ("Munar") WELLS FARGO, N.A. AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12 ("Wells"), DOES 1-20 and ROE CORPORATIONS 1-20 as follows:

GENERAL ALLEGATIONS

1. This lawsuit involves real property situated in Clark County, Nevada, located at 2102 Logsdon Drive, North Las Vegas, Nevada an identified by the Clark County Assessor as APN: 139-20-612-037 (the "Property"). The Property consists of land and a single family home.

2. Plaintiff- in-Intervention, Radecki is an individual and present owner of the Property.

3. Defendant-in-Intervention, Munar is an individual who resides in Clark County, Nevada and/or was the record owner of the Property. Radecki believes and therefore alleges that said Defendant-in-Intervention may claim an interest in the Property adverse to Radecki.

4. Defendant-in-Intervention, Wells is an entity which does business in Clark County, Nevada and claim an interest in the Property adverse to Radecki's interest in the Property.

5. The true names and capacities whether individual, corporate, associate or otherwise of Defendants DOES 1-20 inclusive, and ROE CORPORATIONS 1-20, inclusive, are unknown to Plaintiff-in-intervetnion, who therefore sues those defendants by such fictitious names. Radecki is informed and believes that upon such, alleges that each of the defendants-in-intervetion designated as DOES or ROE CORPORATIONS asserts an interest in the Property adverse to Radecki, including without limitation, an ownership interest or lien hold interest. Radecki asks leave of this Court to amend this Complaint to insert the true names and capacities of DOES 1-20, inclusive, and ROE CORPORATIONS, 1-20, inclusive, when the same have been ascertained by Radecki, together with the appropriate charging allegations, and to join those defendants in this action.

1 6. The Property is subject to certain Covenants, Conditions, and Restrictions ("CC&Rs") for
2 the Development known as Cambridge Heights. Radecki believes and therefore alleges that the
3 CC&Rs were recorded in the official records of the Clark County Recorder in or about 1988.

4 7. The Property is also subject to rules and regulations of the Cambridge Heights
5 Homeowners Association (the "HOA"). Radecki believes and therefore alleges that Munar
6 acquired the Property in 2001. A deed from Stanley A. Warren and Natividad B. Warren was
7 recorded in the official records of the Clark County Recorder on August 31, 2001. Upon
8 acquisition of the Property, Defendant, Munar agreed to pay HOA assessments for the Property.

9 8. Radecki is informed and believes and therefore alleges that in 2006, Munar obtained a
10 mortgage loan from Wells or alternatively, from Wells's predecessor-in-interest. Radecki is
11 informed and believes and therefore alleges that a Deed of Trust was recorded on or about
12 September 7, 2006 (the "Deed of Trust"). Radecki believes and therefore alleges that the Deed
13 of Trust purportedly secures a loan in the original amount of \$196,000.00.

14 9. Radecki is informed and believes and therefore alleges that in 2012, Munar failed to pay
15 monthly HOA assessments required by the CC&Rs in the HOA rules and regulations in
16 connection with the budget adopted by HOA.

17 10. The HOA had a statutory lien for assessments levied against the Property (the "HOA
18 Lien"). The HOA lien had priority over all junior liens except for liens resulting from real estate
19 taxes and other governmental assessments.

20 11. A portion of the HOA lien had super priority over the Deed of Trust.

21 12. Radecki is informed and believes and therefore alleges that the HOA took action to
22 foreclose on the HOA lien beginning in 2012. On or about September 13, 2012, HOA caused its
23 agent, Nevada Association Services, Inc. ("NASI"), to record a Notice of Default and Election to
24 Sell under Homeowners Associations lien, which put, Munar and all interested parties (including
25 Wells and/or Wells's Predecessor-In-Interest) on notice that the HOA assessments had not been
26 paid for the past nine (9) months and that failure to cure the delinquency would result in the sale
27 of the Property to satisfy the HOA assessment lien. Radecki is informed and believes and
28 therefore alleges that NASI served a copy of the same upon, Munar and holders of recorded

1 security interests. However, neither Munar nor any interested party (including Wells or its
2 agents) cured the delinquency by paying the amount of the delinquent HOA assessment lien.

3 13. On or about February 12, 2013 Wells filed or caused to be filed a complaint for judicial
4 foreclosure in the Eighth Judicial District Court, Clark County, Nevada. The Complaint was
5 assigned Case Number A-13-676574 (the "Judicial Foreclosure Action").

6 14. A Notice of HOA Lien Foreclosure Sale was recorded in the official records of the Clark
7 County Recorder on May 13, 2013. Radecki is informed and believes that said notice of HOA
8 lien foreclosure sale scheduled the HOA lien foreclosure for August 23, 2013, and provided
9 notice that the Property would be sold at public auction to the highest cash bidder in satisfaction
10 of the HOA lien. Radecki believes and therefore alleges that NASI published, posted and served
11 a copy of the Notice of HOA Lien Foreclosure Sale upon, Munar and holders of recorded
12 security interest including Wells.

13 15. Wells, as trustee for the beneficiaries under the Deed of Trust, and its agents and/or
14 representatives had an opportunity to pay the amount owed on the super priority portion of the
15 HOA lien. Wells, its agents and/or representatives had an opportunity to protect the Deed of
16 Trust from extinguishment upon foreclosure of the super priority HOA lien by paying the
17 amount owed on the super priority portion of the HOA lien. However, Wells and its agents
18 and/or representatives failed to pay the amount owed on the super priority portion of the HOA
19 lien.

20 16. Munar had an opportunity to protect her ownership of the Property by paying the amount
21 owed on the HOA lien. However, she failed to pay amount owed on the HOA lien.

22 17. Radecki is informed and believes and therefore alleges that no person cured the
23 delinquency by paying the amount of delinquent HOA lien before the HOA Lien Foreclosure
24 Sale took place. As a result, the Property was sold at public auction to the highest cash bidder on
25 August 23, 2013. Radecki was the highest cash bidder at the HOA Lien Foreclosure Sale.

1 18. Radecki acquired the Property at the HOA Lien Foreclosure Sale. A foreclosure deed
2 was executed and delivered to Radecki providing recitals that NASI complied with all
3 requirements of law applicable to mailing copies of the notices and posting/publishing the Notice
4 of HOA Lien Foreclosure Sale (the "Foreclosure Deed"). The Foreclosure Deed was recorded
5 on September 4, 2013.

6
7 19. Radecki acquired the Property free and clear of any interest claimed by Defendants or
8 Defendants-in-Intervention, Munar, Wells, DOES and ROE CORPORATIONS.

9 20. Plaintiff-in-Intervention, Radecki believes that Defendants-in-Intervention, Munar,
10 Wells, DOES and ROE CORPORATIONS had notice of the HOA Lien Foreclosure Sale but
11 failed to pay the amount owed on any portion of the HOA lien.

12 21. On or about September 10, 2013, a judgment for judicial foreclosure under the Deed of
13 Trust was filed in the Eighth Judicial District Court, Clark County, Nevada in the "Judicial
14 Foreclosure Action". The judgment specifically provides that the Deed of Trust is superior to
15 other liens on the Property "except super priority interests pursuant to NRS § 16.3116."
16 Radecki is informed and believes and therefore alleges that said foreclosure is wrongful because
17 the Deed of Trust was extinguished upon foreclosure of the HOA lien.

18
19 22. Radecki believes that Munar, Wells, DOES and ROE CORPORATIONS assert an
20 interest in the Property adverse to Radecki's interest in the Property. As a result of the adverse
21 interest, it has become necessary for Radecki to retain legal counsel to protect its interest in the
22 Property.
23

24 //

25 //

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27

28

FIRST CAUSE OF ACTION

(QUIET TITLE/DECLARATORY RELIEF)

(NRS 40.010, NRS 30.010 and NRS 116.3116, et seq.)

23. Radecki repeats and re-alleges every allegation contained in paragraphs 1-22 of the general allegations of his Complaint as if fully set forth herein.

24. This Court has the power and authority to declare Radecki's rights and interest in the Property and power and authority to resolve all adverse claims of, Munar, Wells, DOES and ROE CORPORATIONS in the Property.

25. This Court has the power and authority to enjoin Defendants, Wells, DOES and ROE CORPORATIONS from conducting a sale pursuant to the judgment entered in judicial foreclosure action.

26. The Property is subject to the CC&Rs and rules and regulations of the HOA.

27. The CC&Rs were recorded in or about 1988.

28. Munar acquired the Property in 2001. As owner of the Property, Munar was obligated to pay monthly HOA assessments to the HOA.

29. The Deed of Trust was recorded against the Property in September, 2006.

30. In or around 2012, Defendant, Munar failed to pay HOA assessments for the Property as a result, the HOA instituted an action to enforce the HOA lien. A Notice of Default and Election to Sell for the Property was recorded in September, 2012 and mailed to Munar. However, Munar failed to cure the delinquency by paying the amount owed on the HOA lien. The HOA received no payment from any other source for the Property's HOA assessments.

31. The Notice of the HOA Lien Foreclosure Sale was recorded, mailed, posted and published in May, 2013. The notice of the HOA Lien Foreclosure Sale scheduled the HOA Lien Foreclosure sale for August 23, 2013. During the period of the recordation of the notice of the HOA Lien Foreclosure sale and the public auction for HOA Lien Foreclosure sale on August 23, 2013 the HOA received no payments for the Property's HOA assessments. As a result, the Property was sold at the HOA Lien Foreclosure Sale to the highest cash bidder, Radecki, in

1 satisfaction of the amount owed on the HOA lien including the super priority portion of the HOA
2 lien.

3 32. Radecki is entitled to a declaratory judgment finding that the HOA had a valid lien
4 against the Property (defined herein as the HOA lien).

5 33. Radecki is entitled to ranking of the priority of liens against the Property immediately
6 prior to the HOA Lien Foreclosure Sale on August 23, 2013. Radecki is informed and believes
7 and therefore alleges that immediately prior to the HOA Lien Foreclosure Sale on August 23,
8 2013 the Property was encumbered by the Deed of Trust and liens of DOES and ROE
9 CORPORATIONS.

10 34. Radecki is entitled to a declaratory judgment finding the HOA had the right to foreclose
11 on the HOA lien if monthly assessments were not paid and the delinquency was not cured.

12 35. Radecki is entitled to a declaratory judgment finding that the HOA lien had priority over
13 all liens recorded against the Property after recordation of the Deed of Trust, except for lien
14 associated with real estate taxes or other governmental assessments (if any).

15 36. Radecki is entitled to a declaratory judgment finding that foreclosure of the HOA lien
16 extinguished the liens of DOES and ROE CORPORATIONS.

17 37. Radecki is entitled to a declaratory judgment finding that a portion of the HOA lien for
18 nine (9) months of assessments (and if applicable fee and costs) had super priority of the Deed of
19 Trust.

20 38. Radecki is entitled to a declaratory judgment finding that foreclosure of the super priority
21 portion of the HOA lien extinguished the Deed of Trust.

22 39. Plaintiff-in-Intervention, Radecki acquired the Property at a HOA lien foreclosure sale.
23 A foreclosure deed was recorded in favor of Radecki providing recitals that NASI complied with
24 all noticing requirements for the HOA lien foreclosure sale.

25 40. Radecki is entitled to a declaratory judgment finding that he acquired the Property free
26 and clear of the Deed of Trust, and any interest of Wells, DOES 1-20 and ROE
27 CORPORATIONS 1-20. In addition, Radecki is entitled to the entry of an injunction enjoining
28 Wells, and its agents, from conducting a sale under the judgment entered in the judicial

1 foreclosure action.

2 41. Radecki is entitled to a declaratory judgment finding that the foreclosure of the HOA lien
3 divested Defendants, Munar, DOES and ROE CORPORATIONS of their ownership interest.
4 Radecki is entitled to a declaratory judgment finding that the HOA acquired the Property free
5 and clear of any rights and interests of said Defendants and Defendants-in-Intervention.

6 PRAYER

7 WHEREFORE, Plaintiff-in-Intervention, TIM RADECKI, prays for judgment against
8 Defendants-in-Intervention, AMANDA MUNAR, WELLS FARGO BANK, N.A., AS
9 TRUSTEE, ON BEHALF OF THE HOLDERS OF THE HARBORVIEW MORTGAGE LOAN
10 TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-12, DOES 1-
11 20 and ROE CORPORATIONS 1-20 as follows:

- 12 1. For a judgment declaring that the HOA lien was valid and enforceable.
- 13 2. For a judgment declaring that the HOA had the right to foreclose on the HOA lien.
- 14 3. For a judgment ranking the priority liens against the Property immediately prior to the
15 HOA lien foreclosure sale on August 23, 2013.
- 16 4. For a judgment declaring that the full amount of HOA lien had priority over all liens
17 recorded after the Deed of Trust except for liens associated with real estate taxes or other
18 governmental assessments (if any).
- 19 5. For a judgment declaring that the foreclosure of the HOA lien extinguished the Deed of
20 Trust.
- 21 6. For a judgment declaring that foreclosure of the HOA lien divested, Munar of her
22 ownership interest in the Property as well as all unknown parties named herein as DOES 1-20
23 and ROE CORPORATIONS 1-20.
- 24 7. For a judgment declaring that Radecki acquired the Property at the HOA lien foreclosure
25 sale free and clear of the Deed of Trust and liens in favor DOES 1-20 and ROE
26 CORPORATIONS 1-20.
- 27 8. For a judgment entering an injunction against Defendants, Wells and its agents and
28 representatives stopping any sale or any further action to enforce the judgment and preventing

1 foreclosure under the judgment entered in the judicial foreclosure action.

2 9. For a declaratory judgment quieting title to the Property in favor of Radecki and against
3 Munar, Wells, DOES 1-20 and ROE CORPORATIONS 1-20, finding that Radecki is the owner
4 of the property free and clear of each Defendant's and Defendants-in-Intervention's rights and
5 interest in the Property.

6 10. For reasonable attorney's fees and costs incurred in bringing this action.

7 11. For such other and further relief and this Court deems just and proper.

8 DATED this 11th day of October, 2013.

9 Meier & Fine, LLC

10
11 By _____

12 GLENN F. MEIER, ESQ.

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14 MARILYN FINE, ESQ.

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