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Dec 23 2020 03:50 p.m.  
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Clerk of Supreme Court

7  
8 SUPREME COURT  
9 STATE OF NEVADA

10 SATICOY BAY LLC SERIES 8149  
11 PALACE MONACO

CASE NO.: 81453

12 Appellant,

13 vs.

14 WELLS FARGO BANK, NATIONAL  
ASSOCIATION, AS TRUSTEE FOR  
15 THE STRUCTURED ADJUSTABLE  
RATE MORTGAGE LOAN TRUST,  
16 MORTGAGE PASS THROUGH  
CERTIFICATES SERIES 2005-11;

17 Respondent  
18

19  
20 **JOINT APPENDIX 2**

21  
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# EXHIBIT 2

# EXHIBIT 2





20050315-0004331

Assessor's Parcel No.: 16309817050

After recording please return to:

IndyMac Bank, F.S.B. c/o Document Management

[Company Name]

[Name of Natural Person]

3465 E. Foothill Blvd.

[Street Address]

Pasadena, CA 91107

[City, State Zip Code]

Fee: \$35.00

N/C Fee: \$0.00

03/15/2005

14:27:45

T20050047074

Requestor:

TICOR TITLE OF NEVADA INC

Frances Deane

OSA

Clark County Recorder

Pgs: 22

Until a change is requested, all tax statements  
shall be sent to the following address:  
IndyMac Bank, F.S.B.

[Name]

P.O. Box 78826

[Street Address]

Phoenix, AZ 85062-8826

[City, State Zip Code]

[Space Above This Line For Recording Data]

## DEED OF TRUST

MIN 100055401209419094

### 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 March 7, 2005, together with all Riders to this document.

(B) "Borrower" is Robert Nardizzi, a married man, as his sole and separate property

Borrower is the trustor under this Security Instrument.

(C) "Lender" is IndyMac Bank, F.S.B., a federally chartered savings bank. Lender is a Federal Savings Bank organized and existing under the laws of United States of America. Lender's address is 155 North Lake Avenue, Pasadena, CA 91101.

Loan No: [REDACTED]

Nevada Deed of Trust-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
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(D) "Trustee" is Ticor Title Insurance Co

(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 March 7, 2005. The Note states that Borrower owes Lender one hundred eighty five thousand seven hundred and NO/100ths Dollars (U.S. \$ 185,700.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than April 1, 2035.

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

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

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

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

(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.

Loan No: [REDACTED]

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(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 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]

Legal description attached hereto and made a part hereof.

which currently has the address of

8149 Palace Monaco Avenue  
 [Street]  
 Las Vegas, Nevada 89117 ("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.

Loan No: [REDACTED]

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

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.**

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

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

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

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

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

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

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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.

**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, Loan No: [REDACTED]



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 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

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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.

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

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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.

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.

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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 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

Loan No: 1



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 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

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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 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,

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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 the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option, and without further demand, may invoke the power of sale, including the right to accelerate full payment of the Note, and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

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

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

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

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

**25. Assumption Fee.** If there is an assumption of this loan, Lender may charge an assumption fee of U.S. \$100 where no credit checks are required, the greater of \$400 or 1% of unpaid principal balance of the mortgage - up to a maximum of \$900 - if the change of ownership requires credit approval of the new mortgagor; or any maximum prescribed by Applicable Law.

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.

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Witnesses:

\_\_\_\_\_  
Robert Nardizzi (Seal)  
-Borrower  
[Printed Name]

Printed Name: {Please Complete}

\_\_\_\_\_  
(Seal)  
-Borrower  
[Printed Name]

\_\_\_\_\_  
(Seal)  
-Borrower  
[Printed Name]

Printed Name: {Please Complete}

\_\_\_\_\_  
(Seal)  
-Borrower  
[Printed Name]

\_\_\_\_\_  
[Acknowledgment on Following Page]

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County of Clark §  
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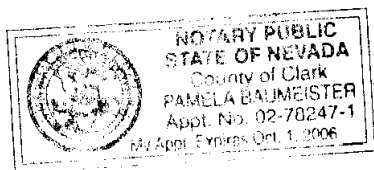
Before me the undersigned authority, on this day personally appeared Robert Nardizzi

known to me (or proved to me through an identity card or other document) to be the person(s) whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal on this

(Seal)

9<sup>th</sup> day of March 2005,  
Pamela Baumeister  
Notary Public Pamela Baumeister [Printed Name]  
My Commission Expires: Oct 1, 2006



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## PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 7<sup>th</sup> day of March, 2005, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to IndyMac Bank, F.S.B., a federally chartered savings bank (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

8149 Palace Monaco Avenue, Las Vegas, NV 89117

*[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 Declaration of Covenants, Conditions, and Restrictions (the "Declaration"). The Property is a part of a planned unit development known as:

Monaco

*[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,

Loan No: [REDACTED]

MIN: 100055401209419094

Multistate PUD Rider — Single Family — Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

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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.

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.

\_\_\_\_\_[Signatures on Following Page]\_\_\_\_\_

Loan No: [REDACTED]

Multistate PUD Rider — Single Family — Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

—THE COMPLIANCE SOURCE, INC.—

www.compliancesource.com

Page 2 of 3

Form 3150 01/01

14501MU 08/00 Rev. 11/04

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

  
Robert Nardizzi (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

*[Sign Original Only]*

Loan No: XXXXXXXXXX

Multistate PUD Rider — Single Family — Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
—THE COMPLIANCE SOURCE, INC.—  
www.compliancesource.com

Page 3 of 3

Form 3150 01/01  
14501MU 08/00 Rev. 11/04  
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**FIXED/ADJUSTABLE RATE RIDER  
INTEREST ONLY FIXED PERIOD**  
(LIBOR 6 Month Index (As Published In *The Wall Street Journal*)- Rate Caps)

Loan # [REDACTED]

MIN: 100055401209419094

THIS FIXED/ADJUSTABLE RATE RIDER is made this 7th day of March, 2005, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned ("Borrower") to secure Borrower's Fixed/Adjustable Rate Note (the "Note") to IndyMac Bank, F.S.B., a federally chartered savings bank

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

8149 Palace Monaco Avenue, Las Vegas, NV 89117

[Property Address]

**THE NOTE PROVIDES FOR A CHANGE IN BORROWER'S FIXED INTEREST RATE TO AN ADJUSTABLE INTEREST RATE. THE NOTE LIMITS THE AMOUNT BORROWER'S ADJUSTABLE INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE BORROWER MUST PAY.**

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

**A. ADJUSTABLE RATE AND MONTHLY PAYMENT CHANGES**

The Note provides for an initial fixed interest rate of 5.750 %. The Note also provides for a change in the initial fixed rate to an adjustable interest rate, as follows:

**4. ADJUSTABLE INTEREST RATE AND MONTHLY PAYMENT CHANGES**

**(A) Change Dates**

The initial fixed interest rate I will pay will change to an adjustable interest rate on the first day of April 2010, and the adjustable interest rate I will pay may change on that day every 6th month thereafter. The date on which my initial fixed interest rate changes to an adjustable interest rate, and each date on which my adjustable interest rate could change, is called a "Change Date."

MULTISTATE FIXED/ADJUSTABLE RATE RIDER - LIBOR 10 - Single Family

Page 1 of 4

Form 5008

8480396 (0208)

VMP MORTGAGE FORMS - (800)521-7291

8/2002



**(B) The Index**

Beginning with the first Change Date, my adjustable interest rate will be based on an Index. The "Index" is the average of interbank offered rates for six-month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the first business day of the month immediately preceding the month in which the Change Date occurs 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.

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding two and 750/1000ths (2.750 %) 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%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than 10.750 % or less than 2.750 %. Thereafter, my adjustable interest rate will never be increased or decreased on any single Change Date by more than 1.00 percentage points from the rate of interest I have been paying for the preceding 6 months. My interest rate will never be greater than 11.750 %.

**(E) Effective Date of Changes**

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

**(F) Notice of Changes**

The Note Holder will deliver or mail to me a notice of any changes in my initial fixed interest rate to an adjustable interest rate and of any changes in my adjustable interest rate before the effective date of any change. The notice will include the amount of my monthly payment, any 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.

**(G) Date of First Principal and Interest Payment**

The date of my first payment consisting of both principal and interest on this Note (the "First Principal and Interest Payment Due Date") shall be the first monthly payment due after the first Change Date.

Loan No: XXXXXXXXXX  
8480396 (0208)

Page 2 of 4

Form 5008  
8/2002



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

1. Until Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument shall 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.

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.

2. When Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument described in Section B1 above shall then cease to be in effect, and the provisions of Uniform Covenant 18 of the Security Instrument shall be 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 also may 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.

8480396 (0208)

Loan No: [REDACTED]

Page 3 of 4

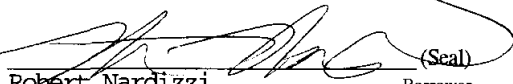
Form 5008

8/2002



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 Fixed/Adjustable Rate Rider.

 (Seal) \_\_\_\_\_ (Seal)  
Robert Nardizzi -Borrower -Borrower

\_\_\_\_ (Seal) \_\_\_\_\_ (Seal)  
-Borrower -Borrower

\_\_\_\_ (Seal) \_\_\_\_\_ (Seal)  
-Borrower -Borrower

\_\_\_\_ (Seal) \_\_\_\_\_ (Seal)  
-Borrower -Borrower

Loan No:   
8480396 (0208)

Page 4 of 4

Form 5008  
8/2002



**EXHIBIT A**

**Lot Two Hundred Thirty (230) in Block "J" of MONACO NO. 12, as shown by map thereof on file in Book 89 of Plats, Page 81, in the Office of the County Recorder of Clark County, Nevada.**

# EXHIBIT 3

# EXHIBIT 3

Inst #: 201402240000507  
Fees: \$18.00  
N/C Fee: \$25.00  
02/24/2014 08:02:59 AM  
Receipt #: 1940730  
Requestor:  
PREMIUM TITLE TSG  
Recorded By: STN Pgs: 2  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

APN #: 16309817050  
Prepared by: Fred Jeune  
When Recorded Mail To:  
Ocwen Loan Servicing,LLC  
5720 Premier Park Dr,  
West Palm Beach, FL 33407  
Phone Number: 561-682-8835  
MERS Ph.#: (888) 679 - 6377

**ASSIGNMENT OF DEED OF TRUST  
NEVADA**

This ASSIGNMENT OF DEED OF TRUST from MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. (MERS) as nominee for INDYMAC BANK, F.S.B., A FEDERALLY CHARTERED SAVINGS BANK, A FEDERAL SAVINGS BANK its successors and assigns, whose address is PO Box 2026 Flint, MI 48501-2026 ("Assignor) to AURORA COMMERCIAL CORP. AS SUCCESSOR ENTITY TO AURORA BANK, FSB F/K/A LEHMAN BROTHERS BANK, FSB, whose address is c/o Ocwen Loan Servicing,LLC, 5720 Premier Park Dr, West Palm Beach, FL 33407, (Assignee) all its rights, title and interest in and to a certain mortgage duly recorded in the Office of the County Recorder of CLARK County, State of NEVADA, as follows:

Trustor: ROBERT NARDIZZI  
Trustee: TICOR TITLE INSURANCE CO  
Beneficiary: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ACTING SOLELY AS  
NOMINEE FOR INDYMAC BANK, F.S.B., A FEDERALLY CHARTERED SAVINGS BANK, A  
FEDERAL SAVINGS BANK  
Document Date: MARCH 07, 2005  
Amount: \$185,700.00  
Date Recorded: MARCH 15, 2005  
Document/Instrument/Entry Number: 0004331 BOOK: 20050047074  
Property Address: 8149 PALACE MONACO AVENUE, LAS VEGAS, NV 89117

*Property more particularly described in the above referenced recorded Deed of Trust*



APN #: 16309817050  
Prepared by: Fred Jeune  
When Recorded Mail To:  
Ocwen Loan Servicing,LLC  
5720 Premier Park Dr,  
West Palm Beach, FL 33407  
Phone Number: 561-682-8835  
MERS Ph.#: (888) 679 - 6377

This Assignment is made without recourse, representation or warranty.

DATED: FEBRUARY 12, 2014

**MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.,  
ACTING SOLELY AS NOMINEE FOR INDYMAC BANK, F.S.B.,  
A FEDERALLY CHARTERED SAVINGS BANK, A FEDERAL SAVINGS BANK  
ITS SUCCESSORS AND ASSIGNS**

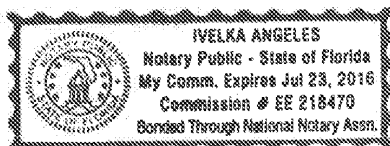
BY: \_\_\_\_\_  
NAME: Joel Pires  
TITLE: Assistant Secretary

STATE OF FLORIDA )  
 )SS.  
COUNTY OF PALM BEACH )

On FEBRUARY 12, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Joel Pires, the Assistant Secretary at MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., ACTING SOLELY AS NOMINEE FOR INDYMAC BANK, F.S.B., A FEDERALLY CHARTERED SAVINGS BANK, A FEDERAL SAVINGS BANK its successors and assigns, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

Ivelka Angeles  
Notary Signature -- **Ivelka Angeles**



# EXHIBIT 4

# EXHIBIT 4

Assessor's/Tax ID No. 16309817050

Recording Requested By:  
OCWEN LOAN SERVICING, LLC

When Recorded Return To:  
OCWEN LOAN SERVICING, LLC  
240 TECHNOLOGY DRIVE  
IDAHO FALLS, ID 83401



**CORPORATE ASSIGNMENT OF DEED OF TRUST**

Clark, Nevada

SELLER'S SERVICING #: [REDACTED] "NARDIZZI"

SELLER'S LENDER ID#: [REDACTED]

OLD SERVICING #: [REDACTED]

MIN #: 100055401209419094 SIS #: 1-888-679-6377

THE UNDERSIGNED DOES HEREBY AFFIRM THAT THIS DOCUMENT SUBMITTED  
FOR RECORDING DOES NOT CONTAIN PERSONAL INFORMATION ABOUT ANY  
PERSON.

Date of Assignment: December 30th, 2016

Assignor: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS"),  
SOLELY AS NOMINEE FOR INDYMAC BANK, FSB, A FEDERALLY CHARTERED  
SAVINGS BANK, its successors and/or assigns at PO BOX 2026 FLINT MI 48501, 1901 E  
VOORHEES ST, STE C, DANVILLE, IL 61834

Assignee: WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE  
STRUCTURED ADJUSTABLE RATE MORTGAGE LOAN TRUST, MORTGAGE  
PASS-THROUGH CERTIFICATES SERIES 2005-11 at C/O OCWEN LOAN SERVICING,  
LLC., 1661 WORTHINGTON ROAD, STE 100, WEST PALM BEACH, FL 33409

Executed By: ROBERT NARDIZZI, A MARRIED MAN, AS HIS SOLE AND SEPARATE  
PROPERTY To: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS"),  
SOLELY AS NOMINEE FOR INDYMAC BANK, F.S.B. A FEDERALLY CHARTERED  
SAVINGS BANK, ITS SUCCESSORS AND/OR ASSIGNS

Date of Deed of Trust: 03/07/2005 Recorded: 03/15/2005 in Book: 20050315 as Instrument No.:  
0004331 In the County of Clark, State of Nevada.

Assessor's/Tax ID No. 16309817050

Property Address: 8149 PALACE MONACO AVENUE, LAS VEGAS, NV 89117

Legal: NA

\*RRM\*RR2GMAC\*12/30/2016 11:08:50 AM\* GMAC40GMACA0000000000 [REDACTED]  
NVCLARK [REDACTED] NVCLARK\_TRUST\_ASSIGN\_ASSN \*RP\*RP1GMAC\*

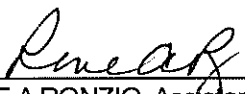
THE PURPOSE OF THIS CORRECTIVE ASSIGNMENT OF DEED OF TRUST IS TO CORRECT THE ASSIGNEE ON THE ASSIGNMENT RECORDED ON 02/24/2014, IN BOOK NUMBER 20140224, AS INSTRUMENT NUMBER 0000507.



KNOW ALL MEN BY THESE PRESENTS, that for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the said Assignor hereby assigns unto the above-named Assignee, the said Deed of Trust having an original principal sum of \$185,700.00 with interest, secured thereby, 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 interest under the Deed of Trust.

TO HAVE AND TO HOLD the said Deed of Trust, and 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:

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS"), SOLELY AS NOMINEE FOR INDYMAC BANK, FSB, A FEDERALLY CHARTERED SAVINGS BANK, its successors and/or assigns

On JAN 05 2017

By:   
RENE A PONZIO, Assistant Secretary


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NVCLARK\*  NVCLARK\_TRUST\_ASSIGN\_ASSN \*RP\*RP1GMAC\*

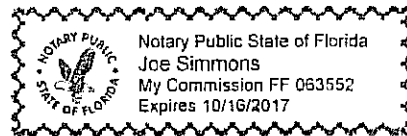
CORPORATE ASSIGNMENT OF DEED OF TRUST Page 3 of 3

STATE OF FLORIDA  
COUNTY OF PALM BEACH

On JAN 05 2017, before me, Joe Simmons, a Notary Public in and for PALM BEACH in the State of FLORIDA, personally appeared RENE A PONZIO, Assistant Secretary, 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,

  
\_\_\_\_\_  
Joe Simmons  
Notary Expires: 10/16/2017



(This area for notarial seal)

Mail Tax Statements To: ROBERT NARDIZZI, 8149 PALACE MONACO AVENUE, LAS VEGAS, NV 89117

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NVCLARK\* NVCLARK\_TRUST\_ASSIGN\_ASSN \* RP\*RP1GMAC\*

APP000265

# EXHIBIT 5

# EXHIBIT 5



RED ROCK FINANCIAL SERVICES

## MAILING AFFIDAVIT

File Number: R 30907

STATE OF NEVADA )

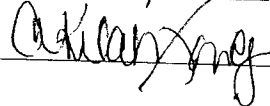
COUNTY OF CLARK )

Ss.

The declarant, whose signature appears below, and who is an employee of Red Rock Financial Services, states that he/she is now and at all times herein mentioned was, a citizen of the United States and over the age of eighteen (18) years; on the date as set forth below, he/she personally mailed the Notice, of which the annexed is a true copy, upon the addressee attached hereto, by depositing in the United States Mail in the County set forth above, an envelope, certified and first class with postage prepaid thereon, containing a copy of such Notice, addressed to the attached named person(s) at the address herein attached stated.

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

Dated: April 9, 2009

Signature 

See Attached 1 Pages



RED ROCK FINANCIAL SERVICES

April 9, 2009

VIA CERTIFIED AND FIRST CLASS MAIL

Robert Nardizzi  
8149 Palace Monaco Avenue  
Las Vegas, NV 89117

Re: 8149 Palace Monaco Avenue, Las Vegas, NV 89117  
Monaco Landscape Maintenance Association, Inc. / R30907

Dear Robert Nardizzi,

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

Monaco Landscape Maintenance Association, Inc. (herein also called the Association) has given permission under our agency agreement to Red Rock Financial Services to collect past due homeowner's association assessments. All accounting information obtained from the association or its managing agent will not be accurate as additional collection fees and costs have been added to the above account.

**The current balance due on the above account is \$258.00.** If you choose to reinstate the account, payment in full must be received in the Red Rock Financial Services office within 30 days from the date of this letter. Payment must be in the form of a **cashier's check** or **money order**, made payable to Red Rock Financial Services and mailed to the address indicated below. If we receive partial payments, they will be credited to your account, however, we will continue with the collection process on the balance owed as described above.

**If you choose not to pay your account in full within 30 days from the date of this letter, in accordance with Nevada Revised Statutes, Red Rock Financial Services will prepare and record a Lien for Delinquent Assessments on behalf of Monaco Landscape Maintenance Association, Inc..** Costs estimated in the amount of \$340.00 plus mailing fees will be added to the above account in the case the Lien for Delinquent Assessments being prepared and/or recorded. Please note these are estimated costs.

A "30 Day Period" has been established for disputing the validity of the debt. Federal Law does not require Red Rock Financial Services to wait the "30 Day Period" to prepare and/or record the Lien for Delinquent Assessments. The "30 Day Period", according to Federal Law, begins from the date this letter is received by you.

All disputes regarding the validity of the debt must be submitted in written form to Red Rock Financial Services. When the dispute is received, Red Rock Financial Services will provide verification of the debt and a copy of such verification will be mailed to you. In addition, Red Rock Financial Services will provide you with the original creditor(s) and address(es) if different from the current. Collection efforts on the part of Red Rock Financial Services will cease, in the process of research, to provide to you via mail the information outlined above in written form. In the case Red Rock Financial Services does not receive in written form, a dispute of the debt, Red Rock Financial Services will assume the debt is valid.

Please contact the office of Red Rock Financial Services with any questions you may have at 702-932-6887.

Sincerely,

Stacy Dominguez  
Red Rock Financial Services

cc: Monaco Landscape Maintenance Association, Inc.

702.932.6887 | fax 702.341.7733 | 6830 West Oquendo Road, Suite 201, Las Vegas, Nevada 89118

APP000268

If sending your check, please be aware that you are authorizing Red Rock Financial Services to use the information on your check to make a one-time electronic debit from your account at the financial institution indicated on your check. This electronic debit will be for the amount of your check; no additional amount will be added to the amount. (If we cannot collect your electronic payment, we will issue a draft against your account.) Please contact the Accounts Receivable department at (702) 932-6887 to learn about other payment options should you prefer to not have your payment processed in this manner.

WFZ000360



# EXHIBIT 6

# EXHIBIT 6



RED ROCK FINANCIAL SERVICES

File Number: R 30907

MAILING AFFIDAVIT

STATE OF NEVADA           )  
                                      ) Ss.  
COUNTY OF CLARK        )

The declarant, whose signature appears below, and who is an employee of Red Rock Financial Services, states that he/she is now and at all times herein mentioned was, a citizen of the United States and over the age of eighteen (18) years; on the date as set forth below, he/she personally mailed the Notice, of which the annexed is a true copy, upon the addressee attached hereto, by depositing in the United States Mail in the County set forth above, an envelope, certified and first class with postage prepaid thereon, containing a copy of such Notice, addressed to the attached named person(s) at the address herein attached stated.

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

Dated: May 22, 2009

Signature *Adrian [unclear]*

See Attached 1 Pages

APP000270

WFZ000351

THE  
WALZ  
CERTIFIED  
MAILER™

FROM

WALZ™

U.S. PAT. NO. 5,501,393

7160 3901 9848 3280 4900

TO:

Robert Nardizzi  
8149 Palace Monaco Avenue  
Las Vegas, NV 89117

Label #1

Robert Nardizzi  
8149 Palace Monaco Avenue  
Las Vegas, NV 89117  
R30907

Label #2

Robert Nardizzi  
8149 Palace Monaco Avenue  
Las Vegas, NV 89117  
R30907

Label #3

Robert Nardizzi  
8149 Palace Monaco Avenue  
Las Vegas, NV 89117  
R30907

TEAR ALONG THIS LINE

SENDER:

REFERENCE: R30907

PS Form 3800, January 2005

RETURN  
RECEIPT  
SERVICE

Postage

Certified Fee

Return Receipt Fee

Restricted Delivery

Total Postage & Fees

US Postal Service

Receipt for  
Certified Mail

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 5/22/09 by  
Red Rock Financial Services  
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

Robert Nardizzi  
8149 Palace Monaco Avenue  
Las Vegas, NV 89117  
R30907

Charge  
Amount:

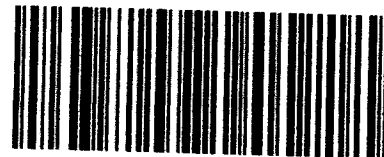
Charge  
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7160 3901 9848 3280 4900

Certified Article Number

7160 3901 9848 3280 4900

SENDERS RECORD

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED  
USPS MAIL CARRIER  
DETACH ALONG PERFORATION

2. Article Number



7160 3901 9848 3280 4900

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

Robert Nardizzi  
8149 Palace Monaco Avenue  
Las Vegas, NV 89117  
R30907 Monaco Landscape Maintenance Association, Inc.

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

APP000271

PS Form 3811, January 2005

Domestic Return Receipt

WFZ000352

Thank you for using Return Receipt Service



RED ROCK FINANCIAL SERVICES

May 22, 2009

VIA CERTIFIED AND FIRST CLASS MAIL

Robert Nardizzi  
8149 Palace Monaco Avenue  
Las Vegas, NV 89117

Re: 8149 Palace Monaco Avenue Las Vegas, NV 89117  
Monaco Landscape Maintenance Association, Inc. / R30907

Dear Robert Nardizzi:

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

Red Rock Financial Services initial correspondence to you stated failure to reinstate the above account would result in the Lien for Delinquent Assessments being prepared and recorded on the above referenced property. Noted in the initial correspondence, additional fees and costs have been added to the account balance. As of the date of this letter, the account balance is \$606.71.

Enclosed, please find a copy of the Lien for Delinquent Assessments. The amount noted on this letter and the Lien for Delinquent Assessments may differ. The "Amount Due" on the Lien for Delinquent Assessments is accurate as of the date of preparation. These variations may be due to additional assessments, late fees, interest, fines and collection fees and costs being assessed to the account. Please contact Red Rock Financial Services to obtain an "up to date" account balance or to discuss alternative payment arrangements. **All Payments must be in the form of a cashier's check or money order.** If we receive partial payments, they will be credited to your account, however, we will continue with the collection process on the balance owed as described above.

As of the date of this letter, the "30 Day Period" is still in effect. In the case Red Rock Financial Services does not receive in written form a dispute of the debt, Red Rock Financial Services will assume the debt is valid. All disputes of the validity of the debt must be submitted in written form to Red Rock Financial Services. When the dispute is received, Red Rock Financial Services will provide verification of the debt and a copy of such verification will be mailed to you. Upon receipt of a written dispute, collection efforts on the part of Red Rock Financial Services will cease, in the process of research, to provide to you via mail information in written form.

Allowed by Nevada Revised Statutes, Red Rock Financial Services may record a Notice of Default and Election to Sell no sooner than the 31<sup>st</sup> day from the mailing of the Lien for Delinquent Assessments. As a courtesy to you, an Intent to Notice of Default courtesy letter will be sent to you via first class mail at an additional charge.

Please contact the Red Rock Financial Services office with any questions you may have at 702-932-6887.

Sincerely,

Christie Marling  
Red Rock Financial Services  
cc: Monaco Landscape Maintenance Association, Inc.  
enclosure(s)

Assessor Parcel Number: 163-09-817-050  
File Number: R30907

Requestor:  
NORTH AMERICAN TITLE COMPANY  
05/20/2009 10:56:07 T20090176765  
Book/Instr: 20090520-0002871  
Lien Page Count: 1  
Fees: \$14.00 N/C Fee: \$0.00

Debbie Conway  
Clark County Recorder

**LIEN FOR DELINQUENT ASSESSMENTS**

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

**NOTICE IS HERBY GIVEN:** Red Rock Financial Services, a division of RMI Management LLC, officially assigned as agent by the Monaco Landscape Maintenance Association, Inc., herein also called the Association, in accordance with Nevada Revised Statutes and outlined in the Association Covenants, Conditions, and Restrictions, herein also called CC&R's, recorded on 11/13/1998, in Book Number 981113, as Instrument Number 02435 and including any and all Amendments and Annexations et. seq., of Official Records of Clark County, Nevada. Which have been supplied to and agreed upon by said owner.

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

8149 Palace Monaco Avenue, Las Vegas, NV 89117

MONACO #12 PLAT BOOK 89 PAGE 81 LOT 230 BLOCK J, in the County of Clark

Current Owner(s) of Record:

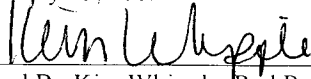
ROBERT NARDIZZI

**The amount owing as of the date of preparation of this lien is \*\*\$606.71.**

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

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

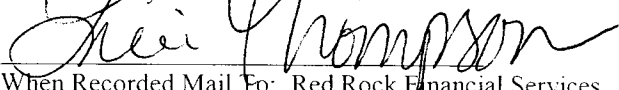
Dated: May 13, 2009

  
Prepared By Kim Whipple, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc.

STATE OF NEVADA )  
COUNTY OF CLARK )

On May 13, 2009, before me, personally appeared Kim Whipple, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
When Recorded Mail To: Red Rock Financial Services  
6830 West Oquendo Road, Suite 201  
Las Vegas, Nevada 89118  
702-932-6887

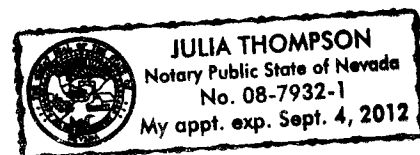


EXHIBIT 7

EXHIBIT 7

Assessor Parcel Number: 163-09-817-050  
File Number: R30907  
Property Address: 8149 Palace Monaco Avenue  
Las Vegas, NV 89117  
Title Order Number: 17233

**Receipt/Conformed Copy**

Requestor:  
NORTH AMERICAN TITLE COMPANY  
07/07/2009 10:20:46 T20090234582  
Book/Instr: 20090707-0001621  
Default Page Count: 1  
Fees: \$14.00 N/C Fee: \$0.00

Debbie Conway  
Clark County Recorder

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

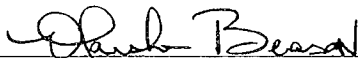
**◆ IMPORTANT NOTICE ◆**

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

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

**NOTICE IS HEREBY GIVEN:** Red Rock Financial Services officially assigned as agent by the Monaco Landscape Maintenance Association, Inc., under the Lien for Delinquent Assessments, recorded on 5/20/2009, in Book Number 20090520, as Instrument Number 0002871, reflecting ROBERT NARDIZZI as the owner(s) of record on said lien, land legally described as MONACO #12 PLAT BOOK 89 PAGE 81 LOT 230 BLOCK J, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 11/13/1998, in Book Number 981113, as Instrument Number 02435, has been breached. As of 1/1/2009 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of July 2, 2009, the amount owed is \$1,740.42. This amount will continue to increase until paid in full.



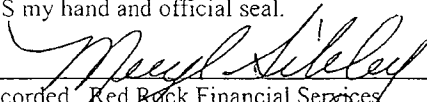
Dated: July 2, 2009

Prepared By Marsha Beason, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc.

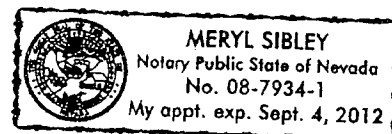
STATE OF NEVADA )  
COUNTY OF CLARK )

On July 2, 2009, before me, personally appeared Marsha Beason, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



When Recorded: Red Rock Financial Services  
Mail To: 6830 West Oquendo Road, Suite 201  
Las Vegas, Nevada 89118 • 702-932-6887



APP000275

WFZ000344

# EXHIBIT 8

# EXHIBIT 8





MAILING AFFIDAVIT

File Number: R 30907

STATE OF NEVADA )

COUNTY OF CLARK )

Ss.

The declarant, whose signature appears below, and who is an employee of Red Rock Financial Services, states that he/she is now and at all times herein mentioned was, a citizen of the United States and over the age of eighteen (18) years; on the date as set forth below, he/she personally mailed the Notice, of which the annexed is a true copy, upon the addressee attached hereto, by depositing in the United States Mail in the County set forth above, an envelope, certified and first class with postage prepaid thereon, containing a copy of such Notice, addressed to the attached named person(s) at the address herein attached stated.

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

Dated: July 17, 2009

Signature Ahish mo

See Attached 1 Pages

THE  
WALZ  
CERTIFIED  
MAILER™

FROM

WALZ

7160 3901 9848 4741 3425

Label #1

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas, NV 89147  
R30907

TO: Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas, NV 89147

SENDER:

REFERENCE: R30907

PS Form 3800, January 2005

RETURN  
RECEIPT  
SERVICE

Postage

Certified Fee

Return Receipt Fee

Restricted Delivery

Total Postage & Fees

US Postal Service

Receipt for  
Certified Mail

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 7/17/09 by  
Red Rock Financial Services  
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas, NV 89147  
R30907

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7160 3901 9848 4741 3425

Charge  
Amount:

Charge  
To:

FOLD AND TEAR THIS WAY →

Certified Article Number

7160 3901 9848 4741 3425

SENDERS RECORD

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED  
USPS MAIL CARRIER  
DETACH ALONG PERFORATION

2. Article Number



7160 3901 9848 4741 3425

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas, NV 89147  
R30907 Monaco Landscape Maintenance Association, Inc.

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

**X**

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

PS Form 3811, January 2005

Domestic Return Receipt

APP000278

Thank you for using Return Receipt Service

WFZ000338

**Receipt/Conformed Copy**

Assessor Parcel Number: 163-09-817-050  
File Number: R30907  
Property Address: 8149 Palace Monaco Avenue  
Las Vegas, NV 89117  
Title Order Number: 17233

Requestor:  
NORTH AMERICAN TITLE COMPANY  
07/07/2009 10:20:46 T20090234582  
Book/Instr: 20090707-0001621  
Default Page Count: 1  
Fees: \$14.00 N/C Fee: \$0.00

Debbie Conway  
Clark County Recorder

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

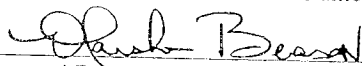
◆ IMPORTANT NOTICE ◆

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

NOTICE IS HEREBY GIVEN: Red Rock Financial Services officially assigned as agent by the Monaco Landscape Maintenance Association, Inc., under the Lien for Delinquent Assessments, recorded on 5/20/2009, in Book Number 20090520, as Instrument Number 0002871, reflecting ROBERT NARDIZZI as the owner(s) of record on said lien, land legally described as MONACO #12 PLAT BOOK 89 PAGE 81 LOT 230 BLOCK J, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 11/13/1998, in Book Number 981113, as Instrument Number 02435, has been breached. As of 1/1/2009 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of July 2, 2009, the amount owed is \$1,740.42. This amount will continue to increase until paid in full.



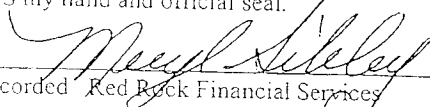
Dated: July 2, 2009

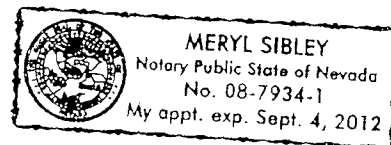
Prepared By Marsha Beason, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc.

STATE OF NEVADA )  
COUNTY OF CLARK )

On July 2, 2009, before me, personally appeared Marsha Beason, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
When Recorded: Red Rock Financial Services  
Mail To: 6830 West Oquendo Road, Suite 201  
Las Vegas, Nevada 89118 • 702-932-6887



APP000279

WFZ000339



MAILING AFFIDAVIT

File Number: R 30907

STATE OF NEVADA                    )  
  )    Ss  
COUNTY OF CLARK                )

The declarant, whose signature appears below, and who is an employee of Red Rock Financial Services, states that he/she is now and at all times herein mentioned was, a citizen of the United States and over the age of eighteen (18) years; on the date as set forth below, he/she personally mailed the Notice, of which the annexed is a true copy, upon the addressee attached hereto, by depositing in the United States Mail in the County set forth above, an envelope, certified and first class with postage prepaid thereon, containing a copy of such Notice, addressed to the attached named person(s) at the address herein attached stated.

I declare under the penalty of perjury that the foregoing is true and correct

Dated: 7-15-2009

Signature: Amiah Jm

See Attached 4 Pages

WALZ  
CERTIFIED  
MAILER™

FROM

WALZ

7160 3901 9848 4741 4835

7160 3901 9848 4741 4835

Label #1

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101  
MIN 100055401209419094  
R30907

Label #2

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101  
MIN 100055401209419094  
R30907

Label #3

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101  
MIN 100055401209419094  
R30907

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101  
MIN 100055401209419094  
R30907

Charge  
Amount:

Charge  
To:

FOLD AND TEAR THIS WAY →

2. Article Number



7160 3901 9848 4741 4835

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101  
MIN 100055401209419094  
R30907 Monaco Landscape Maintenance Association, Inc.

TO:

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101 MIN 100055401209419094

SENDER:

REFERENCE: R30907

PS Form 3800, January 2005

RETURN  
RECEIPT  
SERVICE

Postage

Certified Fee

Return Receipt Fee

Restricted Delivery

Total Postage & Fees

US Postal Service

Receipt for  
Certified Mail

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 7/15/09 by  
Red Rock Financial Services  
See Firm Book

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7160 3901 9848 4741 4835

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

**X**

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

RETURN RECEIPT REQUESTED  
USPS MAIL CARRIER  
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

Thank you for using Return Receipt Service

WALZ  
CERTIFIED  
MAILER™

Label #1

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107  
LN #200606773000742  
R30907

Label #2

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107  
LN #200606773000742  
R30907

Label #3

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107  
LN #200606773000742  
R30907

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107  
LN #200606773000742  
R30907

Charge  
Amount:

Charge  
To:

FOLD AND TEAR THIS WAY →

TO:

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107 LN #200606773000742

SENDER:

REFERENCE: R30907

PS Form 3800, January 2005

RETURN  
RECEIPT  
SERVICE

Postage

Certified Fee

Return Receipt Fee

Restricted Delivery

Total Postage & Fees

US Postal Service

Receipt for  
Certified Mail

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 7/15/09  
Red Rock Financial Service  
See Firm Book

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7160 3901 9848 4741 4828

Certified Article Number

7160 3901 9848 4741 4828

SENDERS RECORD

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED  
USPS MAIL CARRIER  
DETACH ALONG PERFORATION

2. Article Number



7160 3901 9848 4741 4828

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107  
LN #200606773000742  
R30907 Monaco Landscape Maintenance Association, Inc.

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

**X**

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

APP000282

PS Form 3811, January 2005

Domestic Return Receipt

WFZ000342

Thank you for using Return Receipt Service

WALZ  
CERTIFIED  
MAILER™

WALZ

U.S. PAT. NO. 5,501,393

7160 3901 9848 4741 4804

Label #1  
ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569  
R30907

Label #2  
ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569  
R30907

Label #3  
ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569  
R30907

TO: ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569

SENDER:

REFERENCE: R30907

PS Form 3800, January 2005

RETURN  
RECEIPT  
SERVICE

Postage	
Certified Fee	
Return Receipt Fee	
Restricted Delivery	
Total Postage & Fees	

US Postal Service  
**Receipt for  
Certified Mail**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 7/15/09 by  
Red Rock Financial Service  
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569  
R30907

Charge  
Amount:

Charge  
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7160 3901 9848 4741 4804

Certified Article Number

7160 3901 9848 4741 4804

SENDER'S RECORD

RETURN RECEIPT REQUESTED  
USPS MAIL CARRIER  
DETACH ALONG PERFORATION

2. Article Number



7160 3901 9848 4741 4804

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569  
R30907 Monaco Landscape Maintenance Association, Inc.

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

**X**

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

APP000283

PS Form 3811, January 2005

Domestic Return Receipt

WFZ000343

Thank you for using Return Receipt Service

Thank you for using Return Receipt Service

Assessor Parcel Number: 163-09-817-050  
File Number: R30907  
Property Address: 8149 Palace Monaco Avenue  
Las Vegas, NV 89117  
Title Order Number: 17233

**Receipt/Conformed Copy**

Requestor:  
NORTH AMERICAN TITLE COMPANY  
07/07/2009 10:20:46 T20090234582  
Book/Instr: 20090707-0001621  
Default Page Count: 1  
Fees: \$14.00 N/C Fee: \$0.00

Debbie Conway  
Clark County Recorder

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

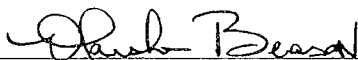
**◆ IMPORTANT NOTICE ◆**

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

**NOTICE IS HEREBY GIVEN:** Red Rock Financial Services officially assigned as agent by the Monaco Landscape Maintenance Association, Inc., under the Lien for Delinquent Assessments, recorded on 5/20/2009, in Book Number 20090520, as Instrument Number 0002871, reflecting ROBERT NARDIZZI as the owner(s) of record on said lien, land legally described as MONACO #12 PLAT BOOK 89 PAGE 81 LOT 230 BLOCK J, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 11/13/1998, in Book Number 981113, as Instrument Number 02435, has been breached. As of 1/1/2009 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of July 2, 2009, the amount owed is \$1,740.42. This amount will continue to increase until paid in full.



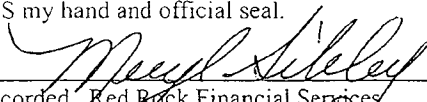
Dated: July 2, 2009

Prepared By Marsha Beason, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc.

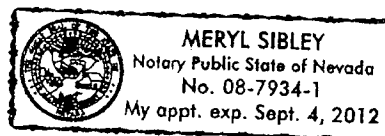
STATE OF NEVADA )  
COUNTY OF CLARK )

On July 2, 2009, before me, personally appeared Marsha Beason, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



When Recorded Red Rock Financial Services  
Mail To: 6830 West Oquendo Road, Suite 201  
Las Vegas, Nevada 89118 • 702-932-6887



APP000284

WFZ000344



Assessor Parcel Number: 163-09-817-050  
File Number: R30907  
Property Address: 8149 Palace Monaco Avenue  
Las Vegas, NV 89117  
Title Order Number:

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

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

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

**NOTICE IS HEREBY GIVEN:** Red Rock Financial Services officially assigned as agent by the Monaco Landscape Maintenance Association, Inc., under the Lien for Delinquent Assessments, recorded on 5/20/2009, in Book Number 20090520, as Instrument Number 0002871, reflecting ROBERT NARDIZZI as the owner(s) of record on said lien, land legally described as MONACO #12 PLAT BOOK 89 PAGE 81 LOT 230 BLOCK J, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 11/13/1998, in Book Number 981113, as Instrument Number 02435, has been breached. As of 1/1/2009 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of July 2, 2009, the amount owed is \$1,740.42. This amount will continue to increase until paid in full.

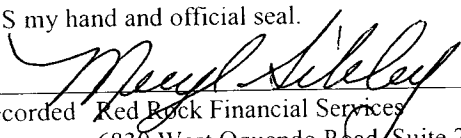
  
Prepared By Marsha Beason, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc.

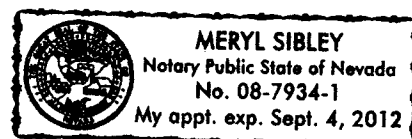
Dated: July 2, 2009

STATE OF NEVADA )  
COUNTY OF CLARK )

On July 2, 2009, before me, personally appeared Marsha Beason, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
When Recorded Red Rock Financial Services  
Mail To: 6830 West Oquendo Road, Suite 201  
Las Vegas, Nevada 89118 • 702-932-6887



APP000285

WFZ000345



***TEN DAY LETTER FOR HOMEOWNERS***

**CLIENT REF: R30907**

**NOD RECORDED: 07/07/2009 IN BOOK 20090707 AS DOC NO.: 0001621**

**COMPANY REF. 45010-09-17233**

**OWNER:**

ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569

**10 DAY MAILINGS**

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101  
MIN 100055401209419094

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107  
LN #200606773000742

**PROPERTY:**

8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569

TOTAL LIABILITY OF THE COMPANY UNDER SAID GUARANTEE AND  
UNDER THIS LETTER THERETO SHALL NOT EXCEED, IN THE AGGREGATE,  
THE AMOUNT STATED IN SAID GUARANTEE.

# EXHIBIT 9

# EXHIBIT 9

Assessor Parcel Number: 163-09-817-050  
File Number: R 30907  
Property Address: 8149 Palace Monaco Avenue  
Las Vegas, NV 89117

Inst #: 201304080002068  
Fees: \$18.00  
N/C Fee: \$0.00  
04/08/2013 01:19:36 PM  
Receipt #: 1586007  
Requestor:  
NORTH AMERICAN TITLE SUNSET  
Recorded By: GILKS Pgs: 2  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

### **Accommodation**

## **NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS**

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

**WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL RED ROCK FINANCIAL SERVICES AT (702) 932-6887 or (702) 215-8130. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION AT (877) 829-9907 IMMEDIATELY.**

Red Rock Financial Services officially assigned as agent by the Monaco Landscape Maintenance Association, Inc under the Lien for Delinquent Assessments. **YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS**, recorded on 05/20/2009 in Book Number 20090520 as Instrument Number 0002871 reflecting ROBERT NARDIZZI as the owner(s) of record on said lien. **UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT PUBLIC SALE.** If you need an explanation of the nature of the proceedings against you, you should contact an attorney.

The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on 07/07/2009 in Book Number 20090707 as Instrument Number 0002871 of the Official Records in the Office of the Recorder.

**NOTICE IS HEREBY GIVEN:** That on 05/02/2013, at 10:00 a.m. at the front entrance of the Nevada Legal News located at 930 South Fourth Street, Las Vegas, Nevada 89101, that the property commonly known as 8149 Palace Monaco Avenue, Las Vegas, NV 89117, and land legally described as MONACO #12 PLAT BOOK 89 PAGE 81 LOT 230 BLOCK J of the Official Records in the Office of the County Recorder of Clark County, Nevada, will sell at public auction to the highest bidder, for

Assessor Parcel Number: 163-09-817-050  
File Number: R 30907  
Property Address: 8149 Palace Monaco Avenue  
Las Vegas, NV 89117

cash payable at the time of sale in lawful money of the United States, by cash, a cashier's check drawn by a state or national bank, a cashier's check drawn by a state or federal credit union, state or federal savings and loan association or savings association authorized to do business in the State of Nevada, in the amount of \$3,876.82 as of 04/05/2013, which includes the total amount of the unpaid balance and reasonably estimated costs, expenses and advances at the time of the initial publication of this notice. Any subsequent Association assessments, late fees interest, expenses or advancements, if any, of the Association or its Agent, under the terms of the Lien for Delinquent Assessments shall continue to accrue until the date of the sale. The property heretofore described is being sold "as is".

The sale will be made without covenant or warranty, expressed or implied regarding, but not limited to, title or possession, encumbrances, obligations to satisfy any secured or unsecured liens or against all right, title and interest of the owner, without equity or right of redemption to satisfy the indebtedness secured by said Lien, with interest thereon, as provided in the Declaration of Covenants, Conditions and Restrictions, recorded on 11/13/1998, in Book Number 981113, as Instrument Number 02435 of the Official Records in the Office of the Recorder and any subsequent amendments or updates that may have been recorded.

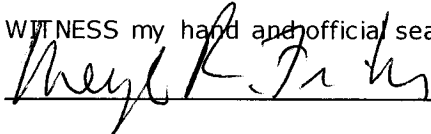
Dated: April 5, 2013

  
Prepared By Christie Marling, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc

STATE OF NEVADA           )  
COUNTY OF CLARK        )

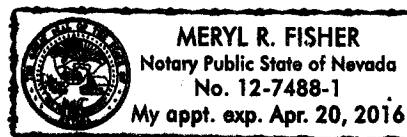
On April 5, 2013, before me, personally appeared Christie Marling, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



**Reinstatement Information:** (702) 215-8130 or **Sale Information:** (714) 573-1965

When Recorded Mail To:  
Red Rock Financial Services  
4775 W. Teco Avenue, Suite 140  
Las Vegas, Nevada 89118  
(702) 215-8130 or (702) 932-6887



APP000289

WFZ000586

# EXHIBIT 10

# EXHIBIT 10



RED ROCK FINANCIAL SERVICES

### MAILING AFFIDAVIT

File Number: R 30907

STATE OF NEVADA           )  
                                      ) Ss.  
COUNTY OF CLARK        )

The declarant, whose signature appears below, and who is an employee of Red Rock Financial Services, states that he/she is now and at all times herein mentioned was, a citizen of the United States and over the age of eighteen (18) years; on the date as set forth below, he/she personally mailed the Notice, of which the annexed is a true copy, upon the addressee attached hereto, by depositing in the United States Mail in the County set forth above, an envelope, certified and first class with postage prepaid thereon, containing a copy of such Notice, addressed to the attached named person(s) at the address herein attached stated.

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

Dated: 4/9/13

Signature Haery Nye

See Attached 8 Pages

THE  
WALZ  
CERTIFIED  
MAILER™

FROM

**WALZ**™

U.S. PAT. NO. 5,501,393

7196 9008 9111 8992 2062

Label #1 ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS,, NV 89117-2569  
R30907

Label #2 ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS,, NV 89117-2569  
R30907

Label #3 ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS,, NV 89117-2569  
R30907

TO:

ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS,, NV 89117-2569

SENDER:

REFERENCE:

R30907

PS Form 3800, January 2005

RETURN  
RECEIPT  
SERVICE

Postage

Certified Fee

Return Receipt Fee

Restricted Delivery

Total Postage & Fees

USPS®

**Receipt for  
Certified Mail™**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 4/9/13 by  
Rock Financial Services  
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS,, NV 89117-2569  
R30907

Charge  
Amount:

Charge  
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL™**



7196 9008 9111 8992 2062

2. Article Number



7196 9008 9111 8992 2062

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS,, NV 89117-2569  
R30907 Monaco Landscape Maintenance Association, Inc

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

☐ Agent  
☐ Addressee

**X**  
D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

APP000292

PS Form 3811, January 2005

Domestic Return Receipt

WFZ000577

Certified Article Number

7196 9008 9111 8992 2062

SENDER'S RECORD

RETURN RECEIPT REQUESTED  
USPS® MAIL CARRIER  
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

Thank you for using Return Receipt Service



THE  
WALZ  
CERTIFIED  
MAILER™

FROM

**WALZ™**

FORM 3800S VERSION 03/12  
U.S. PAT. NO. 5,501,393

7196 9008 9111 8992 2055

Label #1

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas,, NV 89147  
R30907

Label #2

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas,, NV 89147  
R30907

Label #3

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas,, NV 89147  
R30907

TO:

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas,, NV 89147

SENDER:

REFERENCE:

R30907

PS Form 3800, January 2005

RETURN  
RECEIPT  
SERVICE

Postage

Certified Fee

Return Receipt Fee

Restricted Delivery

Total Postage & Fees

**USPS®**

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Certified Mail™**

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Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 4/9/13 by  
Rock Financial Services  
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas,, NV 89147  
R30907

Charge  
Amount:

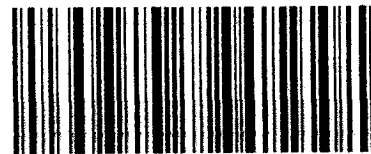
Charge  
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL™**



7196 9008 9111 8992 2055

2. Article Number



7196 9008 9111 8992 2055

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas,, NV 89147  
R30907 Monaco Landscape Maintenance Association, Inc

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes  
☐ No

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED  
USPS® MAIL CARRIER  
DETACH ALONG PERFORATION

PS Form 3811, January 2005

Domestic Return Receipt

APP000293

WFZ000578

Thank you for using Return Receipt Service

THE  
WALZ  
CERTIFIED  
MAILER™

FROM

**WALZ™**

U.S. PAT. NO. 5,501,393

7196 9008 9111 8992 2048

Label #1

WELLS FARGO BANK, N.A.  
LN #200606773000742  
P.O. BOX 31557  
BILLINGS,, MT 59107  
R30907

Label #2

WELLS FARGO BANK, N.A.  
LN #200606773000742  
P.O. BOX 31557  
BILLINGS,, MT 59107  
R30907

Label #3

WELLS FARGO BANK, N.A.  
LN #200606773000742  
P.O. BOX 31557  
BILLINGS,, MT 59107  
R30907

TO:

WELLS FARGO BANK, N.A.  
LN #200606773000742  
P.O. BOX 31557  
BILLINGS,, MT 59107

SENDER:

REFERENCE:

R30907

PS Form 3800, January 2005

RETURN  
RECEIPT  
SERVICE

Postage  
Certified Fee  
Return Receipt Fee  
Restricted Delivery  
Total Postage & Fees

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Do Not Use for International Mail

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Mailed on 4/9/13 by  
Rock Financial Services  
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

WELLS FARGO BANK, N.A.  
LN #200606773000742  
P.O. BOX 31557  
BILLINGS,, MT 59107  
R30907

Charge  
Amount:

Charge  
To:

FOLD AND TEAR THIS WAY →

Label #6

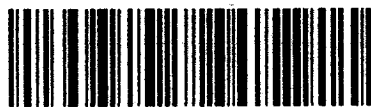
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL™**



7196 9008 9111 8992 2048

2. Article Number



7196 9008 9111 8992 2048

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

WELLS FARGO BANK, N.A.  
LN #200606773000742  
P.O. BOX 31557  
BILLINGS,, MT 59107  
R30907 Monaco Landscape Maintenance Association, Inc

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

☐ Agent  
☐ Addressee  
☐ Yes  
☐ No

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

RETURN RECEIPT REQUESTED  
USPS® MAIL CARRIER  
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

Thank you for using Return Receipt Service

THE  
WALZ  
CERTIFIED  
MAILER™

FROM

**WALZ™**

U.S. PAT. NO. 5,501,393

7196 9008 9111 8992 2031

Label #1

INDYMAC BANK, F.S.B.  
MIN 100055401209419094  
155 NORTH LAKE AVE.  
PASADENA,, CA 91101  
R30907

Label #2

INDYMAC BANK, F.S.B.  
MIN 100055401209419094  
155 NORTH LAKE AVE.  
PASADENA,, CA 91101  
R30907

Label #3

INDYMAC BANK, F.S.B.  
MIN 100055401209419094  
155 NORTH LAKE AVE.  
PASADENA,, CA 91101  
R30907

TO:

INDYMAC BANK, F.S.B.  
MIN 100055401209419094  
155 NORTH LAKE AVE.  
PASADENA,, CA 91101

SENDER:

REFERENCE:

R30907

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

USPS®

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Certified Mail™

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Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 4/9/13 by  
Rock Financial Services  
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

INDYMAC BANK, F.S.B.  
MIN 100055401209419094  
155 NORTH LAKE AVE.  
PASADENA,, CA 91101  
R30907

Charge  
Amount:

Charge  
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL™**



7196 9008 9111 8992 2031

2. Article Number



7196 9008 9111 8992 2031

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

INDYMAC BANK, F.S.B.  
MIN 100055401209419094  
155 NORTH LAKE AVE.  
PASADENA,, CA 91101  
R30907 Monaco Landscape Maintenance Association, Inc

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED  
USPS® MAIL CARRIER  
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

THE  
WALZ  
CERTIFIED  
MAILER™

FROM

**WALZ™**

U.S. PAT. NO. 5,501,393

7196 9008 9111 8992 2024

**Label #1** Robert Nardizzi  
8149 Palace Monaco Ave  
Las Vegas,, NV 89117  
R30907

**Label #2** Robert Nardizzi  
8149 Palace Monaco Ave  
Las Vegas,, NV 89117  
R30907

**Label #3** Robert Nardizzi  
8149 Palace Monaco Ave  
Las Vegas,, NV 89117  
R30907

**TO:**

Robert Nardizzi  
8149 Palace Monaco Ave  
Las Vegas,, NV 89117

**SENDER:**

**REFERENCE:**

R30907

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

**USPS®**

**Receipt for  
Certified Mail™**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 4/9/13 by  
Red Rock Financial Services  
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

**Label #5**

Robert Nardizzi  
8149 Palace Monaco Ave  
Las Vegas,, NV 89117  
R30907

Charge  
Amount:

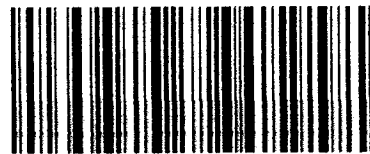
Charge  
To:

FOLD AND TEAR THIS WAY →

**Label #6**

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL™**



7196 9008 9111 8992 2024

**2. Article Number**



7196 9008 9111 8992 2024

**3. Service Type CERTIFIED MAIL™**

**4. Restricted Delivery? (Extra Fee)** ☐ Yes

**1. Article Addressed to:**

Robert Nardizzi  
8149 Palace Monaco Ave  
Las Vegas,, NV 89117  
R30907 Monaco Landscape Maintenance Association, Inc

**COMPLETE THIS SECTION ON DELIVERY**

**A. Received by (Please Print Clearly)**

**B. Date of Delivery**

**C. Signature**

**X**

☐ Agent  
☐ Addressee

**D. Is delivery address different from item 1?**  
If YES, enter delivery address below:

☐ Yes  
☐ No

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED  
USPS® MAIL CARRIER  
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

THE  
WALZ  
CERTIFIED  
MAILER™

FROM

**WALZ™**

U.S. PAT. NO. 5,501,393

7196 9008 9111 8992 2017

TO:

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas,, NV 89147-5145

SENDER:

REFERENCE:

R30907

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

**USPS®**

**Receipt for  
Certified Mail™**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 4/9/13 by  
Rock Financial Services  
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas,, NV 89147-5145  
R30907

Charge  
Amount:

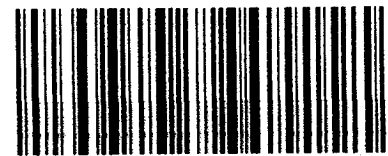
Charge  
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL™**



7196 9008 9111 8992 2017

2. Article Number



7196 9008 9111 8992 2017

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

Robert Nardizzi  
7418 Parnell Avenue  
Las Vegas,, NV 89147-5145  
R30907 Monaco Landscape Maintenance Association, Inc

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

**X**

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

RETURN RECEIPT REQUESTED  
USPS® MAIL CARRIER  
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

Thank you for using Return Receipt Service

PS Form 3811, January 2005

Domestic Return Receipt

APP000297

WFZ000582

THE  
WALZ  
CERTIFIED  
MAILER™

FROM

**WALZ**™

U.S. PAT. NO. 5,501,393

7196 9008 9111 8992 2000

TO:

Robert Nardizzi  
902 Central Avenue  
Ship Bottom,, NJ 08008-6327

SENDER:

REFERENCE:

R30907

PS Form 3800, January 2005

RETURN  
RECEIPT  
SERVICE

Postage

Certified Fee

Return Receipt Fee

Restricted Delivery

Total Postage & Fees

**USPS®**

**Receipt for  
Certified Mail™**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 4/9/13 by  
Rock Financial Services  
See Firm Book

← TEAR ALONG THIS LINE

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

Robert Nardizzi  
902 Central Avenue  
Ship Bottom,, NJ 08008-6327  
R30907

Charge  
Amount:

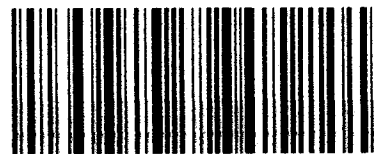
Charge  
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL™**



7196 9008 9111 8992 2000

2. Article Number



7196 9008 9111 8992 2000

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

Robert Nardizzi  
902 Central Avenue  
Ship Bottom,, NJ 08008-6327  
R30907 Monaco Landscape Maintenance Association, Inc

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

**X**

☐ Agent  
☐ Addressee  
☐ Yes  
☐ No

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

RETURN RECEIPT REQUESTED  
USPS® MAIL CARRIER  
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

Thank you for using Return Receipt Service

PS Form 3811, January 2005

Domestic Return Receipt

APP000298

WFZ000583

THE  
WALZ  
CERTIFIED  
MAILER™

FROM

**WALZ™**

U.S. PAT. NO. 5,501,393

7196 9008 9111 8992 1997

TO:

State of Nevada Ombudsman for Common-Interest Communities  
Attention: Lindsay Waite  
2501 East Sahara Avenue, Suite 202  
Las Vegas,, NV 89104-4137

SENDER:

REFERENCE:

R30907

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

**USPS®**

**Receipt for  
Certified Mail™**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 4/9/13 by  
Rock Financial Services  
See Firm Book

TEAR ALONG THIS LINE

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

State of Nevada Ombudsman for Common-Interest Communities  
Attention: Lindsay Waite  
2501 East Sahara Avenue, Suite 202  
Las Vegas,, NV 89104-4137  
R30907

Charge  
Amount:

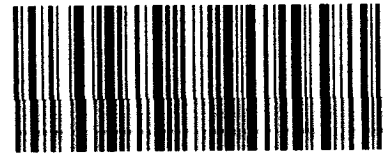
Charge  
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL™**



7196 9008 9111 8992 1997

Certified Article Number  
7196 9008 9111 8992 1997  
SENDERS RECORD

2. Article Number



7196 9008 9111 8992 1997

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

State of Nevada Ombudsman for Common-Interest Communities  
Attention: Lindsay Waite  
2501 East Sahara Avenue, Suite 202  
Las Vegas,, NV 89104-4137  
R30907 Monaco Landscape Maintenance Association, Inc

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

RETURN RECEIPT REQUESTED  
USPS® MAIL CARRIER  
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

Thank you for using Return Receipt Service

PS Form 3811, January 2005

Domestic Return Receipt

APP000299

WFZ000584

Assessor Parcel Number: 163-09-817-050  
File Number: R 30907  
Property Address: 8149 Palace Monaco Avenue  
Las Vegas, NV 89117

Inst #: 201304080002068  
Fees: \$18.00  
N/C Fee: \$0.00  
04/08/2013 01:19:36 PM  
Receipt #: 1586007  
Requestor:  
NORTH AMERICAN TITLE SUNSET  
Recorded By: GILKS Pgs: 2  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

### **Accommodation**

## **NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS**

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

**WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL RED ROCK FINANCIAL SERVICES AT (702) 932-6887 or (702) 215-8130. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION AT (877) 829-9907 IMMEDIATELY.**

Red Rock Financial Services officially assigned as agent by the Monaco Landscape Maintenance Association, Inc under the Lien for Delinquent Assessments. **YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS,** recorded on 05/20/2009 in Book Number 20090520 as Instrument Number 0002871 reflecting ROBERT NARDIZZI as the owner(s) of record on said lien. **UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT PUBLIC SALE.** If you need an explanation of the nature of the proceedings against you, you should contact an attorney.

The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on 07/07/2009 in Book Number 20090707 as Instrument Number 0002871 of the Official Records in the Office of the Recorder.

**NOTICE IS HEREBY GIVEN:** That on 05/02/2013, at 10:00 a.m. at the front entrance of the Nevada Legal News located at 930 South Fourth Street, Las Vegas, Nevada 89101, that the property commonly known as 8149 Palace Monaco Avenue, Las Vegas, NV 89117, and land legally described as MONACO #12 PLAT BOOK 89 PAGE 81 LOT 230 BLOCK J of the Official Records in the Office of the County Recorder of Clark County, Nevada, will sell at public auction to the highest bidder, for



Assessor Parcel Number: 163-09-817-050  
File Number: R 30907  
Property Address: 8149 Palace Monaco Avenue  
Las Vegas, NV 89117

cash payable at the time of sale in lawful money of the United States, by cash, a cashier's check drawn by a state or national bank, a cashier's check drawn by a state or federal credit union, state or federal savings and loan association or savings association authorized to do business in the State of Nevada, in the amount of \$3,876.82 as of 04/05/2013, which includes the total amount of the unpaid balance and reasonably estimated costs, expenses and advances at the time of the initial publication of this notice. Any subsequent Association assessments, late fees interest, expenses or advancements, if any, of the Association or its Agent, under the terms of the Lien for Delinquent Assessments shall continue to accrue until the date of the sale. The property heretofore described is being sold "as is".

The sale will be made without covenant or warranty, expressed or implied regarding, but not limited to, title or possession, encumbrances, obligations to satisfy any secured or unsecured liens or against all right, title and interest of the owner, without equity or right of redemption to satisfy the indebtedness secured by said Lien, with interest thereon, as provided in the Declaration of Covenants, Conditions and Restrictions, recorded on 11/13/1998, in Book Number 981113, as Instrument Number 02435 of the Official Records in the Office of the Recorder and any subsequent amendments or updates that may have been recorded.

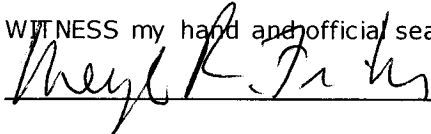
Dated: April 5, 2013

  
Prepared By Christie Marling, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc

STATE OF NEVADA           )  
COUNTY OF CLARK       )

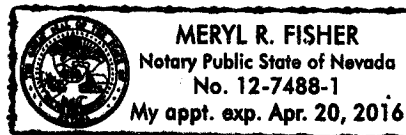
On April 5, 2013, before me, personally appeared Christie Marling, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



**Reinstatement Information:** (702) 215-8130 or **Sale Information:** (714) 573-1965

When Recorded Mail To:  
Red Rock Financial Services  
4775 W. Teco Avenue, Suite 140  
Las Vegas, Nevada 89118  
(702) 215-8130 or (702) 932-6887



APP000301

WFZ000586

**EXHIBIT 11**

**EXHIBIT 11**

*Red Rock*  
Priority Posting & Publishing  
Order # P1032093  
TS # R30907

**AFFIDAVIT OF SERVICE**

State of Nevada )  
County of Clark)

I, Ryan Kronbetter, state:

That at all times herein I have been a citizen of the United States, over 18 years of age, and am not a party to, or interested in, the proceeding in which this affidavit is made.

I served **Robert Nardizzi** with a copy of the Notice of Sale, on 4/8/2013 at approximately 4:16 PM, by:

Attempting to personally serve the person(s) residing at the property, however no one answered the door. I thereafter posted a copy of the Notice of Sale on the property in the manner prescribed pursuant to NRS 116.311635, in a conspicuous place on the property, which is located at:

**8149 Palace Monaco Avenue  
Las Vegas NV 89117**

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

Dated 4/8/2013

Nevada Legal Support Services LLC



Ryan Kronbetter, 2520342  
930 S. 4th Street, Suite 200  
Las Vegas, NV 89101  
(702) 382-2747  
NV License #1711

**NVLSS ID# 441095      58  
COUNTY OF SERVICE: CLARK  
SERVER: Ryan Kronbetter**

APP000303

WFZ000547

Priority Posting & Publishing  
Order # P1032093  
TS # R30907

**AFFIDAVIT OF POSTING NOTICE OF SALE**

State of Nevada )  
County of Clark)

I, Jessica Pruett, state:

That at all times herein I have been a citizen of the United States, over 18 years of age, and am not a party to, or interested in, the proceeding in which this affidavit is made.

On 4/11/2013, I posted a copy of the Notice of Sale pursuant to NRS 116.311635, concerning Sale R30907, in a public place in the county where the property is situated, to wit:

NEVADA LEGAL NEWS, 930 S FOURTH ST, LAS VEGAS  
CLARK COUNTY COURTHOUSE, 200 LEWIS ST, LAS VEGAS  
CLARK COUNTY BUILDING, 309 S THIRD ST, LAS VEGAS

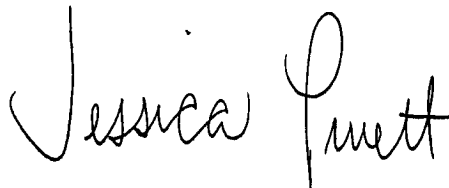
The purported owner and address of the property contained in the Notice of Sale being:

**Robert Nardizzi, 8149 Palace Monaco Avenue, Las Vegas NV 89117.**

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

Dated 4/11/2013

Nevada Legal Support Services LLC

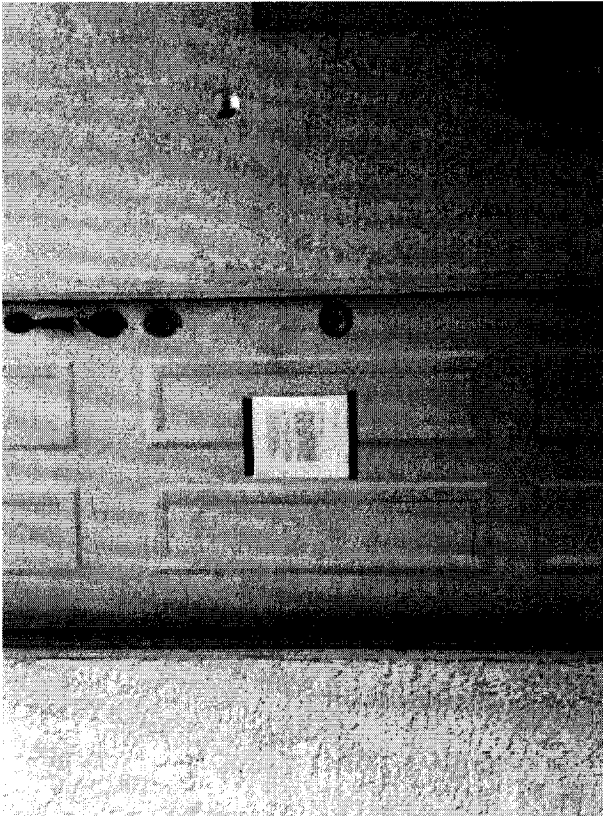
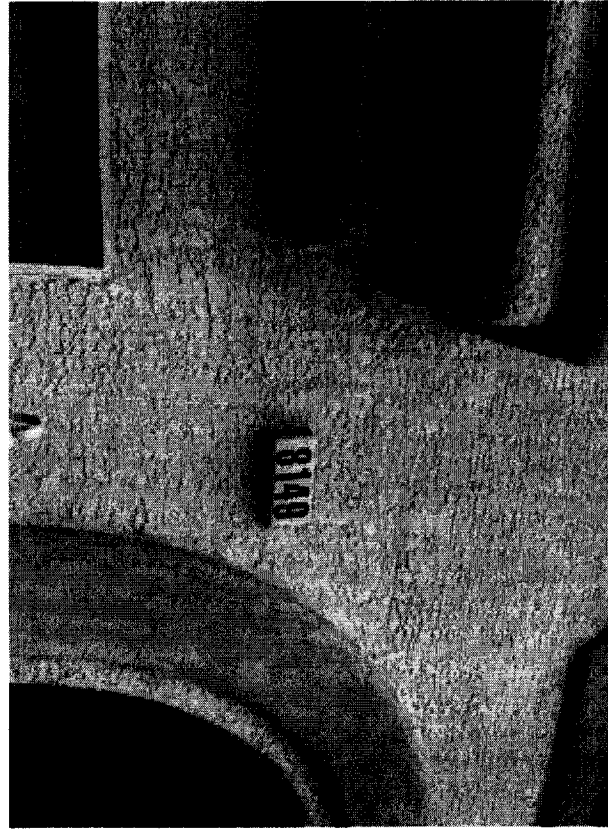
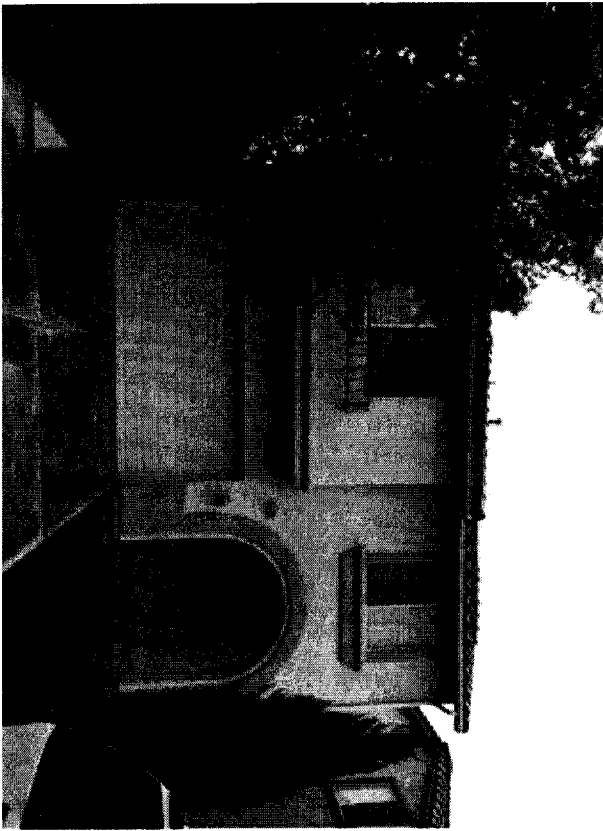


Jessica Pruett  
930 S. 4th Street, Suite 200  
Las Vegas, NV 89101  
(702) 382-2747  
NV License #1711

NVLSS ID# 441095      58  
COUNTY OF SERVICE: CLARK  
SERVER: Jessica Pruett  
RED ROCK FINANCIAL SERVICES

APP000304

WFZ000548



Photos taken by: Ryan Kronbetter County: CLARK 36  
Photo Date: 4/8/2013 Time: 4:16 PM NLN ID# 441095 Page 1 of 1  
Primary Borrower: Robert Nardizzi  
Property Address: 8149 Palace Monaco Avenue, Las Vegas NV 89117

Nevada Legal Support Services LLC  
930 S. 4th Street, Suite 200  
Las Vegas, NV 89101  
(702) 382-2747 NV. Lic. #1711

**Priority Posting & Publishing Order # P1032093 TS#R30907**

APP000305

WFZ000549

# EXHIBIT 12

# EXHIBIT 12

AFFP  
P1032093



## Affidavit of Publication

STATE OF NEVADA }  
COUNTY OF CLARK } SS


I, Rosalie Qualls state:

That I am Assistant Operations Manager of the Nevada Legal News, a daily newspaper of general circulation, printed and published in Las Vegas, Clark County, Nevada; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

Apr 11, 2013  
Apr 18, 2013  
Apr 25, 2013

That said newspaper was regularly issued and circulated on those dates. I declare under penalty of perjury that the foregoing is true and correct.

DATED: Apr 25, 2013

  
\_\_\_\_\_  
Rosalie Qualls

Assessor Parcel Number: 163-09-817-050 File Number: R30907 Property Address: 8149 Palace Monaco Avenue, Las Vegas, NV 89117 NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose. WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL RED ROCK FINANCIAL SERVICES AT (702) 932-6887 or (702) 215-8130. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION AT (877) 829-9907 IMMEDIATELY. Red Rock Financial Services officially assigned as agent by the Monaco Landscape Maintenance Association, Inc under the Lien for Delinquent Assessments. YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS, recorded on May 20, 2009 in Book Number 20090520 as Instrument Number 0002871 reflecting Robert Nardizzi as the owner(s) of record on said lien. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. If you need an explanation of the nature of the proceedings against you, you should contact an attorney. The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on 7/7/2009 in Book Number 20090707 as Instrument Number 0002871 of the Official Records in the Office of the Recorder. NOTICE IS HEREBY GIVEN: That on 5/2/2013, at 10:00 AM The front entrance to The Nevada Legal News located at 930 South Fourth Street, Las Vegas, NV 89101, that the property commonly known as 8149 Palace Monaco Avenue, Las Vegas, NV 89117 and land legally described as MONACO #12 PLAT BOOK 89 PAGE 81 LOT 230 BLOCK J of the Official Records in the Office of the County Recorder of Clark County, Nevada will sell at public auction to the highest bidder, for cash payable at the time of sale in lawful money of the United States, by cash, a cashier's check drawn by a state or national bank, a cashier's check drawn by a state or federal credit union, state or federal savings and loan association or savings association authorized to do business in the State of Nevada, in the amount of \$3,876.82 as of 4/5/2013, which includes the total amount of the unpaid balance and reasonably estimated costs, expenses and advances at the time of the initial publication of this notice. Any subsequent Association assessments, late fees interest, expenses or advancements, if any, of the Association or its Agent, under the terms of the Lien for Delinquent Assessments shall continue to accrue until the date of the sale. The property heretofore described is being sold "as is". The sale will be made without covenant or warranty, expressed or implied regarding, but not limited to, title or possession, encumbrances, obligations to satisfy any secured or unsecured liens or against all right, title and interest of the owner, without equity or right of redemption to satisfy the indebtedness secured by said Lien, with interest thereon, as provided in the Declaration of Covenants, Conditions and Restrictions, recorded on 11/13/1998, in Book Number 981113, as Instrument Number 02435 of the Official Records in the Office of the Recorder and any subsequent amendments or updates that may have been recorded. Dated: 4/5/2013 Prepared By Christie Marling, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc Reinstatement Information: (702) 215-8130 or Sale Information: (714) 573-1965 When Recorded Mail To: Red Rock Financial Services 4775 W. Teco Avenue, Suite 140 Las Vegas, Nevada 89118 (702) 215-8130 or (702) 932-6887 P1032093 4/11, 4/18, 04/25/2013

04107370 00348003

PRIORITY POSTING & PUBLISHING-2013  
17501 IRVINE BLVD. SUITE 1  
TUSTIN, CA 92780

APP000307

WFZ000515

# EXHIBIT 13

# EXHIBIT 13



1  
2 CERTIFICATE OF CUSTODIAN OF RECORDS

3 STATE OF NEVADA )

4 ss:  
COUNTY OF CLARK )

5  
6 I, JULIA THOMPSON, declare as follows:

7 1. I am employed by Red Rock Financial Services ("RRFS") as supervisor, and in  
8 such capacity I am the custodian of the records.

9 2. On or about the 3rd day of January, 2019, I received a Subpoena calling for the  
10 production of records pertaining to Saticoy Bay LLC Series 8149 Palace Monaco v. Robert  
11 Nardizzi, et al., District Court, Clark County Nevada Case No. A-18-770245-C.

12 3. I and/or persons acting under my supervision have examined the information  
13 and/or records requested, and have made a true representation of the information and/or an  
14 exact copy of the records.

15 4. I hereby certify that the information and/or reproduction of documents attached  
16 hereto are true and complete.

17 I declare under penalty of perjury that the foregoing is true and correct.

18 DATED this 17 day of January, 2019.

19   
JULIA THOMPSON

# EXHIBIT 14

# EXHIBIT 14

**RESP**

1 **WRIGHT, FINLAY & ZAK, LLP**  
2 Natalie C. Lehman, Esq.  
3 Nevada Bar No. 12995  
4 7785 W. Sahara Ave., Suite 200  
5 Las Vegas, NV 89117  
6 (702) 475-7964; Fax: (702) 946-1345  
7 nlehman@wrightlegal.net

*Attorneys for Defendant Wells Fargo Bank, National Association, as Trustee for the Structured Adjustable Rate Mortgage Loan Trust, Pass-Through Certificates Series 2005-11*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

9 **SATICOY BAY LLC SERIES 8149 PALACE**  
10 **MONACO,**

11 **Plaintiff,**

12 **vs.**

13  
14 **ROBERT NARDIZZI a/k/a ROBERT A.**  
15 **NARDIZZI, an individual; MONACO**  
16 **LANDSCAPE MAINTENANCE**  
17 **ASSOCIATION, a Nevada domestic non-**  
18 **profit corporation; WELLS FARGO BANK,**  
19 **NATIONAL ASSOCIATION, AS TRUSTEE**  
20 **FOR THE STRUCTURED ADJUSTABLE**  
21 **RATE MORTGAGE LOAN TRUST, PASS-**  
22 **THROUGH CERTIFICATES SERIES 2005-**  
23 **11, a business entity location unknown; DOE**  
24 **individuals 1 through 10; and ROE business**  
25 **entities 11 through 30,**

26 **Defendants.**

27 **WELLS FARGO BANK, NATIONAL**  
28 **ASSOCIATION, AS TRUSTEE FOR THE**  
**STRUCTURED ADJUSTABLE RATE**  
**MORTGAGE LOAN TRUST, PASS-**  
**THROUGH CERTIFICATES SERIES 2005-**  
**11,**

**Counterclaimant,**

**vs.**

Case No.: A-18-770245-C  
Dept. No.: XXVIII

**WELLS FARGO'S RESPONSES TO  
PLAINTIFF'S FIRST SET OF  
INTERROGATORIES**

SATICOY BAY LLC SERIES 8149 PALACE  
MONACO; MONACO LANDSCAPE  
MAINTENANCE ASSOCIATION; and RED  
ROCK FINANCIAL SERVICES, LLC,

Counterdefendants.

COMES NOW Defendant/Counter-Claimant Wells Fargo Bank National Association, as Trustee for the Structured Adjustable Rate Mortgage Loan Trust, Pass-Through Certificates Series 2005-11 (hereinafter "Wells Fargo" or "Responding Party"), by and through its counsel of record, Natalie C. Lehman, Esq., of the law firm of Wright, Finlay & Zak, LLP, and, pursuant to N.R.C.P. 33, hereby responds to Saticoy Bay LLC, Series 8149 Palace Monaco's ("Saticoy Bay" or "Propounding Party") First Set of Interrogatories.

**PRELIMINARY STATEMENT AND GENERAL OBJECTIONS**

The Answers herein to Saticoy Bay's First Set of Interrogatories (the "Responses") are subject to the following general objections (the "General Objections"). The General Objections may be specifically referred to in the Responses for the purpose of clarity. The failure to specifically incorporate a General Objection, however, should not be construed as a waiver of the General Objections.

1. Nothing herein shall be construed as an admission or waiver by Wells Fargo of: (a) its rights respecting admissibility, competency, relevance, privilege, materiality, and authenticity of any information provided in the Responses, any documents identified therein, or the subject matter thereof; (b) its objection due to vagueness, ambiguity, or undue burden; and (c) its rights to object to the use of any information provided in the Responses, any document identified therein, or the subject matter contained in the Responses during a subsequent proceeding, including the trial of this or any other action.

2. The Responses are made solely for the purposes of, and in relation to, this litigation.

3. Wells Fargo objects to the Interrogatories to the extent they seek documents and information protected by the attorney-client privilege and/or seeks the work product of counsel.

1 4. Wells Fargo has not completed: (a) its investigation of facts, witnesses, or  
2 documents relating to this case, (b) discovery in this action, (c) its analysis of available data, and  
3 (d) its preparations for trial. Thus, although a good faith effort has been made to supply pertinent  
4 information where the same has been requested, it is not possible in some instances for  
5 unqualified Responses to be made to the Discovery Requests. Further, the Responses are  
6 necessarily made without prejudice to Wells Fargo's right to produce evidence of subsequently  
7 discovered fact, witnesses, or documents, as well as any new theories or contentions that Wells  
8 Fargo may adopt. The Responses are further given without prejudice to Wells Fargo's right to  
9 provide information concerning facts, witnesses, or documents omitted by the Responses as a  
10 result of oversight, inadvertence, good faith error, or mistake. Wells Fargo has responded to the  
11 Requests based on information that is presently available to it and to the best of its knowledge to  
12 date. The Responses may include hearsay and other forms of evidence that may be neither  
13 reliable nor admissible.

14 Without waiving its General Objections, Wells Fargo responds to the Interrogatories as  
15 follows:

#### 16 INTERROGATORIES

##### 17 INTERROGATORY NO. 1:

18 Identify the facts, information and evidence of which you are aware that supports each  
19 claim for affirmative relief alleged against the plaintiff.

##### 20 RESPONSE TO INTERROGATORY NO. 1:

21 In addition to the General Objections, this Interrogatory is further objected to on the basis  
22 that it is compound, overly burdensome, and premature at this stage of discovery. An  
23 interrogatory that requests all facts, information, and evidence is further objectionable in that it  
24 calls for attorney work product and requires "a laborious, time-consuming analysis, search, and  
25 description of incidental, secondary, and perhaps irrelevant and trivial details." *Steil v. Humana*  
26 *Kansas City, Inc.*, 197 F.R.D. 445, 447 (D. Kan. 2000). Additionally, "[c]ontention  
27 interrogatories which systematically track all of the allegations in an opposing party's pleadings,  
28



1 and that ask for 'each and every fact' and application of law to fact that supports the party's  
2 allegations are an abuse of the discovery process because they are overly broad and unduly  
3 burdensome." Aldapa v. Fowler Packing Co. Inc., 310 F.R.D. 583, 591 (E.D. Cal. 2015) (internal  
4 quotes omitted); *see also Lucero v. Valdez*, 240 F.R.D. 591, 594 (D.N.M.2007) (same). Without  
5 waiving any objections, Wells Fargo responds:  
6

7 **1. First Affirmative Defense (Failure to State a Claim):**

8 Plaintiff has the burden to prove that the Association foreclosure sale was properly conducted  
9 according to Nevada law and that it was a bona fide purchaser. At this time Plaintiff has not  
10 shown that the Association complied with all requirements under Nevada law in conducting the  
11 foreclosure of the Property and the Association foreclosure sale. Plaintiff has also not shown that  
12 it is a bona fide purchaser. Discovery is continuing.

13 **2. Second Affirmative Defense (Saticoy Bay's Interest is Subject to DOT):**

14 There is evidence contained in the foreclosure file of Red Rock Financial Services  
15 ("RRFS") that the Association's super priority lien may have been satisfied prior to the  
16 Association foreclosure sale. The RRFS records show that payoff demands were requested by  
17 OneWest Bank and Wells Fargo Bank. The records also show that the homeowner was on a  
18 payment plan with the Association prior to the Association foreclosure sale, which those  
19 payments may have satisfied the super priority lien. Additionally, RRFS sent a letter to Wells  
20 Fargo informing that the Association's lien was junior to the Deed of Trust. Discovery is  
21 continuing.

22 **3. Third Affirmative Defense (Saticoy Bay's damages caused by its own**  
23 **acts/omissions):**

24 When Saticoy Bay purchased the Property via a Foreclosure Deed made without  
25 warranties, it did so at its own risk. Saticoy Bay was put on record, constructive and inquiry  
26 notice that Wells Fargo may continue to assert an interest in the Deed of Trust after the  
27 Association foreclosure sale. Saticoy Bay assumed the risk that the Association foreclosure sale  
28 may not have been conducted properly and that a tender of the super priority lien may have

1 been made by either the lender or the homeowner. Discovery is continuing

2 **4. Fourth Affirmative Defense (Saticoy Bay's damages caused by acts/omissions of a**  
3 **third party):**

4 When Saticoy Bay purchased the Property via a Foreclosure Deed made without warranties,  
5 it did so at its own risk. Saticoy Bay was put on record, constructive and inquiry notice that  
6 Wells Fargo may continue to assert an interest in the Deed of Trust after the Association  
7 foreclosure sale. Saticoy Bay assumed the risk that the Association foreclosure sale may not have  
8 been conducted properly and that a tender of the super priority lien may have been made by  
9 either the lender or the homeowner. Any errors or defects in the Association foreclosure sale  
10 would be attributable to the Association, and/or its foreclosure agent Red Rock Financial  
11 Services. Discovery is continuing.

12 **5. Fifth Affirmative Defense (Saticoy Bay failed to mitigate its damages):**

13 Upon information and belief, Saticoy Bay did not contact the holder of the first Deed of  
14 Trust, the Association, or Red Rock Financial Services to inquire regarding whether the  
15 Association's foreclosure sale would include a super priority lien or whether Wells Fargo and its  
16 agents and/or predecessors in interest made an offer of tender. Discovery is continuing.

17 **6. Sixth Affirmative Defense (Saticoy Bay's claims are barred by the statute of**  
18 **limitations, or other equitable doctrines):**

19 When Saticoy Bay purchased the Property via a Foreclosure Deed made without  
20 warranties, it did so at its own risk. Saticoy Bay was put on record, constructive and inquiry  
21 notice that Wells Fargo may continue to assert an interest in the Deed of Trust after the  
22 Association foreclosure sale. As such, Saticoy Bay is equitably estopped from claiming bona fide  
23 purchaser status because it was aware of Wells Fargo's prior recorded Deed of Trust in the  
24 Property. Discovery is continuing.

25 **7. Seventh Affirmative Defense (Saticoy Bay is not entitled to equitable relief):**

26 When Saticoy Bay purchased the Property via a Foreclosure Deed made without  
27 warranties, it did so at its own risk. Saticoy Bay was put on record, constructive and inquiry  
28 notice that Wells Fargo may continue to assert an interest in the Deed of Trust after the



1 Association foreclosure sale. As such, Saticoy Bay received the benefit of its bargain—rent  
2 payments for period of time. Upon information and belief, Saticoy Bay may also not be entitled  
3 to equitable relief as a matter of Nevada law. Discovery is continuing.

4 **8. Eighth Affirmative Defense (Wells Fargo is entitled to attorney's fees):**

5 Saticoy Bay filed the Complaint in this action and recorded a Lis Pendens which  
6 prevented Wells Fargo from enforcing its Deed of Trust without participating in the quiet title  
7 litigation. Wells Fargo is therefore entitled to attorney's fees as a matter of Nevada law.

8 **9. Ninth Affirmative Defense (Wells Fargo reserves the right to amend to add  
9 additional affirmative defenses):** This affirmative defense is supported under the  
10 Nevada Rules of Civil Procedure.

11 With regard to the Responses concerning Wells Fargo's nine (9) affirmative defenses,  
12 discovery and investigation are continuing and these Responses will be updated when additional  
13 information is available.

14 **INTERROGATORY NO. 2:**

15 Identify the facts, information and evidence of which you are aware that supports or  
16 contradicts your assertion that you or your predecessor-in-interest were not properly noticed of  
17 the Association foreclosure sale.

18 **RESPONSE TO INTERROGATORY NO. 2:**

19 In addition to the General Objections, this Interrogatory is further objected to on the  
20 grounds that it is vague and ambiguous, overly broad in scope and time, and calls for speculation  
21 as to what others not in the control of Wells Fargo, particularly its predecessors in interest may  
22 have done during the relevant time. This Interrogatory is further objected to on the grounds that  
23 it is compound. Without waiving any objections, Wells Fargo, after making reasonably inquiry,  
24 and on information known or readily available to it, cannot confirm whether Wells Fargo, or its  
25 predecessors, were properly notified of the Association's foreclosure sale. A copy of a notice of  
26 sale from the Association was found attached to a letter from OneWest Bank to Robert Nardizzi,  
27 but Wells Fargo is unable to confirm from whom it was received or when it became part of the  
28 records for the loan. See WFZ000216-218. The only other copy of a notice of sale related to the



1 Association foreclosure sale found in Wells Fargo's records was printed after the sale,  
2 WFZ000228-229 on January 18, 2014, and WFZ000105-106 obtained by counsel on April 9,  
3 2015. Wells Fargo cannot confirm from whom the notices were received or when they became  
4 part of Wells Fargo's records. Other than the copies of the aforementioned notice of sale, no  
5 records have been found regarding any notice of default from the Association. Additionally,  
6 none of the recorded foreclosure notices that have been produced included the so called "super-  
7 priority" portion of the lien, that the "super-priority" was being foreclosed, or that any interest  
8 purchased at the HOA Sale would avoid Wells Fargo's lien.

9 **INTERROGATORY NO. 3**

10 Identify all communications between you and the Association and/or the Association's  
11 agents regarding the Property.

12 **RESPONSE TO INTERROGATORY NO. 3:**

13 In addition to the General Objections, this Interrogatory is further objected to on the  
14 grounds that (1) it is overbroad in scope and time and it seeks discovery of information that is not  
15 relevant to the claims or defenses of any party; (2) it seeks confidential and private information  
16 regarding individuals and/or entities who are not a party to this action, the disclosure of which  
17 would violate those individuals' or entities' constitutionally protected right to privacy; (3) it seeks  
18 information that is protected by privilege, including but not limited to the attorney-client  
19 privilege, the attorney work-product doctrine, and/or confidential, proprietary, trade secret,  
20 financial or commercially sensitive information. Without waiving any objections, Wells Fargo  
21 states as follows: Without waiving any objections, See Red Rock Financial Services' Responses  
22 to Subpoena Duces Tecum. Discovery and investigation are continuing and this Response will be  
23 updated when additional information is available.

24 **INTERROGATORY NO. 4:**

25 Identify any pooling and servicing agreement and/or servicing guidelines applicable to  
26 your security interest in the Property, including any pooling and servicing agreements for prior  
27 servicers.  
28

1 **RESPONSE TO INTERROGATORY NO. 4:**

2 In addition to the General Objections, this Interrogatory is further objected to on the  
3 grounds that (1) it is overbroad in scope and time and it seeks discovery of information that is not  
4 relevant to the claims or defenses of any party; (2) it is compound; (3) it seeks confidential and  
5 private information regarding individuals and/or entities who are not a party to this action, the  
6 disclosure of which would violate those individuals' or entities' constitutionally protected right to  
7 privacy; (4) it seeks information that is protected by privilege, including but not limited to the  
8 attorney-client privilege, the attorney work-product doctrine, and/or confidential, proprietary,  
9 trade secret, financial or commercially sensitive information. Without waiving any objections,  
10 please see the Pooling and Servicing Agreement, produced as WFZ000159-182.

11 **INTERROGATORY NO. 5:**

12 Identify all communications between you and the current and any prior servicer of your  
13 loan regarding any association lien on the Property.

14 **RESPONSE TO INTERROGATORY NO. 5:**

15 In addition to the General Objections, this Interrogatory is further objected to on the  
16 grounds that (1) it is overbroad in scope and time and it seeks discovery of information that is not  
17 relevant to the claims or defenses of any party; (2) it seeks confidential and private information  
18 regarding individuals and/or entities who are not a party to this action, the disclosure of which  
19 would violate those individuals' or entities' constitutionally protected right to privacy; (3) it seeks  
20 information that is protected by privilege, including but not limited to the attorney-client  
21 privilege, the attorney work-product doctrine, and/or confidential, proprietary, trade secret,  
22 financial or commercially sensitive information. Without waiving any objections, Wells Fargo  
23 states as follows: No responsive communications are known at this time. Discovery and  
24 investigation are continuing and this Response will be updated when additional information is  
25 available.

26 **INTERROGATORY NO. 6:**

27 Please provide a list of each and every monetary payment sent to the Association or its  
28 agents relating to an Association lien on the Property. For each payment, please include the date



1 of payment, amount of payment, the name and address of the person/entity to whom the payment  
2 was sent, the method and manner the payment was sent, the name of the person who sent the  
3 payment, and whether the payment was accepted or rejected.

4 **RESPONSE TO INTERROGATORY NO. 6:**

5 In addition to the General Objections, this Interrogatory is further objected to on the  
6 grounds that it is vague and ambiguous, overly broad in scope and time, and calls for speculation  
7 as to what others not in the control of Wells Fargo, particularly its predecessors in interest, the  
8 homeowner and others may have done during the relevant time. This Interrogatory is further  
9 objected to on the grounds that it is compound. Without waiving any objections, Wells Fargo  
10 responds: See Red Rock Financial Services' Responses to Subpoena Duces Tecum.  
11 Investigation and discovery are continuing, and this response may be supplemented should  
12 additional information become available.

13 **INTERROGATORY NO. 7:**

14 Identify any steps you or your predecessor-in-interest took to ensure the Association  
15 received the assessment owed in relation to the Property.

16 **RESPONSE TO INTERROGATORY NO. 7:**

17 In addition to the General Objections, this Interrogatory is further objected to on the  
18 grounds that it is vague and ambiguous, overly broad in scope and time, and calls for speculation  
19 as to what others not in the control of Wells Fargo, particularly its predecessors in interest may  
20 have done during the relevant time. Without waiving any objections, Wells Fargo responds: See  
21 Red Rock Financial Services' Responses to Subpoena Duces Tecum, regarding payoff demand  
22 requests from OneWest Bank and Wells Fargo. See also PUD Rider to the Deed of Trust,  
23 produced as WFZ000143-145 and OneWest Bank Letter to Robert Nardizzi, produced as  
24 WFZ000216-218. Investigation and discovery are continuing, and this response may be  
25 supplemented should additional information become available.

26 **INTERROGATORY NO. 8:**

27 Describe any action you or your predecessors in interest took relating to the Association  
28 lien, if any, after receiving foreclosure notices, including, but not limited to, notice of delinquent

1 assessment lien, notice of default, and notice of sale.

2 **RESPONSE TO INTERROGATORY NO. 8:**

3 In addition to the General Objections, this Interrogatory is further objected to on the  
4 grounds that it is vague and ambiguous, overly broad in scope and time, and calls for speculation  
5 as to what others not in the control of Wells Fargo, particularly its predecessors in interest may  
6 have done during the relevant time. This Interrogatory is further objected to on the grounds that  
7 it is vague and ambiguous with regard to the terms "Association lien" and "foreclosure notices"  
8 which were not defined. Without waiving any objections, Wells Fargo responds: See Red Rock  
9 Financial Services' Responses to Subpoena Duces Tecum, regarding payoff demand requests  
10 from OneWest Bank and Wells Fargo. See also PUD Rider to the Deed of Trust, produced as  
11 WFZ000143-145 and OneWest Bank Letter to Robert Nardizzi, produced as WFZ000216-218.  
12 Investigation and discovery are continuing, and this response may be supplemented should  
13 additional information become available.

14 **INTERROGATORY NO. 9:**

15 State each address, including post office boxes where you receive any mail from the time  
16 you acquired your interest in the deed of trust until the present.

17 **RESPONSE TO INTERROGATORY NO. 9:**

18 In addition to the General Objections, this Interrogatory is further objected to on the  
19 grounds that it is overbroad in scope and time it seeks discovery of information that is not  
20 relevant to the claims or defenses of any party. Without waiving its objections, Wells Fargo  
21 responds: Wells Fargo did not become beneficiary of record of the Deed of Trust until after the  
22 Association foreclosure sale, when an Assignment of Deed of Trust was recorded on January 26,  
23 2017, although Wells Fargo obtained its interest in the Deed of Trust and Property prior to this  
24 date. See Assignment produced as WFZ000151-154 for the address.

25 **INTERROGATORY NO. 10:**

26 Describe any interest that any federal government entity may have in the loan.

27 **RESPONSE TO INTERROGATORY NO. 10:**

28 In addition to the General Objections, this Interrogatory is further objected to on the



grounds that it is vague as to the term "loan" which is not defined. Without waiving any Objections, Wells Fargo states as follows: the federal government does not have an interest in the Note or Deed of Trust.

**INTERROGATORY NO. 11:**

Identify the current and all prior servicers for the loan secured to the Property by the First Deed of Trust.

**RESPONSE TO INTERROGATORY NO. 11:**

In addition to the General Objections, this Interrogatory is further objected to on the grounds that it is overbroad in scope and time and it seeks discovery of information that is not relevant to the claims or defenses of any party. This Interrogatory is further objected to on the grounds that it is vague as to the term "loan" which is not defined. Without waiving its objections, Wells Fargo states as follows with regard to the servicing of its loan: the Current servicer is Ocwen Loan Servicing, LLC and immediately prior to that, the servicer was IndyMac Mortgage Services, a division of OneWest Bank, FSB. Investigation and discovery are continuing, and this response may be supplemented should additional information become available.

**INTERROGATORY NO. 12:**

State the name and mailing address for any servicing agent who has serviced any loans on your behalf from the time you acquired the deed of trust in question in this case until the present date.

**RESPONSE TO INTERROGATORY NO. 12:**

In addition to the General Objections, this Interrogatory is further objected to on the grounds that it is overbroad in scope and time and it seeks discovery of information that is not relevant to the claims or defenses of any party. Without waiving its objections, Wells Fargo states as follows with regard to the servicing of its loan secured by the Deed of Trust: the Current servicer is Ocwen Loan Servicing, LLC, 1661 Worthington Road, Suite 100, West Palm Beach, FL 33409 and immediately prior to that, the servicer was IndyMac Mortgage Services, a division of OneWest Bank, FSB, now known as CIT Bank P.O. Box 7056 Investigation and discovery are

1 continuing, and this response may be supplemented should additional information become  
2 available.

3 **INTERROGATORY NO. 13:**

4 Identify all facts, information, and evidence of which you are aware that contradicts the  
5 plaintiff's assertion that Saticoy Bay was a bona fide purchaser for value at the Association  
6 foreclosure sale.

7 **RESPONSE TO INTERROGATORY NO. 13:**

8 In addition to the General Objections, Wells Fargo further objects to this Interrogatory on  
9 the grounds that it improperly calls for a legal conclusion. Without waiving any Objections,  
10 Wells Fargo states as follows: The First Deed of Trust was recorded on March 15, 2005, as Book  
11 and Instrument Number 20050315-0004331 in the official records of the Clark County  
12 Recorder's Office, putting Saticoy Bay on notice of the Wells Fargo's First Deed of Trust on the  
13 Property. Likewise, the "Declaration of Covenants, Conditions and Restrictions for Monaco (the  
14 "CC&Rs") were recorded on September 23, 1998, as Book and Instrument Number  
15 980923.01097 in the official records of the Clark County Recorder's Office. The Notice of  
16 Delinquent Assessment Lien recorded as Book and Instrument Number 20090520-0002871,  
17 states that the lien is being made in accordance with the CC&Rs. The Notice of Default and  
18 Election to Sell Under Homeowners Association Lien recorded as Book and Instrument Number  
19 20090707-0001621 advises the authority for Red Rock Financial Services to record the notice is  
20 the CC&Rs. The Notice of Foreclosure Sale, recorded as Book and Instrument Number  
21 201304080002068, advises that the public auction will be conducted under the authority of the  
22 CC&Rs. Thus, because of all of the aforementioned notices by the Association reference the  
23 Monaco CC&Rs, Saticoy Bay was on notice of the HOA's remedies, notice and sale  
24 requirements and mortgage protection clauses. Saticoy Bay is a professional property purchaser,  
25 aware that the foreclosure deed passes no warranties of title, and cannot be insured so as to be  
26 marketable without a decree of quiet title or consent of the former beneficiary of the senior deed  
27 of trust. Furthermore, the purchase price paid by Saticoy Bay at the HOA Sale was grossly  
28 inadequate. Investigation and discovery are continuing, and this response may be supplemented



1 should additional information become available.

2 **INTERROGATORY NO. 14:**

3 Identify all facts, information, and evidence of which you are aware which evidences any  
4 fraud, oppression or unfairness in regards to the association foreclosure sale.

5 **RESPONSE TO INTERROGATORY NO. 14:**

6 In addition to the General Objections, Wells Fargo further objects to this Interrogatory on  
7 the grounds that it calls for a legal conclusion. This Interrogatory is further objected to on the  
8 grounds that it is overly broad and unduly burdensome as to "all" and is premature given that  
9 discovery continues. Without waiving any objections, See Responses to Interrogatories Nos. 2  
10 and 13. The Association represented to the general public as well as to Wells Fargo and its  
11 predecessors in interest that the Association's foreclosure sale would not extinguish the first  
12 Deed of Trust. The association's notice to Wells Fargo and its predecessors in interest and the  
13 information it conveyed to potential buyers was legally inaccurate and resulted in an  
14 unreasonably low sale price. Wells Fargo and its predecessors in interest had no opportunity to  
15 cure the Nardizzi delinquency and/or Wells Fargo and its predecessors in interest attempted to  
16 cure the delinquency but the Association foreclosed anyway. There is evidence that OneWest  
17 Bank and/or Wells Fargo requested payoff demands from Red Rock Financial Services  
18 indicating a possible tender of the super priority lien, as well as evidence that the homeowner's  
19 payments made have also satisfied the super priority lien. Higher bidders were dissuaded from  
20 offering a commercially reasonable price based on the assertions that they would take title  
21 subject to the Deed of Trust. This defect in sale, coupled with a disproportionately low price,  
22 demonstrates that the foreclosure was unfair and commercially unreasonable. Additionally, the  
23 purchase price paid by Saticoy Bay at the HOA Sale was a grossly inadequate amount at  
24 \$17,400. Upon information and belief, the Association sold the Property for 9.4 % of the fair  
25 market value of the Property at the time of the HOA sale, which was \$185,000, per the Appraisal  
26 included within Wells Fargo's Expert Disclosures, Bates-stamped documents WFZ000888-920.  
27 Investigation and discovery are continuing, and this response may be supplemented should  
28 additional information become available.

1 **INTERROGATORY NO. 15:**

2 Identify all facts, information, and evidence of which you are aware which evidences  
3 how any alleged fraud, oppression or unfairness affected the price paid at the Association  
4 foreclosure sale.

5 **RESPONSE TO INTERROGATORY NO. 15:**

6 In addition to the General Objections, Wells Fargo further objects to this Interrogatory on  
7 the grounds that it calls for a legal conclusion. This Interrogatory is further objected to on the  
8 grounds that it is overly broad and unduly burdensome as to "all" and is premature given that  
9 discovery continues. Without waiving any objections, See Responses to Interrogatories Nos. 2,  
10 13 and 14. Investigation and discovery are continuing, and this response may be supplemented  
11 should additional information become available.

12 **INTERROGATORY NO. 16:**

13 Identify all facts, information, and evidence of which you are aware which evidences that  
14 the association foreclosure sale was not properly conducted.

15 **RESPONSE TO INTERROGATORY NO. 16:**

16 In addition to the General Objections, Wells Fargo further objects to this Interrogatory on  
17 the grounds that it calls for a legal conclusion. This Interrogatory is further objected to on the  
18 grounds that it is overly broad and unduly burdensome as to "all" and is premature given that  
19 discovery continues. Without waiving said objections, See Responses to Interrogatories 2, 13-  
20 15, and see Red Rock Financial Services' Responses to Subpoena Duces Tecum, regarding  
21 payoff demand requests from OneWest Bank and Wells Fargo. Investigation and discovery are  
22 continuing, and this response may be supplemented should additional information become  
23 available.

24 **INTERROGATORY NO. 17:**

25 Identify all facts, information, and evidence of which you are aware which evidences that  
26 the association foreclosure sale was not properly noticed.

27 **RESPONSE TO INTERROGATORY NO. 17:**

28 In addition to the General Objections, Wells Fargo further objects to this Interrogatory on



1 the grounds that it calls for a legal conclusion. This Interrogatory is further objected to on the  
2 grounds that it is overly broad and unduly burdensome as to "all" and is premature given that  
3 discovery continues. Without waiving said objections, see Response to Interrogatory No. 2 and  
4 Red Rock Financial Services' Responses to Subpoena Duces Tecum. Investigation and  
5 discovery are continuing. This Response will be supplemented as more information becomes  
6 available.

7 **INTERROGATORY NO. 18:**

8 Identify all facts, information, and evidence of which you are aware which demonstrates  
9 that you, your predecessor(s)-in-interest, if applicable, and/or agents did not receive the Notice of  
10 Default or Notice of Foreclosure Sale prior to the Association foreclosure sale

11 **RESPONSE TO INTERROGATORY NO. 18:**

12 In addition to the General Objections, Wells Fargo further objects to this Interrogatory on  
13 the grounds that it is compound. Without waiving any objections, See Response to Interrogatory  
14 No. 2.

15 **INTERROGATORY NO. 19:**

16 Please state all amounts that you have paid for taxes or insurance on the subject property  
17 since the date of the Association foreclosure sale.

18 **RESPONSE TO INTERROGATORY NO. 19:**

19 In addition to the General Objections, Wells Fargo further objects to this Interrogatory  
20 on the grounds that it seeks confidential and private information regarding individuals and/or  
21 entities who are not a party to this action, the disclosure of which could violate those  
22 individual's or entities' constitutionally protected right to privacy; and it seeks information that  
23 is protected by privilege, including but not limited to the attorney-client privilege, the attorney  
24 work-product doctrine, and/or confidential proprietary, trade secret, financial or commercially  
25 sensitive information. Without waiving any objections, Wells Fargo states as follows: Please  
26 see escrow summary produced as WFZ000921. Investigation and discovery are continuing.  
27 This Response will be supplemented as more information becomes available.

28 ///

1 **INTERROGATORY NO. 20:**

2 To the extent you answered any of the Requests for Admissions served upon you  
3 contemporaneously herewith, anything other than an unqualified "Admit," then for each and  
4 every such answer, set forth the specific basis or grounds for your answer, whether you are aware  
5 of any information, facts, writings or evidence whatsoever relating to this litigation that either  
6 supports or contradicts your answer, and the identity of all persons who have any knowledge or  
7 information which either supports or contradicts each of your answers which are not an  
8 unqualified admission.

9 **RESPONSE TO INTERROGATORY NO. 20:**

10 In addition to the General Objections, Wells Fargo further objects to this Interrogatory to  
11 the extent it is improper as it impermissibly seeks to circumvent the numerical limit of allowed  
12 interrogatories and it is compound. Further, this Interrogatory improperly seeks responses that  
13 are better suited to deposition. Wells Fargo further Objects to the extent this Interrogatory seeks  
14 information protected by the attorney-client privilege and/or seeks the work product of Counsel.

15 DATED this 11<sup>th</sup> day of March, 2019

16  
17 WRIGHT, FINLAY & ZAK, LLP

18  
19 /s/ Natalie C. Lehman

20 Natalie C. Lehman, Esq.

21 Nevada Bar No. 12995

22 7785 West Sahara Avenue, Suite 200

23 Las Vegas, NV 89117

24 *Attorneys for Defendant Wells Fargo Bank,*  
25 *National Association, as Trustee for the Structured*  
26 *Adjustable Rate Mortgage Loan Trust, Pass-*  
27 *Through Certificates Series 2005-11*  
28

**VERIFICATION**

I, Benjamin Verdoorn, am a Senior Loan Analyst for Ocwen Financial Corporation, whose indirect subsidiary is Ocwen Loan Servicing, LLC, which is the loan servicer and attorney in fact for Defendant/Counterclaimant, WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE STRUCTURED ADJUSTABLE RATE MORTGAGE LOAN TRUST, PASS-THROUGH CERTIFICATES SERIES 2005-11. I have read the foregoing answers in **WELLS FARGO'S RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** and know the contents, and that the same are true to the best of my knowledge, except as to matters therein set forth upon information and belief, and as to those matters, I believe them to be true.

Based on the corporate sources of information, the factual matters stated herein are true and correct to the best of my knowledge and belief, based upon the foregoing.

Executed this 30<sup>th</sup> day of March 2019, at Addison, Tx. I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

  
\_\_\_\_\_, Declarant

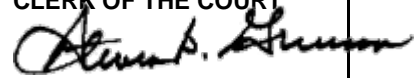
**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of WRIGHT, FINLAY & ZAK, LLP, and that on this 11th day of March, 2019, I did cause a true copy of **WELLS FARGO'S RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** to be e-served through the Eighth Judicial District EFP system pursuant to NEFCR 9.

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An Employee of WRIGHT, FINLAY & ZAK, LLP





**MSJD**

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*Attorneys for Defendant Wells Fargo Bank, National Association, as Trustee for the Structured Adjustable Rate Mortgage Loan Trust, Pass-Through Certificates Series 2005-11*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

SATICOY BAY LLC SERIES 8149 PALACE  
MONACO,

Plaintiff,

vs.

ROBERT NARDIZZI a/k/a ROBERT A.  
NARDIZZI, an individual; MONACO  
LANDSCAPE MAINTENANCE  
ASSOCIATION, a Nevada domestic non-profit  
corporation; WELLS FARGO BANK,  
NATIONAL ASSOCIATION, AS TRUSTEE  
FOR THE STRUCTURED ADJUSTABLE  
RATE MORTGAGE LOAN TRUST,  
PASSTHROUGH CERTIFICATES SERIES  
2005-11, a business entity location unknown;  
DOE individuals 1 through 10; and ROE  
business entities 11 through 30,

Defendants.

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, AS TRUSTEE FOR THE  
STRUCTURED ADJUSTABLE RATE  
MORTGAGE LOAN TRUST,  
PASSTHROUGH CERTIFICATES SERIES  
2005-11,

Counterclaimant,

vs.

SATICOY BAY LLC SERIES 8149 PALACE  
MONACO; MONACO LANDSCAPE  
MAINTENANCE ASSOCIATION; and RED

Case No.: A-18-770245-C

Dept. No.: XXVIII

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION, AS TRUSTEE FOR  
THE STRUCTURED ADJUSTABLE  
RATE MORTGAGE LOAN TRUST,  
PASS-THROUGH CERTIFICATES  
SERIES 2005-11'S MOTION FOR  
SUMMARY JUDGMENT**

**[HEARING REQUESTED]**

1 ROCK FINANCIAL SERVICES, LLC,

2 Counter-defendant.

3 **WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE**  
4 **STRUCTURED ADJUSTABLE RATE MORTGAGE LOAN TRUST, PASS-THROUGH**  
5 **CERTIFICATES SERIES 2005-11'S MOTION FOR SUMMARY JUDGMENT**

6 COMES NOW, Defendant/Counterclaimant, Wells Fargo Bank, National Association,  
7 as Trustee for the Structured Adjustable Rate Mortgage Loan Trust, Pass-Through Certificates  
8 Series 2005-11 ("Plaintiff"), by and through its attorneys of record, R. Samuel Ehlers, Esq. and  
9 Aaron D. Lancaster, Esq., of the law firm of Wright, Finlay & Zak, LLP, and hereby files its  
10 Motion for Summary Judgment (the "Motion").

11 This Motion is made and based upon the attached Memorandum of Points and  
12 Authorities, all judicially noticeable facts, all pleadings and papers on file herein, and on any  
13 oral or documentary evidence that may be submitted at a hearing on this matter.

14 DATED this 28<sup>th</sup> day of October, 2019.

15 WRIGHT, FINLAY & ZAK, LLP

16 /s/ Aaron D. Lancaster

17 Aaron D. Lancaster, Esq.

18 Nevada Bar No. 10115

19 7785 W. Sahara Avenue, Suite 200

20 Las Vegas, NV 89117

21 *Attorney for Defendant Wells Fargo Bank, National*  
22 *Association, as Trustee for the Structured*  
23 *Adjustable Rate Mortgage Loan Trust, Pass-*  
24 *Through Certificates Series 2005-11*  
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1 did not receive timely notice by alternative means, and (3) the subordinate lienholder suffered  
2 prejudice. *U.S. Bank, Nat'l Ass'n ND v. Res. Grp., LLC*, 135 Nev. Ad. Op. 26, 444 P.3d 442,  
3 448 (2019). There is no evidence that MERS, Plaintiff's predecessor in interest and beneficiary  
4 of the Deed of Trust at the time of the HOA sale, had actual knowledge of the HOA sale, as the  
5 HOA failed to mail the Notice of Default and Notice of Sale to MERS despite being fully aware  
6 of MERS's interest in the Property. MERS was prejudiced by not being mailed the Notice of  
7 Default and Notice of Sale, and being prevented from protecting its interest in the Property prior  
8 to the HOA sale.

9 **Fourth**, the HOA sold the Property for approximately 10% of its fair market value.  
10 When combined with existing evidence of fraud, oppression and unfairness in the foreclosure  
11 process, the inadequate purchase price of the Property requires that the results of the HOA Sale  
12 be set aside as a matter of Nevada law.

## 13 **II. STATEMENT OF UNDISPUTED FACTS**

14 1. The real property located at 8149 Palace Monaco Avenue, Las Vegas, NV  
15 ("Property") was located in the Monaco homeowners association and governed by the  
16 Declaration of Covenants, Conditions, Restrictions and Easements for Monoco ("CC&Rs").<sup>2</sup>

17 2. In the last paragraph of the Preamble section of the CC&Rs states:

18 To the extent the Project is deemed to be a common-interest community under  
19 Chapter 116 of the Nevada Revised Statutes ("NRS"), the Project **shall be**  
20 **deemed to be a limited expense planned community under the NRS Sections**  
21 **116.110368 and 116.1203(1)(b) and subject only to the minimum Sections of**  
22 **Chapter 116 required by Section 116.1203(1)(b) unless otherwise expressly**  
23 **stated in this Declaration.** Emphasis added.

24 3. Article 8.2 of the CC&Rs states:

25 It is the express intention of Declaration that the Project be, **at all times, a limited**  
26 **expense liability planned community in accordance with NRS Sections**  
27 **116.1203(1)(b), 116.4101(g), and that this Declaration and the Project not be**  
28 **subject to any Sections of NRS Chapter 116 except those Sections expressly**  
**required by Sections 116.1203(b)(b) and 116.1203(2), unless otherwise**

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<sup>2</sup> A true and correct copy of the CC&Rs recorded in the Clark County Recorder's Office as Book and Instrument Number 980923.01097 is attached hereto as Exhibit 1. All other recordings stated hereafter are recorded in the same manner.



1 expressly stated in this Declaration. Emphasis added.

2 4. Articles 8.14 and 9.15 of the CC&Rs state:

3 8.4 Priority of Lien. **The lien of any of the Assessments, including default**  
4 **interest, costs, expenses and attorneys' fees as provided for herein, shall be**  
5 **subordinate to the lien of any First Mortgage** Recorded prior to Recordation of  
a Notice of Default.

6 15.1 Mortgagee Protection. Notwithstanding any other provision of this  
7 Declaration, **no amendment or violation of this Declaration shall operate to**  
8 **defeat or render invalid the rights of the Beneficiary under any Deed of**  
9 **Trust or the Mortgagee under any Mortgage upon any of the Property made**  
10 **in good faith and for value . . . .** Emphasis added.

11 5. On or about February 3, 2003, Robert Nardizzi ("Nardizzi", "Borrower" or  
12 "Homeowner") purchased the Property.<sup>3</sup>

13 6. On March 7, 2005, a Deed of Trust was executed by Nardizzi that identified  
14 IndyMac Bank, F.S. B., as the Lender, and Mortgage Electronic Registration Systems, Inc.  
15 ("MERS"), as the beneficiary, and secured a loan in the amount of \$185,700.00 ("Deed of  
16 Trust").<sup>4</sup>

17 7. On April 3, 2006, a second Deed of Trust was executed by Nardizzi that identified  
18 Wells Fargo Bank, N.A., as the beneficiary, and secured a loan in the amount of \$100,000.00  
19 ("Second Deed of Trust").<sup>5</sup>

20 8. On May 20, 2009, a Lien for Delinquent Assessment ("Notice of Lien") was  
21 recorded against the Property on behalf of Monaco Landscape Maintenance Association, Inc.  
22 ("HOA") by Red Rock Financial Services ("HOA Trustee" or "Red Rock").<sup>6</sup>

23 9. The delinquent assessments as of the execution of the Notice of Lien totaled  
24 \$114.00.<sup>7</sup>

25 10. The superpriority portion of the HOA's lien as of the execution of the Notice of  
26 Lien was \$114.00.

27 <sup>3</sup> A true and correct copy of the Grant, Bargain, Sale Deed is attached hereto as Exhibit 2.

28 <sup>4</sup> A true and correct copy of the Deed of Trust is attached hereto as Exhibit 3.

<sup>5</sup> A true and correct copy of the Second Deed of Trust is attached hereto as Exhibit 4.

<sup>6</sup> A true and correct copy of the Notice of Lien is attached hereto as Exhibit 5.

<sup>7</sup> See HOA Trustee Accounting Ledger (WFZ000435-39), attached hereto as Exhibit 6.

1 11. HOA never recorded a subsequent Notice of Lien against the Property after the  
2 initial Notice of Lien to re-establish a new superpriority lien.

3 12. On July 7, 2009, a Notice of Default and Election to Sell Pursuant to the Lien for  
4 Delinquent Assessments was recorded against the Property ("Notice of Default").<sup>8</sup>

5 13. Neither the HOA nor the HOA Trustee mailed a copy of the Notice of Default to  
6 MERS, despite MERS being identified as the beneficiary in the Deed of Trust.<sup>9</sup>

7 14. Red Rock's NRCP 30(b)(6) witness, testified at deposition that the Notice of  
8 Default was not sent to MERS:

9 Q. Do you know if a copy of the NOD was mailed to MERS?

10 A. It does not appear that there was one mailed to MERS at the time.

11 Q. Do you know why not?

12 A. I would assume that they were not included on the ten-day mailer or our  
13 title report, so we would not know to contact them directly.

14 Q. During your time at Red Rock, have you ever seen copies of an HOA  
15 foreclosure notice mailed to MERS regarding other properties?

16 A. Yes.

17 Q. Would you say it's common in more than 50 percent of the time, or less  
18 than 50 percent?

19 A. I think 50 percent would probably be a good number there.<sup>10</sup>

20 15. The HOA Trustee was provided with a trustee sale guarantee that identified  
21 MERS as the beneficiary and IndyMac Bank F.S. B. as the lender of the Deed of Trust.<sup>11</sup> The  
22 trustee sale guarantee also identifies Wells Fargo Bank as the beneficiary of the second position  
23 deed of trust.<sup>12</sup>

24  
25 <sup>8</sup> A true and correct copy of the Notice of Default is attached hereto as Exhibit 7.

26 <sup>9</sup> See HOA Trustee's Mailing Affidavit of Notice of Default, HOA Trustee Business Records,  
WFZ000340-45), attached hereto as Exhibit 8.

27 <sup>10</sup> See Deposition Transcript of Sara Trevino, Red Rock Financial Services NRCP 30(b)(6)  
witness ("HOA Trustee Deposition), 54:7-22, attached hereto as Exhibit 9.

28 <sup>11</sup> *Id.* at 56:11-24; see also Trustee's Sale Guarantee attached hereto as Exhibit 10.

<sup>12</sup> HOA Deposition, at 57:2-11.

1           16. From 2009 through 2015 the HOA Trustee's position regarding the HOA  
2 superpriority lien was that the HOA lien was junior to the first deed of trust.<sup>13</sup> Red Rock's  
3 NRCP 30(b)(6) witness, testified at deposition that:

4           Q. So just to be clear, Sara, is it accurate to say that it was Red Rock's  
5 understanding that the HOA lien and any HOA sale would not extinguish  
6 a first deed of trust?

7           A. Yes.<sup>14</sup>

8           17. On September 17, 2009, HOA Trustee provided letters to Indymac Bank, F.S.B.,  
9 ("Lender") and Wells Fargo Bank, N.A., that stated, "[t]he Association's Lien for Delinquent  
10 Assessments is Junior only to the Senior Lender/Mortgage Holder." ("HOA Trustee Letters")<sup>15</sup>

11           18. On October 22, 2010, the HOA Trustee advised the HOA that "[i]f the HOA  
12 chooses to move forward with the foreclosure and the property reverts back to the Association,  
13 the Association is still subject to the 1<sup>st</sup> mortgage (the HOA's lien wipes the 2<sup>nd</sup> mortgage and  
14 any junior liens except the 1<sup>st</sup> mortgage . . . ."<sup>16</sup>

15           19. On April 8, 2013, a Notice of Sale was recorded against the Property ("Notice of  
16 Sale").<sup>17</sup>

17           20. Neither the HOA nor the HOA Trustee mailed a copy of the Notice of Sale to  
18 MERS, despite MERS being identified as the beneficiary in the Deed of Trust.<sup>18</sup> Red Rock's  
19 NRCP 30(b)(6) witness, testified at deposition that:

20           Q. So looking at these certificate of mailings, can you describe or tell me who  
21 the copy of the NOS was mailed to?

22           A. Yes. It looks like it was mailed to the State of Nevada Ombudsman. It  
23 was mailed to multiple different addresses for the homeowner. It was  
24 mailed to Indy Bank and to Wells Fargo.

25 <sup>13</sup> *Id.* at 30:16-24, 61-18-62:1-5.

26 <sup>14</sup> *Id.* at 62:19-23.

27 <sup>15</sup> *See* HOA Trustee Business Records, WFZ000326-27, attached hereto as Exhibit 11.

28 <sup>16</sup> *See* HOA Trustee Business Records, WFZ000276-78, attached hereto as Exhibit 12.

<sup>17</sup> A true and correct copy of the Notice of Sale is attached hereto as Exhibit 13.

<sup>18</sup> *See* HOA Trustee's Mailing Affidavit of Notice of Sale, HOA Trustee Business Records, WFZ000576-584, attached hereto as Exhibit 14.

1 Q. Are these all the parties that the recorded NOS was mailed to?

2 A. Yes, it would have been.

3 Q. Were there any mailings to MERS?

4 A. No.<sup>19</sup>

5 21. Nardizzi entered into a Payment agreement with the HOA, wherein Nardizzi  
6 tendered the following payments to the HOA, or its agent the HOA Trustee, as partial  
7 satisfaction of the delinquent assessments. These payments were received by the HOA, or its  
8 agent the HOA Trustee, and applied to Nardizzi's delinquent assessment account:

9 a. May 30, 2013, in the amount of \$404.00, which the HOA allocated \$114.00 to the  
10 January 1, 2009 semi-annual assessment and \$15.00 to the July 1, 2009 semi-  
11 annual assessment<sup>20</sup> (the only assessment that was due at the time the HOA  
12 recorded the Notice of Lien was the January 1, 2009 assessment in the amount of  
13 \$114.00. Therefore, the superpriority was satisfied with this payment);

14 b. June 21, 2013, in the amount of \$169.00, which the HOA allocated \$94.00 to the  
15 July 1, 2009 semi-annual assessment;<sup>21</sup>

16 c. July 22, 2013, in the amount of \$168.00, which the HOA allocated \$114.00 to the  
17 January 1, 2010 semi-annual assessment and \$54.00 to the July 1, 2010 semi-  
18 annual assessment;<sup>22</sup> and

19 d. August 23, 2013, in the amount of \$168.00, which the HOA allocated \$60.00 to  
20 the July 1, 2010 semi-annual assessment and \$108.00 to the January 1, 2011 semi-  
21 annual assessment.<sup>23</sup>

22 22. Nardizzi's payments totaled \$909.00.<sup>24</sup>

23 23. The HOA Trustee allocated Nardizzi's payments to the oldest outstanding  
24

25 \_\_\_\_\_  
26 <sup>19</sup> HOA Trustee Deposition, 68:13-24, Exhibit 9.

27 <sup>20</sup> See HOA Trustee Business Records (WFZ0511-12, WFZ000487), attached as Exhibit 15.

28 <sup>21</sup> See HOA Trustee Business Records (WFZ0493-95, WFZ000480), attached as Exhibit 16.

<sup>22</sup> See HOA Trustee Business Records (WFZ0484-86, WFZ000478), attached as Exhibit 17.

<sup>23</sup> See HOA Trustee Business Records, (WFZ0475-77, WFZ000473), attached as Exhibit 18.

<sup>24</sup> See Exhibits 15-18.

assessments of the HOA.<sup>25</sup>

24. Nardizzi's payments satisfied the superpriority component (\$114.00) of the HOA's lien prior to the HOA Sale date of December 3, 2013.

25. On December 27, 2013, a Foreclosure Deed Upon Sale was recorded ("Foreclosure Deed"). That document provides that a non-judicial foreclosure sale occurred on December 3, 2013 (hereinafter the "HOA Sale"), whereby HOA conveyed its interest in the Property, if any, to Saticoy Bay for the sum of \$17,400.<sup>26</sup>

26. At the time of the HOA's Sale, the fair market value of the Property was \$185,000.<sup>27</sup>

27. On January 26, 2017, a Corporate Assignment of Deed of Trust was recorded evidencing the assignment of the beneficial interest of the Deed of Trust to Plaintiff ("Assignment").<sup>28</sup>

### III. LEGAL ARGUMENT

#### A. STANDARD OF REVIEW.

The primary purpose of a summary judgment procedure is to secure a "just, speedy, and inexpensive determination of any action." *Albatross Shipping Corp. v. Stewart*, 326 F.2d 208, 211 (5th Cir. 1964);<sup>29</sup> accord *McDonald v. D.P. Alexander & Las Vegas Boulevard, LLC*, 121 Nev. 812, 815, 123 P.3d 748, 750 (2005). Although summary judgment may not be used to deprive litigants of trials on the merits where material factual doubts exist, summary proceedings promote judicial economy and reduce litigation expenses associated with actions clearly lacking in merit. *Id.* Summary judgment enables the trial court to "avoid a needless trial when an appropriate showing is made in advance that there is no genuine issue of fact to be tried." *Id.*

<sup>25</sup> See HOA Trustee Deposition, 86:10-14, Exhibit 9.

<sup>26</sup> A true and correct copy of the Foreclosure Deed is attached hereto as Exhibit 19.

<sup>27</sup> See Plaintiff's Designation of Expert Witness, R. Scott Dugan, SRA, attached hereto as Exhibit 20 and incorporated by this reference herein.

<sup>28</sup> A true and correct copy of the Assignment is attached hereto as Exhibit 21.

<sup>29</sup> "The Nevada Supreme Court considers federal law interpreting the Federal Rules of Civil Procedure, 'because the Nevada Rules of Civil Procedure are based in large part upon their federal counterparts.'" *Barbara Ann Hollier Trust v. Shack*, 356 P.3d 1085, 1089 (Nev. Aug. 6, 2015) (quoting *Executive Management, Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 782, 786 (2002)).

1 (quoting *Coray v. Hom*, 80 Nev. 39, 40-41, 389 P.2d 76, 77 (1964)).

2 “Summary judgment is appropriate if, when viewed in the light most favorable to the  
3 nonmoving party, the record reveals there are no genuine issues of material fact and the moving  
4 party is entitled to judgment as a matter of law.” *DTJ Design, Inc. v. First Republic Bank*, 130  
5 Nev. Adv. Op. 5, 318 P.3d 709, 710 (2014) (citing *Pegasus v. Reno Newspapers, Inc.*, 118 Nev.  
6 706, 713, 57 P.3d 82, 87 (2002)). The plain language of Rule 56(c) “mandates the entry of  
7 summary judgment, after adequate time for discovery and upon motion, against a party who fails  
8 to make a showing sufficient to establish the existence of an element essential to that party’s  
9 case, and on which that party will bear the burden of proof at trial.” *Celotex Corp. v. Catrett*,  
10 477 U.S. 317, 323, 106 S.Ct. 2548, 2552 (1986) (adopted by *Wood v. Safeway, Inc.*, 121 Nev.  
11 724, 731, 121 P.3d 1026, 1031 (2005)). In such a situation, there can be “no genuine issue as to  
12 any material fact” because a complete failure of proof concerning an essential element of the  
13 nonmoving party’s case necessarily renders all other facts immaterial. *Id.*

14 Parties resisting summary judgment cannot stand on their pleadings once the movant has  
15 submitted affidavits or other similar materials. NRCp 56(e). Affidavits which do not  
16 affirmatively demonstrate personal knowledge are insufficient. *Id.*; accord *Coblentz v. Hotel*  
17 *Employees & Rest. Employees Union Welfare Fund*, 112 Nev. 1161, 1172, 925 P.2d 496, 502  
18 (1996); see also *British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th. Cir. 1978) (applying  
19 analogous federal rule). Likewise, “legal memoranda and oral argument are not evidence and do  
20 not create issues of fact capable of defeating an otherwise valid motion for summary judgment.”  
21 *British Airways*, 585 F.2d at 952; accord N.R.C.P. 56(e).

22 Here, Plaintiff demonstrates that the HOA sale was void, or in the alternative did not  
23 extinguish the Deed of Trust.

24 **B. THE HOA IS A LIMITED-PURPOSE ASSOCIATION EXEMPT FROM NRS**  
25 **CHAPTER 116.**

26 In *Saticoy Bay LLC Series 4500 Pacific Sun v. Lakeview Loan Servicing, LLC*, 441 P.3d  
27 81 (Nev. 2019) (“*Pacific Sun*”), the Nevada Supreme Court reviewed the CC&Rs for a  
28 homeowners association and held that it, “**was a limited purpose association under NRS**

1 **116.1201(2) and (6). The district court therefore also correctly concluded that [the**  
2 **homeowners association]’s foreclosure sale did not extinguish respondent’s deed of trust**  
3 **and that [buyer] took title to the property subject to the first deed of trust.”** *Id.* (emphasis  
4 added). The Court further noted, “the district court determined that the mortgage protection  
5 provision in the CC&Rs was enforceable such that the homeowners association waived its right  
6 to foreclose on the superpriority portion of its lien.” *Id.* at FN5.

7 In this matter, Monaco is a limited purpose association pursuant to NRS § 116.1201(2)  
8 and (6) and is not governed by NRS Chapter 116. NRS § 116.3116 does not apply to Monaco  
9 by the express language of Nevada law and the CC&Rs. Specifically, NRS § 116.1201(2) states  
10 in pertinent part:

11 **This chapter does not apply to:**

12 (a) **A limited-purpose association**, except that a limited-purpose association:

- 13 (1) Shall pay the fees required pursuant to NRS 116.31155, except that if the  
14 limited-purpose association is created for a rural agricultural residential  
15 common-interest community, the limited-purpose association is not  
16 required to pay the fee unless the association intends to use the services of  
the Ombudsman;
- 17 (2) Shall register with the Ombudsman pursuant to NRS 116.31158;
- 18 (3) Shall comply with the provisions of:
- 19 (I) NRS 116.31038;
- 20 (II) NRS 116.31083 and 116.31152, unless the limited-purpose  
21 association is created for a rural agricultural residential common-  
22 interest community; and
- 23 (III) NRS 116.31073, if the limited-purpose association is created for  
24 maintaining the landscape of the common elements of the  
common-interest community; and
- 25 (IV) NRS 116.31075, if the limited-purpose association is created for a  
26 rural agricultural residential common-interest community;
- 27 (4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive,  
28 as required by the regulations adopted by the Commission pursuant to  
paragraph (b) of subsection 5; and

1 (5) Shall not enforce any restrictions concerning the use of units by the units'  
2 owners, unless the limited-purpose association is created for a rural  
3 agricultural residential common-interest community.

4 Compare this to the express language of Monaco's CC&Rs, which states:

5 To the extent the Project is deemed to be a common-interest community under  
6 Chapter 116 of the Nevada Revised Statutes ("NRS"), the Project **shall be**  
7 **deemed to be a limited expense planned community under the NRS Sections**  
8 **116.110368 and 116.1203(1)(b) and subject only to the minimum Sections of**  
9 **Chapter 116 required by Section 116.1203(1)(b) unless otherwise expressly**  
10 **stated in this Declaration.**<sup>30</sup>

11 It is the express intention of Declaration that the Project be, **at all times, a limited**  
12 **expense liability planned community in accordance with NRS Sections**  
13 **116.1203(1)(b), 116.4101(g), and that this Declaration and the Project not be**  
14 **subject to any Sections of NRS Chapter 116 except those Sections expressly**  
15 **required by Sections 116.1203(b)(b) and 116.1203(2), unless otherwise**  
16 **expressly stated in this Declaration.**<sup>31</sup> Emphasis added.

17 Monaco is governed by the terms of the CC&Rs and not Chapter 116 by the express  
18 language of the statute and CC&Rs. Under the CC&Rs, which are not trumped by NRS  
19 Chapter 116, the Deed of Trust had priority over the assessments and was protected in the event  
20 of the foreclosure via the following mortgage protection clause:

21 8.4 Priority of Lien. **The lien of any of the Assessments, including default**  
22 **interest, costs, expenses and attorneys' fees as provided for herein, shall**  
23 **be subordinate to the lien of any First Mortgage Recorded prior to**  
24 **Recordation of a Notice of Default.**

25 15.1 Mortgagee Protection. Notwithstanding any other provision of this  
26 Declaration, **no amendment or violation of this Declaration shall operate**  
27 **to defeat or render invalid the rights of the Beneficiary under any Deed of**  
28 **Trust or the Mortgagee under any Mortgage upon any of the Property**  
**made in good faith and for value . . .**

Emphasis added. Therefore, Saticoy Bay took title to the Property subject to the Deed of Trust.

29 **C. WELLS FARGO'S MOTION FOR SUMMARY JUDGMENT SHOULD BE**  
30 **GRANTED BECAUSE THE HOA SALE WAS SUBJECT TO THE DEED OF**  
31 **TRUST.**

<sup>30</sup> See the last paragraph of the Preamble Section of the CC&Rs, Exhibit 1.

<sup>31</sup> See Articles 8.2 of the CC&Rs, Exhibit 1.



1           **1.       The partial payments made by Nardizzi satisfied the superpriority portion of**  
2           **the HOA's lien.**

3           This Court should enter summary judgment in favor of Plaintiff because Borrower's  
4 partial payments were sufficient to satisfy the superpriority lien, which was \$114. The Nevada  
5 Supreme Court clarified in *Saticoy Bay LLC Series 2141 Golden Hill v. JPMorgan Chase Bank,*  
6 *N.A. ("Golden Hill")*<sup>32</sup> that the superpriority lien was comprised of the assessment for common  
7 expenses due as of the filing of the Notice of Lien, up to a maximum of 9 months, citing NRS  
8 116.3116(2)(2012) ("describing the superpriority component of an HOA's lien as 'the  
9 assessments for common expenses . . . which would have become due in the absence of  
10 acceleration during the 9 months immediately preceding institution of an action to enforce the  
11 lien' (emphasis in *Golden Hill*)): *Saticoy Bay LLC Series 2021 Gray Eagle Way v. JPMorgan*  
12 *Chase Bank, N.A.*, 133 Nev. Adv. Op. 3, 388 P.3d 226, 231 (2017) ("recognizing under the pre-  
13 2015 version of NRS 116.3116 that serving a notice of delinquent assessments constitutes  
14 institution of an action to enforce the lien"); *cf. Property Plus Invs., LLC v. Mortgage Elec.*  
15 *Registration Sys., Inc.*, 133 Nev. Adv. Op. 62, 401 P.3d 728, 731-32 (2017) ("observing that an  
16 HOA must restart the foreclosure process in order to enforce a second superpriority lien"). At  
17 the time of the Notice of Lien was recorded, May 20, 2009, the superpriority lien was \$114<sup>33</sup> for  
18 the Property. As evidenced by Exhibits 15-18 (HOA Trustee Business Records), Borrower made  
19 partial payments on May 30, 2013 of \$404.00, which the HOA allocated \$114.00 to the January  
20 1, 2009 semi-annual assessment and \$15.00 to the July 1, 2009 semi-annual assessment<sup>34</sup> (the  
21 only assessment that was due at the time the HOA recorded the Notice of Lien was the January  
22 1, 2009 assessment in the amount of \$114.00); June 21, 2013 of \$169.00, which the HOA  
23 allocated \$94.00 to the July 1, 2009 semi-annual assessment;<sup>35</sup> July 22, 2013 of \$168.00, which  
24 the HOA allocated \$114.00 to the January 1, 2010 semi-annual assessment and \$54.00 to the  
25 July 1, 2010 semi-annual assessment;<sup>36</sup> and August 23, 2013 of \$168.00, which the HOA

26           <sup>32</sup> A copy of the *Golden Hill* decision is attached hereto as Exhibit 22.

27           <sup>33</sup> See Notice of Lien, Exhibit 5; and HOA Trustee Accounting Ledger, Exhibit 6.

28           <sup>34</sup> See HOA Trustee Business Records (WFZ0511-12, WFZ000487), Exhibit 15.

<sup>35</sup> See HOA Trustee Business Records (WFZ0493-9, WFZ000478), Exhibit 16.

<sup>36</sup> See HOA Trustee Business Records (WFZ0484-86, WFZ000478), Exhibit 17.

1 allocated \$60.00 to the July 1, 2010 semi-annual assessment and \$108.00 to the January 1, 2011  
2 semi-annual assessment<sup>37</sup>, totaling \$909, almost eight times the superpriority lien amount.

3 There is no dispute that those payments were applied to the oldest outstanding  
4 assessments, and therefore, the Deed of Trust was protected from foreclosure. The HOA  
5 Trustee's Business Records and testimony clearly show that the Borrower's payments were  
6 allocated to the oldest outstanding assessments first.<sup>38</sup>

7 The HOA never re-started the process with another Notice of Lien to establish a new  
8 superpriority lien before the HOA Sale, so only one superpriority lien existed in the amount of  
9 \$114. *See Bank of Am., N.A. v. SFR Investments Pool 1, LLC*, 134 Nev. Adv. Op. 72, 427 P.3d  
10 113, 117 (2018).

11 Borrower made payments after the Notice of Lien that were more than sufficient to cover  
12 the superpriority portion of the HOA's lien, and those payments were applied to the oldest  
13 outstanding assessments. Therefore, the superpriority lien was satisfied and extinguished prior to  
14 the HOA Sale. As a result, the HOA only proceeded to sale on its sub-priority portion of the lien  
15 and the Deed of Trust was not extinguished by the HOA Sale as a matter of law.

16 **2. Nevada Supreme Court case law makes clear that a tender satisfies the**  
17 **superpriority component of the HOA's lien.**

18 The Nevada Supreme Court in *Golden Hill* held that "[t]he record contains undisputed  
19 evidence that the former homeowner made payments sufficient to satisfy the superpriority  
20 component of the HOA's lien and that the HOA applied those payments to the superpriority  
21 component of the former homeowner's outstanding balance." The Court continued "[t]hus, the  
22 district court correctly determined that at the time of the foreclosure sale, there was no  
23 superpriority component of the HOA's lien that could have extinguished respondent's deed of  
24 trust." *Id.* Here, the fact pattern mirrors that of *Golden Hill*.

25 Additionally, any potential argument about subsequent monthly unpaid assessments prior  
26 to the HOA Sale is unsupported. In *Golden Hill* the court made clear: "[a]lthough appellant  
27

28 <sup>37</sup> See HOA Trustee Business Records, (WFZ0475-77, WFZ000473), Exhibit 18.

<sup>38</sup> See HOA Trustee Deposition, 86:10-14, Exhibit 9.

1 correctly points out that there were new unpaid monthly assessments at the time of the sale, these  
2 new unpaid monthly assessments could not have comprised a new superpriority lien **absent a**  
3 **new notice of delinquent assessments.**” *Id.* at 1-2, citing *Property Plus Invs., LLC*, 401 P.3d at  
4 731-32. (Emphasis Added). Similarly, in this instant matter, the HOA did not issue a new Notice  
5 of Lien after Borrower satisfied the superpriority portion of the assessment lien.

6 Finally, any argument by Saticoy Bay that it was a bona fide purchaser does not establish  
7 that the senior lien is extinguished under *Golden Hill*. The Nevada Supreme Court, when  
8 addressing the issue of “bona fide” purchaser, held that “[a]lthough appellant argues it was a  
9 bona fide purchaser, appellant has not explained how its putative BFP status could have revived  
10 the already-satisfied superpriority component of the HOA’s lien.” *Id.* at fn 1. Accordingly, due  
11 to the foregoing, Plaintiff continues to maintain a senior lien on the Property.

12  
13 **3. The Nevada Supreme Court has confirmed in the *Ikon* decision that the  
Superpriority Lien is equal to no more than nine months of assessments.**

14 On April 28, 2016, the Nevada Supreme Court issued an opinion in *Horizons at Seven*  
15 *Hills Homeowners Association v. Ikon Holdings, LLC*, 132 Nev. 362, 373 P.3d 66 (2016)  
16 (“*Ikon*”), clarifying that “the superpriority lien granted by NRS 116.3116(2) does not include an  
17 amount for collection fees and foreclosure costs incurred).

18 While the facts in *Ikon* differ slightly from those in the instant matter, the Nevada  
19 Supreme Court’s determination of what constitutes the “superpriority” portion of a lien is  
20 conclusive and this Court is bound by the decision. The Court held the superpriority lien could  
21 not include the collection fees and foreclosure costs, for those amounts were subordinate to the  
22 first deed of trust. Here, the partial payments of \$909.00 by Borrower were more than eight  
23 times the amount of the superpriority lien.

24 The *Ikon* Court reviewed both the legislative history of NRS 116.3116, as well as  
25 advisory opinions from the Nevada Real Estate Division, which concluded that “[t]he  
26 association’s lien does not include “costs of collecting” defined by NRS 116.310313, so the  
27 superpriority portion of the lien may not include such costs. NRS 116.310313 does not say such  
28 charges are a lien on the unit, and NRS 116.3116 does not make such charges part of the

1 association's lien." The *Ikon* Court then found that the Legislature intentionally excluded late  
2 fees and interest from the superpriority lien statute. Based on a consideration of the Legislature's  
3 intent, the statutory text of NRS 116.3116 and statutory construction principles, the Court  
4 concluded that "the superpriority lien granted by NRS 116.3116(2) does not include an amount  
5 for collection fees and foreclosure costs incurred; rather it is limited to an amount equal to the  
6 common expense assessments due during the nine months before foreclosure." In reaching this  
7 conclusion, the Court was careful to note the distinction with its finding in *Shadow Wood* that  
8 "the superpriority lien does not limit amounts due from a property owner to an HOA" for  
9 assessments and collection fees and costs arising after the association's sale.

10 The facts of this case, as evidenced by admissible evidence, reveal that Borrower paid an  
11 amount equal to almost eight times the superpriority amount to the HOA Trustee before the  
12 HOA Sale, and that amount was applied to the oldest outstanding assessments.<sup>39</sup> The  
13 superpriority lien was discharged before the HOA Sale, meaning Saticoy Bay could only have  
14 acquired a subordinate interest.

15 **4. In the alternative, the Court should conclude that the HOA wrongfully**  
16 **foreclosed upon a superpriority lien, and thus the HOA is liable for damages.**

17 If the Court does not deem that the HOA Sale was only a sub-priority foreclosure, then  
18 the HOA must be held liable for damages based on wrongful foreclosure. An action for the tort  
19 of wrongful foreclosure is established when "at the time the power of sale was exercised or the  
20 foreclosure occurred, no breach of condition or failure of performance existed . . . which would  
21 have authorized the foreclosure or exercise of the power of sale." *Collins v. Union Fed. Sav. &*  
22 *Loan Ass'n*, 99 Nev. 284, 304, 662 P.2d 610, 623 (1983). In this case, the undisputed facts  
23 establish that a superpriority lien did not exist at the time of the HOA Sale. Therefore, a  
24 superpriority lien sale was not permitted under NRS Chapter 116. Assuming *arguendo* that the  
25 HOA's foreclosure proceeding asserted a superpriority lien and operated to extinguish the Deed  
26 of Trust, then it was wrongful. Consequently, Plaintiff is entitled to an award of damages for its  
27  
28

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<sup>39</sup> See Exhibits 15-18; see also HOA Trustee Deposition, 86:10-14, Exhibit 9.

1 loss of the security interest in the amount of the Borrower's loan, the fair market value of the  
2 Property or the unpaid balance of the Borrower's loan, whichever is greater.

3  
4 **D. THE SALE IS VOID AS THE HOA, OR ITS AGENT, FAILED TO PROVIDE**  
5 **THE REQUISITE NOTICES TO MERS, MERS DID NOT RECEIVE NOTICE**  
6 **BY ALTERNATIVE MEANS, AND MERS WAS PREJUDICED.**

7 The Nevada Supreme Court held that under NRS 107.080 (2011), the sale is void to the  
8 extent it purports to extinguish the first position deed of trust if: (1) the HOA, or its agent, failed  
9 to provide the notices required by NRS Chapter 116 to a subordinate lienholder, (2) a  
10 subordinate lienholder did not receive timely notice by alternative means, and (3) the subordinate  
11 lienholder suffered prejudice. *U.S. Bank, Nat'l Ass'n ND v. Res. Grp., LLC*, 135 Nev. Ad. Op.  
12 26, 444 P.3d 442, 448 (2019) ("*Resources Group*"). It is clearly established that the HOA and  
13 the HOA Trustee failed to provide the requisite Notice of Default and Notice of Sale to MERS  
14 despite the HOA Trustee being fully aware of MER's interest in the Property and Deed of Trust.  
15 MERS was prejudiced by not being informed of the HOA sale.

16 **1. HOA failed to provide foreclosure notices pursuant to NRS Chapter 116.**

17 The Nevada Supreme Court has held that NRS 116.31168(1) incorporates NRS 107.090.  
18 NRS 116.31168(1) requires notice to subordinate interest holders.

19 NRS 116.31168 incorporates the notice requirements of NRS 107.090(3)(b) and  
20 (4), which mandate that notice of default and notice of sale go to "[e]ach . . .  
21 person with an interest whose interest or claimed interest is subordinate" to the  
22 lien being foreclosed, with or without a request therefor. Taken together, these  
23 statutes **require an HOA seeking to foreclose a superpriority lien to send the**  
**holder of a recorded first deed of trust notices of default and of sale**, even  
though the deed of trust holder has not formally requested them.

24 *Resources Group*, 444 P.3d at 445 (citing *SFR Invs. Pool 1, LLC v. Bank of New York Mellon*,  
25 134 Nev., Adv. Op. 58, 422 P.3d 1248 (2018)). Additionally, NRS 116.311635 (2013) provided,  
26 "[t]he association or other person conducting the sale shall also, after expiration of the 90 days  
27 and before selling the unit: (b) [m]ail, on or before the date of first publication or posting, a copy  
28

1 of the notice by certified or registered mail, return receipt requested, to: (2) [t]he holder of a  
2 recorded security interest . . . .”

3 “The Nevada Legislature has written NRS Chapter 116 to allow non-judicial foreclosure  
4 of HOA liens, **subject to the special notice requirements and protections handcrafted by the**  
5 **Legislature in NRS 116.31162 through NRS 116.31168.**” *Id.* at 417 (emphasis added).  
6 **Further, the HOA may only foreclose upon compliance with the statutory notice and timing**  
7 **rules including proper mailing of the recorded notices.** *Shadow Wood*, 366 P.3d at 1116  
8 (emphasis added). *See also Shadow Canyon*, 405 P.3d 641; *SFR Invs. Pool 1, LLC v. Bank of*  
9 *New York Mellon*, 422 P.3d at 1251-52 (observing that NRS 116.31168 incorporates NRS  
10 107.090, which requires that notices be sent to a deed of trust beneficiary). “To give statutorily  
11 compliant notice, [HOA Trustee] needed to send the notice of default to [MERS] at the address  
12 specified for it in its publicly recorded deed of trust.” *Resources Group*, 444 P.3d at 446.

13 In this matter, HOA Trust failed to give statutorily compliant notices to MERS, which is  
14 confirmed by the HOA Trustee. MERS: (1) was the beneficiary identified in the Deed of Trust,  
15 which is a recorded security interest encumbering the Property; (2) the Deed of Trust was  
16 recorded before the recordation of the Notice of Lien, Notice of Default and Notice of Sale; and  
17 (3) HOA Trustee obtained a trustee guarantee report, that identified MERS’s interest in the  
18 Property.

19 **2. MERS did not receive the Notice of Sale by alternative means.**

20 The HOA failed to fulfill its duty to mail by certified mail the Notice of Default and  
21 Notice of Sale to MERS as required by NRS 116.3116, rendering the HOA sale ineffective to  
22 displace the Deed of Trust. Through discovery copies of the certificate of mailing slips for the  
23 Notice of Default and Notice of Sale<sup>40</sup> were produced, corroborating the HOA Trustee’s  
24 testimony that the HOA Trustee did not mail the foreclosure notices to MERS. Red Rock’s  
25 NRCP 30(b)(6) witness, testified:

26 Q. Do you know if a copy of the NOD was mailed to MERS?  
27  
28

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<sup>40</sup> See Exhibits 8 and 14.

1 A. It does not appear that there was one mailed to MERS at the time.

2 Q. Do you know why not?

3 A. I would assume that they were not included on the ten-day mailer or our  
4 title report, so we would not know to contact them directly.

5 Q. During your time at Red Rock, have you ever seen copies of an HOA  
6 foreclosure notice mailed to MERS regarding other properties?

7 A. Yes.

8 Q. Would you say it's common in more than 50 percent of the time, or less  
9 than 50 percent?

10 A. I think 50 percent would probably be a good number there.<sup>41</sup>

11 . . . .

12 Q. So looking at these certificate of mailings, can you describe or tell me who  
13 the copy of the NOS was mailed to?

14 A. Yes. It looks like it was mailed to the State of Nevada Ombudsman. It  
15 was mailed to multiple different addresses for the homeowner. It was  
16 mailed to Indy Bank and to Wells Fargo.

17 Q. Are these all the parties that the recorded NOS was mailed to?

18 A. Yes, it would have been.

19 Q. Were there any mailings to MERS?

20 A. No.<sup>42</sup>

21  
22 The sale violates NRS Chapter 116.3116, *et seq.* because MERS never received the  
23 Notice of Default or the Notice of Sale either from the HOA or any alternative means. Clearly,  
24 the Deed of Trust cannot be extinguished from the Property as its holder never received a copy  
25 of the operative foreclosure notices, or had actual notice of the sale by any means.

26 **3. MERS was prejudiced by not receiving the foreclosure notices.**

27 The HOA failed to mail the Notice of Default and Notice of Sale to MERS and

28 <sup>41</sup> HOA Trustee Deposition, 54:7-22, Exhibit 9.

<sup>42</sup> HOA Trustee Deposition, 68:13-24, Exhibit 9.

1 performed the HOA sale prior to the execution of the Assignment to Plaintiff. As MERS was not  
2 provided the Notice of Default and Notice of Sale it was deprived of all of the requisite  
3 information contained in the foreclosure notices, including, but not limited to: (1) the existence  
4 of the HOA lien; (2) the sale date; (3) that the HOA was proceeding with the HOA Sale; (4)  
5 description of the deficiency in payment; and (5) the name and address of the person authorized  
6 by the association to enforce the lien by sale.

7 **E. HOA SALE WAS VOID BECAUSE THE PURCHASE PRICE WAS LESS THAN**  
8 **10% OF THE FAIR MARKET VALUE OF THE PROPERTY AND THERE IS**  
9 **EVIDENCE OF FRAUD, OPPRESSION, OR UNFAIRNESS.**

10 Nevada Supreme Court's decision in *Shadow Wood Homeowners Ass'n v. New York*  
11 *Cnty. Bancorp. Inc.*, 366 P.3d 1105, 1107, 132 Nev. Adv. Rep. 5 (2016) ("*Shadow Wood*")  
12 compels examination of the issue of inadequate price, accompanied with fraud, oppression, and  
13 unfairness, as grounds to set aside the HOA Sale. 132 Nev. Adv. Op. 5, 366 P.3d 1105. The  
14 Nevada Supreme Court provided additional clarity in *Nationstar Mortgage, LLC v. Saticoy Bay*  
15 *LLC Series 2227 Shadow Canyon*, 133 Nev. Adv. Op. 91, 405 P.3d 641 (Nov. 22, 2017)  
16 ("*Shadow Canyon*"), holding "mere inadequacy of price is not in itself sufficient to set aside the  
17 foreclosure sale, but it should be considered together with any alleged irregularities in the sale  
18 process to determine whether the sale was affected by fraud, unfairness, or oppression." *Id.* at  
19 648. The Court further explained "[t]hat does not mean, however, that sales price is wholly  
20 irrelevant, in this respect, we adhere to the observation in *Golden* that **where the inadequacy of**  
21 **the price is great**, a court may grant relief based on *slight evidence of fraud, unfairness, or*  
22 **oppression.**" *Id.* (emphasis added). The relationship is hydraulic: 'where the inadequacy is  
23 palpable and great, very slight additional evidence of unfairness or irregularity is sufficient to  
24 authorize the granting of the relief sought.' *Resources Group*, 444 P.3d at 448 (quoting *Golden*,  
25 387 P.2d at 995.)

26 Therefore, a property's fair market value and price disparity are relevant issues in the  
27 case at bar. The fair market value of the Property at the time of the HOA Sale was \$185,000<sup>43</sup>  
28 and the winning bid at the HOA Sale was \$17,400, **less than 10% of the Property's value**. This

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<sup>43</sup> See Plaintiff's Expert Report of Scott Dugan, Exhibit 20.



evidence is uncontroverted and, thus, the first prong of the analysis under *Shadow Wood* and *Shadow Canyon* is established. Due to the wide disparity between the fair market value and foreclosure sales price, the evidence of unfairness, fraud, or oppression need only be ever-so-slight in order for the HOA Sale to be declared invalid. In this case, Plaintiff has set forth clear evidence to support this second prong.

**First**, there is fraud, oppression and unfairness associated with the foreclosure sale because the HOA put the public on constructive notice in its CC&Rs—including Buyer, and other prospective bidders—that the HOA’s foreclosure would not disturb the first Deed of Trust. Further, the HOA Trustee Letters explicitly stated that “[t]he Association’s Lien for Delinquent Assessments is Junior only to the Senior Lender/Mortgage Holder.”<sup>44</sup>

*Shadow Canyon* provided specific examples of what does qualify as “unfairness”, noting in footnote 11 an example of such unfairness being “an HOA’s representation that the foreclosure sale will not extinguish the first deed of trust” *see ZYZZX2 v. Dizon*, 2016 LEXIS 39467 at \*5”, *Shadow Canyon*, 405 P.3d at 648, fn 11. Here, the Mortgage Protection Clause is similar to the example illustrated by the *Shadow Canyon* court in citing to the *ZYZZX2* case. Specifically, in *ZYZZX2*, the District Court held that:

In this case, the homeowner’s association represented to both the general public as well as Wells Fargo that the association’s foreclosure would not extinguish the first deed of trust. . . . The association sent a letter to Wells Fargo and other interested parties stating that its foreclosure would not affect the senior lender/mortgage holder’s lien. . . . Wells Fargo, consequently, had no notice from the association that its interest was at risk and that it should pay off the HOA loan.

Furthermore, the association's Declaration of Covenants, Conditions, Restrictions, Reservations and Easements for Monaco (the "Monaco Declaration") were publically available and expressly incorporated into the foreclosure deed. (Doc. #52, Exh. 4). The Monaco Declaration **contains a mortgage protection clause, which provides, in relevant part, that the association's lien is subordinate to any first security interest recorded prior to the association's notice of default.** (*Id.*). Plaintiff claims that because the law in question establishing the senior rights of a super-priority lien has “been on the books since 1991,” it is now entitled to the property free and clear of Wells Fargo’s interest, contrary to the manner in which the property was advertised prior to the sale. However, it is

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<sup>44</sup> See HOA Trustee Business Records, WFZ000326-27, Exhibit 11.

precisely because NRS 116.3116 has been “on the books since 1991” that the association’s statements concerning the title it would convey render the sale “unfair.” Plaintiff cannot have it both ways; if the HOA has always had a superpriority lien pursuant to NRS 116.3116, then [\*14] it affirmatively misrepresented the title to Wells Fargo and the public. The association’s notice to Wells Fargo and the information it conveyed to potential buyers was legally inaccurate and resulted in an unreasonably low sale price. Wells Fargo had no opportunity to cure Dizon’s delinquency. Higher bidders were dissuaded from offering a commercially reasonable price based on the assertions that they would take title subject to the mortgage loan. This defect in sale, coupled with a disproportionately low price, demonstrates that the foreclosure was unfair and commercially unreasonable. Plaintiff therefore fails to establish its claim to quiet title under the two part test laid out in *Shadow Wood* and *Long*. *Shadow Wood*, 132 Nev. Adv. Op. at \*6; *Long v. Towne*, 639 P.2d at 530.

ZYZZX2, 2016 LEXIS 39467, at \*13-14. (Emphasis Added.)

Pursuant to *Shadow Canyon* and ZYZZX2, the HOA’s sale unreasonably low sales price combined with the existence of the CC&R’s Mortgage Protection Clause and HOA Trustee Letters advising the Lender that the HOA Sale would not affect the Deed of Trust satisfies the “price + fraud, oppression or unfairness standard,” rendering the HOA Sale invalid—or, at a minimum, that it was valid, but did not extinguish the Deed of Trust.

**Second**, the Borrower paid an amount equal to almost eight times the superpriority amount to the HOA Trustee before the HOA Sale, and that amount was applied to the oldest outstanding assessments.<sup>45</sup> The superpriority portion of the HOA lien was discharged before the HOA Sale, meaning Saticoy Bay could only have acquired a subordinate interest.

**Third**, neither Monaco nor the HOA Trustee mailed the Notice of Default or Notice of Sale to MERS, despite the fact that it was the beneficiary of record under the Deed of Trust.

NRS 116.31168 incorporates the notice requirements of NRS 107.090(3)(b) and (4), which mandate that notice of default and notice of sale go to “[e]ach . . . person with an interest whose interest or claimed interest is subordinate” to the lien being foreclosed, with or without a request therefor. Taken together, these statutes **require an HOA seeking to foreclose a superpriority lien to send the holder of a recorded first deed of trust notices of default and of sale**, even though the deed of trust holder has not formally requested them.

*Resources Group*, 444 P.3d at 445 (emphasis added) (quoting *SFR Invs. Pool 1, LLC v. U.S. Bank, N.A.*, 334 P.3d at 411.

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<sup>45</sup> See Exhibits 15-18; see also HOA Trustee Deposition, 86:10-14, Exhibit 9.

1       *Saticoy Bay Shadow Canyon* “[w]hile not an exhaustive list, irregularities that may rise to  
2 the level of fraud, unfairness, or oppression include an HOA's failure to mail a deed of trust  
3 beneficiary the statutorily required notices, *see SFR Invs. Pool 1, LLC v. U.S. Bank, N.A.*, 130  
4 Nev., Adv. Op. 75, 334 P.3d 408, 418 (2014).

5       In this matter, the Deed of Trust clearly stated that the beneficial interest was held by  
6 MERS. Yet Monaco failed to provide MERS with any foreclosure notice in violation of Nevada  
7 law.

8       Consequently the HOA Sale did not comply with the statute and was defective, and,  
9 therefore, the sale did not extinguish the First Deed of Trust.

10       Prior to the recordation of the Notice of Default and Notice of Sale, Monaco had actual  
11 knowledge, based upon its receipt of the Deed of Trust, that MERS was the beneficiary under the  
12 Deed of Trust. Monaco had an obligation to provide MERS a copy of the Notice of Default and  
13 Notice of Sale and an opportunity to satisfy the lien. Through discovery, Plaintiff obtained copies  
14 of the certificate of mailing slips for the Notice of Default and Notice of Sale, which support the  
15 fact that neither Monaco nor the HOA Trustee mailed these notice to MERS.<sup>46</sup>

16       As set forth by this Court in the Order, the sale violates NRS Chapter 116.3116, et seq.  
17 because MERS never received the Notice of Default and Notice of Sale.

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<sup>46</sup> See Exhibits 8 and 14

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**VI. CONCLUSION**

For the reasons stated above, Plaintiff's Motion for Summary Judgment should be granted.

DATED this 28<sup>th</sup> day of October, 2019.

WRIGHT, FINLAY & ZAK, LLP

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*Attorney for Defendant/Counterclaimant, Wells  
Fargo Bank, National Association, as Trustee for  
the Structured Adjustable Rate Mortgage Loan  
Trust, Pass-Through Certificates Series 2005-11*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of WRIGHT, FINLAY & ZAK,  
3 LLP, and that on this 28<sup>th</sup> day of October, 2019, I did cause a true copy of the foregoing **WELLS**  
4 **FARGO BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE STRUCTURED**  
5 **ADJUSTABLE RATE MORTGAGE LOAN TRUST, PASS-THROUGH CERTIFICATES**  
6 **SERIES 2005-11'S MOTION FOR SUMMARY JUDGMENT** to be e-filed and e-served  
7 through the Eighth Judicial District EFP system pursuant to NEFCR 9 and by HAND DELIVER  
8 as follows:

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# **EXHIBIT 1**

# **EXHIBIT 1**

RE-RECORDED

980923.01097

Re-recorded to attach  
exhibits A, A-1 and B

*[Signature]*

70

DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS, RESERVATIONS AND EASEMENTS  
FOR  
MONACO

980921.02422

980923.01097



DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS, RESERVATIONS AND EASEMENTS  
FOR  
MONACO



DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS, RESERVATIONS AND EASEMENTS  
FOR  
MONACO

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EXHIBITS:

- A - Description of Property
- A-1 - Description of Annexable Property
- B - Description of Initial Association Property

DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS, RESERVATIONS, AND EASEMENTS  
FOR  
MONACO

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, AND EASEMENTS FOR MONACO ("Declaration"), executed by LEWIS HOMES - CARLYLE VENTURE, L.L.C., a Nevada limited liability company ("Declarant"), is dated September 16, 1998, for reference purposes and made with respect to the following recitals:

PREAMBLE

- A. Declarant is the (i) fee owner of certain real property in the County of Clark ("County"), State of Nevada, more particularly described in Exhibit "A" attached hereto and incorporated herein (the "Property"). Declarant is also the fee owner of certain additional real property described in Exhibit "A-1" attached hereto adjacent to the Property (the "Annexable Property"). Reference to Property herein shall mean and include the land described in Exhibit "A" and those portions of the Annexable Property following annexation thereof in accordance with Article 13 of this Declaration.
- B. All of the land encompassed within the Property and the Annexable Property is generally referred to as "MONACO". Declarant intends, but is not obligated, to develop and improve all of such land of MONACO on an incremental or staged basis as a residential community containing a maximum of one thousand three hundred thirty-seven (1,337) single-family residences (the "Project") consistent with municipal governmental approvals and entitlements granted by the County.
- C. Currently, certain limited portions of the Project comprised of parkway areas are required by the County, as a condition to County's approval of the Project, to be improved by Declarant, offered for dedication to the County, and maintained by a non-profit corporation ("Association") to be established by Declarant hereunder, which parkway areas, together with any other common real property areas or improvements within the Project which Declarant may elect to improve and convey to the Association for the common use and/or benefit of the residents of the Project, are designated and described herein as the "Association Property".
- D. The development of the Project is intended to be consistent with the Monaco master development plan per Zone Change ZC-1270-97 and Tentative Subdivision Map TM 0207-97 provided Declarant is not obligated to complete any of the Project, and Declarant specifically reserves the right to modify, cancel, or add additional real property to the current plan of development, to apply for and institute other land uses on the subject lands, and to sell, lease, option, abandon, or otherwise use or neglect to use such lands.
- E. In the event the County, or any other public or quasi-public agency or district, including, without limitation, a general, local, or special improvement district, or landscape maintenance district, accepts the conveyance of, and assumes all of the Association's rights and obligations in and to, the Association Property, the

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Association shall be dissolved and all covenants, conditions, and restrictions concerning the Association and/or Association Property shall cease to be of any force or effect; the remaining provisions of this Declaration shall continue to be in full force and effect. If such dedication and assumption by the County is subject to revocation by the County, then the Association shall not be dissolved but instead shall be deemed inactive and all of Association's rights and obligations hereunder and under its Articles and Bylaws, together with all covenants, conditions, and restrictions herein concerning the Association or Association Property, shall be suspended unless and until the County revokes such dedication and/or assumption.

- F. Subject to Recital E above, Declarant intends that all of the Property (and all portions of the Annexable Property annexed hereto) shall be subject to (i) this Declaration and be a part of the general plan for the development, maintenance, care, use, and management of the Property, and (ii) certain protective covenants, conditions, restrictions, reservations, limitations, easements, equitable servitudes, liens, charges, and assessment rights and obligations running with the Property as herein set forth.

NOW, THEREFORE, Declarant hereby declares that the Property (and Annexable Property if and when annexed hereunder) shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, developed, and improved subject to the following easements, reservations, restrictions, covenants, conditions, limitations, architectural controls, liens, charges, assessment rights and obligations, representational and voting rights, and equitable servitudes, all of which are for the purpose of enhancing and protecting the value, attractiveness, and desirability of the Property, establishing a uniform scheme for the orderly, harmonious, and aesthetically pleasing creation of MONACO, and protecting and guaranteeing Declarant's right to control and regulate the use, maintenance, and improvement of the Property during Declarant's development of the Project. The covenants, conditions, restrictions, reservations, limitations, easements, architectural controls, liens, charges, assessment rights and obligations, representational and voting rights, and equitable servitudes set forth herein shall (i) run with the Property and shall be binding upon all persons having any right, title, or interest in the Property, or any portion thereof, whether by fee title, leasehold, license, or otherwise, and upon their heirs, executors, administrators, legal representatives, successors, and assigns; (ii) inure to the benefit of every portion of the Property and interest therein; and (iii) inure to the benefit of and be binding upon Declarant, its successors and assigns, and each Owner or other enumerated party and his, her, or its respective successors-in-interest as aforesaid. To the extent the Project is deemed to be a common-interest community under Chapter 116 of the Nevada Revised Statutes ("NRS"), the Project shall be deemed to be a limited expense planned community under NRS Sections 116.110368 and 116.1203(1)(b) and subject only to the minimum Sections of Chapter 116 required by Section 116.1203(1)(b) unless otherwise expressly stated in this Declaration. To the fullest extent permitted by law, the Project shall cease to be a common-interest community and/or planned community upon the County's assumption of the responsibility for maintenance of the Association Property as provided in Recital E.

#### ARTICLE 1 DEFINITIONS

Unless otherwise expressly provided, the following words and phrases when used in this Declaration shall have the respective meaning herein specified:

- 1.1 **"Annexable Property"** shall mean the real property described in Exhibit "A-1" attached hereto, together with any additional real property added thereto by Declarant as permitted by NRS Chapter 116 or other applicable laws, including, without limitation, NRS Section 116.2122, all or any portion of which may from time-to-time be made subject hereto by Declarant pursuant to the provisions of Article 13 herein entitled "Annexation".
- 1.2 **"Architectural Committee"** shall mean the Architectural Committee created pursuant to Article 10 herein entitled "Architectural Control".
- 1.3 **"Area"** or **"Areas"** shall mean any portion of land within the Property that is other than a Lot, Development Tract, or Association Property (all as defined below) and may or may not be a legal lot. "Other Area" shall have the same meaning as the word "Area".
- 1.4 **"Articles"** shall mean the Articles of Incorporation of the MONACO LANDSCAPE MAINTENANCE ASSOCIATION, INC., a Nevada non-profit corporation, as filed, or to be filed, in the Office of the Secretary of State of the State of Nevada, as may be amended from time-to-time.
- 1.5 **"Assessments"** shall mean those charges levied against each Lot or Development Tract within the Property representing a portion of the total costs of owning, maintaining, improving, repairing, replacing, managing, and operating the Association and the Association Property which are to be paid by each Owner to the Association, as provided herein, and may include, without limitation, funds for capital reserve and replacement requirements of the Association, as well as funds to provide working capital and to pay the ordinary expenses of the Association. "Regular Assessments" may be collected semi-annually or on such other periodic basis as determined by the Board; "Special Assessment" may be collected as necessary to supplement the Regular Assessments; and a "Working Capital Assessment" may be collected to fund initial operating and capital requirements of the Association, all as provided in Article 8 herein.
- 1.6 **"Association"** shall mean the MONACO LANDSCAPE MAINTENANCE ASSOCIATION, INC., a Nevada non-profit corporation, composed of all the Owners
- 1.7 **"Association Property"** shall mean (i) those certain parkway and drainage areas within the Property and Improvements therein required by the County as a condition to approval of the Project, which Improvements may include, without limitation, landscaping, sidewalks, Perimeter Walls, and Project entry monumentation (ii) certain Specimen Trees and or other Entry Improvements (as defined in Section 3.13) to be installed by Declarant within certain of the Lots, and (iii) any other common real property areas within the Property or common Improvements which Declarant may elect to improve and/or convey to the Association for the common use and benefit of the Owners, all as designated on any subdivision map or plat Recorded by Declarant for the Property or any portion thereof, and/or as identified in this Declaration, in any amendment to this Declaration, or in any Declaration of Annexation Recorded pursuant to Article 13 hereof, or in any Deed to the Property, or any part thereof, executed by Declarant. After Recordation of a Declaration of Annexation for such Association Property by Declarant and conveyance of title in, or grant (or assignment) of easement (or other right of access) to such

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Association Property to the Association, the Association Property shall be maintained by the Association in accordance with this Declaration.

- 1.8 **"Association Rules"** means any rules adopted by the Board to implement the provisions of this Declaration which concern the Association or the Association Property in accordance with the Bylaws.
- 1.9 **"Beneficiary"** shall mean a mortgagee under a mortgage or a beneficiary under a deed of trust, as the case may be, and the assignees of such mortgagee or beneficiary.
- 1.10 **"Board"** shall mean the Board of Directors of the Association elected in accordance with the Bylaws of the Association and this Declaration.
- 1.11 **"Builder"** shall mean a Person who is an Owner and who has acquired a Development Tract from Declarant for the purpose of constructing Residences and other amenities incidental thereto upon the Lots established, or to be established, within the Development Tract and thereafter renting, leasing, and/or selling such Residences. "Developer" shall have the same meaning as "Builder".
- 1.12 **"Bylaws"** shall mean the Bylaws of the Association as such Bylaws may be amended from time-to-time.
- 1.13 **"Common Expenses"** means expenditures made by, or financial liabilities of, the Association and incurred as required or permitted by this Declaration, the Articles, or the Bylaws, including, without limitation, the costs of owning, maintaining, managing, operating, repairing, and replacing the Association and the Association Property, together with any allocations to reserves.
- 1.14 **"Construction Activities"** mean any construction (new, renovated, or remodeled) activity, additions, alterations, grading, filling, excavations, and all other development and construction type activities as more particularly detailed in Article 10 hereof entitled "Architectural Control".
- 1.15 **"County"** shall mean the County of Clark, Nevada.
- 1.16 **"Declarant"** shall mean and refer to LEWIS HOMES - CARLYLE VENTURE, L.L.C., a Nevada limited liability company, and its successors and assigns so designated in a written instrument Recorded by Declarant expressly appointing such successors or assigns as the Declarant.
- 1.17 **"Declaration"** shall mean this Declaration of Covenants, Conditions, Restrictions, Reservations, and Easements, as the same may be amended from time to time.
- 1.18 **"Deed of Trust"** shall mean any mortgage or deed of trust or other conveyance of a Lot, Development Tract, or Other Area within the Property to secure the performance of an obligation, which conveyance will be reconveyed or released upon the completion of such performance. The term "Mortgage" when used herein shall be synonymous with the term "Deed of Trust".

- 1.19 **"Design Guidelines"** shall mean any rules, regulations, or guidelines which may be adopted by the County, Declarant, or the Architectural Committee from time to time and which provide criteria for the construction, maintenance, repair, removal, and/or modification of Improvements within the Property. Except for Design Guidelines adopted by the County, in the event of any discrepancy or conflict between the Design Guidelines and this Declaration, the provisions of this Declaration shall prevail.
- 1.20 **"Developer"** shall have the same meaning as "Builder".
- 1.21 **"Development Tract"** shall mean an area within the Property, or portion thereof, that is, or is intended to be, established as a legal subdivision composed, or to be composed, of five (5) or more Lots, and to be developed and built upon by a Builder or Developer.
- 1.22 **"Family"** shall mean (i) a group of natural Persons related to each other by blood or legally related to each other by marriage or adoption, or (ii) a group of natural Persons not all so related who maintain a common household in a Residence on a Lot.
- 1.23 **"Governing Documents"** means this Declaration, the Articles, the Bylaws, any Association Rules, and any other documents that govern the operation of the Association.
- 1.24 **"Improvement"** shall mean all structures, buildings, and appurtenances related thereto of every type and kind, including but not limited to, buildings and structures; walkways, paths, and trails; garages and carports; decks and patio covers; roads, driveways, parking areas, sidewalks and pavement; street lights; exterior stairways and landings; pools; mail and other kiosks; trash receptacles; grading; excavation, fill or similar variance from established grade(s) of a Lot, Development Tract, or Other Area within the Property; entry monumentation and related features; fences and walls; stairs, decks, and windbreaks; landscaping of any and all types and kinds, hedges, plantings, planted trees and shrubs; sprinkler pipes and heads; drainage facilities; and all other exterior fixtures and/or equipment. Improvements shall also mean and refer to all additions and/or modifications to the exterior of an Improvement, including, but not limited to, (i) painting or staining the exterior surface of any Improvement; (ii) changing the roofing material on any Improvement; and/or (iii) building, constructing, installing, altering, or replacing, as the case may be, any of the aforesaid.
- 1.25 **"Included Property"** shall mean those portion(s) of the Annexable Property from time to time made subject to this Declaration as provided in Article 13 hereof entitled "Annexation".
- 1.26 **"Land Use Classification"** shall mean the land use or zoning classification or other related or similar designation granted by the County under its Ordinances for the Property, or any portions thereof.
- 1.27 **"Lot"** shall mean any legal, subdivided lot of land within the Property shown upon any Recorded subdivision map or parcel map intended for the development, use, and occupancy of a Residence. A Lot may contain Improvements thereon. The term "Lot" as used herein shall further be

deemed to have the same meaning as "Unit" in Chapter 116 of the Nevada Revised Statutes, Section 116.11039.

- 1.28 **"Maintenance Funds"** shall mean the accounts created for the receipt and disbursement of the funds of the Association pursuant to Article 9 hereof entitled "The Association: Use of Funds".
- 1.29 **"Manager"** shall mean any person, firm, or agent, whether an employee or independent contractor, employed or engaged by the Association pursuant to the Bylaws and this Declaration, and delegated any of the duties, powers, and/or functions of the Association as limited by this Declaration and the Bylaws.
- 1.30 **"Member"** shall mean every Owner (including Declarant and any Builder) who holds a membership in the Association pursuant to this Declaration, the Articles, and Bylaws. Member applies only to Owners of Lots or Development Tracts.
- 1.31 **"Mortgage"** shall mean any mortgage or deed of trust or other conveyance of a Lot, Development Tract, or Other Area within the Property to secure the performance of an obligation, which conveyance will be reconveyed or released upon the completion of such performance. The term "Deed of Trust" when used shall be synonymous with the term "Mortgage".
- 1.32 **"Notice and Hearing"** shall mean written notice and a hearing before the Board, or the Architectural Committee, as applicable, at which the Owner (or party) concerned shall have an opportunity to be heard in the manner provided in this Declaration or the Bylaws.
- 1.33 **"Ordinances"** shall mean the Ordinances of the County of Clark, Nevada, including all codes, regulations and other municipal enactments.
- 1.34 **"Owner"** shall mean the Person or Persons, including Declarant, holding a fee simple interest to a Lot, Development Tract, or Area which is a part of the Property, but excluding those persons holding title only as security for the performance of an obligation other than sellers under installment land sale contracts. Owner shall include a Builder or Developer.
- 1.35 **"Perimeter Walls"** shall mean walls or fences improved by Declarant and located within the parkway areas that are part of the Association Property. Except as set forth in Section 3.12 herein, the Perimeter Walls shall be maintained by the Association.
- 1.36 **"Person"** shall mean a natural individual, a corporation, partnership, trust, limited liability company, or any other legal entity as recognized by Nevada law.
- 1.37 **"Phase"** shall mean a portion of the Annexable Property made subject to this Declaration. The initial Property subject hereto shall be considered a Phase.
- 1.38 **"Project"** shall mean the Property and all portions of the Annexable Property annexed hereto, improved pursuant to the Monaco Project Plan. The Project (inclusive of the Property and all Annexable Property) may contain a maximum of one thousand three hundred thirty-seven (1,337) Lots.

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- 1.39 "Project Plan" shall mean the master plan of development for the Project as set forth on the Monaco master development plan per Zone Change ZC-1270-97 and Tentative Subdivision Map No. TM 0207-97, as may be amended from time to time by Declarant.
- 1.40 "Property" shall mean all of that real property described in Exhibit "A" and any and all additions from time to time made thereto of the Annexable Property as permitted by this Declaration, including the Association Property.
- 1.41 "Record", "Recorded", "Filed", and "Recordation" shall mean, with respect to any document, the recordation or filing of such document in the Office of the Recorder of Clark County, Nevada.
- 1.42 "Residence" shall mean a dwelling located on a Lot intended for occupancy by a Family.
- 1.43 "Specimen Trees" means those certain trees which may be installed by Declarant within certain of the Lots and maintained by the Association as set forth in Section 3.13 herein.
- 1.44 "Supplemental Declaration" shall mean any declaration of covenants, conditions, restrictions, reservations, and easements or similar document supplementing this Declaration which is Recorded.
- 1.45 "Voting Power" shall mean the total number of votes that are eligible to be cast by all the Members.

ARTICLE 2  
PROPERTY: DEVELOPMENT, OPERATION AND EFFECT

- 2.1 Development in General/Declarant Rights. Declarant intends that the Property, and all portions of the Annexable Property annexed hereto, shall be developed (i) consistent with the Project Plan, as the same may from time to time be modified by Declarant, in its sole discretion, with the approval of the County and any other governmental agencies having relevant jurisdiction thereof, (ii) the Design Guidelines, if adopted (iii) this Declaration, and (iv) the Ordinances of the County, and (v) any Association Rules adopted by the Board as provided in the Bylaws. Declarant intends to subdivide, improve, and develop the Property or portions thereof in stages, Phases, or increments over an extended period of time. Such actions on the part of Declarant may include, without limitation, the overall mass grading of the Property, installation of infrastructure, water, sewer, drainage, and other public improvements and utilities, improvement and landscaping of Association Property, and construction of Residences and incidental Improvements. Declarant may elect, from time to time, to contract to sell, option to sell, sell, or lease all or portions of the Property to one or more Developers or Builders for the building of Improvements respectively on portions of the Property. Without limiting the foregoing, and except as otherwise provided to the contrary herein, Declarant reserves, for its benefit, as to the Property and Annexable Property, (a) all Development Rights set forth in NRS Section 116.11034, including, without limitation, the rights set forth in Article 13 herein and the rights set forth in NRS Section 116.2122, and (b) all Special Declarant's Rights set forth in NRS Section 116.110385. Unless otherwise expressly provided herein, the time for Declarant's exercise of such

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Development Rights and Special Declarant Rights shall commence upon recordation of the Declaration and expire on the fifteenth (15th) anniversary of such Recordation. Except as otherwise expressly provided herein, Declarant may exercise such Development Rights and/or Special Declarant Rights with respect to any portion of the Property or Annexable Property and at different times; Declarant makes no assurances regarding the order in which such portions of the Property or Annexable Property will be subjected to the exercise of such rights or regarding the property boundaries of such portions of the Property or Annexable Property (except the legal descriptions thereof set forth in Exhibits A and A-1 hereto). Except as otherwise expressly provided herein, Declarant may further exercise any Development Right(s) as to any portion of the Property or Annexable Property without exercising such right(s) in all or in any other portions of the Property or Annexable Property.

- 2.2 Association Responsibilities. The sole purpose of the Association is to provide for the maintenance, repair, improvement, upkeep, replacement, preservation, and day-to-day operation of the Association Property as further set forth in Article 6. The Association Property initially includes those parkway areas, including any Perimeter Walls located therein, together with any Specimen Trees, all as identified on Exhibit "B" attached hereto. The Association Property shall thereafter include any additional parkway areas (including any Perimeter Walls located therein) within the Annexable Property as required by the County, together with any other common real property areas and/or Improvements within the Project, including, without limitation, any additional Specimen Trees, which Declarant may elect to improve, annex, and convey to the Association for the common use and/or benefit of the Owners of the Property, as provided in Section 1.7 and Article 13. The Association's responsibility to maintain any Association Property shall commence when Declarant Records a Declaration of Annexation covering such property in accordance with Article 13 and conveys title or grants (or assigns) an easement (or other right of access) to such Association Property to the Association. Until such Recordation and conveyance or grant, the Declarant shall maintain any such property at Declarant's cost and expense.
- 2.3 Effect. This Declaration is intended and shall apply to (a) all of the Property described on Exhibit "A", (b) all of the Association Property described on Exhibit "B", and (c) those portions of the Annexable Property described in Exhibit "A-1" added hereto from time to time pursuant to Article 13.

**ARTICLE 3**  
**PROPERTY: USE RESTRICTIONS AND LIMITATIONS**

Subject to the exemptions of Declarant as set forth in this Declaration, the Ordinances and approvals of the County, and the limitations as set forth in Article 15 hereof entitled "Mortgagee Projection", respectively, all real property within the Property shall be held, developed, leased, rented, sold, used, occupied, and enjoyed subject to the following limitations and restrictions:

- 3.1 No Violation of Law. Nothing shall be done or kept in or on the Property which would be in violation of any law, Ordinance, or this Declaration.
- 3.2 Noxious Activity: Animals. No noxious or offensive activity or noise shall be carried on upon any Lot nor anything be done thereon which may be or may become an annoyance or nuisance to any Owners. No animals or fowl, other

than household pets, shall be kept or maintained on the Property or any portion thereof, and none shall be kept, maintained, or raised within the Property for commercial purposes.

- 3.3 **No Institutional Use.** No Residence may be used for a public boarding house, sanitarium, hospital, asylum, or institution of any kindred nature, or any use not permitted by local law.
- 3.4 **No Mining or Drilling.** No derrick or other structure designed for use in boring, mining, or quarrying for oil, natural gas, or precious metals shall ever be erected, maintained, or permitted upon the surface of any Lot, nor shall any boring, mining, quarrying or similar operations be performed within five hundred (500) feet of the surface of the Property except, however, that use by the Declarant of any geothermal energy source shall not be prohibited by this Section.
- 3.5 **No Electrical Interference.** No electronic devices which may unreasonably interfere with television or radio reception of any Owner shall be located, used, or placed on any portion of the Property.
- 3.6 **Off-Road Vehicles.** No unlicensed motor vehicles, inoperative motor vehicles, long term parked vehicles (long term means typically not moved at least once a week), or boats shall be placed or located in the driveway or front yard area of any Lot, or in any side yard area in front of that line created by extending the front of the residence footprint to the side property lines. Without limiting the foregoing, no Person shall park (other than temporarily while providing a service for a Lot), store, or keep on any street within the Property any large commercial type vehicle (including, but not limited to, any dump truck, cement mixer truck, oil or gas truck, or delivery truck).
- 3.7 **Sight-Line Limitations.** No fence, wall, hedge, or shrub planting which obstructs sightlines at elevations between two (2) and six (6) feet above the roadways within the Property shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or, in the case of a round property corner, from the intersection of the street property lines extended. The same sightline limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sightlines.
- 3.8 **Slopes.** Each Owner of a Lot agrees that he will permit free access by Owners of adjacent or adjoining Lots to slopes or drainage ways located on his Lot, which affect said adjacent or adjoining Lots, when such access is reasonably necessary for the maintenance or permanent stabilization of said slopes, or maintenance of the drainage facilities for the protection and use of property other than the Lot on which the slope or drainage way is located.
- 3.9 **Drainage.** Each Owner of a Lot agrees that he will accept the burden of, and not in any way interfere with, the established drainage pattern over his Lot or from adjoining or other Lots over his Lot, or in the event it is necessary to change the established drainage, that he will make adequate provisions for proper drainage over his Lot. No structure or other material, including a wall

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or fence, shall be placed or permitted to remain which may damage, interfere with, obstruct, or retard the flow of water through drainage channels, or which may change the direction of flow of such channels. Without limiting the foregoing, each Owner shall use his reasonable efforts to prevent surface drainage on his Lot from accumulating behind a wall or fence in order to prevent or minimize the penetration of such water through or under the wall or fence and any staining of such wall or fence. For the purposes of this Declaration, "established" drainage is defined as the drainage which occurred at the time the overall grading of the Property, including, if applicable, the landscaping of each Lot within the Property, was completed by Declarant.

- 3.9.1 If water drains toward the house or ponds against a Residence, there is a possibility for damage to the structure. Each Owner shall be responsible to maintain all grading, landscaping, and hardscaping in such a manner as to keep water away from the foundation of the Owner's Residence.
- 3.9.2 Each Owner of a Lot agrees, as a part of the acceptance of the burden of the established drainage pattern over his Lot from adjoining or other Lots, to maintain any yard drain inlet and all other drainage features and improvements located on his Lot in a clean and fully functioning state, unblocked and free of silt and debris.
- 3.9.3 Each Owner of a Lot agrees that in the event any slopes located on his Lot have been planted for stabilization of said slope or slopes and/or to comply with jurisdictional agencies' requirements, Owner shall adequately water and continuously maintain said slope or slopes.
- 3.9.4 Each Owner of a Lot agrees that in the event that any slopes or other area(s) located on said Owner's Lot or elsewhere in the Property have had rip-rap, ground cover, or any other stabilization technique installed for the purpose of stabilization of slopes and/or as part of the drainage system for the Property, the Owner shall take no action that will remove, dislocate, wash out, cover up, or in any other way disturb or interfere with the proper functioning or installation of such material. This provision includes the installation, and/or maintenance of block walls and/or wood fences, including all retaining walls. Further, Owner agrees to restore said material to its condition when originally installed if any material is damaged, dislocated, or has its functioning impaired in any other way.
- 3.9.5 In the event that an Owner of a Lot alters the grading of his Lot within five feet of its property line, and this alteration results in a slope steeper than one foot vertically to three feet horizontal, that slope must be stabilized mechanically in order to protect the adjoining Lot. However, nothing in this Section shall be construed to prevent any such alteration in any manner, with or without retaining walls, by the Declarant, in carrying out the development and improvement of the Property.

3.9.6 Each Owner agrees to comply with and assume responsibility for anything done or required to be done in compliance with the plans filed by Declarant with respect to the National Pollutant Discharge Elimination System (NPDES) and Declarant's Storm Water Pollution Prevention Plan (SWPPP). Each Owner shall assume all responsibility and liability relating to the prevention of pollutant discharge, including soil materials, from such Owner's Lot.

3.10 Landscaping. Each Owner of a Lot agrees to install landscaping within nine (9) months on his Lot and to keep and maintain it so as to prevent erosion and to present an attractive and pleasing appearance at all times.

3.11 Declarant's Access. Each Owner of a Lot agrees that he will permit free access upon such Lot by Declarant for the purpose of remedying any default under, or enforcing any provision of, this Declaration, and Declarant shall have the right, but not the obligation, to take affirmative action pursuant to this Section. Each Owner further agrees to permit Declarant, its successors or assigns, to enter onto such Owner's Lot and to add or remove earth therefrom in order to comply with grading plans approved by any authorized local agency, which plans apply to the Property or any of the Annexable Property owned by Declarant, its successors or assigns.

3.12 Walls and Fences. Subject to the terms of this Section 3.12, each Owner of a Lot upon which all or a portion of a wall and or fence may be located, agrees to maintain, paint, and repair as needed said walls and/or fences. Without limiting the foregoing, each Owner of a Lot, Development Tract, or Other Area bounded by a Perimeter Wall constructed between such Owner's property and an exterior boundary street, Association Property, or property not part of the Project, shall be responsible for maintaining the interior portion of said Perimeter Wall in good condition and state of repair, and by acceptance of a deed to such Owner's Lot, agrees to so perform such maintenance and repair. The maintenance of the exterior portion of the Perimeter Walls, together with the repair or replacement of such Perimeter Walls (except for damage caused by the Owner of the Lot adjacent to such Perimeter Wall), shall be the responsibility of the Association and shall be a Common Expense of the Association. All fences or walls located on the boundary line between a Lot and another Lot shall be deemed to be "common walls" and constructed and maintained in good condition and repair at the joint cost and expense of the respective adjacent Owners. All other fences or walls not described above and located on the boundary line of a Lot shall be maintained in good condition and repair at the sole cost and expense of the Owner of such Lot.

3.13 Entry Monumentation/Specimen Trees. Declarant reserves the right and easement, for the benefit of Declarant, Association, and their respective successors and assigns, without any obligation or duty to do so, in, over, and under the Lots, including the right of reasonable ingress and egress, to install, maintain, repair, replace and/or remove landscaping, including any Specimen Trees, and/or entry monumentation which identifies the Project, including any incidental improvements related thereto such as irrigation, drainage, or lighting improvements (collectively the "Entry Improvements"). Grantee shall not take or permit others to take, any action that would damage, change, or modify the Entry Improvements during the term of this easement and shall not modify, trim, cut, damage, remove, relocate or otherwise tamper with the



Entry Improvements, without written consent of Declarant or the Board. This easement and right shall continue unless and until the Recordation of a quitclaim deed by Declarant or Association releasing its rights under this easement, whereupon the Entry Improvements shall cease to be Association Property and the terms of this Section 3.13 (and all other provisions of this Declaration concerning the Entry Improvements), shall cease to be of any force or effect.

- 3.14 **Declarant Indemnity.** Each Owner shall indemnify, defend, and hold harmless Declarant from any loss, liability, or expense related to damage to any public Improvements, utility Improvements, Entry Improvements, or Association Property caused by such Owner, its agent, contractor, employees, or guests. This indemnity shall apply prior to acceptance of any Improvements by jurisdictional agencies, utilities, or the Association and release of any financial security provided by Declarant, and at any time thereafter for which Declarant may be held responsible or liable.

Each Owner is advised that Declarant is often held financially responsible for damage to such Improvements even after transfer of title to a jurisdictional agency, utility or the Association and conveyance of Lots to Owners. Also, even if not financially responsible, release of financial security provided by Declarant for such things as recordation of final maps is often held up pending repair of such Improvements. Examples of instances where this provision may apply are damage to sidewalks, drive approaches, curb and gutter, or landscape areas caused by an Owner's landscaping activity, moving vans, or swimming pool construction. If, in the determination of the Declarant in its sole discretion, such repair work is not performed in a timely manner, Declarant or its assigns may perform such repair work. Such Owner(s) shall reimburse Declarant for all expenses incurred in repairing such damage in an amount equal to the sum of such expenses plus interest at an annual rate equal to the lesser of ten percent (10%) per annum or the maximum interest rate that can be charged by law. Interest shall begin on the day on which such work is deemed by Declarant, in its sole discretion, to be complete. Such reimbursement shall be due and payable upon written demand by Declarant.

- 3.15 **Damage.** In the event of any damage to any wall, fence, or landscaping on or adjacent to an Owner's Lot for which it is the Owner's responsibility to repair or replace, such repair or replacement shall be done in a timely manner and shall as much as practical be similar to the original improvement and match adjoining improvements.
- 3.16 **Declarant's Exemption.** Without limiting the generality of the exemption provided to Declarant under Section 11.2 of this Declaration, nothing contained in this Article 3 shall be construed to prevent the construction, installation, erection, maintenance, and use by Declarant, or its duly authorized agents or contractors, of structures, Improvements, Signs, and any other devices, vehicles, and equipment when, where and as deemed by Declarant, in its sole discretion, to be necessary or convenient for the development, use, and/or sale of the Property.

ARTICLE 4  
**PROPERTY: EASEMENTS AND RESTRICTIONS**

- 4.1 **Reservation of Easements.** Declarant expressly reserves for the benefit of all of the Property and the Association Property reciprocal easements for access, ingress, and egress for Declarant, all Owners, and the Association to and from their Lot, Development Tract, or Area, or to and from the Association Property, for the installation and repair of public utility services; for minor encroachments of Improvements constructed on the Property or Association Property, including, without limitation, walls and fences; for drainage of water in accordance with the established drainage (defined in Section 3.9) over, across and upon adjacent Lots, Development Tracts, or Areas, and the Association Property resulting from the normal use of the Property or Association Property; and for necessary maintenance and repair of the Association Property. Such easements may be used by Declarant, the Association, all Builders, and all other Owners, their guests, occupants, tenants, subtenants, licensees, and invitees and Mortgagees.
- 4.2 **Declarant Easement.** Declarant expressly reserves, for the benefit of Declarant, the right and easement to enter on and use all Lots, Development Tracts, Areas, and the Association Property to complete Declarant's development of the Property and to market the Project, including, without limitation, the right to maintain offices for sales and management, model homes on Lots, and signs and/or entry monumentation, including the Entry Improvements, on the Association Property or any Lots to advertise the Project as set forth in NRS Section 116.2115.
- 4.3 **Association Property Encroachment Easement.** If any portion of any Improvement to the Association Property constructed by Declarant encroaches upon any Lot or Development Tract, an appurtenant easement for the encroachment and for the maintenance of same, so long as it is maintained in useable condition, shall exist over the burdened Lot(s). In the event any such encroaching Improvement is partially or totally destroyed and then rebuilt substantially identical to the destroyed Improvement, such encroachment into the immediately adjacent Lot(s) due to such construction shall continue to be permitted and an easement for such encroachments and the maintenance thereof shall thereafter continue to exist.
- 4.4 **Lot Encroachment Easement.** An easement appurtenant shall exist over all adjoining Lots and the Association Property for the purpose of accommodating any encroachment of Improvements constructed by Declarant on a Lot due to engineering errors, errors in original construction, settlement, or shifting of structures, or any other cause so long as such encroachments shall exist. However, except for minor encroachments as described in Section 4.1, in no event shall an easement for encroachment exist in favor of an Owner if said encroachment occurred subsequent to the original construction by Declarant due to the negligence or willful misconduct of said Owner. In the event an Improvement on any Lot is partially or totally destroyed, and then repaired or rebuilt substantially identical to the destroyed Improvement, there shall be easements appurtenant over adjacent Lots for the construction and maintenance of said Improvements.
- 4.5 **Public Record Easements.** Each Lot, Development Tract, or Area is hereby declared to be subject to all the easements, dedications, and rights-of-way

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granted or reserved in, on, over, and under the Project as shown on each subdivision map or parcel map subdividing the Property or otherwise contained in the public Records of the County.

- 4.6 **Power To Grant Easements.** Declarant (so long as Declarant owns any portion of the Property) shall have the power to grant and convey to any third party easements and rights-of-way in, on, over, or under any Lots, Development Tracts, Areas, and the Association Property for the purpose of constructing, erecting, operating, or maintaining lines, cables, wires, conduits, or other devices for electricity, cable television, analog and/or digital communication, power, telephone, and similar purposes, public or private sewers, storm water ponds, drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities which may be reasonably necessary or beneficial to the Project. Each Owner, in accepting a deed to a Lot, Development Tract, or Area expressly consents to such easements and rights-of-way and authorizes and appoints Declarant (so long as Declarant owns any portion of the Property) as attorney-in-fact of such Owner to execute any and all instruments conveying or creating such easements or rights-of-way.
- 4.7 **Amendment To Eliminate Easements.** This Declaration may not be amended to modify or eliminate the easements reserved herein without the prior written approval of Declarant for so long as Declarant (or any affiliate or subsidiary of Declarant) owns any land within the Property, and any attempt to modify or eliminate this Section shall likewise require the prior written approval of Declarant.

#### **ARTICLE 5 THE LANDSCAPE MAINTENANCE ASSOCIATION: FORMATION AND MEMBERSHIP**

- 5.1 **Organization.** The Association has been, or will be, organized under the Nevada non-profit corporation law. The Association is charged with the duties and vested with the powers prescribed and limited by the Articles, Bylaws, or this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed so as to be inconsistent with this Declaration. If there should exist any ambiguity in any provision of the Articles or Bylaws, then such provision shall be construed, to the extent possible, so that such provision shall be consistent with the provisions of this Declaration.
- 5.2 **Membership.** The Members of the Association shall be each Owner (including Declarant) of one (1) or more Lots, Development Tracts, or Areas within the entirety of the Property. Membership applies to all of the land within the Property; however, membership does not include nor apply to public or governmental agencies or instrumentalities owning title to Association Property. Membership in the Association shall be subject to this Declaration, Nevada law, the Articles, and the Bylaws. All memberships in the Association shall be appurtenant to the real property interest owned by each Member as an Owner. Membership in the Association shall not be assignable, except to a Person to whom title to an interest in the Property has been transferred. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

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5.2.1 A Member who has sold his real property interest within the Property to a contract purchaser under an installment land sale contract shall be entitled to delegate to such contract purchaser his membership right in the Association. Such delegation shall be in writing and shall be delivered to the Board before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Lot, Development Tract, or Area until fee title thereto is transferred. If the Owner of any Lot, Development Tract, or Area fails or refuses to transfer the membership registered in his name to the purchaser thereof upon transfer of fee title thereto, the Board of Directors shall have the right to record the transfer upon the books of the Association. The Board may levy a reasonable transfer fee against any new Member and its Lot, Development Tract, or Area (which fee shall be added to the Regular Assessment chargeable to such new Member) to reimburse the Association for the administrative costs of transferring the membership to the new Member on the records of the Association.

5.3 Notification. Upon the sale or conveyance of a Lot, Development Tract, or Other Area within the Property, the transferor thereof whether Declarant, a Builder, a Developer or other Owner, shall, within thirty (30) days of such transfer, notify in writing the Association thereof of such transferee's name and address and identification of the property so transferred. The foregoing applies to transfers from Declarant as well as transfers by any Owner, Builder or Developer.

#### ARTICLE 6 THE LANDSCAPE MAINTENANCE ASSOCIATION: FUNCTIONS

6.1 Limited Powers and Duties. The Association, acting by and through its Board, shall have the following limited powers and/or duties:

6.1.1 Repair and Maintenance of Association Property. The power and duty to own, plant, upkeep, restore, replace, manage, improve, maintain and/or repair, as required by the County, the Association Property and all Improvements thereon in a safe, sanitary and attractive condition and in good working order and repair, and to pay for utilities, gardening, and other necessary services therefor. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board shall determine in its judgment to be appropriate.

(a) Notwithstanding the foregoing, the Association Property shall not include, and the Association shall have no responsibility to provide, the services referred to herein with respect to any parkway areas, or Improvements therein, or general common areas or Improvements overall within the Project, which are maintained by, or accepted for maintenance by, the County or any other governmental agency or entity.

- 6.1.2 Assessments. The power and duty to levy Assessments and related charges on the Owners of all of the Property in accordance with Article 8 and to enforce payment of such Assessments, including establishment and foreclosure of lien therefor, all in accordance with this Declaration and Nevada law. Declarant reserves the right, but not the obligation, to enter into an agreement with the Association to subsidize, for the period defined in the subsidy agreement, all or any portion of the costs and expenses of the Association in lieu of the Association levying Assessments hereunder to pay for such subsidized costs or expenses.
- 6.1.3 Easements and Rights-of-Way. Subject to approval by the County, the power, but not the duty, to grant and convey to any Person easements and rights-of-way in, on, over, under, or through the Association Property for the purpose of constructing, erecting, operating, or maintaining thereon, therein, and thereunder any public or quasi-public Improvements or facilities.
- 6.1.4 Manager. The power, but not the duty, to employ or contract with a professional manager or management company, in accordance with NRS 116.31139, to perform all or any part of the duties and responsibilities of the Association ("Manager"), and the power, but not the duty, to delegate its powers to the Manager, committees, officers and/or employees. Any such management agreement, or any agreement providing for management type services by Declarant to the Association, if entered into during the Declarant Control Period, shall be terminable by the Association, acting through the Board, upon not less than ninety (90) days' prior written notice, and without penalty, at any time after the Members of the Board, elected pursuant to Section 7.3.1 below take office.
- 6.1.5 Construction on Association Property. Subject to approval by the County, the power, but not the duty, by action of the Board, to construct new Improvements or additions to the Association Property or demolish existing Improvements.
- 6.1.6 Legal and Accounting Services. The power, but not the duty, if deemed appropriate by the Board or required by a governmental agency, to retain and pay for legal and/or accounting services as may be necessary or proper in the operation of the Association, or in performing any of the express duties or rights of the Association set forth in this Article 6; provided, however, the Association shall not initiate any such litigation, or incur any litigation expenses, including attorneys' fees, in connection with the initiation of such litigation, without the approval of the Declarant (during the Declarant Control Period) and a majority of the Voting Power of the Association. Such approval of the Voting Power of the Association shall not be necessary if the judicial proceedings are initiated (i) to collect any unpaid assessments levied pursuant to the Declaration, (ii) to enforce the Governing Documents, (iii) to proceed with a counterclaim, or (iv) to protect the health, safety and welfare of the Members. Notwithstanding

anything to the contrary in this Declaration or the other Governing Documents, the Association shall have no right or power to prosecute or promote any litigation in its name, or on behalf of any Members, concerning any real or personal property, or injury or damage related thereto, other than concerning the Association Property, and such litigation concerning such property other than the Association Property may not be the subject of any meetings of the Members or meetings of the Board.

6.1.7 Necessary and Incidental Power. The power, but not the duty, to perform any and all lawful acts incidental to and in furtherance of the Association's exercise of its express powers set forth in Sections 6.1.1 to 6.1.6 above which the Association deems necessary or proper.

6.2 Dissolution/Suspension of Association. The sole purpose and reason for the formation and existence of the Association is to maintain the common parkway areas and other Association Property in satisfaction of a condition imposed by the County for approval of the Project. Declarant reserves the right to petition the County or other public or quasi-public agency to accept the conveyance of and assume the obligation to maintain, in perpetuity, such Association Property and related Improvements, including, without limitation, a general, local or special improvement district, or landscape maintenance district, or by means of a Supplemental Declaration whereby the costs of such County maintenance are paid in whole or in part by the Owners. Such reservation by Declarant includes the right by Declarant to unilaterally amend the Declaration or record a Supplemental Declaration as necessary to permit such maintenance by the County or other public agency and to execute, on behalf of the Association and its Members, all documents of conveyance and such other documents as may be required by the County to effect the intent of this Section including, without limitation, all documents required by NRS Sections 278.4787 and 278.4789. Upon the conveyance of the Association Property to, and acceptance of the obligation to maintain the Association Property by, the County, or such other public agency, the Association shall be dissolved in accordance with the Articles, Bylaws, and the NRS and shall cease to have any further powers, duties, rights, or obligations under this Declaration and all covenants, conditions, restrictions, reservations, and easements herein concerning the Association or Association Property shall automatically terminate; provided that if such acceptance by the County is subject to revocation by the County, then the Association shall not be dissolved but instead shall be deemed inactive and all of Association's rights and obligations hereunder, and under the Articles and Bylaws, together with all covenants, conditions, and restrictions herein concerning the Association or Association Property, shall be suspended unless and until the County revokes such acceptance. Each Owner, by acceptance of a deed to a Lot, agrees, as and to the fullest extent required by NRS Section 116.2118 and any other applicable laws, to the foregoing dissolution of the Association and termination of such covenants, conditions, restrictions, reservations, and easements concerning the Association and the Association Property without the need for any further consent by Buyer.

6.3 Audit. Any Member, who may be accompanied by an accountant or any Mortgagee, may at any time and at his own expense cause an audit or inspection to be made of the books and records of the Association inclusive of

the examination and photocopying of all financial and other records of the Association, which records shall be made reasonably available to any such Member and his authorized agents; provided that such audit or inspection is made after a minimum of three (3) days prior written notice to the Board, during normal business hours, and without unnecessary interference with the operations of the Association or Manager of the Association.

- 5.4 Indemnity. All members of the Board and officers of the Association are fiduciaries and subject to the insulation from liability provided for directors of corporations by the laws of the State of Nevada. All members of the Board and such officers are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule. In furtherance of and without limiting the foregoing, the Association shall indemnify, defend and hold harmless any member of the Board or officer of the Association as and to the fullest extent provided in Section 17.8.
- 6.5 Annual Meetings of Members. A meeting of the Members of the Association shall be noticed and held by the Board at least once each calendar year in accordance with NRS Section 116.3108, and any amendments thereto.
- 6.6 Quarterly Meetings of Board. The Bylaws shall provide for and require that the Board meet at least once every ninety (90) days in accordance with NRS Section 116.3108, and any amendments thereto.

#### ARTICLE 7 THE LANDSCAPE MAINTENANCE ASSOCIATION: VOTING RIGHTS AND LIMITATIONS

- 7.1 Voting Membership. Subject to the rights specifically reserved to Declarant as set forth in Section 7.2 below, the Association shall have one (1) class of voting membership. Members (who must be Owners), including Declarant, shall have a direct voting right in the Association equal to one (1) vote for each Lot owned. The vote for each Lot shall be exercised as the Owner(s) of the Lot determine(s), but in no event shall more than one (1) vote be cast with respect to any Lot. The "voting power" of the Association means all Members entitled to vote hereunder.
- 7.2 Rights Reserved to Declarant. Anything herein to the contrary notwithstanding, Declarant reserves for itself the absolute right, but not the duty, to remove, appoint, or elect (i) all members of the Board of Directors and (ii) all officers of the Association for the period (the "Declarant Control Period") from the inception of the Association through the earlier of:
- 7.2.1 Sixty (60) days after the conveyance of an aggregate of seventy-five percent (75%) of the maximum number of Lots that may be created within the Property and Annexable Property to individual Builders, Developers, or Owners other than Declarant (or an affiliate or subsidiary of Declarant); or
- 7.2.2 Five (5) years after any right to add all or any part of the Annexable Property to the Property was last exercised by Declarant; or

7.2.3 Five (5) years after Declarant has ceased to offer any of the Lots or Development Tracts for sale in the ordinary course of business.

Declarant may designate, on a non-exclusive basis, the rights above reserved to one or more other Persons. Declarant may further voluntarily surrender the rights above reserved before termination of the Declarant Control Period but in that event Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Board or the Association, as described in a Supplemental Declaration executed and Recorded by Declarant, be approved by Declarant before they become effective.

7.3 Special Rights of Owners. Subject to the foregoing, not later than sixty (60) days after the last conveyance to Owners, other than Declarant, representing an aggregate of: (a) twenty-five percent (25%) of the maximum number of Lots that may be created within the Property and Annexable Property, at least one (1) member of the Board and not less than twenty-five percent (25%) of all members of the Board must be elected by Owners other than Declarant, and (b) fifty percent (50%) of the maximum number of Lots that may be created within the Property and Annexable Property, at least one-third (1/3) of the members of the Board must be elected by Owners other than Declarant.

7.3.1 Upon termination of the Declarant Control Period under Section 7.2 above, the Owners (including Declarant) shall elect the members of the Board except a majority of those elected to the Board shall be Members elected by Owners other than Declarant. Thereafter, the Board shall elect the designated officers of the Association. Upon such election, those persons so elected shall immediately take office.

7.3.2 A two-thirds (2/3) vote of all Owners present and entitled to vote at a meeting of the Owners, if a quorum is present, may remove any member of the Board with or without cause except for a member(s) appointed by Declarant.

7.4 Quorum. Unless the Bylaws specify a larger percentage, a quorum shall be deemed present at any meeting of the Members if more than twenty percent (20%) of the Voting Power of the Members of the Association, including Declarant, are present in person or by proxy at the beginning of that meeting. A quorum shall be deemed present at any meeting of the Board if more than fifty percent (50%) of the Board are present at the beginning of that meeting.

7.5 Noncompliance/Remedy. If an Owner, or a tenant or guest of an Owner does not comply with a provision of the Governing Documents concerning the Association or the Association Property, the Board may prohibit, for a reasonable time, the Owner, or the tenant or guest of the Owner, from:

- (a) Voting on matters related to the Association.
- (b) Using the Association Property. The provisions of this Section do not prohibit the Owner, or the tenant or guest of the Owner, from using any vehicular or pedestrian ingress or egress to go to or from the Owner's Lot, including any area used for parking.



**ARTICLE 8**  
**THE LANDSCAPE MAINTENANCE ASSOCIATION: ASSESSMENTS AND LIENS**

- 8.1**     **Types of Assessments: Personal Obligation.** Each Owner (including Declarant) of a Lot or Development Tract within the Property, by acceptance of a deed or other instrument of conveyance therefor, whether it shall be so expressed in such deed or such other instrument, is deemed to covenant and agree to pay to the Association such Owner's pro rata allocation of all Assessments for Common Expenses levied by the Association including (a) the Regular (annual) Assessments (collected monthly, quarterly, semi-annually or otherwise as determined by the Board) as provided in Section 8.3, (b) Special Assessments to supplement the Regular Assessments as provided in Section 8.5, (c) a Working Capital Assessment to fund initial operating and reserve requirements of the Association as provided in Section 8.6, and/or (d) other charges and levies as permitted by this Declaration; all such Assessments to be established and collected as herein provided.
- 8.1.1**     Each Owner's prorata allocation of Assessments shall be determined by a fraction, the numerator of which shall be the number of Lots in the Property (including all Lots in the Annexable Property annexed hereto) owned by Owner, and the denominator of which shall be the total number of Lots in the Property (including all Lots in the Annexable Property annexed hereto).
- 8.1.2**     All such Assessments, together with interest, costs, and reasonable attorneys' fees for the collection thereof, shall be an obligation of each Owner and shall be a continuing lien upon each Lot or Development Tract within the Property subject hereto against which such Assessment(s) is (are) levied. The personal obligation for Assessments shall not pass to the successor-in-title of any Owner unless expressly assumed by it.
- 8.2**     **Purpose of Assessments: Annual Limitation.** All Assessments levied and collected by the Association shall be used and disbursed solely for payment of the Common Expenses. The annual amount of all Assessments permitted under this Declaration, exclusive of any insurance premiums paid by the Association, may not exceed \$500.00 per year or, if greater, the maximum amount permitted by NRS Section 116.1203(1)(b) and NRS Section 116.4101(2)(g). That maximum amount may be increased as and to the extent permitted by NRS Section 116.1115 and NRS Section 116.4101(g). **It is the express intention of Declarant that the Project be, at all times, a limited expense liability planned community in accordance with NRS Sections 116.1203(1)(b), 116.1203(2), and 116.4101(g), and that this Declaration and the Project not be subject to any Sections of NRS Chapter 116 except those Sections expressly required by Sections 116.1203(1)(b) and 116.1203(2), unless otherwise expressly stated in this Declaration.** Declarant reasonably believes in good faith that such maximum stated Assessment will be sufficient to pay the expenses of the Association. This Declaration cannot be amended to increase the maximum assessment stated in this Section during the Declarant Control Period without the consent of all Owners. Thereafter, any such amendment shall be subject to the provisions of Article 14.

**8.3 Regular Assessments: Imposition.** Regular Assessments shall be established on a calendar year basis which coincides with the fiscal year of the Association, but may be levied and collected as otherwise set forth herein. The first fiscal year of the Association may be less than a full calendar year.

**8.3.1** The Board shall annually establish or approve a separate budget and Regular Assessment for the Lots and Development Tracts. Written notice of the amount of each annual Regular Assessment based upon such budget therefor along with a summary of the budget or copy of the budget, as approved by the Board, shall be promptly sent to every Member. A meeting of the Members to consider separate ratification of each annual budget must be held not less than fourteen (14) days nor more than thirty (30) days after such written notices. The budget shall be deemed ratified at such meeting unless a majority of the voting power of the Members rejects such applicable budget whether or not a quorum of the respective Members shall be present at such meeting. If the budget is rejected as aforesaid, the last budget therefor so ratified shall continue in effect until a new budget is adopted by the Board and ratified by the Members as aforesaid.

**8.3.2** All installments of Regular Assessments shall be collected in advance on a regular basis by the Board, at such frequency (e.g. semi-annually) and on such due dates as the Board shall determine from time to time in its sole and absolute discretion. Regular Assessments may be paid by the Member to the Association in one check or in separate checks.

**8.3.3** Regular Assessments as to all of the Property (and any Annexable Property after its annexation) shall, commence as to the Property (or such Annexable Property annexed) on the date the Property is annexed into the Association pursuant to Section 13.4; provided Regular Assessments as to the initial Property subject to this Declaration described in Exhibit "A" hereto shall commence on January 1, 1999. Upon the annexation of any additional Association Property, the budget and the Common Expenses shall be re-determined and recalculated to take into account the increased costs to the Association due to such annexation, and the Regular Assessments shall be accordingly recomputed by the Board. Each Owner shall be notified in writing by the Association of any such change in the amount of the Regular Assessments.

**8.3.4** From time to time, the Board of Directors may determine that all excess funds remaining at the end of each calendar year, over and above the amounts used for payment of the Regular Expenses, may be retained by the Association and utilized at the discretion of the Board to (a) reduce the following year's Regular Assessment, (b) add to any reserve fund(s), (c) a combination thereof, or (d) such other use(s) as reasonably determined by the Board consistent with this Declaration.

8.3.5 Upon dissolution of the Association, whether incident to the abandonment or termination of the maintenance of the Association Property as set forth in Section 6.2 or otherwise, all assets of the Association, including any amounts remaining in any of the Maintenance Funds, shall be distributed to the County or other appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such distribution is refused acceptance by any such public agencies, such assets shall be granted, conveyed, and assigned to any non-profit corporation, association, trust, or other organization organized and operated for such similar purpose, or upon written approval of not less than sixty-seven percent (67%) of all Members, may be granted to all of the Members by conveyance of an equal, undivided tenancy-in-common interest in such assets to each Owner of a Lot.

8.4 Regular Assessments: Allocation. Regular Assessments shall be charged to all Owners and shall be secured by the respective Owner's particular Lot or Development Tract. The Regular Assessments shall be individually allocated to each respective Lot or Development Tract, as follows:

8.4.1 The Regular Assessments shall be allocated pro rata among all of the Lots and Development Tracts of the Property then subject to Assessment in accordance with the allocation formula set forth in Section 8.1.1.

8.4.2 Any Development Tract not subdivided into Lots shall be deemed to have the number of Lots shown on any tentative map applicable to such Development Tract. As to Development Tracts having no approved tentative map, then the potential maximum number of Residences or Lots thereon allowed based upon the applicable Land Use Classification and Ordinances shall be so utilized for allocation purposes until a tentative subdivision map is approved. The Assessments herein shall be on an aggregate lump sum basis as to the Development Tract until a final map shall be recorded and individual Lot(s) created, if at all.

8.4.3 Declarant and/or any Builder is obligated to notify the Association in writing accompanied by all appropriate Recorded or approved maps, building permits, legal descriptions or the like evidencing a confirmation of a change in the number of Lots within thirty (30) days of a change or confirmation as aforesaid.

8.5 Special Assessments. The Board, with the vote of at least a majority of the Members, including Declarant, may levy, in any fiscal year, a Special Assessments for the purpose of (i) defraying, in whole or in part, the cost of any capital construction, reconstruction, repair or replacement of any Improvements upon the Association Property, (ii) for the purpose of defraying any other Common Expense incurred or to be incurred by the Association as provided in this Declaration, or (iii) to cure any deficiency of the Association which is not covered by the Regular Assessments. All Special Assessments shall be fixed and levied in the same proportion as Regular Assessments are levied as set forth in Section 8.4, et seq. above, and shall be collected in the

manner and frequency as determined by the Board. The Board shall provide written notice to all Owners of any meeting at which any Special Assessment is to be considered or action is to be taken on such Special Assessment at least twenty-one (21) days before that meeting.

- 8.6 Working Capital Assessment. Upon the acquisition of record title to a Lot by an Owner from Declarant, a Developer, or a Builder, the Owner of such Lot shall pay to the Association, or pay to Declarant if previously paid for that Lot by Declarant to the Association, an amount to be established by the Board, not to exceed \$100.00 (the "Working Capital Assessment"), to be deposited by the Association in the Maintenance Funds and apportioned between the operating fund and the reserve fund (as described in Article 9) as the Board determines is reasonably necessary; provided in no event shall such Working Capital Assessment, together with such Regular Assessments and Special Assessment levied against that Lot in any fiscal year exceed the limitations set forth in Section 8.2. The Working Capital Assessment shall not constitute an advance payment of Regular Assessments or Special Assessments and is a separate Assessment in addition to such Regular Assessments and Special Assessments.
- 8.7 Declarant Subsidy. Declarant shall have the right, but not the obligation, to pay all or any portion of the Common Expenses otherwise allocable to each Lot in excess of Developer's Assessment obligations to subsidize and reduce the amount of the Assessments paid by all other Owners during the term of the subsidy.
- 8.8 Exempt Property. The following property subject to this Declaration shall be exempt from all of the assessments herein:
- 8.8.1 Those portions of the Property owned, dedicated to and/or accepted by a local governmental agency or authority; and
- 8.8.2 Any Association Property.
- 8.9 Default Remedies. Any Assessment not paid on or before its respective due date thereof as established by the Board, shall bear interest from the due date of such Assessment at a rate not exceeding the maximum amount allocable by Nevada law. ("Default Interest Rate"). The Board may establish a uniform late charge, in addition to the Default Interest Rate as described above, to compensate the Association for loss of use of funds, increased bookkeeping, billing and other administrative costs. No such late charge on any delinquent installment of an Assessment when coupled with the aforesaid interest charge shall exceed the maximum amount of interest then allowable by Nevada law.
- 8.9.1 If any installment of any Assessment hereunder is not paid on or before its due date, the Association may further declare all of the unpaid balance of the entire Assessment levied against such Owner and such Owner's Lot or Development Tract to be immediately due and payable without further demand, and may enforce the collection of the full Assessment for such fiscal year and all charges and interest thereon in any manner authorized by law and this Declaration, including, without limitation, an action at law against the Owner personally obligated to pay the

same, or an action to file and foreclose the lien against the Owner's property interest securing same in accordance with NRS Sections 116.31162 to 116.11368, inclusive.

8.9.2 No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Association Property or abandonment of his Lot or Development Tract within the Property.

8.9.3 The Association shall, within ten (10) days after written demand by an Owner, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association, setting forth whether the Assessments on that Owner's Lot or Development Tract have been paid. A properly executed certificate of the Association as to the status of Assessments against a Lot or Development Tract shall be binding upon the Association as of the date of its issuance.

8.10 Notice of Lien. No action shall be brought to enforce any Assessment lien under Section 8.9 herein unless a Notice of Delinquent Assessments and Lien ("Notice of Lien") is deposited in the United States Mail, certified or registered, return receipt requested, postage prepaid, to the Owner of the Lot or Development Tract, or his successor in interest, at his last known address, and to the Lot (if a different address). Such Notice of Lien must state (a) the amount of the particular Assessment and default interest, late charges, costs (including attorneys' fees) and expenses, (b) a legal description of the Lot or Development Tract against which the Assessment was made, and (c) the name of the record Owner. The Notice of Lien shall be signed and acknowledged by an officer of the Association. The lien for the delinquent Assessment shall continue until fully paid or otherwise satisfied, but shall be extinguished unless proceedings to enforce the lien are instituted by the Association within three (3) years after the delinquent Assessment became due.

8.11 Foreclosure of Lien by Sale. Unless otherwise permitted by law, no sale to foreclose an Assessment lien may be conducted until (a) the Association, or its agent or attorney, has first executed and Recorded a Notice of Default and Election to Sell the Real Property Interest ("Notice of Default") to satisfy the delinquent Assessment lien, and (b) the delinquent Owner, or such Owner's successor in interest, has failed to pay the amount of the delinquent Assessment, default interest, costs (including attorneys' fees) and expenses incident to its enforcement for a period of sixty (60) days after such Recordation. Such sixty (60) day period shall commence on the first day following the later of (i) the day upon which the Notice of Default is Recorded, or (ii) the day upon which a copy of the Notice of Default is sent by registered or certified mail, return receipt requested, to the Owner, or such Owner's successor-in-interest, at his address, if the address is known, and to the address of the Lot or Development Tract. The Notice of Default must contain the same information as the Notice of Lien but also shall describe the deficiency in payment and the name and address of the Person authorized by the Association to enforce the lien by sale. A copy of the Notice of Default shall also be mailed by the Association, by first class mail, within ten (10) days after Recordation thereof, to those Persons required by NRS Section 116.31163. The Association, or its agent or attorney, shall, after the

expiration of such sixty (60) day period and before the foreclosure sale, give notice of the time and place of the sale ("Notice of 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 or registered mail, return receipt requested, to the Owner, or such Owner's successor-in-interest, at his address if known, and otherwise to the address of the Lot or Development Tract, and to such Persons required by NRS Section 116.311635(2). Any such sale provided for above must be conducted by the Association, its agent or attorney, in accordance with NRS Section 116.31164. The Association shall have the power to credit bid on the Lot or Development Tract at the foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's property so sold, and the defaulting Owner shall be required to pay the reasonable rental value thereof during any period of continued occupancy by the defaulting Owner.

- 8.12 Curing of Default. Upon the timely curing of any default for which a Notice of Default was Recorded by the Association, the Association shall record an appropriate Release of Lien, upon payment by the defaulting Member of a reasonable fee, as determined by the Board, to cover the cost of preparing and Recording such release.
- 8.13 Cumulative Remedies. The Assessment liens and the rights of foreclosure and sale hereunder 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.
- 8.14 Priority of Lien. Except as provided below, the sale or transfer of any Lot or Development Tract shall not affect the Assessment lien nor render it invalid or void. The lien of any of the Assessments, including default interest, costs, expenses and attorneys' fees as provided for herein, shall be subordinate to the lien of any First Mortgage Recorded prior to Recordation of a Notice of Default. The sale or transfer of any Lot or Development Tract pursuant to judicial or nonjudicial foreclosure of such First Mortgage recorded prior to Recordation of a Notice of Default shall extinguish the lien of such Assessment as to payments which became due prior to such sale or transfer; provided, such sale or transfer shall not relieve such Lot or Development Tract from lien rights for any Assessments thereafter becoming due.

#### ARTICLE 9 THE ASSOCIATION: USE OF FUNDS

- 9.1 Maintenance Funds. The Board shall establish and maintain at least the following Maintenance Funds in separate bank checking, savings, and/or similar accounts into which shall be deposited all monies paid to the Association, and from which all disbursements shall be made, as provided herein, in the performance of functions by the Association under this Declaration:
- 9.1.1 An operating fund for current Common Expenses of the Association based upon the budget therefor; and

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- 9.1.2 A reserve fund for replacements and repairs of the major components of the Association Property, and to fund operating deficits that involve major repairs or replacements; provided the reserve fund shall not be used for daily maintenance.

Each of the Maintenance Funds shall be established as separate trust savings or trust checking accounts at federally insured banking or savings institutions taking into account the limits of such insurance and the solvency of the bank(s) or financial institution(s). To qualify for higher returns on accounts held at banking or savings institutions, the Board may commingle any amounts deposited into any of the Maintenance Funds, provided that the integrity of each individual Maintenance Fund shall be preserved on the books of the Association by accounting for disbursements from, and deposits to, each Maintenance Fund separately. The Board is permitted to also utilize "conservative" or low or non-risk money market and similar funds in order to obtain higher yields on held funds.

#### ARTICLE 10 ARCHITECTURAL CONTROL

- 10.1 Purpose: Scope of Review. Before commencing any building operations, written approval must be obtained from the Architectural Committee established herein (hereinafter referred to as "the Committee") covering building, plot and other Improvement plans for all Improvements (excepting landscaping) erected, altered, renovated, remodeled, placed, or assembled, on any Lot within the Property, including, without limitation, garages and fences (collectively "Construction Activities"), except, however, that approval of the Committee shall not be required for Construction Activities conducted by Declarant, its successors and assigns. The Committee can charge a reasonable fee (not to exceed \$50.00 per application) to cover the cost of reviewing any Construction Activities. The approval of said Committee shall include style, design, appearance, harmony of external design with Declarant's general scheme, location of the proposed Improvement with respect to topography and finish grade elevation, and as to corner Lots, the street frontage thereof, but shall not be construed as modifying, altering, or waiving any of the provisions herein set out or established by law. All Construction Activities shall be done in substantial compliance with the plans and specifications therefor approved by the Committee. Declarant and/or the Committee shall have the authority, but not the obligation, to require that an Owner take all actions as may be necessary, at that Owner's expense, to remedy any noncompliance. Any Owner who violates the provisions of this Article shall reimburse Declarant or the Committee, upon demand, for any expenses incurred by Declarant or the Committee in correcting any noncompliance.
- 10.2 Declarant Exemption/Appointment. Neither Declarant, nor the Committee, nor any member thereof, shall be held responsible, or liable in any manner whatsoever, to any Owner for any loss or damage due to design concepts, aesthetics, errors, or defects, patent or latent, shown or omitted, on any plans or specifications upon which it may pass, or any Improvements erected therefrom. Three (3) persons appointed by Declarant, acting without compensation, shall comprise the Committee until the Declarant ceases to have any ownership interest in any portion of the Property (including all Annexable Property that may have been annexed hereto) at which time their

terms shall expire and said Committee shall terminate and be dissolved unless within one hundred eighty (180) days prior to said date new members shall be elected by the Owners of a majority of the Lots in the Property, which election shall be publicly recorded as an addendum to this Declaration. In the event of such an election by Owners, terms of the elected Committee members shall be one (1) year in duration, commencing initially on the day next following such election, and subsequent elections shall be held annually thereafter. Declarant hereby appoints as initial members of said Committee, Robert E. Lewis, Leah S.W. Bryant, and Jacqueline S. Ackerman, all of whom have as their business address, 3325 Ali Baba Lane, Suite 603, Las Vegas, NV 89118, fully reserving the right of substitution during the period of Declarant's control of the Committee. In the event of death, resignation, removal, incapacity, or unwillingness to act of any member of the Committee, the remaining members shall have full authority to designate a successor, subject to approval of Declarant, which approval may be withheld in Declarant's sole discretion.

- 10.3 Approval Process. The decision of a majority of the Committee, or of a representative appointed by the majority thereof, acting in good faith in its sole discretion, upon any matters submitted to or referred to it, shall be final; provided, however, that such decision may not violate any of the provisions set out in this Declaration. It is further provided that if no approval shall have been sent by the Committee to any Owner within thirty (30) days from the date of receipt of a submittal, such inaction shall be deemed disapproval. Any decision or approval by the Committee shall not relieve an Owner from complying with any requirement of a public authority having jurisdiction, and shall not constitute any representation or guaranty by the Committee or any member thereof of compliance of the submitted matter with any statute, ordinance, or regulation pertaining thereto. The Committee shall further have no liability or responsibility to the applicant, the Association, or to any other Owners based upon its approval or disapproval of, or failure to approve or disapprove of, any Construction Activities proposed or constructed by any Member or Owner.

#### ARTICLE 11 INTERESTS AND EXEMPTION OF DECLARANT

- 11.1 Interest of Declarant. Each Owner of land which is a part of the Property acknowledges by Recordation of a deed or other instrument of conveyance thereof, whether or not it shall be so expressed in any such deed or other instrument, that Declarant has a substantial interest to be protected with regard to the overall development of MONACO, and in thus assuring compliance with and enforcement of this Declaration and any amendments thereto (and any Supplemental Declaration). Notwithstanding any other provisions of this Declaration, until such time as Declarant no longer owns any of the Property (including all Annexable Property annexed hereto), the following actions, before being undertaken by the Association and/or the Members, shall first be approved in writing by Declarant:
- 11.1.1 The construction of new facilities or improvements not originally included in or on the Association Property; or
  - 11.1.2 Any significant reduction of Association maintenance or other services, including any transfer of the Association's



maintenance obligations to the County, or other public agency as provided in Section 6.2.

- 11.2 **Exemption of Declarant.** Declarant intends to undertake the work of constructing Residences and incidental Improvements upon the Project. The completion of that work, and the sale and/or other disposal of such Residences, is essential to the establishment and welfare of the Project as a residential community. In order that Declarant's work may be completed as Declarant, in its sole discretion, deems to be in the overall best interest of the Project, nothing in this Declaration, including, without limitation, the restrictions set forth in Articles 3 or 10 of this Declaration, shall be understood or construed to limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant (i) to perform and complete excavation, grading, filling, construction, development and landscaping to and on any portion of the Property, or to alter the foregoing and its construction plans and designs, or (ii) to construct such Residences and additional Improvements as Declarant deems advisable in the course of development of MONACO until such time as Declarant shall not own any portion of the Property (including all Annexable Property annexed hereto), or (iii) to modify the Project Plan with all requisite governmental approvals. Such right shall include, but not be limited to, grading work as may be approved by any agency having jurisdiction, the storage of construction materials and construction vehicles, and erecting, constructing, and maintaining on the Property such structures, trailers, offices, signs, and displays as may be reasonably necessary for the conduct of its business of developing, leasing, selling, managing, and operating MONACO. This Declaration shall further not limit the right of Declarant, at any time, to establish on that land additional licenses, easements, reservations, and rights-of-way to itself, to utility companies, to governmental agencies or to others as may from time to time be reasonably necessary to the proper development, utilization, and disposal of the Property by Declarant.

- 11.2.1 All or any portion of the rights of Declarant hereunder and elsewhere in this Declaration may be assigned on a non-exclusive basis by Declarant to any successor-in-interest to any portion of the Property (or any portion of the Annexable Property,) by an express Recorded written assignment which specifies the rights of the assignor so assigned. Notwithstanding any other provision of this Declaration, the prior written approval of Declarant, as master planner and developer of the Property, will be required before any amendment to this Article shall be effective.

- 11.2.2 The rights and reservations set forth in this Article shall terminate on the earlier of (i) the date Declarant no longer owns any land within the Property (including all Annexable Property annexed hereto), or (ii) the fifteenth (15th) anniversary after the Recordation of this Declaration.

## **ARTICLE 12** **INSURANCE**

- 12.1 **Duty To Obtain Insurance.** The Board shall be responsible to procure and maintain, or cause to be procured and maintained, for the Association and the Association Property, to the extent reasonably available, the insurance

required by Section 116.3113 of the Nevada Revised Statutes as outlined herein, and such other insurance as the Board deems appropriate. All such insurance shall be for the benefit and protection of the Owners, Association, Members, the Board, Architectural Committee, Declarant and holders, insurers and guarantors of Mortgages, as their interests may appear, but subject to loss payment provisions as set forth below.

**12.2 Required Coverage.** Subject to Section 12.1 above, the Board shall procure and maintain the following, to the extent reasonably available, at all times after the conveyance by Declarant of any Association Property to the Association as set forth in Section 2.2:

- 12.2.1** Public liability and property damage insurance (including insurance for medical payments) arising out of a single occurrence of not less than an aggregate \$1 million or such greater amounts as may be required by Chapter 116 of the Nevada Revised Statutes, the lending agencies listed in Section 12.2.6, any governmental agency having jurisdiction over the Association Property, or as reasonably determined by the Board, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Association Property. The deductible shall not exceed limits, if any, established by the foregoing lending or governmental agencies.
- 12.2.2** Property insurance on the Association Property insuring against all risks of direct physical loss commonly insured against, including, fire and casualty insurance with extended coverage, in an amount, after application of all deductibles, not less than 80% of the actual cash value of the insurable improvements, if any, situated on Association Property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies.
- 12.2.3** Fidelity bond coverage in such reasonable amount(s) as the Board concludes is sufficient for protection of the Association and its Members. If the Association has employees and/or will be directly handling funds and monies, then such fidelity coverage must include the directors, officers, trustees, employees, Manager and agents of the Association. If an independent Manager shall be engaged by the Association and such Manager shall be responsible for any funds and monies of the Association, then such Manager shall provide to the Association said fidelity coverage for the Manager's officers, directors, employees and agents.
- 12.2.4** Officer's and Director's liability insurance in such reasonable amount(s) as the Board concludes is sufficient for protection of any person who is or was a director, officer, employee, servant or agent of the Association to insure against liability asserted against such person or incurred by such person in any such capacity or by reason of such person's status, whether or not

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the Association would have the power to indemnify against such liability.

12.2.5 Statutory industrial insurance coverage as required by the State of Nevada in the event the Association shall have employees. If an independent Manager or agent shall be engaged by the Association, then such Manager or agent shall be required to maintain such coverage for its employees.

12.2.6 Such other or additional insurance coverage as deemed necessary or prudent by the Board, or to the extent required by the Federal Housing Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), Department of Veteran Affairs ("VA"), or Department of Housing and Urban Development/Federal Housing Authority ("HUD/FHA").

12.3 Annual Insurance Review. The Board shall, commencing with the initial conveyance by Declarant of the Association Property to the Association, and thereafter at least annually, review the insurance carried by or on behalf of the Association for the purpose of determining the types, amounts and deductibles of coverage to be so carried.

12.4 Trustee for Proceeds. All insurance proceeds under any such insurance policies as provided for in this Article shall be paid to the Board of Directors as Trustees. The Board shall have full power to receive the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property or improvements for which the insurance was carried and as otherwise required by Chapter 116 of the Nevada Revised Statutes.

12.4.1 Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Members, shall have the exclusive right to bind such parties in respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation and modification of all such insurance.

12.5 Insurance Premiums. Insurance premiums for any insurance coverage obtained by the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association and collected from the Members. That portion of the Regular Assessments necessary for the required insurance premiums shall be separately accounted for by the Association.

12.6 Policies/Certificates. Certificates of insurance evidencing the foregoing insurance shall be issued by the insurer(s) and, together with proof of payment of premiums, shall be delivered without charge by the Association to all First Mortgagees and Owners who have requested the same in writing. Any First Mortgagee or Owner may further request a copy of any insurance policy carried by the Association and such copy shall be delivered within fifteen (15) days of such request; the Board may levy a fee to cover its costs therefor.

- 12.7 Notice of Expiration Requirements. All of the policies of insurance maintained by the Association shall contain a provision that such policy or policies shall not expire or cause to be canceled, terminated, or materially modified without at least thirty (30) days' prior written notice to (a) the Board and Declarant, and (b) those Owners and First Mortgagees who have been issued a certificate of insurance pursuant to Section 12.6 above, who have a written request with the carrier for such notice.
- 12.8 Coverage/Waiver Requirements. The policies of liability and property insurance carried by the Association as required by Sections 12.2.1 and 12.2.2 above, shall provide, if reasonably available, that:
- 12.8.1 The insurer waives its right to subrogation of claims against all Owners, their tenants, subtenants, licensees, invitees, users, or other members of the Owners' households;
- 12.8.2 The insurer waives any defense based upon coinsurance by the Owners; rather, the Association's policies shall provide primary coverage if at the time of loss under the policy there is insurance in the name of an Owner covering the same risk covered by the Association Policy;
- 12.8.3 The insurer waives any right of setoff, counterclaim, apportionment, proration, or contribution by reason of other insurance not carried by the Association;
- 12.8.4 The insurer waives any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant, subtenant, licensee, invitee, user, or occupant of any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors, and employees of any insured; no act or omission by any Owner, unless acting within the scope and authority on behalf of the Association, shall void the policy or be a condition to recovery under the policy.
- 12.9 Waiver of Claims. As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors, and Declarant to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of such Persons.
- 12.10 Owners' Insurance. Each Owner may obtain insurance on his personal property and all other Improvements located on his Lot or other land within the Property and any public liability insurance as he may deem desirable to cover his individual liability for damage to person or property occurring on or in his individual Lot or elsewhere. If any loss intended to be covered by insurance carried by the Association shall occur and the proceeds payable under the Association's policies are reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

- 12.11 Insurance Not Reasonably Available. If the insurance required under Sections 12.2.1 and 12.2.2 is not reasonably available to the Association, and/or if the waivers set forth in Section 12.8 are not reasonably available to the Association, the Association shall cause written notice thereof to be hand delivered or mailed, postage prepaid, to all Owners.

**ARTICLE 13**  
**ANNEXATION**

- 13.1 Annexation. Declarant (subject to the provisions of this Article) may, but shall not be required to, at any time or from time to time during the period commencing upon Recordation of this Declaration and ending on the fifteenth (15th) anniversary of such Recordation, add to the Property covered by this Declaration all or any portion of the land described on Exhibit A-1 attached here ("Annexable Property") then owned by Declarant (or successors and assigns) by Recording one or more deeds, notices, declarations, or supplements hereto (which forms of recorded instruments are each referred to herein as a "Declaration of Annexation") that identify the land to be annexed ("Annexed Property"). The Annexable Property need not be contiguous nor adjacent to the Property.

- 13.1.1 Upon the Recording of a Declaration of Annexation covering any portion of the Annexable Property and containing the provisions set forth herein all of the terms and provisions contained in this Declaration shall apply to the Annexed Property from and after the Recording of said Declaration of Annexation in the same manner as if it were originally covered in this Declaration and originally constituted a portion of the Property consistent with the provisions of Section 2.3 above. Thereafter, the rights, obligations, privileges, duties, and liabilities of the parties to this Declaration with respect to the original Property and the rights, obligations, privileges, duties, and liabilities of the Owners, tenant, users, occupants, and Mortgagees of land within the Annexed Property shall be the same as in the case of such land originally affected by this Declaration. Upon the recordation of a Declaration of Annexation, the portion of the Annexable Property so annexed shall be subject to all Assessments under Article 8 of this Declaration, including that portion of any Regular Assessments allocable to the remainder of that fiscal year of the Association.

- 13.2 Declaration of Annexation. The Declaration of Annexation referred to above shall be executed and acknowledged by Declarant and Recorded and shall contain at least the following provisions:

- 13.2.1 A reference to this Declaration, which reference shall state the date of Recordation hereof and the Instrument number or other relevant Recording data of the Clark County Recorder's Office;
- 13.2.2 A statement that the provisions of this Declaration shall fully apply to the Annexed Property;
- 13.2.3 An exact description of the Annexed Property;

13.2.4 A description or designation of whether any or all of the Annexed Property is Association Property.

13.3 VA/HUD/FHA Approval. As a condition precedent to any annexation of the Annexable Property, VA and HUD/FHA, if either of such agencies so require, shall be advised of any such annexation, and such annexation shall be in accordance with any requirements of VA and HUD/FHA.

#### ARTICLE 14 AMENDMENT

14.1 Procedures.

14.1.1 By Declarant. Until such time as Declarant no longer owns any portion of the Property (including any of the Annexable Property annexed hereto), no provisions of this Declaration may be amended or terminated except by Recordation of a written instrument signed by Declarant approving such amendment or termination.

(a) Anything in this Article to the contrary notwithstanding, Declarant reserves the right, until such time as Declarant no longer owns any portion of the Property (including any of the Annexable Property annexed hereto) to unilaterally amend all or any part of this Declaration to such an extent and with such language as may be required to comply with all applicable laws, or as may be requested by governmental mortgage insurance agencies, including, without limitation, FNMA, GNMA, FHLMC, VA or HUD/FHA, and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of the Project, or any portion thereof, or of this Declaration, or such agency's acceptance of the Association Property for maintenance by such agency, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot(s) or any portions thereof within the Property. Any such amendment shall be effectuated by Declarant executing and Recording an instrument of amendment therefor.

(b) It is the desire and intent of Declarant to retain control of the Association, its activities and the Property during the anticipated period of planning, zoning, subdividing, dividing, parcelizing, development, construction, sale, and/or leasing of the Property in order to insure the comprehensive development of MONACO in accordance with the Project Plan, Design Guidelines, if any, and the entitlements granted by the County, the Ordinances and this Declaration. If any amendment requested pursuant to the provisions of this Article deletes, diminishes, alters or abrogates such control, Declarant shall have the right to

prepare, provide for, and adopt as an amendment hereto, other and different control provisions.

- 14.1.2 By Owners. Subject to Section 14.1.1 above, and Section 6.2 herein, the provisions of this Declaration may only be amended by Recordation of an amendment approved by the vote of not less than sixty-seven percent (67%) of all Owners in the Property. Any such amendment shall be evidenced by a written instrument executed and acknowledged by Declarant (if Declarant's consent is required under Section 14.1.1) and at least two (2) officers of the Association certifying that the amendment was approved by the requisite percentage of the Owners, and the instrument then Recorded.

#### ARTICLE 15 MORTGAGEE PROTECTION

- 15.1 Mortgagee Protection. Notwithstanding any other provision of this Declaration, no amendment or violation of this Declaration shall operate to defeat or render invalid the rights of the Beneficiary under any Deed of Trust or the Mortgagee under any Mortgage upon any of the Property made in good faith and for value, and Recorded prior to the Recordation of such amendment, provided that after the foreclosure of any such Deed of Trust or Mortgage or a deed or assignment in lieu thereof such property shall remain subject to this Declaration, as amended.
- 15.2 Special Provisions. Notwithstanding any and all provisions of this Declaration to the contrary, in order to induce FHLMC, GNMA, FNMA, VA, and/or HUD/FHA to participate in the financing of the sale of Lots within the Property, the following "special provisions" are added hereto (and to the extent these added provisions, pertaining to the rights of Mortgagees, FHLMC, FNMA, GNMA, VA, and/or HUD/FHA, conflict with any other provision(s) of this Declaration, these added "special provisions" shall control):
- 15.2.1 Each holder, insurer, and guarantor of a First Mortgage encumbering any Lot, upon filing a written request for notification with the Board, is entitled to receive copies of the Notice of Lien, Notice of Default, and Notice of Sale from the Association with respect to any default by the Mortgagor of such Lot in the performance of such Mortgagor's obligations under Article 8 of this Declaration. For purposes of this Declaration and the Bylaws, "First Mortgage" shall mean a Mortgage with first priority over other Mortgages or Deeds of Trust on a Lot within the Property, and "First Mortgagee" shall mean the holder of a First Mortgage.
- 15.2.2 Every Owner, including every First Mortgagee of a First Mortgage encumbering any Lot, which obtains title thereto pursuant to the remedies provided in such Mortgage, or pursuant to foreclosure of the Mortgage, or by deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by this Declaration.

15.2.3 Unless at least sixty-seven percent (67%) of the First Mortgagees of Lots (based upon one (1) vote for each Mortgage owned within the Property) have given their prior written approval, neither the Association nor the Members shall amend this Declaration, the Articles of Incorporation, or Bylaws of the Association in such a manner that the rights of any First Mortgagee will be materially and adversely affected.

15.2.4 All holders, insurers and guarantors of First Mortgages within the Property, upon written request, shall have the right to (a) examine the books and records of the Association during normal business hours, (b) require from the Association the submission of the annual budget (without expense to the holder, insurer or guarantor requesting such statement) and other financial data reasonably requested in writing from the Board, (c) designate in writing to the Board a representative to attend all meetings of Members, without the right to vote.

15.3 Assignees. In addition to the foregoing, the Board may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of FHLMC, FNMA, GNMA, VA, and HUD/FHA, or any similar entity, so as to allow for the purchase, guaranty, or insuring, as the case may be, by such entities of First Mortgages encumbering Lots with Residences thereon. Each Owner including Declarant hereby agrees that such action will benefit the Association and the membership of the Association, as a class of potential Mortgage borrowers and potential sellers of their respective property, if such agencies approve the Property as a qualifying community under their respective policies, rules and regulations, as adopted from time to time. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Lot so insured or guaranteed.

#### ARTICLE 16 DECLARANT'S RIGHT TO CURE ALLEGED DEFECTS

It is Declarant's intent that all Improvements of every type and kind which may be installed by Declarant as part of the Project, including, but not limited to, Residences, sidewalks, driveways, streets, roads, parking areas, fences, walls, landscaping, signs, utility pipes, lines or wires, sewer and drainage systems, and grading on all of the Lots and Association Property within said Property (collectively, the "Declarant Improvements") be of a quality that is consistent with construction and development practices for production housing of this type. Nevertheless, due to the complex nature of construction and the subjectivity involved in evaluating such quality, disputes may arise as to whether a defect exists and Declarant's responsibility therefor. It is Declarant's intent to resolve all disputes and claims regarding "Alleged Defects" (as defined below) amicably, and without the necessity of time consuming and costly litigation. Accordingly, all Owners and the Association, Board, and Architectural Committee shall be bound by the following claim resolution procedure:

16.1 Declarant's Right To Cure. In the event that the Association, Board, Architectural Committee, or any Owner or Owners (collectively, "Claimant") claim, contend, or allege that any portion of the Lots on said Property and/or any Declarant Improvements are defective or incomplete, or that Declarant or its agents, consultants, contractors, or subcontractors (collectively,

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"Declarant's Agents") were negligent in the planning, design, engineering, grading, construction, or other development thereof (collectively, an "Alleged Defect"). Declarant hereby reserves the right to inspect, cure, repair, and/or replace such Alleged Defect as set forth herein.

- 16.2 Notice to Declarant. In the event that a Claimant discovers any Alleged Defect, Claimant shall, within a reasonable time after discovery, notify Declarant, in writing, at 3325 Ali Baba Lane, Suite 603, Las Vegas, Nevada, 89118, Attention: Regional Manager, or such other address at which Declarant maintains its principal place of business, of the specific nature of such Alleged Defect ("Notice of Alleged Defect").
- 16.3 Right To Enter, Inspect, Cure, Repair, and/or Replace. Immediately after the receipt by Declarant of a Notice of Alleged Defect or the independent discovery of any Alleged Defect by Declarant or any governmental agency, and for a reasonable time thereafter, as part of Declarant's reservation of right, Declarant shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, any Lot, Development Tract, Area or the Association Property, and/or any Declarant Improvements for the purposes of inspecting and, if deemed necessary by Declarant, curing, repairing, and/or replacing such Alleged Defect. In conducting such inspection, cure, repairs, and/or replacement, Declarant shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.
- 16.4 Legal Actions. No Claimant shall initiate any legal action, cause of action, proceeding or arbitration against Declarant alleging damages (a) for the costs of curing, repairing, or replacing any Alleged Defect, or (b) for the diminution in value of any real or personal property resulting from such Alleged Defect, or (c) for any consequential damages resulting from such Alleged Defect, unless and until Claimant has (i) delivered to Declarant a Notice of Alleged Defect and (ii) Declarant has, within one hundred twenty (120) days after its receipt of such Notice of Alleged Defect, either (1) failed to cure, repair, or replace such Alleged Defect or (2) if such Alleged Defect can not reasonably be cured, repaired, or replaced within such one hundred twenty (120) day period, failed to commence such cure, repair, or replacement of the Alleged Defect and, thereafter, failed to pursue diligently such cure, repair, or replacement to completion. During any such period while Declarant is diligently pursuing to completion the cure, repair, or replacement of the Alleged Defect, Claimant shall not stop, restrict, hinder, interrupt, or otherwise interfere with any reasonable action or activity taken by Declarant, its employees, agents, or independent contractors, to inspect, cure, repair, or replace any Alleged Defect, whether or not such action or activity is taken, or is proposed to be taken, on property owned by Claimant.
- 16.5 No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Article shall be construed to impose any obligation on Declarant to inspect, cure, repair, or replace any item or Alleged Defect for which Declarant is not otherwise obligated to do under applicable law or any limited warranty provided by Declarant in connection with the sale of the Lots and/or the Declarant Improvements constructed thereon, nor shall anything set forth in this Article constitute an express or implied representation, warranty or guarantee by Declarant concerning any Declarant Improvements, the Property, the Annexable Property, or the Project. The right of Declarant to

enter, inspect, cure, repair, and/or replace reserved hereby shall be irrevocable and may not be waived and/or terminated except by a writing, in recordable form, executed and recorded by Declarant in the Official Records of the County.

16.6 NRS Chapter 40. The terms, conditions and procedures set forth in this Article 16 are in addition to the terms, conditions and procedures set forth in NRS Chapter 40, and shall, to the maximum extent permitted by law, be exercised by any Claimant prior to instituting a claim and/or commencing an action under Chapter 40 for "constructional defects" as defined in Chapter 40; provided, however, the procedures set forth in this Article 16 shall not abrogate any of the requirements of Claimant under Chapter 40, inclusive of the requirement that Claimant, at the end of the foregoing 120 day period, notify Declarant in writing of any alleged constructional defects which Declarant failed to cure during that 120 day period at least 60 days prior to bringing an action under Chapter 40. Further, to the extent any provisions of this Article 16 are inconsistent with the provisions of Chapter 40, the provisions of this Article 16 shall apply to the maximum extent permitted by law and shall extend all the time periods set forth in Section 11 of Chapter 40 until expiration of the 120 day period set forth in this Article 16. It is the express intent of Declarant to provide, by this Article 16, an initial 120 day period for Declarant to investigate and cure any constructional defects alleged by Claimant before the provisions of Chapter 40 are implemented and initiated by Claimant including, without limitation, the notice of claim, inspection, offer of settlement, and repair provisions of Chapter 40. Each Owner, by accepting title to any portion of the Property, as evidenced by recordation of a deed to Owner describing that land, agrees to be bound by all of the provisions of this Article 16.

16.7 Arbitration of Disputes. For purposes of this Section 16.7, the following definitions shall apply:

- 16.7.1 "Declarant" shall mean the entity executing this Declaration and its respective predecessors, successors, subsidiaries, and/or affiliated corporations, parent companies, sister companies, divisions, partners, joint venturers, the general contractor for the Project, affiliates, owners, officers, directors, employees, shareholders, agents, and assigns.
- 16.7.2 "Claimant" shall include all Owners, the Association, Board and/or Architectural Committee, and their successors, heirs, assigns, subsequent Owners, and any third party claiming any right or interest in the Property through them.
- 16.7.3 "Property" shall mean the land and improvements which are the subject of this Declaration, including, without limitation, the Property (defined in Section 1.40), Annexable Property (defined in Section 1.1), and the Association Property (defined in Section 1.7).
- 16.7.4 "Project" shall mean all of the Monaco planned community.

DECLARANT AND EACH CLAIMANT, BY ACCEPTING TITLE TO OR AN INTEREST IN ANY PORTION OF THE PROPERTY OR PROJECT, AGREE THAT:

- (1) Subject to Declarant's right to cure any Alleged Defect pursuant to the provisions of this Article, the arbitration procedures described below shall be the sole, exclusive, and final means of resolving any "Dispute" between them and/or between their respective successors-in-interest. As used herein, "Dispute" shall mean any claim, cause of action (whether at law or in equity) or disagreement of any nature whatsoever ("Claim") arising from or in connection with the sale or transfer of the Property to Claimant, the sales contract and related documents, construction or installation of any improvements on the Property or Project, the grading of the Property or Project, Declarant's One-Year Limited Warranty, performance of customer service work by or on behalf of Declarant on or in connection with the Property or Project, other than a Claim made pursuant to Nevada Revised Statutes, Sections 38.300 to 38.360, including, without limitation, Claims for real and personal property damage, construction defects (whether patent or latent), bodily injury or wrongful death, nondisclosure, misrepresentation, fraud, emotional distress, monetary damages, rescission of any agreement, enforceability of this Arbitration of Disputes Provision, and/or specific performance. Declarant, in its sole discretion, shall be entitled to require that any or all contractors, subcontractors, suppliers, consultants, partners, affiliates, or agents of Declarant who may have liability in connection with the Dispute be participants in the arbitration procedure described below; provided, however, that Declarant's failure or inability to require that such contractors, subcontractors, or agents be parties to the following proceedings shall not affect the obligations and entitlements of Claimant and Declarant under this Arbitration of Disputes Provision.
- (2) With respect to any Dispute governed by Nevada Revised Statutes, Sections 40.600 to 40.695, inclusive, mediation of any Dispute is hereby waived and the mediation procedures set forth in Nevada Revised Statutes Section 40.680 shall not be utilized. In lieu of the mediation procedures set forth in Nevada Revised Statutes Section 40.680, the following procedures shall apply thereto, as well as to any other Disputes between Claimant and Declarant:
  - (a) Any dispute between Claimant and Declarant where the claim of damage is \$3,500 or less, including disputes governed by the provisions of Nevada Revised Statutes Section 40.600 to 40.695, inclusive, where the estimated cost of repair or replacement of the item(s) in dispute is \$3,500 or less, shall be within the sole jurisdiction of the Small Claims Court and neither mediation nor arbitration shall be applicable unless both Claimant and Declarant so agree in writing.
  - (b) Any Dispute between Claimant and Declarant where the claim of damage is more than \$3,500, including disputes governed by the provisions of Nevada Revised Statutes Sections 40.600 to 40.659, inclusive, where the estimated cost of repair or replacement of the item(s) in dispute is more than \$3,500, shall,

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upon request by either Claimant or Declarant, be submitted to arbitration conducted in accordance with the Federal Arbitration Act, 9 U.S.C. 1, et seq., the Uniform Arbitration Act of the Nevada Revised Statutes, and the Construction Industry Arbitration Rules of the American Arbitration Association ("AAA"). Arbitration shall be initiated by filing a written demand for Arbitration with the AAA, accompanied by the required filing fee, and concurrently mailing a entry of the demand to the other Party. Unless Claimant and Declarant agree otherwise, the procedures for Large, Complex Construction Cases issued by the AAA shall apply to all cases to the extent such procedures are not in conflict with the Federal Arbitration Act or the Uniform Arbitration Act.

Before any Dispute can be submitted to arbitration, the party wishing to submit the Dispute must first, at least sixty (60) days prior to filing a Demand for Arbitration, give the other party written notice of the Dispute and, with reasonable specificity, the actions that should be taken by the other party to resolve the Dispute. With respect to any Dispute regulated by Nevada Revised Statutes, Sections 40.600 to 40.695, inclusive, this sixty (60) day notice, if given by Claimant, shall comply with the requirements of Nevada Revised Statutes Section 40.645. Each party may, prior to the arbitration hearing, conduct discovery as provided in Nevada Revised Statutes Section 40.680, and Nevada Rules of Civil Procedure Section V, Rules 26 to 37, inclusive.

This Arbitration of Disputes Provision is intended to be binding upon Claimant and Declarant for all claims regulated by Nevada Revised Statutes Sections 40.600 to 40.695, inclusive, after all the requirements of Sections 40.645 to 40.675 for resolution of the dispute prior to commencement of a civil action have been satisfied or waived by Claimant and Declarant in accordance with said statutes and in place and instead of any court action described therein.

- (3) The arbitration shall take place in the office of the AAA nearest to the Property, at such time and date selected by the arbitrator. Any dispute regarding the scope of the arbitration or the procedures to be followed in the arbitration shall be resolved by the arbitrator. Only compensatory damages are recoverable and the arbitrator chosen for the arbitration shall have no authority to award damages for emotional distress, consequential, punitive, or any other nature of damages other than compensatory damages as are recognized by Nevada law. In no event shall one party's liability to the other exceed the original purchase price of the house. The combined cost (fee and expenses) of the AAA and of the arbitrator shall be apportioned equally between Claimant and Declarant. Each party shall bear its own attorneys' fees and other costs. The award rendered by the arbitrator must be accompanied by a written decision of the arbitrator that contains written findings of fact and conclusions of law and, once so rendered, shall be binding, final, and non-appealable as to all parties in the arbitration to the fullest extent permitted by Nevada law, including, without limitation, Nevada Revised Statutes Sections 38.015 to 38.205, inclusive, and Sections 40.660 to 40.695, inclusive, except that an appeal may be taken if an award is based on any deviation by the

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arbitrator from the terms of this Arbitration of Disputes Provision. In furtherance thereof, and to the fullest extent permitted by Nevada law, Claimant and Declarant waive the provisions of Nevada Revised Statutes Section 38.145. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Except as otherwise expressly set forth in this section, the arbitrator shall strictly follow Nevada law.

No notice, claim, or communication between Claimant and Declarant, whether under any written limited warranty or otherwise, shall stop the running of any statute of limitations. In addition to the Construction Industry Rules of the AAA, the following additional rules shall govern the arbitration: (a) with the exception of contractors, subcontractors, suppliers, consultants, partners, affiliates, and agents added by Declarant as provided herein, the parties to the arbitration shall be limited to Claimant and Declarant, and (b) Claimant and Declarant shall each pay one-half (1/2) of the initial fee for such arbitration.

- (4) Declarant may, in its sole discretion, consolidate the Disputes of other Claimants in the event that such Disputes are similar in nature and, if the aggregate amount of damage claimed by such Claimants exceeds \$3,500, such Disputes will be addressed in the same manner as a single Dispute where the claim of damage is more than \$3,500 as set forth in paragraph (2)(b) of this Section 16.7.
- (5) If any provision or aspect of this Arbitration of Disputes Provision is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision or aspect of this Arbitration of Disputes Provision is superseded or rendered unenforceable by any law which becomes effective after the date of this Declaration, the remainder of this Arbitration of Disputes Provision shall nevertheless remain in full force and effect and continue to be binding. If there is any conflict between this Arbitration of Disputes Provision and the other provisions of this Declaration, including the other provisions of this Article 16, the provisions of this Arbitration of Disputes Provision shall control.
- (6) Each Claimant waives any right to mediation Claimant might have under Nevada or federal law for all Disputes and, for Disputes exceeding \$3,500, agrees to have any such Dispute arising out of the matters including in the above "Arbitration of Disputes" provision decided by neutral, binding arbitration as provided in the above "Arbitration of Disputes" provision and Claimant gives up any rights Claimant might possess to have such Dispute litigated in a court or jury trial, as well as any rights Claimant may have to obtain emotional distress, consequential, punitive, or any other nature of damages other than compensatory damages recognized by Nevada law, and Claimant also gives up Claimant's judicial rights are specifically included in this "Arbitration of Disputes" provision. If Claimant refuses to submit to arbitration, Claimant may be compelled to arbitrate under Nevada law.

ARTICLE 17  
GENERAL PROVISIONS

- 17.1 Term. Except as otherwise provided in this Declaration, all of the terms and provisions of this Declaration shall run with and bind the Property and each and every portion thereof, and shall inure to be the benefit of and be enforceable by Declarant (so long as Declarant owns any land within the Property), the Association (as to the Association Property only), the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, and any Mortgagee encumbering any of the Property for a term of twenty-five (25) years from the date this Declaration is Recorded after which time this Declaration shall be automatically extended for successive periods of ten (10) years each, unless a Declaration of Termination meeting the requirements of an amendment to this Declaration, as set forth herein, has been Recorded.
- 17.2 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered personally, by a recognized professional courier service, or by U.S. Mail. If delivery is made by U.S. Mail, it shall be deemed to have been delivered two (2) business days after a copy of the same has been deposited in the United States mail, postage prepaid, certified, return receipt requested, addressed to any Person at the address given by such Person to the Association for the purpose of service of such notice, or to the Residence or business address of such Person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.
- 17.3 Enforcement and Non-Waiver.
- 17.3.1 Right of Private Enforcement. Except as otherwise expressly provided herein, the Association (as to the Association Property only), and any Owner, including Declarant (so long as Declarant owns lands within the Property), shall have the right, but not the duty, to enforce any or all of the provisions of this Declaration against any property within the Property and the respective Owner, tenant, subtenant, licensee, or the like thereof. Such right shall include an action for damages, as well as an action to enjoin any violation of this Declaration. The enforcement powers of the Association shall be limited to enforcement of any provisions of this Declaration concerning the Association Property and the Association and, except for the levy and collection of Assessments, the Association shall have no authority, right, or duty to enforce any provisions of this Declaration which concern any other portions of the Property, including the Lots, Development Tracts, and Other Areas.
- 17.3.2 Violation and Nuisance. Every act or omission whereby any provision of this Declaration is violated in whole, or in part, is hereby declared to be a nuisance and every remedy allowed by law or in equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by Declarant, an Owner, the Association (if the act or omission concerns the Association Property), or their successors-in-interest.

- 17.3.3 Violation of Law. Any violation of any federal, state or municipal law, ordinance, code or regulation with respect to any Lot, Development Tract, or Other Area within the Property by any Owner (other than Declarant) is hereby declared to be a breach of this Declaration and subject to all of the enforcement procedures set forth herein.
- 17.3.4 Remedies Cumulative. Each remedy provided by this Declaration is cumulative and not exclusive. The Association may, at its option, without waiving the right to enforce its lien against a Lot, Development Tract, or Other Area within the Property, bring a suit at law to enforce each Assessment obligation.
- 17.3.5 Non-Waiver. The failure of the Association, the Architectural Committee, and/or Declarant to enforce any of the provisions of this Declaration which they have been given the express power to enforce, respectively, at any time, shall not constitute a waiver of this right thereafter to enforce any such provision or any other provisions hereof.
- 17.3.6 Mortgages. Any breach or amendment of this Declaration shall not affect or impair the lien or charge of any First Mortgage or First Deed of Trust made in good faith and for value on any Lot (or any Improvements respectively thereon); provided, however, that any subsequent Owner of such property shall be bound hereby whether such Owner's title was acquired by foreclosure, in a trustee's sale or otherwise.
- 17.3.7 Attorneys' Fees. Any judgment or award rendered in any action or proceeding hereunder, including a suit to collect delinquent assessments, in favor of the prevailing party shall include sums for attorneys' fees, in such amount as the Court may deem reasonable, and court or arbitration costs, both at trial and on appeal.
- 17.4 Interpretation.
- 17.4.1 Restrictions Construed Together. All of the provisions of this Declaration, including all Exhibits attached hereto and which are hereby incorporated herein, shall be liberally construed together in conformity with the laws of the State of Nevada to promote and effectuate the fundamental concepts of the Property, the Project Plan and MONACO overall as set forth in this Declaration. All references to the Nevada Revised Statutes or NRS shall be deemed to include all successor statutes.
- 17.4.2 Restrictions Severable. Notwithstanding the provisions of the foregoing subsection, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

- 17.4.3 **Context.** Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall include the masculine, feminine and neuter.
- 17.4.4 **Captions.** All captions and titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.
- 17.5 **No Public Right of Dedication.** Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Property to the public, or for any public use, except as specifically set forth herein or respectively granted or dedicated therefor now or hereafter.
- 17.6 **Constructive Notice and Acceptance.** Every Person who owns, occupies or acquires any right, title, estate or interest in or to any portion of the Property does and shall be conclusively deemed to have consented to each and every applicable limitation, restriction, easement, reservation, condition, covenant, term, and provision contained herein, whether or not any reference to this Declaration is contained in the instrument by which such Person acquired an interest in the Property, or any portion thereof.
- 17.7 **No Representation of Warranties.** No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents or employees in connection with MONACO overall, the Project, the Property, the Annexable Property, or any portion thereof, or any existing Improvements or future Improvements thereon, the physical condition thereof, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, leasing, operation, maintenance, cost of maintenance, taxes, or regulation thereof, or timing of development thereof, except as specifically and expressly set forth in this Declaration.
- 17.8 **Indemnification.** Except to the extent such liability, damage, or injury is covered by insurance maintained by the Association, the Association's officers, directors, attorneys, agents, and employees, shall be indemnified, defended, and held harmless by the Owners and the Association against all claims, causes of action, suits, costs, expenses, and liabilities, including attorneys' fees, reasonably incurred by or imposed upon any of them in connection with any proceeding to which any of them may be a party, and court or arbitration costs, or in which any of them may become involved, by reason of their being or having been an officer, director, attorney, employee, or agent of the Association, or any settlement thereof, whether or not they are an officer, director, attorney, employee, or agent at the time such expenses and liabilities are incurred, except in such cases wherein such person is adjudged to have committed fraud, willful or wanton misfeasance, or gross negligence in the performance of his duties. Notwithstanding the foregoing, in the event of a settlement, this indemnification shall apply only when the Board of Directors of the Association determines that such settlement and reimbursement is in the best interest of the Association.
- 17.9 **Priorities and Inconsistencies.** If there are conflicts or inconsistencies between this Declaration and either the Articles or Bylaws, the terms and provisions of this Declaration shall prevail.



IN WITNESS WHEREOF, Declarant has executed this Declaration this 21st day  
of September, 1998.

LEWIS HOMES - CARLYLE VENTURE,  
L.L.C., a Nevada limited liability company

By: Lewis Homes Management Corp.,  
a California corporation  
Its Manager

By: *Robert E. Lewis*  
Authorized Agent  
ROBERT E. LEWIS

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RETURN TO:

Lewis Homes of Nevada  
3525 W. Ali Baba Lane, Suite 111  
Las Vegas, NV 89118  
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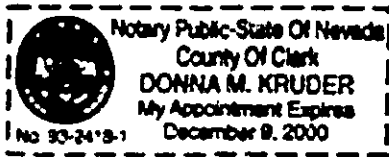
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STATE OF NEVADA )  
COUNTY OF CLARK ) SS.

This instrument was acknowledged before me on SEPTEMBER 21, 1998 date),  
by ROBERT E. LEWIS (name(s)) as  
AUTHORIZED AGENT (title) of LEWIS HOMES  
MANAGEMENT CORP name of company or individual represented).



Donna M. Kruder  
Signature of Notarial officer)

(Title and rank (optional))  
Peace Officer  
(My commission expires 12-09-00)

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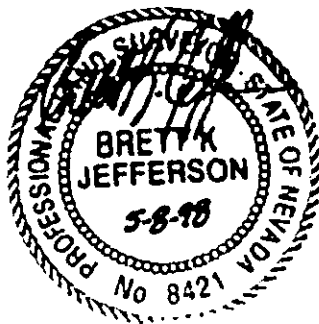
EXHIBIT "A"

[Description of Property]



**PENTACORE**

Civil Engineering  
Land Surveying  
Global Positioning  
Land Planning - GIS  
Construction  
Administration  
ADA Consulting  
Landscape  
Architecture  
Measurement  
Technologies  
Water Ventures  
International



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APRIL 14, 1998  
BY: C.L.M.  
CKD: M.J.J.  
PAGE 1 OF 4

#### EXPLANATION

THIS LAND DESCRIPTION DESCRIBES A PARCEL OF LAND GENERALLY LOCATED NORTH OF DESERT INN ROAD AND WEST OF BUFFALO DRIVE FOR RESTRICTION CLARIFICATION PURPOSES.

#### LAND DESCRIPTION

A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING THAT CERTAIN PLAT KNOWN AS "MONACO NO. 1" ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE IN BOOK 83 AT PAGE 50;

EXCEPTING THEREFROM:

LOTS 71-80, INCLUSIVE, BLOCK X OF SAID "MONACO NO. 1";

ALSO EXCEPTING THEREFROM:

LOTS 82-92, INCLUSIVE, BLOCK H, OF SAID "MONACO NO. 1" AS SHOWN ON THE EXHIBIT TO ACCOMPANY LAND DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

END OF DESCRIPTION.

6763 West Charleston Boulevard • Las Vegas, Nevada 89102

ENGINEERING  
Tel. 702.258.0115 • Fax 258.4956

SURVEYING  
Tel. 702.258.4110 • Fax 258.4790

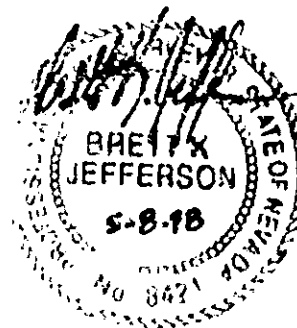
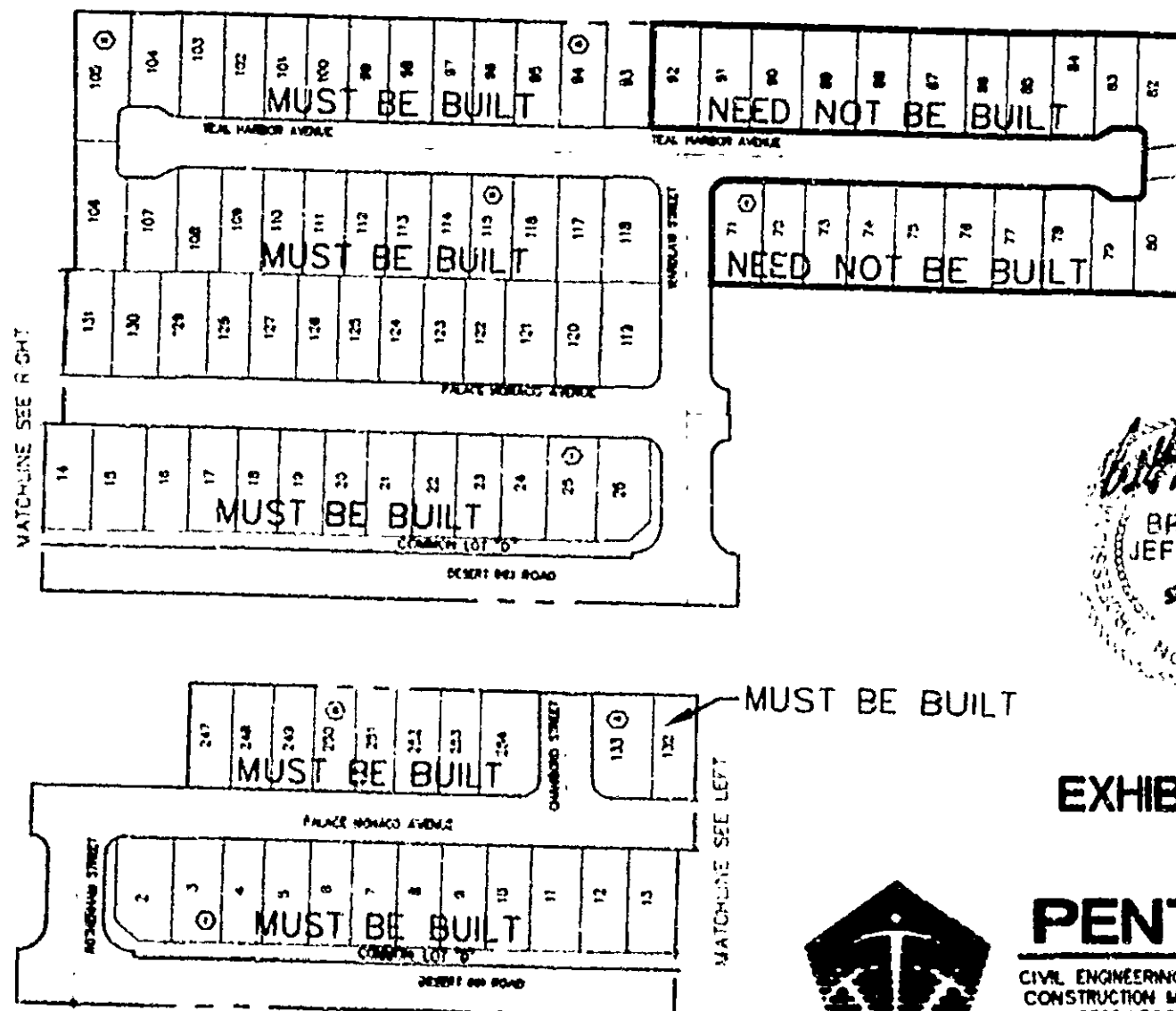
ADA CONSULTING  
Tel. 702.258.0115 • Fax 258.8528

APP000408



## MONACO NO. 1

A COMMON INTEREST COMMUNITY  
A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9,  
TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA



MUST BE BUILT

EXHIBIT "A"

PAGE 2 OF 4

### PENTACORE

CIVIL ENGINEERING • LAND SURVEYING • PLANNING  
CONSTRUCTION MANAGEMENT • ADA CONSULTING  
6763 WEST CHARLESTON BOULEVARD  
LAS VEGAS, NEVADA 89102 (702)258-0115

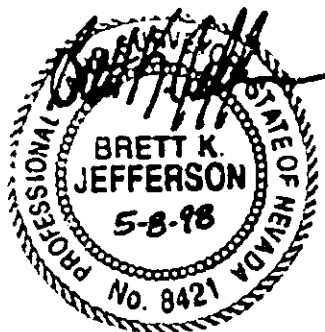


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## **PENTACORE**

Civil Engineering  
Land Surveying  
Global Positioning  
Land Planning - GIS  
Construction  
Administration  
ADA Consulting  
Landscape  
Architecture  
Measurement  
Technologies  
Water Ventures  
International



980923.01097  
0050.1808  
FILE: M2-A.DOC  
APRIL 14, 1998  
BY: C.L.M.  
CKD: M.J.J.  
REVISED: MAY 8, 1998  
PAGE 3 OF 4

### **EXPLANATION**

THIS LAND DESCRIPTION DESCRIBES A PARCEL OF LAND GENERALLY LOCATED NORTH OF DESERT INN ROAD AND WEST OF BUFFALO DRIVE FOR RESTRICTION CLARIFICATION PURPOSES.

### **LAND DESCRIPTION**

A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING THAT CERTAIN PLAT KNOWN AS "MONACO NO. 2" ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE IN BOOK 83 AT PAGE 49;

EXCEPTING THEREFROM:

LOTS 350-361, INCLUSIVE, BLOCK H OF SAID "MONACO NO. 2";

ALSO EXCEPTING THEREFROM:

LOTS 546 AND 547, BLOCK B OF SAID "MONACO NO. 2";

ALSO EXCEPTING THEREFROM:

LOTS 383-390, INCLUSIVE, BLOCK C, OF SAID "MONACO NO. 2";

ALSO EXCEPTING THEREFROM:

LOTS 548-553, INCLUSIVE, LOTS 682-687, INCLUSIVE AND COMMON LOT "ZZ", BLOCK B, OF SAID "MONACO NO. 2", AS SHOWN ON THE EXHIBIT TO ACCOMPANY LAND DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

**END OF DESCRIPTION.**

6763 West Charleston Boulevard - Las Vegas, Nevada 89102

ENGINEERING  
Tel. 702.258.0115 • Fax 258.4956

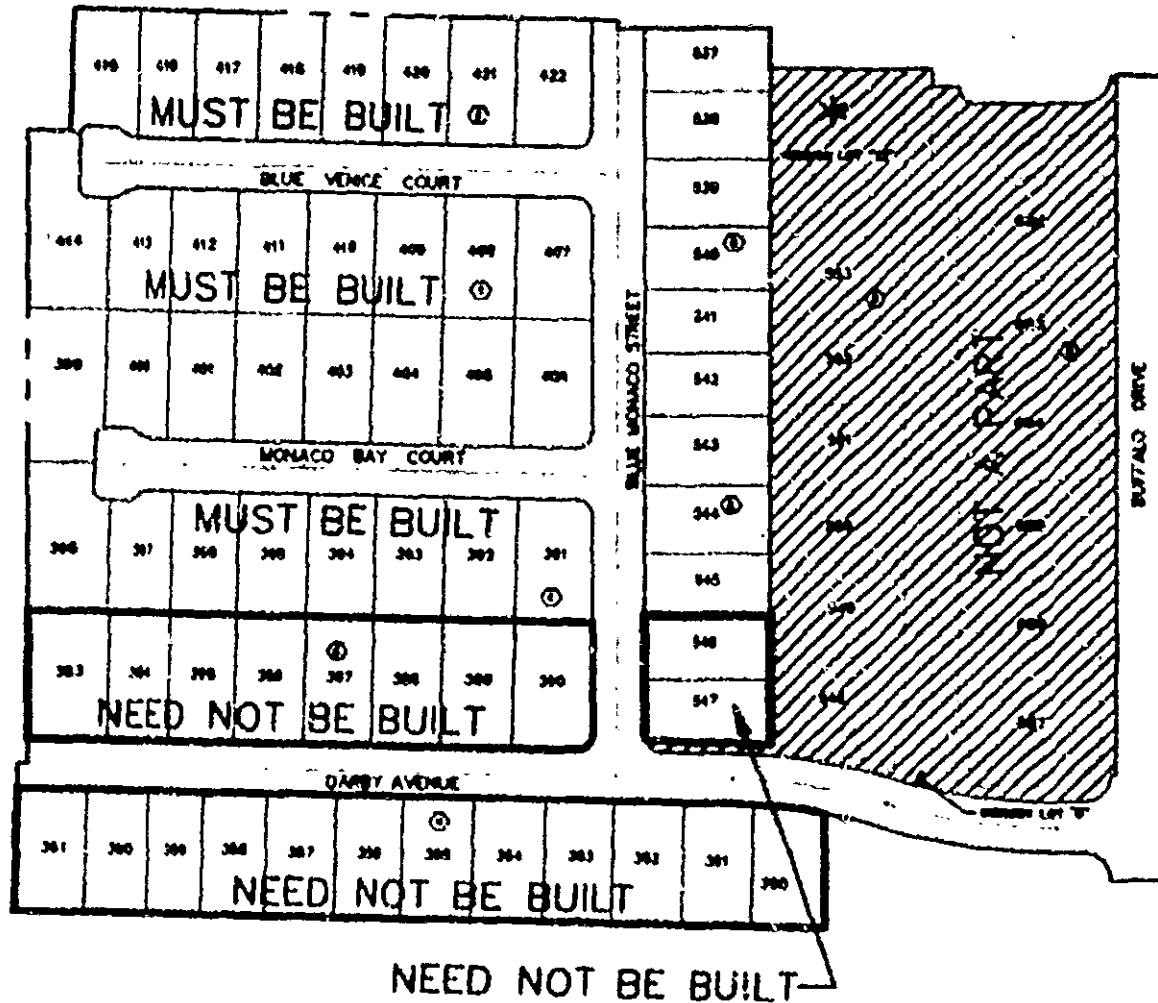
SURVEYING  
Tel. 702.258.4110 • Fax 258.4790

ADA CONSULTING  
Tel. 702.258.0115 • Fax 258.8528

980923.01097

# MONACO NO. 2

A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9,  
TOWNSHIP 21 SOUTH, RANGE 80 EAST, MOUNT DIBLO MERIDIAN, CLARK COUNTY, NEVADA



\* SHOWN AS COMMON LOT ZZ  
ON FINAL MAP TO BE  
REVERTED TO 2 RESIDENTIAL  
LOTS IN THE FUTURE



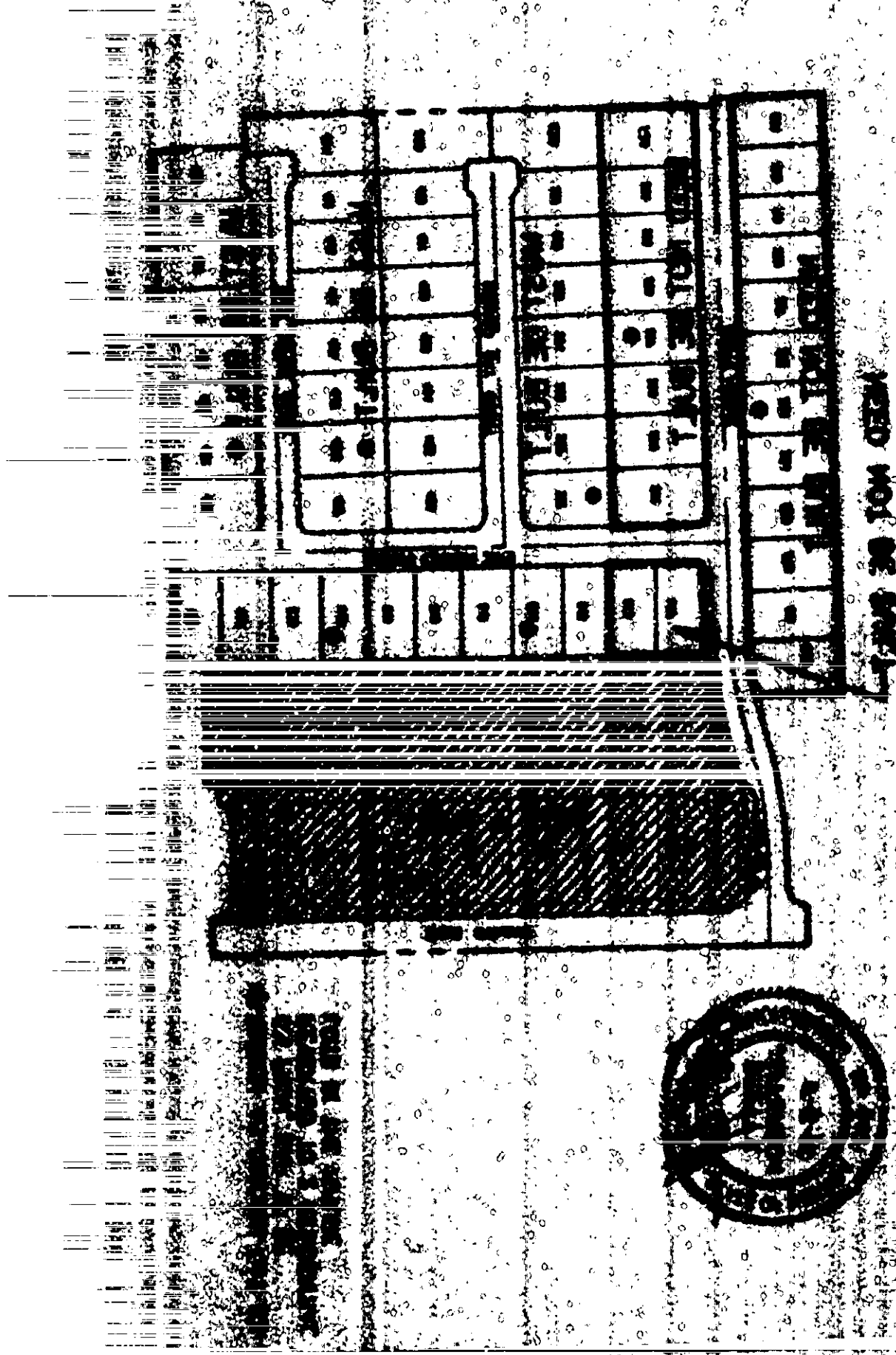
EXHIBIT "A"

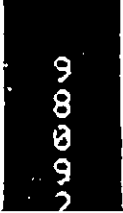


## PENTACORE

CIVIL ENGINEERING • LAND SURVEYING • PLANNING  
CONSTRUCTION MANAGEMENT • AEA CONSULTING  
6783 WEST CHARLESTON BOULEVARD  
LAS VEGAS, NEVADA 89102 (702)298-0115







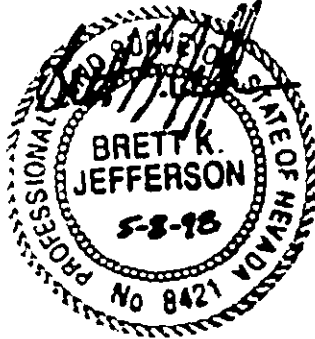
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**EXHIBIT "A-1"**  
**[Description of Annexable Property]**



# PENTACORE

Civil Engineering  
Land Surveying  
Global Positioning  
Land Planning - GIS  
Construction  
Administration  
ADA Consulting  
Landscape  
Architecture  
Measurement  
Technology  
Water/Wastewater  
Infrastructure



980923 01097  
0030.4800

FILE: ANNEX.DOC

APRIL 14, 1998

BY: C.L.M./P.D.

CKD: M.J.J.

REVISED: MAY 8, 1998

PAGE 1 OF 5

## EXPLANATION

THIS LAND DESCRIPTION DESCRIBES A PARCEL OF LAND GENERALLY LOCATED NORTH OF DESERT INN ROAD AND WEST OF BUFFALO DRIVE FOR RESTRICTION CLARIFICATION PURPOSES.

## LAND DESCRIPTION

A PORTION OF THE SOUTH HALF (S 1/2) OF SECTION 9, TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT Diablo MEXIDIAN, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHEAST CORNER OF SAID SECTION 9, MARKED BY A BRASS CAP IN WELL MONUMENT STAMPED "PLS 706"; THENCE NORTH  $88^{\circ}37'20''$  WEST ALONG THE SOUTH LINE OF SAID SECTION 9, A DISTANCE OF 123.55 FEET TO THE EAST SIXTEENTH CORNER COMMON TO SECTIONS 9 AND 15, MARKED BY A BRASS CAP IN CONCRETE STAMPED "PLS 6009"; THENCE NORTH  $88^{\circ}38'24''$  WEST CONTINUING ALONG SAID SOUTH LINE, 1725.61 FEET TO THE QUARTER CORNER COMMON TO SAID SECTIONS 9 AND 16, MARKED BY A BRASS CAP IN WELL MONUMENT STAMPED "DE LUNA INC. PLS 6009"; THENCE NORTH  $88^{\circ}36'12''$  WEST CONTINUING ALONG SAID SOUTH LINE, 548.18 FEET; THENCE NORTH  $60^{\circ}04'46''$  WEST DEPARTING SAID SOUTH LINE, 208.00 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1223.00 FEET; THENCE NORTHEASTERLY 608.85 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $28^{\circ}31'25''$ ; THENCE NORTH  $28^{\circ}26'38''$  EAST, 132.66 FEET; THENCE NORTH  $88^{\circ}32'36''$  WEST, 912.13 FEET; THENCE SOUTH  $00^{\circ}04'48''$  EAST, 61.12 FEET; THENCE NORTH  $88^{\circ}32'36''$  WEST, 690.56 FEET; THENCE NORTH  $00^{\circ}14'06''$  WEST, 1786.79 FEET TO THE NORTH LINE OF THE SOUTH HALF (S 1/2) OF SAID SECTION 9; THENCE SOUTH  $88^{\circ}32'36''$  EAST ALONG SAID NORTH LINE, 614.95 FEET TO THE WEST SIXTEENTH CENTER CORNER OF SAID SECTION 9, MARKED BY AN ALUMINUM CAP STAMPED "PLS 12139"; THENCE SOUTH  $88^{\circ}36'45''$  EAST CONTINUING ALONG SAID NORTH LINE, 2658.72 FEET TO THE EAST SIXTEENTH CENTER CORNER OF SAID SECTION 9, MARKED BY AN ALUMINUM CAP STAMPED "PLS 12139"; THENCE SOUTH  $88^{\circ}35'43''$  EAST CONTINUING ALONG SAID NORTH LINE, 1327.31 FEET TO THE QUARTER CORNER COMMON TO SECTIONS 9 AND 10, MARKED BY A BRASS CAP IN WELL MONUMENT STAMPED "PLS 7004"; THENCE SOUTH  $00^{\circ}01'40''$  WEST DEPARTING SAID NORTH LINE AND ALONG THE EAST LINE OF SAID SECTION 9, A DISTANCE OF 1319.98 FEET TO THE SOUTH SIXTEENTH CORNER COMMON TO SAID SECTIONS 9 AND 10, MARKED BY A BRASS STEM WITH PUNCH MARK; THENCE SOUTH  $00^{\circ}01'43''$  WEST CONTINUING ALONG SAID EAST LINE, 1319.44 FEET TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM:

6783 West Charleston Boulevard • Las Vegas, Nevada 89102

ENGINEERING  
Tel. 702.258.0115 • Fax 258.4956

SURVEYING  
Tel. 702.258.4110 • Fax 258.4790

ADA CONSULTING  
Tel. 702.258.0115 • Fax 258.8528

LOTS 247-254, INCLUSIVE, BLOCK G, AS SHOWN ON THAT CERTAIN MAP KNOWN AS "MONACO NO. 1" ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE IN BOOK 83 OF PLATS AT PAGE 50;

ALSO EXCEPTING THEREFROM:

LOTS 93-133, INCLUSIVE, BLOCK H OF SAID "MONACO NO. 1";

ALSO EXCEPTING THEREFROM:

LOTS 2-26, INCLUSIVE, BLOCK I OF SAID "MONACO NO. 1";

ALSO EXCEPTING THEREFROM:

LOTS 537-545, INCLUSIVE, BLOCK B, AS SHOWN ON THAT CERTAIN MAP KNOWN AS "MONACO NO. 2" ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE IN BOOK 83 OF PLATS AT PAGE 49;

ALSO EXCEPTING THEREFROM:

LOTS 391-422, INCLUSIVE, BLOCK C OF SAID "MONACO NO. 2";

ALSO EXCEPTING THEREFROM:

COMMON LOT "D" OF SAID "MONACO NO. 1";

ALSO EXCEPTING THEREFROM:

**COMMON LOT "C"**

A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 9, MARKED BY A BRASS CAP IN WELL MONUMENT, STAMPED "PLS 7004", SAME BEING THE CENTERLINE INTERSECTION OF BUFFALO DRIVE (90 FEET WIDE) AND DESERT INN ROAD (95 FEET WIDE); THENCE NORTH 88°37'20" WEST ALONG THE SOUTH LINE OF SAID SECTION 9, COINCIDENT WITH THE CENTERLINE OF SAID DESERT INN ROAD, 103.26 FEET; THENCE NORTH 02°22'22" EAST DEPARTING SAID SOUTH LINE AND SAID CENTERLINE, 49.52 FEET TO THE NORTH RIGHT-OF-WAY LINE OF SAID DESERT INN ROAD AS DEDICATED PER BOOK 980311, INSTRUMENT 00924, SAME BEING THE POINT OF BEGINNING;

THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES: (1.) NORTH 87°37'38" WEST, 200.83 FEET; (2.) NORTH 88°37'20" WEST, 70.00 FEET; (3.) SOUTH 89°44'41" WEST, 280.73 FEET; (4.) NORTH 88°37'20" WEST, 74.26 FEET TO THE EASTERLY LINE OF THAT CERTAIN PLAT KNOWN AS MONACO NO. 1, ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE IN BOOK 83 OF PLATS, AT PAGE 50; THENCE DEPARTING SAID NORTH RIGHT-OF-WAY LINE AND ALONG SAID EASTERLY LINE, THE FOLLOWING FOUR (4) COURSES: (1.) NORTH 01°22'40" EAST ALONG A RADIAL LINE, 4.99 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 26.50 FEET; (3.) NORTHWESTERLY 41.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF

88°39'03"; (3.) NORTH 00°01'43" EAST, 67.25 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 16.50 FEET; (4.) NORTHEASTERLY 19.24 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 66°48'01"; THENCE SOUTH 00°01'43" WEST DEPARTING SAID EASTERLY LINE, 78.54 FEET; THENCE SOUTH 44°17'49" EAST, 28.62 FEET; THENCE SOUTH 88°37'20" EAST, 55.24 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 1124.00 FEET; THENCE EASTERLY 32.14 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°38'18"; THENCE NORTH 89°44'22" EAST, 251.07 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 876.00 FEET; THENCE EASTERLY 25.02 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°38'12"; THENCE SOUTH 88°37'26" EAST, 70.00 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 876.00 FEET; THENCE EASTERLY 15.21 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°59'42"; THENCE SOUTH 87°37'44" EAST, 214.03 FEET; THENCE NORTH 46°10'30" EAST, 27.71 FEET; THENCE NORTH 00°01'43" EAST, 86.91 FEET; THENCE SOUTH 88°37'20" EAST, 10.00 FEET; THENCE SOUTH 89°58'17" EAST, 5.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID BUFFALO DRIVE AS DEDICATED PER BOOK 980311, INSTRUMENT 00924; THENCE SOUTH 00°01'43" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, 66.06 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 54.00 FEET; THENCE SOUTHWESTERLY 87.03 FEET DEPARTING SAID EAST RIGHT-OF-WAY LINE AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 92°20'39" TO THE POINT OF BEGINNING;

ALSO EXCEPTING THEREFROM:

**COMMON LOT "N"**

A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 9, MARKED BY A BRASS CAP IN WELL MONUMENT, STAMPED "PLS 7004", SAME BEING THE CENTERLINE INTERSECTION OF BUFFALO DRIVE (90 FEET WIDE) AND DESERT INN ROAD (95 FEET WIDE); THENCE NORTH 60°01'43" EAST ALONG THE EAST LINE OF SAID SECTION 9, COINCIDENT WITH THE CENTERLINE OF SAID BUFFALO DRIVE, 210.90 FEET; THENCE NORTH 87°37'44" WEST DEPARTING SAID EAST LINE AND SAID CENTERLINE, 45.04 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID BUFFALO DRIVE AS DEDICATED PER BOOK 980311, INSTRUMENT 00924, SAME BEING THE POINT OF BEGINNING;

THENCE NORTH 87°37'44" WEST DEPARTING SAID EAST RIGHT-OF-WAY LINE, 15.01 FEET; THENCE NORTH 00°01'43" EAST, 387.31 FEET; THENCE NORTH 44°58'19" WEST, 35.36 FEET; THENCE NORTH 89°58'20" WEST, 15.00 FEET; THENCE SOUTH 45°01'43" WEST ALONG A RADIAL LINE, 2.47 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 8.50 FEET; THENCE NORTHWESTERLY 6.68 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°00'00"; THENCE NORTH 89°58'17" WEST, 51.00 FEET; THENCE NORTH 44°58'17" WEST, 14.84 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 534.00 FEET, A BEARING LINE TO SAID BEGINNING BEARS SOUTH 13°00'48" EAST; THENCE NORTHWESTERLY 43.13 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04°37'38" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 466.00 FEET, A BEARING LINE TO SAID BEGINNING BEARS NORTH 17°38'26" EAST; THENCE NORTHWESTERLY 48.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF

05°54'08"; THENCE NORTH 00°01'43" EAST, 10.21 FEET TO THE SOUTHERLY LINE OF THAT CERTAIN PLAT KNOWN AS MONACO NO. 2, ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE IN BOOK 83 OF PLATS, AT PAGE 49, SAME BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 476.00 FEET, A BEARING TO SAID BEGINNING BEARS NORTH 11°29'20" EAST; THENCE ALONG SAID SOUTHERLY LINE, THE FOLLOWING FIVE (5) COURSES: (1.) SOUTHEASTERLY 51.11 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°09'06" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 524.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 17°38'26" WEST; (2.) SOUTHEASTERLY 161.63 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17°36'46"; (3.) SOUTH 89°58'20" EAST TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 26.50 FEET; (4.) SOUTHEASTERLY 41.63 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'03"; (5.) SOUTH 89°58'17" EAST, 5.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID BUFFALO DRIVE; THENCE SOUTH 00°01'43" WEST DEPARTING SAID SOUTHERLY LINE AND ALONG SAID EAST RIGHT-OF-WAY LINE, 396.42 FEET TO THE POINT OF BEGINNING.

**NOTE:** THIS LAND DESCRIPTION IS PROVIDED AS A CONVENIENCE AND IS NOT INTENDED FOR THE PURPOSE OF SUBDIVIDING LAND NOT IN CONFORMANCE WITH NEVADA REVISED STATUTES.

**BASIS OF BEARINGS**

NORTH 88°37'32" WEST, BEING THE BEARING OF THE SOUTH LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 9, TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA, AS SHOWN ON THAT CERTAIN MAP ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE, IN FILE 87 OF SURVEYS, AT PAGE 91.

**END OF DESCRIPTION.**

# MONACO

COMMON INTEREST COMMUNITY  
A PORTION OF THE SOUTH HALF (S 1/2) OF SECTION 9,  
TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA

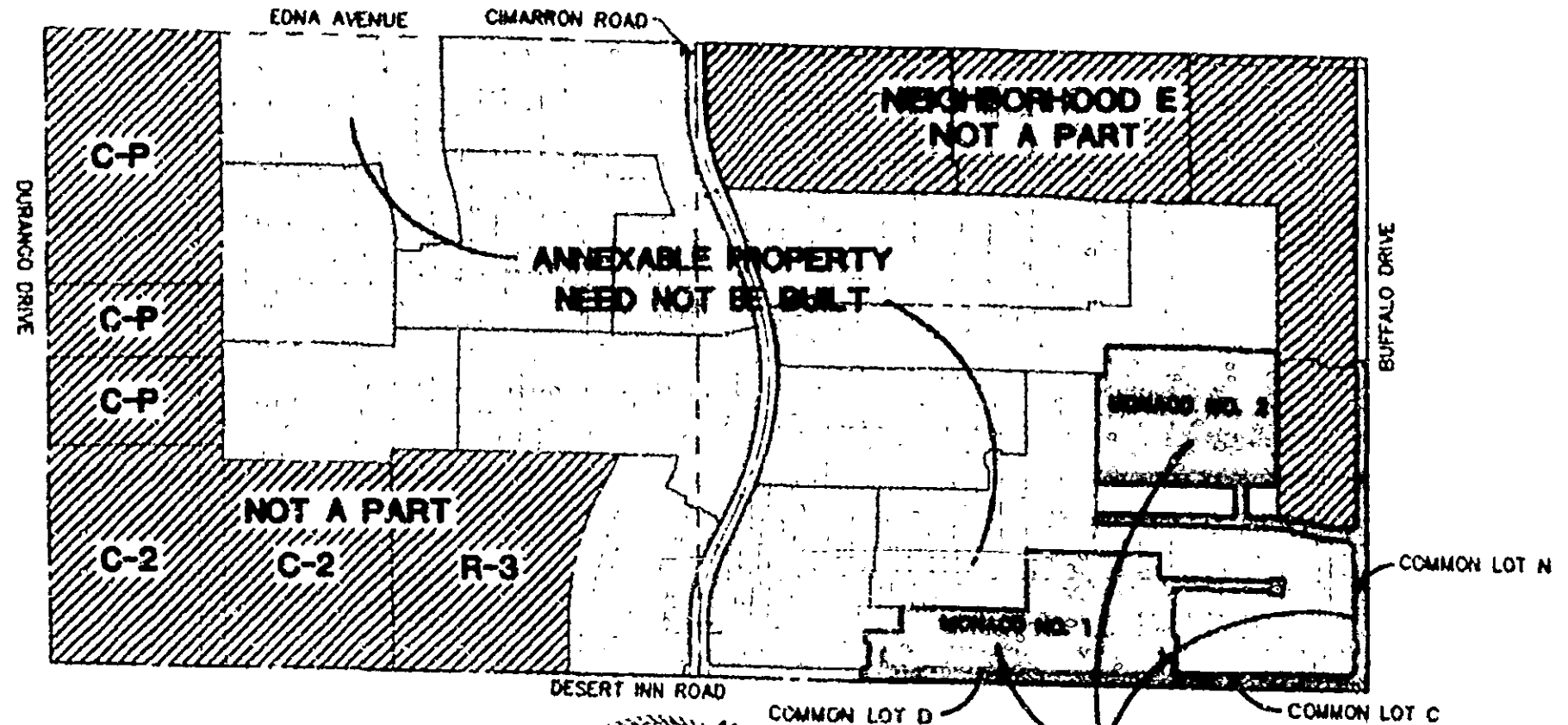
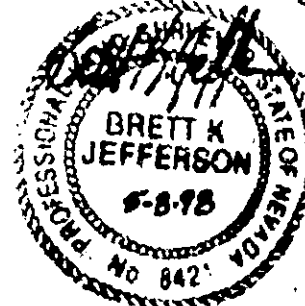


EXHIBIT "A-1"



PAGE 5 OF 5

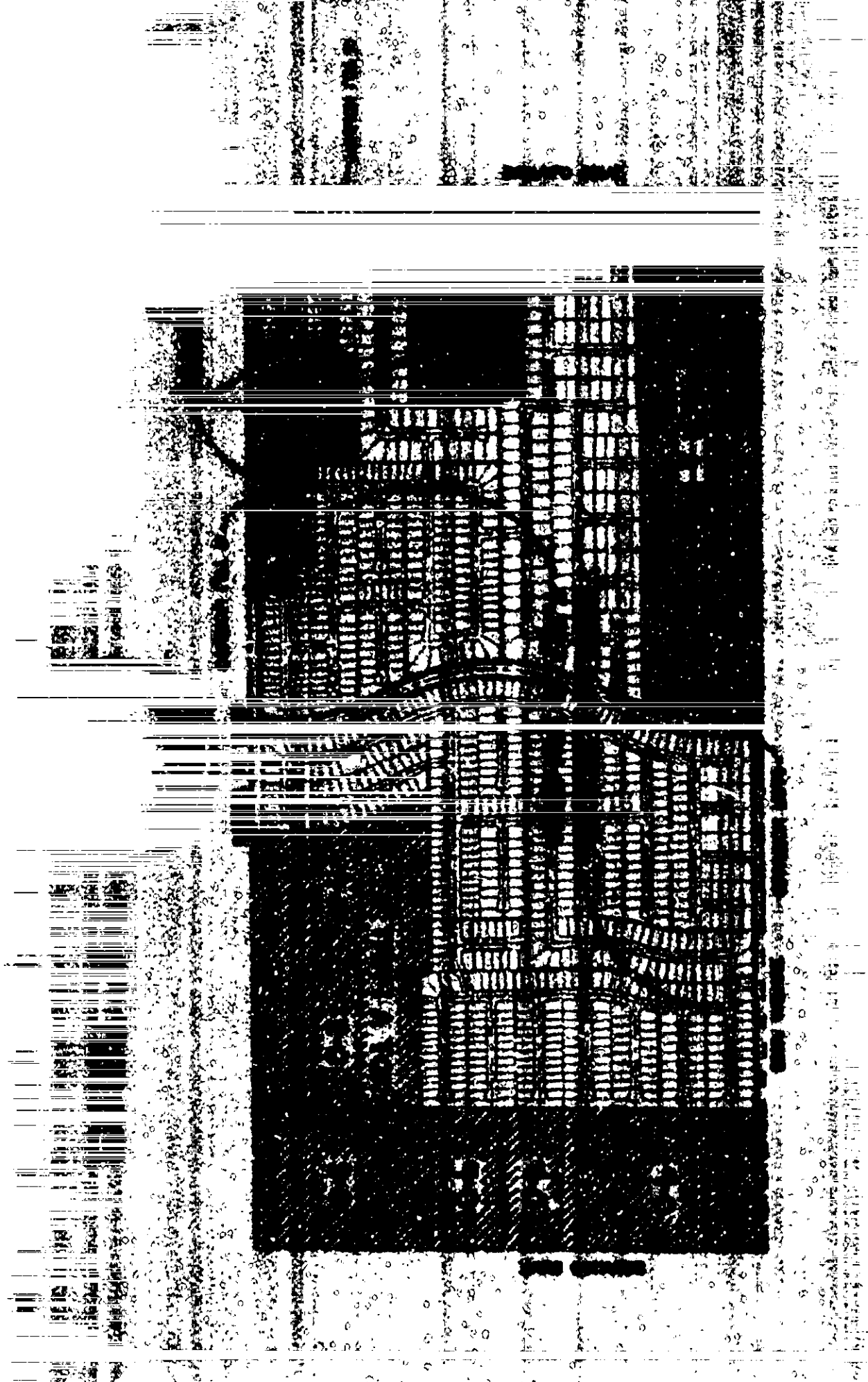


INITIAL PROPERTY  
EXHIBIT TO ACCOMPANY  
LAND DESCRIPTION

**PENTACORE**

CIVIL ENGINEERING • LAND SURVEYING • PLANNING  
CONSTRUCTION MANAGEMENT • ADA CONSULTING  
8763 WEST CHARLSTON BOULEVARD  
LAS VEGAS, NEVADA 89102 (702)258-0115

T.B.D. APRIL 28, 1998  
2:100.00/1000/LINER/INITIAL2.DWG





980921.021102

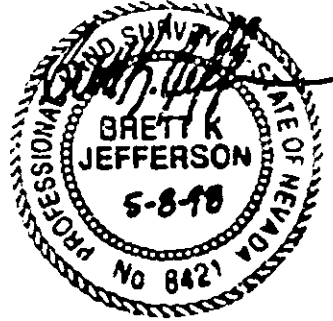
EXHIBIT "B"  
[Description of Initial Association Property]

CLARK COUNTY, NEVADA  
JUDITH A. VANDEVER, RECORDER  
RECORDED AT REQUEST OF:  
LEWIS HOMES OF NEVADA  
09-21-98 16:03 CDO 54  
BOOK: 980921 INST. 02422  
FEE: 60.00 RPTT: .00



# PENTACORE

Civil Engineering  
 Land Surveying  
 Global Positioning  
 Land Planning - GIS  
 Construction  
 Administration  
 ADA Consulting  
 Landscape  
 Architecture  
 Measurement  
 Technology  
 Water Ventures  
 International



0030.1800  
 FILE: COMMON.DOC  
 APRIL 16, 1998  
 BY: P.D.  
 CKD: MJJ  
 PAGE 1 OF 5

## EXPLANATION

THIS LAND DESCRIPTION DESCRIBES A PARCEL OF LAND GENERALLY LOCATED NORTH OF DESERT INN ROAD AND WEST OF BUFFALO DRIVE FOR RESTRICTION CLARIFICATION PURPOSES.

## LAND DESCRIPTION

### COMMON LOT "D"

A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING COMMON LOT "D" AS SHOWN ON THAT CERTAIN PLAT KNOWN AS "MONACO NO. 1" ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE IN BOOK 83 AT PAGE 50, AS SHOWN ON THE EXHIBIT TO ACCOMPANY LAND DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

### TOGETHER WITH:

### COMMON LOT "C"

A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 9, MARKED BY A BRASS CAP IN WELL MONUMENT, STAMPED "PLS 7004", SAME BEING THE CENTERLINE INTERSECTION OF BUFFALO DRIVE (90 FEET WIDE) AND DESERT INN ROAD (95 FEET WIDE); THENCE NORTH 88°37'20" WEST ALONG THE SOUTH LINE OF SAID SECTION 9, COINCIDENT WITH THE CENTERLINE OF SAID DESERT INN ROAD, 103.26 FEET; THENCE NORTH 02°22'22" EAST DEPARTING SAID SOUTH LINE AND SAID CENTERLINE, 49.52 FEET TO THE NORTH RIGHT-OF-WAY LINE OF SAID DESERT INN ROAD AS DEDICATED PER BOOK 980311, INSTRUMENT 00924, SAME BEING THE POINT OF BEGINNING;

THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES: (1.) NORTH 87°37'38" WEST, 200.83 FEET; (2.) NORTH 88°37'20" WEST, 70.00 FEET; (3.) SOUTH 89°44'41" WEST, 280.73 FEET; (4.) NORTH 88°37'20" WEST, 74.26 FEET TO THE EASTERLY LINE OF THAT CERTAIN PLAT KNOWN AS MONACO NO. 1, ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE IN BOOK 83 OF PLATS, AT PAGE 50; THENCE DEPARTING SAID NORTH RIGHT-OF-WAY LINE AND ALONG SAID EASTERLY LINE, THE FOLLOWING FOUR (4) COURSES: (1.) NORTH 01°22'40" EAST ALONG A RADIAL LINE, 4.99 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 26.50 FEET; (3.)

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ADA CONSULTING  
 Tel. 702.258.0115 • Fax 258.8528

NORTHWESTERLY 41.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°39'03"; (3.) NORTH 00°01'43" EAST, 67.25 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 16.50 FEET; (4.) NORTHEASTERLY 19.24 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 66°48'01"; THENCE SOUTH 00°01'43" WEST DEPARTING SAID EASTERLY LINE, 78.54 FEET; THENCE SOUTH 44°17'49" EAST, 28.62 FEET; THENCE SOUTH 88°37'20" EAST, 55.24 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 1124.00 FEET; THENCE EASTERLY 32.14 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°38'18"; THENCE NORTH 89°44'22" EAST, 251.07 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 876.00 FEET; THENCE EASTERLY 25.02 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°38'12"; THENCE SOUTH 88°37'26" EAST, 70.00 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 876.00 FEET; THENCE EASTERLY 15.21 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°59'42"; THENCE SOUTH 87°37'44" EAST, 214.03 FEET; THENCE NORTH 46°10'30" EAST, 27.71 FEET; THENCE NORTH 00°01'43" EAST, 86.91 FEET; THENCE SOUTH 88°37'20" EAST, 10.00 FEET; THENCE SOUTH 89°58'17" EAST, 5.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID BUFFALO DRIVE AS DEDICATED PER BOOK 980311, INSTRUMENT 00924; THENCE SOUTH 00°01'43" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, 66.06 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 54.00 FEET; THENCE SOUTHWESTERLY 87.03 FEET DEPARTING SAID EAST RIGHT-OF-WAY LINE AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 92°20'39" TO THE **POINT OF BEGINNING** AS SHOWN ON THE EXHIBIT TO ACCOMPANY LAND DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF;

TOGETHER WITH:

**COMMON LOT "N"**

A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 9, MARKED BY A BRASS CAP IN WELL MONUMENT, STAMPED "PLS 7004", SAME BEING THE CENTERLINE INTERSECTION OF BUFFALO DRIVE (90 FEET WIDE) AND DESERT INN ROAD (95 FEET WIDE); THENCE NORTH 00°01'43" EAST ALONG THE EAST LINE OF SAID SECTION 9, COINCIDENT WITH THE CENTERLINE OF SAID BUFFALO DRIVE, 210.90 FEET; THENCE NORTH 87°37'41" WEST DEPARTING SAID EAST LINE AND SAID CENTERLINE, 45.04 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID BUFFALO DRIVE AS DEDICATED PER BOOK 980311, INSTRUMENT 00924, SAME BEING THE **POINT OF BEGINNING**;

THENCE NORTH 87°37'44" WEST DEPARTING SAID EAST RIGHT-OF-WAY LINE, 15.01 FEET; THENCE NORTH 00°01'43" EAST, 387.31 FEET; THENCE NORTH 44°58'19" WEST, 35.36 FEET; THENCE NORTH 89°58'20" WEST, 15.00 FEET; THENCE SOUTH 45°01'43" WEST ALONG A RADIAL LINE, 2.47 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 8.50 FEET; THENCE NORTHWESTERLY 6.68 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°00'00"; THENCE NORTH 89°58'17" WEST, 51.00 FEET; THENCE NORTH 44°58'17" WEST, 14.84 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 534.00 FEET, A BEARING LINE TO SAID BEGINNING BEARS SOUTH 13°00'48" EAST; THENCE NORTHWESTERLY 43.13 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04°37'35" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 466.00 FEET, A BEARING LINE TO SAID BEGINNING BEARS NORTH 17°38'26" EAST; THENCE NORTHWESTERLY 48.00 FEET

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $05^{\circ}54'08''$ ; THENCE NORTH  $00^{\circ}01'43''$  EAST, 10.21 FEET TO THE SOUTHERLY LINE OF THAT CERTAIN PLAT KNOWN AS MONACO NO. 2, ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE IN BOOK 83 OF PLATS, AT PAGE 49, SAME BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 476.00 FEET, A BEARING TO SAID BEGINNING BEARS NORTH  $11^{\circ}29'20''$  EAST; THENCE ALONG SAID SOUTHERLY LINE, THE FOLLOWING FIVE (5) COURSES: (1.) SOUTHEASTERLY 51.11 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $06^{\circ}09'06''$  TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 524.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH  $17^{\circ}38'26''$  WEST; (2.) SOUTHEASTERLY 161.08 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $17^{\circ}36'46''$ ; (3.) SOUTH  $89^{\circ}58'20''$  EAST TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 26.50 FEET; (4.) SOUTHEASTERLY 41.63 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $90^{\circ}00'03''$ ; (5.) SOUTH  $89^{\circ}58'17''$  EAST, 5.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID BUFFALO DRIVE; THENCE SOUTH  $00^{\circ}01'43''$  WEST DEPARTING SAID SOUTHERLY LINE AND ALONG SAID EAST RIGHT-OF-WAY LINE, 396.42 FEET TO THE POINT OF BEGINNING AS SHOWN ON THE EXHIBIT TO ACCOMPANY LAND DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 39,839 SQUARE FEET, AS DETERMINED BY COMPUTER METHODS.

**NOTE:** THIS LAND DESCRIPTION IS PROVIDED AS A CONVENIENCE AND IS NOT INTENDED FOR THE PURPOSE OF SUBDIVIDING LAND NOT IN CONFORMANCE WITH NEVADA REVISED STATUTES.

#### **BASIS OF BEARINGS**

NORTH  $83^{\circ}37'32''$  WEST, BEING THE BEARING OF THE SOUTH LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 9, TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA, AS SHOWN ON THAT CERTAIN MAP ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE, IN FILE 87 OF SURVEYS, AT PAGE 91.

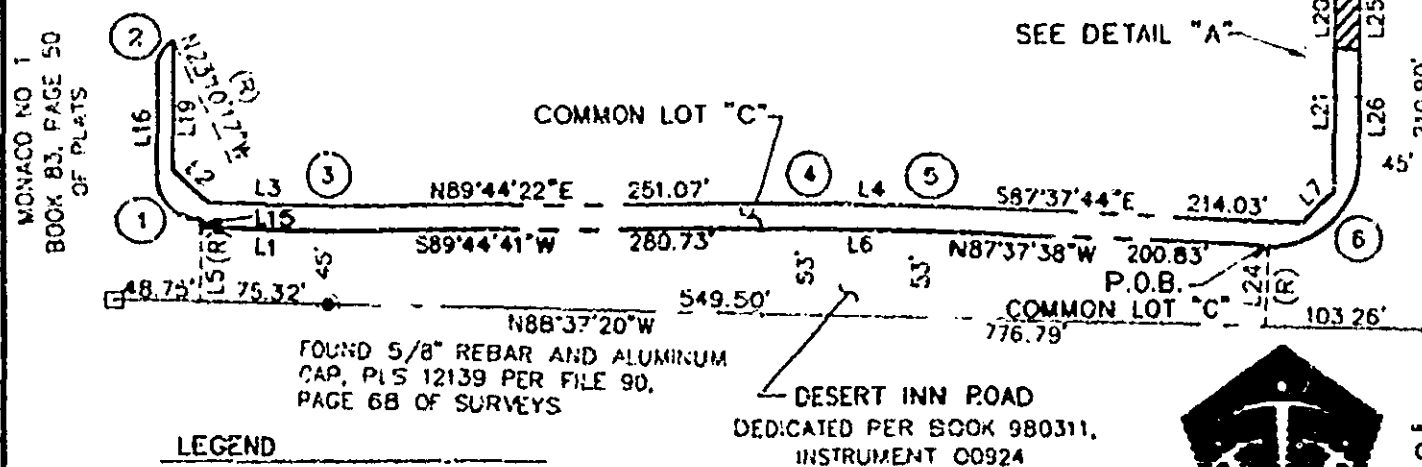
**END OF DESCRIPTION.**

LINE	BEARING	DISTANCE
L1	N88°37'20"W	74.26'
L2	S44°17'49"E	28.62'
L3	S88°37'20"E	55.24'
L4	S88°37'26"E	10.11'
L5	N01°22'40"E	45.00'
L6	N88°37'20"W	70.00'
L7	N46°10'30"E	27.71'
L8	N44°58'19"W	35.36'
L9	N89°58'20"W	15.00'
L10	N44°58'17"W	13.84'
L11	N89°58'17"W	51.00'
L12	S45°01'43"W	2.47'
L13	S89°58'17"E	5.00'
L14	S89°58'20"E	23.50'
L15	N01°22'40"E	4.99'
L16	N00°01'43"E	67.25'
L18	N00°01'43"E	10.31'
L19	S00°01'43"W	78.54'
L20	N00°01'43"E	41.20'
L21	N00°01'43"E	86.91'
L22	N88°37'20"W	10.00'
L23	N87°37'44"W	15.01'
L24	N02°22'22"E	49.52'
L25	N00°01'43"E	40.82'
L26	S00°01'43"W	68.08'
L27	N89°58'17"W	45.00'
L28	N87°37'44"W	45.04'



## EXHIBIT "B"

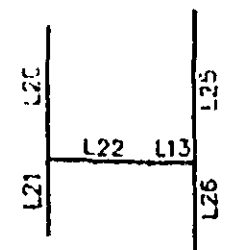
CURVE	DELTA	RADIUS	LENGTH	TANGENT
1	88°39'03"	26.50'	41.00'	25.88'
2	66°48'01"	16.50'	19.24'	10.88'
3	01°38'18"	1124.00'	32.14'	16.07'
4	01°38'12"	876.00'	25.02'	12.51'
5	00°59'42"	876.00'	15.21'	7.61'
6	92°20'39"	54.00'	87.03'	56.26'
7	45°00'00"	8.50'	6.68'	3.52'
8	05°54'08"	466.00'	48.00'	24.02'
9	04°37'38"	534.00'	43.13'	21.58'
10	08°09'06"	476.00'	51.11'	25.58'
11	17°36'46"	524.00'	161.08'	81.18'
12	90°00'03"	26.50'	41.63'	26.50'



FOUND BRASS GIM WITH PUNCH MARK IN CONCRETE PER FILE 80, PAGE 59 OF SURVEYS

FOUND 1 1/2" ALUMINUM CAP, PLS 7004 PER FILE 58, PAGE 91 OF SURVEYS

DEDICATED PER BOOK 980311, INSTRUMENT 00924



DETAIL "A"  
NOT TO SCALE

EXHIBIT TO ACCOMPANY LAND DESCRIPTION

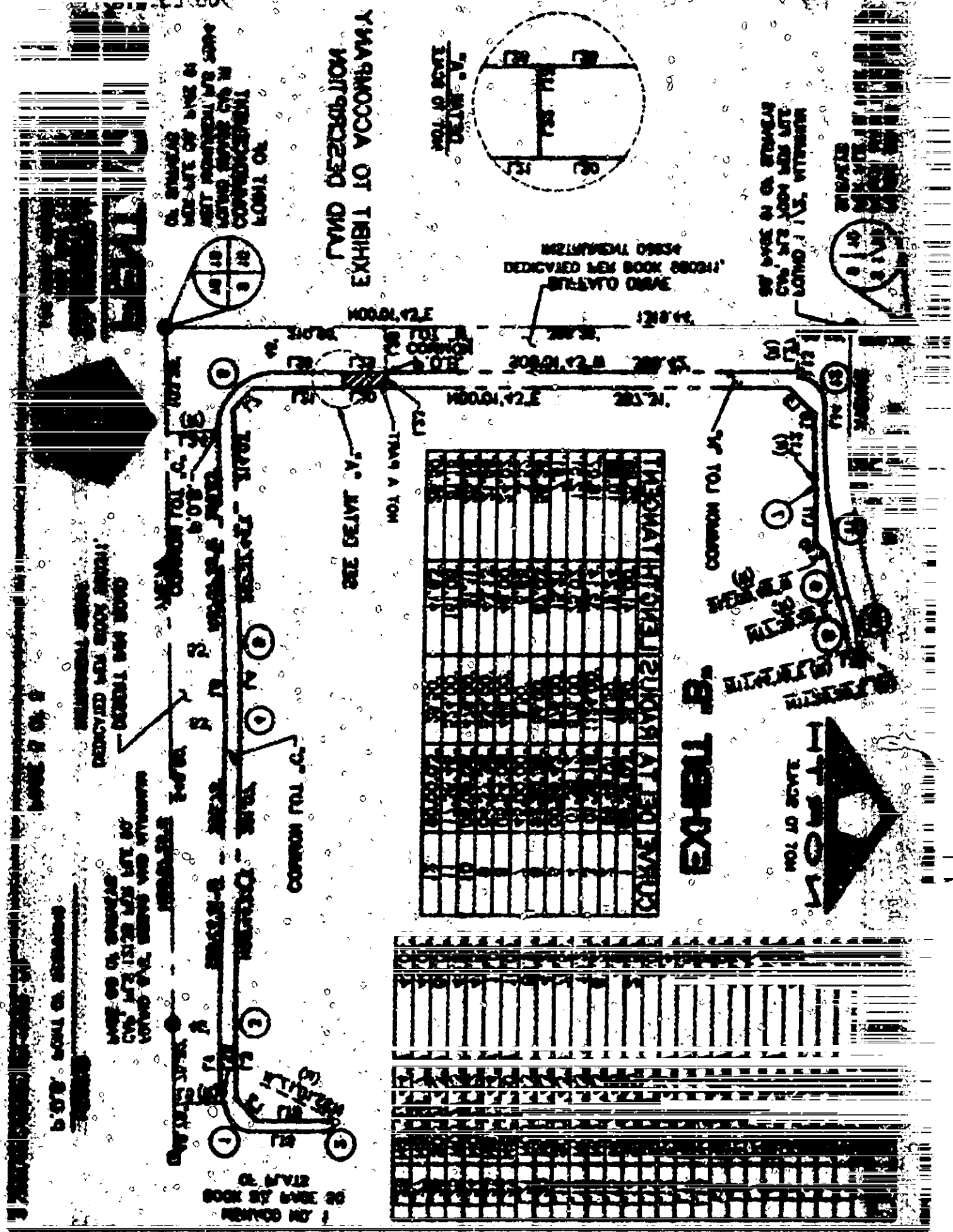
POINT OF COMMENCEMENT  
FOUND BRASS CAP IN WELL MONUMENT PLS 7004 PER FILE 58, PAGE 91 OF SURVEYS

LEGEND  
P.O.B. POINT OF BEGINNING

DESERT INN ROAD  
DEDICATED PER BOOK 980311, INSTRUMENT 00924



**PENTACORE**  
CIVIL ENGINEERING • LAND SURVEYING • PLANNING  
CONSTRUCTION MANAGEMENT • ADA CONSULTING  
6763 WEST CHARLESTON BOULEVARD  
LAS VEGAS, NEVADA 89102 (702)258-0115



00000

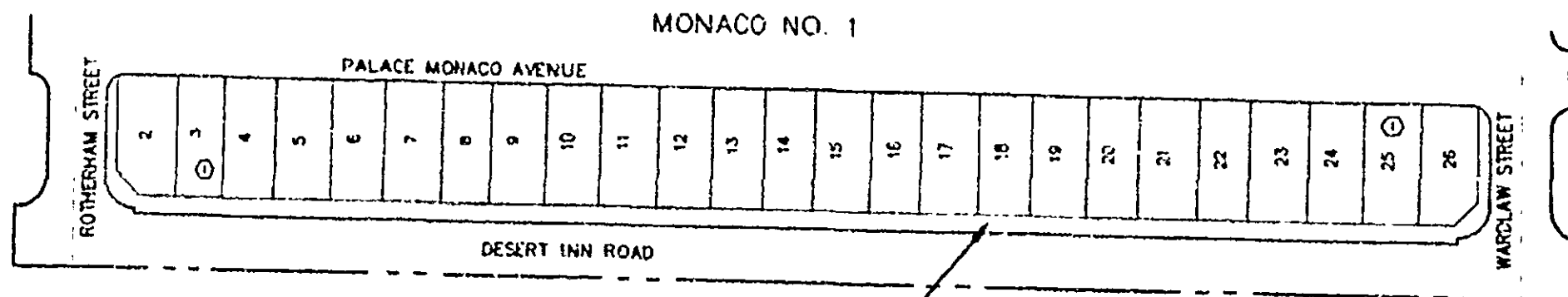


# MONACO NO. 1

COMMON INTEREST COMMUNITY

A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9,  
TOWNSHIP 21 SOUTH, RANGE 60 EAST, MOUNT DIABLO MERIDIAN, CLARK COUNTY, NEVADA

## EXHIBIT "B"



COMMON LOT "D"  
18,169. SF.

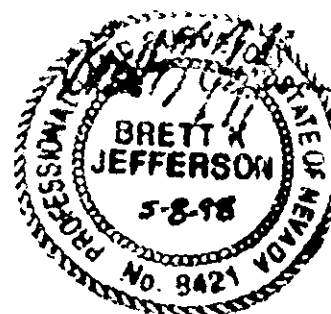


EXHIBIT TO ACCOMPANY  
LAND DESCRIPTION

### PENTACORE

CIVIL ENGINEERING • LAND SURVEYING • PLANNING  
CONSTRUCTION MANAGEMENT • ADA CONSULTING  
8783 WEST CHARLESTON BOULEVARD  
LAS VEGAS, NEVADA 89102 (702)258-0115



C.L.M. MAY 8, 1998  
S:\0030\1800\COMMIT\COM\LOT.DWG

PAGE 4 OF 5

APP000427

COMMON TO 10.

2003

**1. ON BOARD**

**JUSTA OCAION ECUA**

[illegible]



980923.01097

**RE-RECORDED**

CLARK COUNTY, NEVADA  
JUDITH A. VANDEVER, RECORDER  
RECORDED AT REQUEST OF:

LEWIS HOMES OF NEVADA

09-23-98 14:41 NEL 70  
OFFICIAL RECORDS  
BOOK: 980923 INST: 01097  
FEE: 76.00 APTT: .00

# **EXHIBIT 2**

# **EXHIBIT 2**

37

20030218  
02324STATE OF NEVADA  
DECLARATION OF VALUE

1. Assessor Parcel Number(s) 163-09-817-050

## 2. Type of Property:

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

FOR RECORDERS OPTIONAL USE ONLY	
Document Instrument No.:	
Book:	Page:
Date of Recording:	
Notes:	

## 3. Total Value/Sales Price of Property:

Deed in Lieu of Foreclosure Only (value of property)

Transfer Tax Value per NRS 375.010, Section 2:

Real Property Transfer Tax Due:

~~\$185,000.00~~ 182,000.00

\$

~~\$185,000.00~~ 182,000.00

\$ 462.30

455.05

## 4. If Exemption Claimed

a. Transfer Tax Exemption, per NRS 375.090, Section \_\_\_\_\_

b. Explain Reason for Exemption: \_\_\_\_\_

## 5. Partial Interest: Percentage being transferred: \_\_\_\_\_ %

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

Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature \_\_\_\_\_

Capacity \_\_\_\_\_

Signature \_\_\_\_\_

Capacity \_\_\_\_\_

## SELLER (GRANTOR) INFORMATION

(Required)

Print Name: Mario A. RodriguezAddress: 8149 Palace Monaco Av.City/State/Zip: Las Vegas, NV. 89117

## BUYER (GRANTEE) INFORMATION

(Required)

Print Name: Robert Vincent NardizziAddress: 8149 Palace Monaco Ave Las VegasCity/State/Zip: Las Vegas, NV 89117

## COMPANY REQUESTING RECORDING

Co. Name: Pioneer National Title of Nevada, Inc.  
 7548 West Sahara Ave., Ste 101  
 Las Vegas, NV 89117

Esc #: 3030018-JL

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED)

2374

37  
Escrow No. 3030018-JL  
APN No.: 163-09-817-050  
R.P.T.T: \$ 462,50 455.00

20030218  
02324

### Grant, Bargain, Sale Deed

THIS INDENTURE WITNESSETH: That Marco A. Rodriguez, a married man as his sole and separate property and Sandra Montano, an unmarried woman, as joint tenants

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, do hereby Grant, Bargain, Sell and

Convey to ROBERT NARDIZZI, A SINGLE MAN

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

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

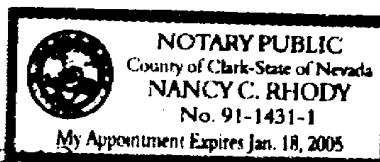
Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Marco A. Rodriguez

Sandra Montano BY Sonia Montano  
as her attorney in fact  
AS HER ATTORNEY IN FACT

STATE OF NEVADA  
COUNTY OF CLARK

} ss:



This instrument was acknowledged before me on February 3, 2005  
by Marco A. Rodriguez & Sandra Montano by Sonia Montano  
as her attorney in fact

NOTARY PUBLIC

WHEN RECORDED MAIL TO:  
Rob Nardizzi  
8149 PALACE MONACO AVENUE  
LAS VEGAS, NV 89117

MAIL TAX STATEMENTS TO:  
Rob Nardizzi  
8149 PALACE MONACO AVENUE  
LAS VEGAS, NV 89117

SPACE FOR RECORDER'S USE

20030218  
02324**EXHIBIT A  
LEGAL DESCRIPTION**

**Lot Two Hundred Thirty (230) in Block "J" of Monaco No. 12, as shown by map thereof on file in Book 89 of Plats, Page 81, in the office of the County Recorder, Clark County, Nevada.**

\*\*\*\*\* CLARK COUNTY, NEVADA \*\*\*\*\*  
FRANCES DEANE, RECORDER  
RECORDED AT REQUEST OF: PIONEER NATIONAL TITLE  
02-18-2003 15:24 D61 PAGE COUNT: 2  
OFFICIAL RECORDS  
BOOK/INSTR: 20030218-02324 FEE: 15.00  
RPTT: 455.00

# **EXHIBIT 3**

# **EXHIBIT 3**



Fee: \$35.00  
N/C Fee: \$0.00

03/15/2005 14:27:45  
T20050047074

Requestor:  
TICOR TITLE OF NEVADA INC

Frances Deane OSA  
Clark County Recorder Pgs: 22

Assessor's Parcel No.: 16309817050

After recording please return to:  
IndyMac Bank, F.S.B. c/o Document Management

[Company Name]

[Name of Natural Person]  
3465 E. Foothill Blvd.

[Street Address]  
Pasadena, CA 91107

[City, State Zip Code]

Until a change is requested, all tax statements  
shall be sent to the following address:  
IndyMac Bank, F.S.B.

[Name]  
P.O. Box 78826

[Street Address]  
Phoenix, AZ 85062-8826

[City, State Zip Code]

[Space Above This Line For Recording Data]

05036168-LS

## DEED OF TRUST

MIN 100055401209419094

### 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 March 7, 2005, together with all Riders to this document.

(B) "Borrower" is Robert Nardizzi, a married man, as his sole and separate property

Borrower is the trustor under this Security Instrument.

(C) "Lender" is IndyMac Bank, F.S.B., a federally chartered savings bank. Lender is a Federal Savings Bank organized and existing under the laws of United States of America. Lender's address is 155 North Lake Avenue, Pasadena, CA 91101.

Loan No: 120941909

Nevada Deed of Trust-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
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(D) "Trustee" is Ticor Title Insurance Co

(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 March 7, 2005. The Note states that Borrower owes Lender one hundred eighty five thousand seven hundred and NO/100ths Dollars (U.S. \$ 185,700.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than April 1, 2035.

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

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

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

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

(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.

Loan No: 120941909

Nevada Deed of Trust-Single Family-Fannie Mac/Freddie Mac UNIFORM INSTRUMENT  
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**(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 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]

Legal description attached hereto and made a part hereof.

which currently has the address of

8149 Palace Monaco Avenue  
 [Street]  
 Las Vegas, Nevada 89117 ("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.

Loan No: 120941909

Nevada Deed of Trust-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
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UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.**

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

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

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments

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

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

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

**3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under

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

Nevada Deed of Trust-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

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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.

**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, Loan No: 120941909



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 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

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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.

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

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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.

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.

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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 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

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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 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 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,

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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 the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option, and without further demand, may invoke the power of sale, including the right to accelerate full payment of the Note, and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

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

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

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

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

**25. Assumption Fee.** If there is an assumption of this loan, Lender may charge an assumption fee of U.S. \$100 where no credit checks are required, the greater of \$400 or 1% of unpaid principal balance of the mortgage - up to a maximum of \$900 - if the change of ownership requires credit approval of the new mortgagor; or any maximum prescribed by Applicable Law.

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.

Loan No: 120941909

Nevada Deed of Trust-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
—THE COMPLIANCE SOURCE, INC.—  
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14301NV 08/01  
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Witnesses:

\_\_\_\_\_  
Robert Nardizzi (Seal)  
-Borrower  
[Printed Name]

Printed Name: {Please Complete}

\_\_\_\_\_  
(Seal)  
-Borrower  
[Printed Name]

\_\_\_\_\_  
(Seal)  
-Borrower  
[Printed Name]

Printed Name: {Please Complete}

\_\_\_\_\_  
(Seal)  
-Borrower  
[Printed Name]

\_\_\_\_\_  
[Acknowledgment on Following Page]

Loan No: 120941909

Nevada Deed of Trust-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
—THE COMPLIANCE SOURCE, INC.—  
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State of Nevada §  
County of Clark §  
§

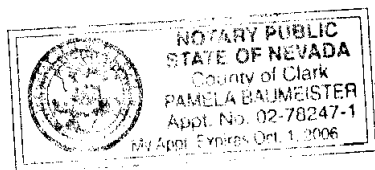
Before me the undersigned authority, on this day personally appeared Robert Nardizzi

known to me (or proved to me through an identity card or other document) to be the person(s) whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal on this

(Seal)

9<sup>th</sup> day of March 2005,  
Pamela Baumeister  
Notary Public Pamela Baumeister [Printed Name]  
My Commission Expires: Oct 1, 2006



Loan No: 120941909

Nevada Deed of Trust-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
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## PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 7th day of March, 2005, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to IndyMac Bank, F.S.B., a federally chartered savings bank (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

8149 Palace Monaco Avenue, Las Vegas, NV 89117

*[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 Declaration of Covenants, Conditions, and Restrictions (the "Declaration"). The Property is a part of a planned unit development known as:

Monaco

*[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,

Loan No: 120941909

MIN: 100055401209419094

Multistate PUD Rider — Single Family — Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 3150 01/01

—THE COMPLIANCE SOURCE, INC.—

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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.

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.

-----[Signatures on Following Page]-----

Loan No: 120941909

Multistate PUD Rider — Single Family — Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

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

  
Robert Nardizzi (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

*[Sign Original Only]*

Loan No: 120941909

Multistate PUD Rider — Single Family — Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
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**FIXED/ADJUSTABLE RATE RIDER  
INTEREST ONLY FIXED PERIOD**  
(LIBOR 6 Month Index (As Published In *The Wall Street Journal*)- Rate Caps)

Loan # 120941909

MIN: 100055401209419094

THIS FIXED/ADJUSTABLE RATE RIDER is made this 7th day of March, 2005, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned ("Borrower") to secure Borrower's Fixed/Adjustable Rate Note (the "Note") to IndyMac Bank, F.S.B., a federally chartered savings bank

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

8149 Palace Monaco Avenue, Las Vegas, NV 89117

[Property Address]

**THE NOTE PROVIDES FOR A CHANGE IN BORROWER'S FIXED INTEREST RATE TO AN ADJUSTABLE INTEREST RATE. THE NOTE LIMITS THE AMOUNT BORROWER'S ADJUSTABLE INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE BORROWER MUST PAY.**

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

**A. ADJUSTABLE RATE AND MONTHLY PAYMENT CHANGES**

The Note provides for an initial fixed interest rate of 5.750 %. The Note also provides for a change in the initial fixed rate to an adjustable interest rate, as follows:

**4. ADJUSTABLE INTEREST RATE AND MONTHLY PAYMENT CHANGES**

**(A) Change Dates**

The initial fixed interest rate I will pay will change to an adjustable interest rate on the first day of April 2010, and the adjustable interest rate I will pay may change on that day every 6th month thereafter. The date on which my initial fixed interest rate changes to an adjustable interest rate, and each date on which my adjustable interest rate could change, is called a "Change Date."

MULTISTATE FIXED/ADJUSTABLE RATE RIDER - LIBOR 10 - Single Family

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8480396 (0208)

VMP MORTGAGE FORMS - (800)521-7291

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**(B) The Index**

Beginning with the first Change Date, my adjustable interest rate will be based on an Index. The "Index" is the average of interbank offered rates for six-month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the first business day of the month immediately preceding the month in which the Change Date occurs 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.

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding two and 750/1000ths (2.750 %) 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%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than 10.750 % or less than 2.750 %. Thereafter, my adjustable interest rate will never be increased or decreased on any single Change Date by more than 1.00 percentage points from the rate of interest I have been paying for the preceding 6 months. My interest rate will never be greater than 11.750 %.

**(E) Effective Date of Changes**

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

**(F) Notice of Changes**

The Note Holder will deliver or mail to me a notice of any changes in my initial fixed interest rate to an adjustable interest rate and of any changes in my adjustable interest rate before the effective date of any change. The notice will include the amount of my monthly payment, any 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.

**(G) Date of First Principal and Interest Payment**

The date of my first payment consisting of both principal and interest on this Note (the "First Principal and Interest Payment Due Date") shall be the first monthly payment due after the first Change Date.

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8480396 (0208)

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

1. Until Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument shall 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.

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.

2. When Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument described in Section B1 above shall then cease to be in effect, and the provisions of Uniform Covenant 18 of the Security Instrument shall be 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 also may 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.

8480396 (0208)  
Loan No: 120941909

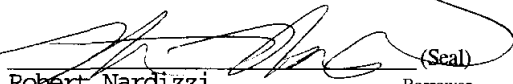
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If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within 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 Fixed/Adjustable Rate Rider.

 (Seal) \_\_\_\_\_ (Seal)  
Robert Nardizzi -Borrower -Borrower

\_\_\_\_\_ (Seal) \_\_\_\_\_ (Seal)  
-Borrower -Borrower

\_\_\_\_\_ (Seal) \_\_\_\_\_ (Seal)  
-Borrower -Borrower

\_\_\_\_\_ (Seal) \_\_\_\_\_ (Seal)  
-Borrower -Borrower

Loan No: 120941909  
8480396 (0208)

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**EXHIBIT A**

**Lot Two Hundred Thirty (230) in Block "J" of MONACO NO. 12, as shown by map thereof on file in Book 89 of Plats, Page 81, in the Office of the County Recorder of Clark County, Nevada.**

# **EXHIBIT 4**

# **EXHIBIT 4**

(9)

  
 20060515-0000060

Recording requested by:  
Wells Fargo Bank, N.A.

I hereby affirm that this document  
submitted for recording does not  
contain a Social Security Number.

When recorded return to:  
Wells Fargo Bank, N.A.  
P. O. BOX 31557  
BILLINGS, MT 59107  
DOCUMENT MANAGEMENT

Assessors Parcel Number:  
163-09-817-050

Fee: \$22.00  
N/C Fee: \$0.00

05/15/2006 07:34:51  
T20060084977

Requestor:  
WELLS FARGO BANK NA

Frances Deane 061  
Clark County Recorder Pgs: 9

State of Nevada Space Above This Line For Recording Date  
REFERENCE #: 20060677300742 ACCOUNT #: 0650-650-1264431-1998

### DEED OF TRUST

1. **DATE AND PARTIES.** The date of this Deed of Trust ("Security Instrument") is 04/03/2006  
and the parties are as follows:

TRUSTOR ("Grantor"):  
ROBERT V. NARDIZZI WHO ACQUIRED TITLE AS ROBERT NARDIZZI, A MARRIED MAN  
AS HIS SOLE AND SEPARATE PROPERTY AND KELLY A NARDIZZI A NON VESTED  
SPOUSE.

whose address is:  
8149 PALACE MONACO AVE LAS VEGAS, NV, 89117  
TRUSTEE: **AMERICAN SECURITIES COMPANY OF NEVADA**  
P. O. BOX 31557  
BILLINGS, MT 59107

BENEFICIARY ("Lender"): Wells Fargo Bank, N.A.  
P. O. BOX 31557  
BILLINGS, MT 59107

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is  
acknowledged, and to secure the Secured Debt (defined below) and Grantor's performance under this  
Security Instrument, Grantor irrevocably grants, conveys and sells to Trustee, in trust for the benefit of  
Lender, with power of sale, all of that certain real property located in the County of

CLARK, State of Nevada, described as follows:

LOT TWO HUNDRED THIRTY (230) IN BLOCK 'J' OF MONACO NO. 12, AS SHOWN BY MAP  
THEREOF ON FILE IN BOOK 89 OF PLATS, PAGE 81, IN THE OFFICE OF THE COUNTY  
RECORDER OF CLARK COUNTY, NEVADA. PURSUANT TO NRS SECTION 111.312, THE  
ABOVE LEGAL DESCRIPTION IS THE SAME PROPERTY CONVEYED IN DEED RECORDED  
3/17/2005 AS INSTRUMENT NO. 20050317-0004720.

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with the address of

8149 PALACE MONACO AVE LAS VEGAS, NV 89117

and parcel number of 163-09-817-050

, together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

**3. MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 100,000.00. This limitation of amount does not include interest

and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

**4. SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:

A. Debt incurred under the terms of the promissory note, revolving line of credit agreement, contract, guaranty or other evidence of debt dated 04/03/2006 together with all amendments, extensions, modifications or renewals. The maturity date of the Secured Debt is 04/03/2046.

B. All future advances from Lender to Grantor under such evidence of debt. All future advances are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances which exceed the amount shown in Section 3. Any such commitment must be agreed to in a separate writing.

C. All sums advanced and expenses incurred by Lender for insuring, preserving, or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

**5. PAYMENTS.** Grantor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

**6. WARRANTY OF TITLE.** Grantor warrants that Grantor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to irrevocably grant, convey and sell the Property to Trustee, in trust, with power of sale. Grantor also warrants that the Property is unencumbered, except for encumbrances of record.

**7. PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Grantor agrees:

A. To make all payments when due and to perform or comply with all covenants.

B. To promptly deliver to Lender any notices that Grantor receives from the holder.

C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

**8. CLAIMS AGAINST TITLE.** Grantor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property, or any part thereof or interest therein, whether senior or subordinate hereto, when due. Lender may require Grantor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Grantor's payment. Grantor will defend title to the Property against any claims that would impair the lien of the Security Instrument. Grantor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Grantor may have against parties who supply labor or materials to maintain or improve the Property.

**9. DUE ON SALE OR ENCUMBRANCE.** Upon sale, transfer, hypothecation, assignment or encumbrance, whether voluntary, involuntary, or by operation of law, of all or any part of the Property or any interest therein, then at its sole option Lender may, by written notice to Grantor, declare all obligations secured hereby immediately due and payable, except to the extent that such acceleration and in such particular circumstances where exercise of such a right by Lender is prohibited by law.

**10. PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Grantor will keep the Property in good condition and make all repairs that are reasonably necessary. Grantor shall not commit or allow any waste, impairment, or deterioration of the Property. Grantor will not remove or demolish the Property, or any part thereof. Grantor will keep the Property free of noxious weeds, grasses and public nuisances. Grantor agrees that the nature of the occupancy and use will not substantially change without Lender's prior

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written consent. Grantor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Grantor will notify Lender of all demands, proceedings, claims, and actions against Grantor, and of any loss or damage to the Property.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Grantor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Grantor will in no way rely on Lender's inspection.

**11. AUTHORITY TO PERFORM.** If Grantor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Grantor appoints Lender as attorney in fact to sign Grantor's name or pay any amount necessary for performance. Lender's right to perform for Grantor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

**12. ASSIGNMENT OF LEASES AND RENTS.** Grantor irrevocably grants, sells and conveys to Trustee, in trust for the benefit of Lender, as additional security all the right, title and interest in and to any and all existing or future leases, subleases, and any other written or verbal agreements for the use and occupancy of any portion of the Property, including any extensions, renewals, modifications or substitutions of such agreements (all referred to as "Leases") and rents, issues and profits (all referred to as "Rents"). Grantor will promptly provide Lender with true and correct copies of all existing and future Leases. Grantor may collect, receive, enjoy and use the Rents so long as Grantor is not in default under the terms of this Security Instrument.

Grantor agrees that this assignment is immediately effective between the parties to this Security Instrument and effective as to third parties on the recording of this Security Instrument. This assignment will remain effective during any period of redemption by the Grantor until the Secured Debt is satisfied. Grantor agrees that Lender is entitled to notify Grantor or Grantor's tenants to make payments of Rents due or to become due directly to Lender after such recording.

However, Lender agrees not to notify Grantor's tenants until Grantor defaults and Lender notifies Grantor of the default and demands that Grantor and Grantor's tenants pay all Rents due or to become due directly to Lender.

On receiving notice of default, Grantor will endorse and deliver to Lender any payment of Rents in Grantor's possession and will receive any Rents in trust for Lender and will not commingle the Rents with any other funds. Any amounts collected will be applied as provided in this Security Instrument. Grantor warrants that no default exists under the Leases or any applicable landlord/tenant law. Grantor also agrees to maintain and require any tenant to comply with the terms of the Leases and applicable law.

**13. LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** Grantor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the property is a unit in a Condominium Project or is part of a Planned Unit Development ("PUD"), Grantor agrees to the following:

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

**B. Hazard Insurance.** So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy on the Condominium Project or PUD which is satisfactory to Lender and which provides insurance coverage in the amounts, for the periods, and against the hazards Lender requires, including fire and hazards included within the term "extended

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coverage," then Grantor's obligation under Section 19 to maintain hazard insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owner's Association policy. Grantor shall give Lender prompt notice of any lapse in required hazard insurance coverage. In the event of a distribution of hazard insurance proceeds in lieu of restoration or repair following a loss to Property, whether to the unit or to common elements, any proceeds payable to Grantor are hereby assigned and shall be paid to Lender for application to the sums secured by this Security Instrument, with any excess paid to Grantor.

- C. **Flood Insurance.** Grantor agrees to maintain flood insurance for the life of the Secured Debt which is acceptable, as to form, amount and extent of coverage to Lender.
- D. **Public Liability Insurance.** Grantor 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.
- E. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, payable to Grantor in connection with any condemnation or other taking of all or any part of the Property, whether of the unit or of the common elements, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 18.
- F. **Lender's Prior Consent.** Grantor shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the Condominium Project or 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 by 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.
- G. **Remedies.** If Grantor does not pay condominium or PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this section shall become additional debt of Grantor secured by this Security Instrument. Unless Grantor and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Secured Debt rate and shall be payable, with interest, upon notice from Lender to Grantor requesting payment.

**14. DEFAULT.** Grantor will be in default if any party obligated on the Secured Debt fails to make payment when due. Grantor will be in default if a breach occurs under the terms of this Security Instrument or any other document executed for the purpose of creating, securing or guarantying the Secured Debt. A good faith belief by Lender that Lender at any time is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment or the value of the Property is impaired shall also constitute an event of default.

**15. REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Grantor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Grantor is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents, including without limitation, the power to sell the Property.

If there is a default, Trustee shall, in addition to any other permitted remedy, at the request of the Lender, advertise and sell the Property as a whole or in separate parcels at public auction to the highest bidder for

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cash and convey absolute title free and clear of all right, title and interest of Grantor at such time and place as Trustee designates.

Trustee shall give notice of sale including the time, terms and place of sale and a description of the Property to be sold as required by the applicable law in effect at the time of the proposed sale.

Upon sale of the Property and to the extent not prohibited by law, Trustee shall make and deliver a deed to the Property sold which conveys absolute title to the purchaser, and after first paying all fees, charges and costs, shall pay to Lender all moneys advanced for repairs, taxes, insurance, liens, assessments and prior encumbrances and interest thereon, and the principal and interest on the Secured Debt, paying the surplus, if any, to Grantor. Lender may purchase the Property. The recitals in any deed of conveyance shall be prima facie evidence of the facts set forth therein.

All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Grantor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

- 16. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Grantor agrees to pay all of Lender's expenses if Grantor breaches any covenant in this Security Instrument. Grantor will also pay on demand any amount incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Grantor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lenders' rights and remedies under this Security Instrument. This amount may include, but is not limited to, attorneys' fees, court costs, and other legal expenses. This Security Instrument shall remain in effect until released.

- 17. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), and all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law.

Grantor represents, warrants and agrees that:

- A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance is or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.
  - B. Except as previously disclosed and acknowledged in writing to Lender, Grantor and every tenant have been, are, and shall remain in full compliance with any applicable Environmental Law.
  - C. Grantor shall immediately notify Lender if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Grantor shall take all necessary remedial action in accordance with any Environmental Law.
  - D. Grantor shall immediately notify Lender in writing as soon as Grantor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance or the violation of any Environmental Law.
- 18. CONDEMNATION.** Grantor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Grantor authorizes Lender to intervene in Grantor' name in any of the above

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described actions or claims. Grantor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be paid to Lender and applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Grantor. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

- 19. INSURANCE.** Grantor shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires or is required by applicable law. The insurance carrier providing the insurance shall be chosen by Grantor subject to Lender's approval, which shall not be unreasonably withheld. If Grantor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument.

If Lender determines at any time during the term of the Secured Debt that the Property securing the Secured Debt is not covered by flood insurance or is covered by flood insurance in an amount less than the amount required by law, Lender will notify Grantor that Grantor should obtain flood insurance at Grantor's expense. If Grantor fails to obtain adequate flood insurance which is acceptable to Lender, Lender shall purchase flood insurance on Grantor's behalf.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause." Grantor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Grantor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Grantor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Grantor.

Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payment nor change the amount of any payment. Any excess will be paid to Grantor. If the Property is acquired by Lender, Grantor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

- 20. ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Grantor will not be required to pay to Lender funds for taxes and insurance in escrow.

- 21. FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Grantor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Grantor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Grantor's obligations under this Security Instrument and Lender's lien status on the Property.

- 22. JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Grantor signs this Security Instrument but does not sign an evidence of debt, Grantor does so only to transfer, mortgage and convey Grantor's interest in the Property to secure payment of the Secured Debt and Grantor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Grantor, Grantor agrees to waive any rights that may prevent Lender from bringing any action or claim against Grantor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Grantor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Grantor's consent. Such a change will not release Grantor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Grantor and Lender.

- 23. APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which the Property is located. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement.

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Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.

24. **SUCCESSOR TRUSTEE.** Lender, at Lender's option, may from time to time remove Trustee and appoint a successor trustee without any other formality than the designation in writing. The successor trustee, without conveyance of the Property, shall succeed to all the title, power and duties conferred upon Trustee by this Security Instrument and applicable law.
25. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or as shown in Lender's records, or to any other address designated in writing. Notice to one Grantor will be deemed to be notice to all Grantors.
26. **WAIVERS.** In the event Grantor is not also the borrower, customer or obligor (all referred to as "Borrower") under the Secured Debt:
  - A. Grantor waives all rights of homestead exemption in the Property.
  - B. Grantor represents and warrants to Lender that this Security Instrument is executed at the request of the Borrower; Grantor will not, without prior written consent of Lender, sell, lease, assign, encumber, hypothecate, transfer or otherwise dispose of all or substantially all of the Property; and Grantor has established adequate means of obtaining from Borrower, on a continuing basis, financial and other information pertaining to the financial condition of Borrower. Grantor agrees to keep adequately informed from such means of any facts, events or circumstances which might in any way affect the risks of Grantor, and Grantor further agrees that Lender has no obligation to disclose to Grantor information or material acquired in the course of Lender's relationship with Borrower.
  - C. Grantor hereby waives any right to require Lender to proceed against any person, including Borrower; proceed against or exhaust any collateral held from Borrower or any other person; pursue any other remedy in Lender's power; or make any presentments, demands for performance or give any notices of nonperformance, protests, notices of protest of dishonor in connections with the Secured Debt and this Security Instrument.
  - D. Grantor also waives any defense arising by reason of any disability or other defense of Borrower or any other defense of Borrower or any other person; the cessation from any cause whatsoever, other than payment in full of the obligations of Borrower under this Security Instrument and Secured Debt; the application by Borrower of the proceeds of the Secured Debt; for purposes other than the purposes represented by Borrower to Lender or intended or understood by Lender to Grantor; any act or omission by Lender which directly or indirectly results in or aids the discharge of Borrower by operation of law or otherwise, including any impairment or loss of any security resulting from the exercise or election of any remedies by Lender, including, without limitation, election by Lender to exercise any of Lender's rights, now or hereafter obtained, under any power of sale set forth in any security instrument securing repayment of the indebtedness of Borrower and the consequent loss, limitation or impairment of the right to recover any deficiency from Borrower in connection therewith or due to any fair value limitations or determinations in connection with a judicial foreclosure; or any modification of the Secured Debt in any form whatsoever, including, without limitation, the renewal, extension, acceleration or other change in time for payment or any increase in the rate of interest. Until all amounts secured shall have been paid in full, Grantor further waives any right to enforce any remedy which Lender now has or may hereafter have against Borrower or any other person and waives any benefit of, or any right to participate in, any security whatsoever now or hereafter held by Lender.

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E. Grantor acknowledges, warrants and agrees that each of the waivers set forth in this section are made with the full knowledge of their significance and consequence and that, under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any of said waivers are determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the extent permitted by law.

**27. STATEMENT OF CONDITION.** From time to time, as required by law, Lender shall furnish to Grantor or its agent such statements as may be required concerning the condition of the Secured Debt. Lender will charge a fee for such statements as may be permitted by law.

**28. 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 any note or instrument evidencing the Secured Debt to the Trustee. Trustee shall reconvey, without warranty, the Property or that portion secured by this Security Instrument. To the extent permitted by law, the reconveyance may describe the grantee as "the person or persons legally entitled thereto." Neither Lender nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance. Lender will charge a fee for such reconveyance as may be permitted by law.

**29. RIDERS.** If checked, the following are applicable to this Security Instrument. The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument.

☒ Third Party Rider

☒ Leasehold Rider

☒ Other N/A

Grantor advises to mail Tax Statements to:

Name: ROBERT V NARDIZZI

Address: 8149 PALACE MONACO AVE

LAS VEGAS, NV 89117

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**SIGNATURES:** By signing below, Grantor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Grantor also acknowledges receipt of a copy of this Security Instrument.

<u><i>[Signature]</i></u>		<u>4/19/06</u>
ROBERT V NARDIZZI	Grantor	Date
<u><i>[Signature]</i></u>		<u>4/19/06</u>
KELLY A NARDIZZI A NON VESTED SPOUSE	Grantor	Date
_____	Grantor	Date
_____	Grantor	Date
_____	Grantor	Date
_____	Grantor	Date

**ACKNOWLEDGMENT:**

(Individual)

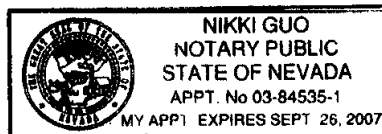
STATE OF Nevada, COUNTY OF Clark; ss.

This instrument was acknowledged before me on April 19, 2006 by  
Robert V. Nardizzi & Kelly A. Nardizzi

*[Signature]*  
 Signature of Notarial officer

Notary Public  
 Title and Rank (Optional)

My commission expires: Sept 26, 2007



(Seal)

**When recorded return to:**  
**Wells Fargo Consumer Loan Servicing Center**  
 Wells Fargo Bank, N.A.  
 P. O. BOX 31557  
 BILLINGS, MT 59107  
 DOCUMENT MANAGEMENT

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# **EXHIBIT 5**

# **EXHIBIT 5**



Assessor Parcel Number: 163-09-817-050  
File Number: R30907

Fee: \$14.00

N/C Fee: \$0.00

05/20/2009

10:56:07

T20090176765

Requestor:

NORTH AMERICAN TITLE COMPANY

Debbie Conway

BGN

Clark County Recorder Pgs: 1

### LIEN FOR DELINQUENT ASSESSMENTS

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

**NOTICE IS HERBY GIVEN:** Red Rock Financial Services, a division of RMI Management LLC, officially assigned as agent by the Monaco Landscape Maintenance Association, Inc., herein also called the Association, in accordance with Nevada Revised Statutes and outlined in the Association Covenants, Conditions, and Restrictions, herein also called CC&R's, recorded on 11/13/1998, in Book Number 981113, as Instrument Number 02435 and including any and all Amendments and Annexations et. seq., of Official Records of Clark County, Nevada. Which have been supplied to and agreed upon by said owner.

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

8149 Palace Monaco Avenue, Las Vegas, NV 89117

MONACO #12 PLAT BOOK 89 PAGE 81 LOT 230 BLOCK J, in the County of Clark

Current Owner(s) of Record:

ROBERT NARDIZZI

The amount owing as of the date of preparation of this lien is **\*\*\$606.71.**

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

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

Dated: May 13, 2009

Prepared By Kim Whipple, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc.

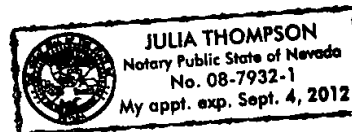
STATE OF NEVADA )

COUNTY OF CLARK )

On May 13, 2009, before me, personally appeared Kim Whipple, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

When Recorded Mail To: Red Rock Financial Services  
6830 West Oquendo Road, Suite 201  
Las Vegas, Nevada 89118  
702-932-6887





# **EXHIBIT 6**

# **EXHIBIT 6**



Red Rock Financial Services

## Account Detail

Information as of: December 03, 2013

Monaco Landscape Maintenance Association, Inc

Opening Bid  
\$3536.28

## Red Rock Financial Service

## Account Number:

30907

## Property Address:

8149 Palace Monaco Avenue, Las Vegas, NV 89117

## Homeowner(s):

ROBERT NARDIZZI; Robert Nardizzi; WELLS FARGO BANK, N.A.; INDYMAC BANK, F.S.B.; Robert Nardizzi; Robert Nardizzi; Robert Nardizzi; State of Nevada Ombudsman for Common-Interest Communities

Date	Description	Amount	Balance	Pmt Ref #	Memo
1/1/2009	Assessment	\$114.00	\$114.00		Semi-Annual Assessment
1/15/2009	Late Fee	\$10.00	\$124.00		
4/9/2009	Mailing Costs	\$9.00	\$133.00		Nardizzi/Robert
4/9/2009	Intent to Lien Letter	\$125.00	\$258.00		
4/30/2009	Association Interest	\$1.71	\$259.71		
5/13/2009	Mailing Costs	\$9.00	\$268.71		Nardizzi/Robert
5/13/2009	Lien for Delinquent Assessment	\$275.00	\$543.71		
5/13/2009	Lien Release	\$35.00	\$578.71		
5/13/2009	Lien Recording Costs	\$28.00	\$606.71		
5/30/2009	Association Interest	\$1.71	\$608.42		
6/15/2009	Intent to NOD	\$90.00	\$698.42		
6/30/2009	Association Interest	\$1.71	\$700.13		
7/1/2009	Assessment	\$114.00	\$814.13		
7/2/2009	Notice of Default	\$375.00	\$1,189.13		
7/2/2009	NOD Mailing Costs	\$90.00	\$1,279.13		
7/2/2009	NOD Recording Costs	\$64.00	\$1,343.13		
7/2/2009	NOD Release	\$35.00	\$1,378.13		
7/2/2009	NOD Release Recording Costs	\$14.00	\$1,392.13		
7/2/2009	Trustee Sale Guarantee	\$350.00	\$1,742.13		
7/2/2009	NOD Mailing Charges Adjustment	(\$54.00)	\$1,688.13		
7/15/2009	Late Fees	\$10.00	\$1,698.13		Late Fees
7/17/2009	NOD Mailing Costs	\$9.00	\$1,707.13		
7/30/2009	Association Interest	\$0.50	\$1,707.63		
8/17/2009	Payoff Demand	\$100.00	\$1,807.63		
8/29/2009	Association Interest	\$1.00	\$1,808.63		



## Red Rock Financial Services

## Account Detail

Information as of: December 03, 2013

Monaco Landscape Maintenance Association, Inc

## Red Rock Financial Service

## Account Number:

30907

## Property Address:

8149 Palace Monaco Avenue, Las Vegas, NV 89117

## Homeowner(s):

ROBERT NARDIZZI; Robert Nardizzi; WELLS FARGO BANK, N.A.; INDYMAC BANK, F.S.B.; Robert Nardizzi; Robert Nardizzi; Robert Nardizzi; State of Nevada Ombudsman for Common-Interest Communities

9/17/2009	Intent to NOS	\$90.00	\$1,898.63	
9/17/2009	Mortgage Letter	\$60.00	\$1,958.63	
9/29/2009	Association Interest	\$1.00	\$1,959.63	
10/30/2009	Association Interest	\$1.00	\$1,960.63	
11/30/2009	Association Interest	\$1.00	\$1,961.63	
12/30/2009	Association Interest	\$1.00	\$1,962.63	
1/1/2010	Semi-Annual Assessment	\$114.00	\$2,076.63	Semi-Annual Assessment
1/30/2010	Association Interest	\$1.00	\$2,077.63	
2/28/2010	Association Interest	\$1.50	\$2,079.13	
3/2/2010	Late Fees	\$10.00	\$2,089.13	Late Fees
3/16/2010	Certified Mail	\$18.00	\$2,107.13	2 mailings
3/16/2010	New Contact/Final Notice	\$75.00	\$2,182.13	
4/1/2010	Association Interest	\$1.50	\$2,183.63	
4/30/2010	Association Interest	\$1.50	\$2,185.13	
5/30/2010	Association Interest	\$1.50	\$2,186.63	
6/29/2010	Association Interest	\$1.50	\$2,188.13	
7/1/2010	Semi-Annual Assessment	\$114.00	\$2,302.13	Semi-Annual Assessment
7/30/2010	Late Fees	\$10.00	\$2,312.13	Late Fees
7/30/2010	Association Interest	\$1.50	\$2,313.63	
8/29/2010	Association Interest	\$2.00	\$2,315.63	
9/29/2010	Association Interest	\$2.00	\$2,317.63	
10/30/2010	Association Interest	\$2.00	\$2,319.63	
11/30/2010	Association Interest	\$2.00	\$2,321.63	
12/30/2010	Association Interest	\$2.00	\$2,323.63	
1/1/2011	Semi-Annual Assessment	\$120.00	\$2,443.63	Semi-Annual Assessment
1/30/2011	Late Fees	\$10.00	\$2,453.63	Late Fees



Red Rock Financial Services

## Account Detail

Information as of: December 03, 2013

Monaco Landscape Maintenance Association, Inc

### Red Rock Financial Service

**Account Number:**

30907

**Property Address:**

8149 Palace Monaco Avenue, Las Vegas, NV 89117

**Homeowner(s):**

ROBERT NARDIZZI; Robert Nardizzi; WELLS FARGO BANK, N.A.; INDYMAC BANK, F.S.B.; Robert Nardizzi; Robert Nardizzi; Robert Nardizzi; State of Nevada Ombudsman for Common-Interest Communities

1/30/2011	Association Interest	\$2.00	\$2,455.63	
3/1/2011	Association Interest	\$2.53	\$2,458.16	
3/16/2011	Vendor Adjustment	(\$50.00)	\$2,408.16	correct RCNOD
4/1/2011	Association Interest	\$2.53	\$2,410.69	
4/30/2011	Association Interest	\$2.53	\$2,413.22	
5/30/2011	Association Interest	\$2.53	\$2,415.75	
6/30/2011	Association Interest	\$2.53	\$2,418.28	
7/1/2011	Semi-Annual Assessment	\$120.00	\$2,538.28	Semi-Annual Assessment
7/30/2011	Late Fees	\$10.00	\$2,548.28	Late Fees
7/30/2011	Association Interest	\$2.53	\$2,550.81	
8/30/2011	Association Interest	\$3.06	\$2,553.87	
9/30/2011	Association Interest	\$3.06	\$2,556.93	
10/30/2011	Association Interest	\$3.06	\$2,559.99	
11/30/2011	Association Interest	\$3.06	\$2,563.05	
12/30/2011	Association Interest	\$3.06	\$2,566.11	
1/1/2012	Semi-Annual Assessment	\$120.00	\$2,686.11	Semi-Annual Assessment
1/30/2012	Late Fees	\$10.00	\$2,696.11	Late Fees
1/30/2012	Association Interest	\$3.06	\$2,699.17	
3/1/2012	Association Interest	\$3.58	\$2,702.75	
4/1/2012	Association Interest	\$3.58	\$2,706.33	
4/30/2012	Association Interest	\$3.58	\$2,709.91	
5/30/2012	Association Interest	\$3.58	\$2,713.49	
6/30/2012	Association Interest	\$3.58	\$2,717.07	
7/1/2012	Semi-Annual Assessment	\$120.00	\$2,837.07	Semi-Annual Assessment
7/30/2012	Association Interest	\$3.58	\$2,840.65	
7/31/2012	Late Fees	\$10.00	\$2,850.65	Late Fees



# Account Detail

Information as of: December 03, 2013

Monaco Landscape Maintenance Association, Inc

## Red Rock Financial Service

**Account Number:**

30907

**Property Address:**

8149 Palace Monaco Avenue, Las Vegas, NV 89117

**Homeowner(s):**

ROBERT NARDIZZI;Robert Nardizzi;WELLS FARGO BANK, N.A.;INDYMAC BANK, F.S.B.;Robert Nardizzi;Robert Nardizzi;Robert Nardizzi;State of Nevada Ombudsman for Common-Interest Communities

8/29/2012	Association Interest	\$4.11	\$2,854.76	
9/30/2012	Association Interest	\$4.11	\$2,858.87	
10/30/2012	Association Interest	\$4.11	\$2,862.98	
11/30/2012	Association Interest	\$4.11	\$2,867.09	
12/30/2012	Association Interest	\$4.11	\$2,871.20	
1/1/2013	Semi-Annual Assessment	\$120.00	\$2,991.20	Semi-Annual Assessment
1/30/2013	Association Interest	\$4.11	\$2,995.31	
1/31/2013	Late Fees	\$10.00	\$3,005.31	Late Fees
3/1/2013	Association Interest	\$4.64	\$3,009.95	
4/1/2013	Association Interest	\$4.64	\$3,014.59	
4/3/2013	NOS Mailing Costs	\$8.57	\$3,023.16	
4/3/2013	NOS Mailing Costs	\$8.57	\$3,031.73	
4/3/2013	NOS Mailing Costs	\$8.57	\$3,040.30	
4/3/2013	NOS Mailing Costs	\$8.57	\$3,048.87	
4/3/2013	NOS Mailing Costs	\$8.57	\$3,057.44	
4/3/2013	NOS Mailing Costs	\$8.57	\$3,066.01	
4/3/2013	NOS Mailing Costs	\$8.57	\$3,074.58	
4/3/2013	NOS Mailing Costs	\$8.57	\$3,083.15	
4/3/2013	Notice of Sale	\$275.00	\$3,358.15	
4/3/2013	Publishing and Posting Costs	\$496.67	\$3,854.82	
4/3/2013	NOS Recording Costs	\$22.00	\$3,876.82	
4/25/2013	Payoff Demand	\$150.00	\$4,026.82	One West Bank
4/29/2013	Association Interest	\$4.64	\$4,031.46	
5/30/2013	Red Rock Partial Payment	(\$404.00)	\$3,627.46	0650900618 Partial Payment
5/30/2013	Association Interest	\$3.63	\$3,631.09	
5/31/2013	Payment Plan	\$30.00	\$3,661.09	



# Red Rock Financial Services

## Account Detail

Information as of: December 03, 2013

Monaco Landscape Maintenance Association, Inc

### Red Rock Financial Service

Account Number:

30907

Property Address:

8149 Palace Monaco Avenue, Las Vegas, NV 89117

Homeowner(s):

ROBERT NARDIZZI;Robert Nardizzi;WELLS FARGO BANK, N.A.;INDYMAC BANK,  
F.S.B.;Robert Nardizzi;Robert Nardizzi;Robert Nardizzi;State of Nevada Ombudsman for  
Common-Interest Communities

6/30/2013	Association Interest	\$3.63	\$3,664.72		
7/1/2013	Semi-Annual Assessment	\$120.00	\$3,784.72		Semi-Annual Assessment
7/5/2013	Red Rock Partial Payment	(\$169.00)	\$3,615.72	0650900641	Partial Payment
7/26/2013	Red Rock Partial Payment	(\$168.00)	\$3,447.72	0650900660	Partial Payment
7/30/2013	Association Interest	\$2.48	\$3,450.20		
7/31/2013	Late Fees	\$10.00	\$3,460.20		Late Fees
8/27/2013	Red Rock Partial Payment	(\$168.00)	\$3,292.20	0650900705	Partial payment
8/30/2013	Association Interest	\$2.27	\$3,294.47		
9/30/2013	Association Interest	\$2.27	\$3,296.74		
10/14/2013	Payment Breach Letter	\$25.00	\$3,321.74		
10/30/2013	Association Interest	\$2.27	\$3,324.01		
11/30/2013	Association Interest	\$2.27	\$3,326.28		
12/3/2013	Conduct Foreclosure Sale	\$125.00	\$3,451.28		
12/3/2013	Prepare and Record Trustee Deed	\$125.00	\$3,576.28		

# **EXHIBIT 7**

# **EXHIBIT 7**


  
20090707-0001621

Assessor Parcel Number: 163-09-817-050  
 File Number: R30907  
 Property Address: 8149 Palace Monaco Avenue  
 Las Vegas, NV 89117  
 Title Order Number: 17233

Fee: \$14.00  
 N/C Fee: \$0.00  
 07/07/2009 10:20:46  
 T20090234582  
 Requestor:  
 NORTH AMERICAN TITLE COMPANY  
 Debbie Conway BGN  
 Clark County Recorder Pgs: 1

220

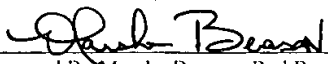
**NOTICE OF DEFAULT AND ELECTION TO SELL PURSUANT TO THE**  
**LIEN FOR DELINQUENT ASSESSMENTS**  
 ◆ IMPORTANT NOTICE ◆

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

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

**NOTICE IS HEREBY GIVEN:** Red Rock Financial Services officially assigned as agent by the Monaco Landscape Maintenance Association, Inc., under the Lien for Delinquent Assessments, recorded on 5/20/2009, in Book Number 20090520, as Instrument Number 0002871, reflecting ROBERT NARDIZZI as the owner(s) of record on said lien, land legally described as MONACO #12 PLAT BOOK 89 PAGE 81 LOT 230 BLOCK J, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 11/13/1998, in Book Number 981113, as, Instrument Number 02435, has been breached. As of 1/1/2009 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

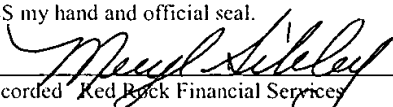
Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of July 2, 2009, the amount owed is \$1,740.42. This amount will continue to increase until paid in full.

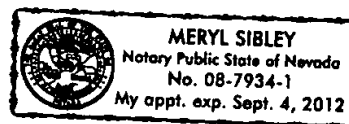
  
 Dated: July 2, 2009  
 Prepared By Marsha Beason, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc.

STATE OF NEVADA )  
 COUNTY OF CLARK )

On July 2, 2009, before me, personally appeared Marsha Beason, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
 When Recorded Red Rock Financial Services  
 Mail To: 6830 West Oquendo Road, Suite 201  
 Las Vegas, Nevada 89118 • 702-932-6887





# **EXHIBIT 8**

# **EXHIBIT 8**



MAILING AFFIDAVIT

File Number: R 30907

STATE OF NEVADA                    )  
  )    Ss  
COUNTY OF CLARK                )

The declarant, whose signature appears below, and who is an employee of Red Rock Financial Services, states that he/she is now and at all times herein mentioned was, a citizen of the United States and over the age of eighteen (18) years; on the date as set forth below, he/she personally mailed the Notice, of which the annexed is a true copy, upon the addressee attached hereto, by depositing in the United States Mail in the County set forth above, an envelope, certified and first class with postage prepaid thereon, containing a copy of such Notice, addressed to the attached named person(s) at the address herein attached stated.

I declare under the penalty of perjury that the foregoing is true and correct

Dated: 7-15-2009

Signature: Amiah Jm

See Attached 4 Pages

WALZ  
CERTIFIED  
MAILER™

FROM

WALZ

7160 3901 9848 4741 4835

7160 3901 9848 4741 4835

Label #1

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101  
MIN 100055401209419094  
R30907

Label #2

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101  
MIN 100055401209419094  
R30907

Label #3

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101  
MIN 100055401209419094  
R30907

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101  
MIN 100055401209419094  
R30907

Charge  
Amount:

Charge  
To:

FOLD AND TEAR THIS WAY →

Certified Article Number

5894 4835  
7160 3901 9848 4741 4835

SENDERS RECORD

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7160 3901 9848 4741 4835

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

2. Article Number



7160 3901 9848 4741 4835

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

INDYMAC BANK, F.S.B.  
155 NORTH LAKE AVE.  
PASADENA, CA 91101  
MIN 100055401209419094  
R30907 Monaco Landscape Maintenance Association, Inc.

APP000479

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED  
USPS MAIL CARRIER  
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

WALZ  
CERTIFIED  
MAILER™

Label #1

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107  
LN #200606773000742  
R30907

Label #2

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107  
LN #200606773000742  
R30907

Label #3

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107  
LN #200606773000742  
R30907

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107  
LN #200606773000742  
R30907

Charge  
Amount:

Charge  
To:

FOLD AND TEAR THIS WAY →

TO:

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107 LN #200606773000742

SENDER:

REFERENCE: R30907

PS Form 3800, January 2005

RETURN  
RECEIPT  
SERVICE

Postage

Certified Fee

Return Receipt Fee

Restricted Delivery

Total Postage & Fees

US Postal Service

Receipt for  
Certified Mail

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 7/15/09  
Red Rock Financial Service  
See Firm Book

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7160 3901 9848 4741 4828

Certified Article Number

7160 3901 9848 4741 4828

SENDERS RECORD

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

2. Article Number



7160 3901 9848 4741 4828

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

WELLS FARGO BANK, N.A.  
P.O. BOX 31557  
BILLINGS, MT 59107  
LN #200606773000742  
R30907 Monaco Landscape Maintenance Association, Inc.

APP000480

PS Form 3811, January 2005

Domestic Return Receipt

WFZ000342

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED  
USPS MAIL CARRIER  
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

WALZ  
CERTIFIED  
MAILER™

WALZ

U.S. PAT. NO. 5,501,393

7160 3901 9848 4741 4804

Label #1  
ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569  
R30907

Label #2  
ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569  
R30907

Label #3  
ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569  
R30907

TO:  
ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569

SENDER:

REFERENCE: R30907

PS Form 3800, January 2005

RETURN  
RECEIPT  
SERVICE

Postage	
Certified Fee	
Return Receipt Fee	
Restricted Delivery	
Total Postage & Fees	

US Postal Service  
**Receipt for  
Certified Mail**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 7/15/09 by  
Red Rock Financial Service  
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569  
R30907

Charge  
Amount:

Charge  
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7160 3901 9848 4741 4804

2. Article Number



7160 3901 9848 4741 4804

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

ROBERT NARDIZZI  
8149 PALACE MONACO AVE.  
LAS VEGAS, NV 89117-2569  
R30907 Monaco Landscape Maintenance Association, Inc.

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

**X**

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?  
If YES, enter delivery address below:

☐ Yes  
☐ No

RETURN RECEIPT REQUESTED  
USPS MAIL CARRIER  
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

Thank you for using Return Receipt Service

PS Form 3811, January 2005

Domestic Return Receipt

APP000481

WFZ000343

Assessor Parcel Number: 163-09-817-050  
File Number: R30907  
Property Address: 8149 Palace Monaco Avenue  
Las Vegas, NV 89117  
Title Order Number: 17233

**Receipt/Conformed Copy**

Requestor:  
NORTH AMERICAN TITLE COMPANY  
07/07/2009 10:20:46 T20090234582  
Book/Instr: 20090707-0001621  
Default Page Count: 1  
Fees: \$14.00 N/C Fee: \$0.00

Debbie Conway  
Clark County Recorder

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

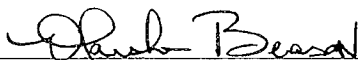
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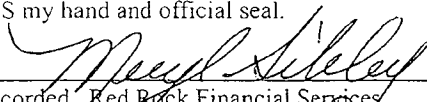
Dated: July 2, 2009

Prepared By Marsha Beason, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc.

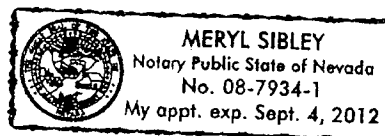
STATE OF NEVADA )  
COUNTY OF CLARK )

On July 2, 2009, before me, personally appeared Marsha Beason, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



When Recorded Red Rock Financial Services  
Mail To: 6830 West Oquendo Road, Suite 201  
Las Vegas, Nevada 89118 • 702-932-6887



APP000482

WFZ000344

Assessor Parcel Number: 163-09-817-050  
File Number: R30907  
Property Address: 8149 Palace Monaco Avenue  
Las Vegas, NV 89117  
Title Order Number:

**NOTICE OF DEFAULT AND ELECTION TO SELL PURSUANT TO THE  
LIEN FOR DELINQUENT ASSESSMENTS**  
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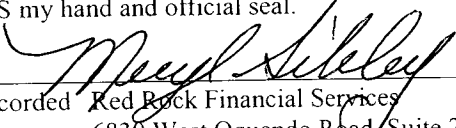
  
Prepared By Marsha Beason, Red Rock Financial Services, on behalf of Monaco Landscape Maintenance Association, Inc.

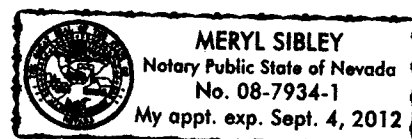
Dated: July 2, 2009

STATE OF NEVADA                   )  
COUNTY OF CLARK               )

On July 2, 2009, before me, personally appeared Marsha Beason, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
When Recorded Red Rock Financial Services  
Mail To: 6830 West Oquendo Road, Suite 201  
Las Vegas, Nevada 89118 • 702-932-6887



APP000483

WFZ000345