

ORIGINAL

Appeal Court No. 36611-8-11

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION 2

In Re the Trustee's Sale of Real Property of:

ROSS D. GREER, as his separate estate

REPLY BRIEF OF APPELLANT ROSS D. GREER

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Of Attorneys for Greer
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Burien WA 98116
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Of Attorneys for Greer

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Of Attorneys for Greer

FILED
COURT OF APPEALS
DIVISION II
08 FEB -6 AM 8:32
STATE OF WASHINGTON
BY *[Signature]*
DEPUTY

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B. ALTHOUGH OPTIONAL ADVANCES MADE SUBSEQUENT TO A FORECLOSING LIEN HOLDER’S DEED OF TRUST BEING RECORDED MAY DESTROY PRIORITY, SUCH CONDUCT DOES NOT DESTROY PRIORITY UNDER THE RECORDING ACT AND WITHOUT FURTHER COURT ACTION.

C. THE RECORDING OF A DOCUMENT MERELY TITLED “SUBORDINATION AGREEMENT” AFTER THE RECORDING OF THE FORECLOSURE LIENS “NOTICE OF SALE” DOES NOT CHANGE THE RECORDED PRIORITY FOR THE PURPOSES OF THE FORECLOSURE STATUTES

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I. STATEMENT OF CENTRAL ISSUE ON APPEAL

Citibank's lien eliminated by the foreclosure sale so that Greer is entitled to the surplus proceeds under RCW 61.24.040(1)?

II. SUMMARY OF AGREED FACTS AND ONE ADDITIONAL FACT

Greer and Citibank agree, as between them, under the recording act, the Citibank Deed of Trust was recorded prior to the foreclosing lien holder's lien. The parties also agree that Citibank recorded a document entitled "Subordination Agreement" executed unilaterally by Citibank, a few days before the scheduled foreclosure sale. Greer and Citibank also agree that the foreclosing lien holder (Citimortgage) made no attempt to foreclose Citibank nor did it seek to make a claim for equitable subrogation.

Citibank's claim to excess funds is based on the following arguments:

1. That Citibank made advancements under the modification recorded subsequent to the foreclosing lien holder's Deed of Trust;
2. That Citibank is a junior lien holder by operation of the subordination agreement; and
3. Citibank is a junior lien holder under the doctrine of equitable subrogation.

Additional Fact: The Modification Agreement recorded by

Citibank was recorded on the wrong property.

III. ARGUMENT

A. LIEN PRIORITIES ARE DETERMINED AFTER A NON-JUDICIAL FORECLOSURE SALE BASED ON THE ORDER OF PRIORITY THAT THE LIENS HAD ATTACHED TO THE PROPERTY AT THE TIME THE TRUSTEE'S SALE WAS COMMENCED.¹

Citibank and Greer² agree that for the purposes of RCW 61.24.080(3) sets out the procedure for determining the disbursement of excess funds.

Contrary to the argument of Citibank, Greer does not suggest, argue or otherwise assert that the foreclosure process adjudicate claims relating to priority. Citibank is wrong in its assertion that, after the foreclosing Deed of Trust is paid off, the Trustee must give notice of any remaining surplus funds to other parties with potential interest in the funds. RCW 61.24.080(3) clearly states that "The Trustee shall mail copies of the notice of the surplus, the Notice of the Trustee's Sale, and the Affidavit of Mailing to each party to whom the Notice of Trustee's Sale was sent pursuant to RCW 61.24.040(1)". The laundry list of parties to whom notice must be sent are all parties who have recorded liens that were

¹ Greer will address Citibank's argument in the order that Citibank presented its arguments.

² Throughout Citibank's brief, it refers to the appellant as "Foreclosure Advocates". This misreference of the parties is confusing and somewhat disturbing as the clear party below and in this case is Greer.

recorded subsequent to the recording of the lien to be foreclosed. Of particular interest is RCW 61.24.040(1)(b)(iv) which requires service of the notice to the holder of any other lien against or interest in a property that is subject to a subordination to the deed of trust being foreclosed that was recorded before the recordation of the Notice of Sale.

B. ALTHOUGH OPTIONAL ADVANCES MADE SUBSEQUENT TO A FORECLOSING LIEN HOLDER'S DEED OF TRUST BEING RECORDED MAY DESTROY PRIORITY, SUCH CONDUCT DOES NOT DESTROY PRIORITY UNDER THE RECORDING ACT AND WITHOUT FURTHER COURT ACTION.

Citibank's argument fails because, contrary to their assertion, Citibank recorded their modification agreement, but record it with the wrong property description and it did not appear in the record of title. The correct property description referenced in the Citibank First Deed of Trust and the Citimortgage Second Deed of Trust is as follows:

That part of the southwest quarter of the southwest quarter of Section 4, Township 19 North, Range 1 West Willamette Meridian, delineated at parcel 3 of Short Subdivision #22-0952 as recorded November 28, 1978 under auditor's file No. 1059600 situation in the County of Thurston and State of Washington.

The description in the Citibank modification agreement recorded in 2005

describes the property as being located in the Southwest quarter of the Southwest quarter of Section 3, rather than Section 4, which is the property owned by Mr. Greer. The Modification Agreement was recorded out of Greer's chain of title. See Greer's Appendix hereto which contains Jennifer Karol's Declaration of May 14, 2007, together with the property description for the 2002 Citibank Deed of Trust, the 2003 Citimortgage Deed of Trust, the 2004 Citibank Modification and the First America Title Insurance Company Foreclosure Report. Some portions, including the texts of the Deeds of Trust, have been omitted.

C. THE RECORDING OF A DOCUMENT MERELY TITLED "SUBORDINATION AGREEMENT" AFTER THE RECORDING OF THE FORECLOSURE LIENS "NOTICE OF SALE" DOES NOT CHANGE THE RECORDED PRIORITY FOR THE PURPOSES OF THE FORECLOSURE STATUTES

There are no cases in any jurisdiction where a first mortgage holder has successfully claimed that it should be subordinated to a junior lien holder because of equitable subrogation. There simply is no reason why a junior lien holder would want to claim, only a few days before a scheduled sale, that it is junior to a junior foreclosing lien. In any event, the Foreclosure Act is clear that priority is determined under the excess proceeds portion of the statute based on the priority that existed at the time of the recording

of the Notice of Sale.

IV. CONCLUSION

This Court should reverse the trial court and remand the case back for entry of judgment in favor of Greer.

DATED this 6th day of February, 2008.

A handwritten signature in black ink, consisting of a large, sweeping loop followed by a horizontal line and a short vertical stroke at the end.

Terrance J. Slominski, OSB 81376
Admitted Pro hac vice
Attorney for Appellant

APPENDIX

- App 1: Declaration of Jennifer T. Karol dated May, 14, 2007
- App 4: Schedule A
- App 5: Exhibit A (Citimortgage)
- App 6: Note and Mortgage Modification Agreement - Rider A - Property Description
- App 7: Trustee's Sale Guarantee
- App 10: Exhibit A
- App 11: Information for Trustee
- App 16: Exhibit A

App 1

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<input type="checkbox"/> EXPEDITE (if filing within 5 court days of hearing) <input checked="" type="checkbox"/> Hearing is set: Date: <u>May 18, 2007</u> Time: <u>9:00 a.m.</u> Judge/Calendar: <u>Richard D. Hicks</u>

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
 IN AND FOR THURSTON COUNTY

In Re the Trustee's Sale of Real Property of: ROSS D. GREER, as his separate estate	CASE NO. 07-2-00161-9 DECLARATION OF JENNIFER T. KAROL
--	--

Jennifer T. Karol declares under penalty of perjury under the laws of the State of Washington that the following is true and correct:

1. I am an attorney for Citibank Federal Savings Bank, and am competent to testify to matters herein.
2. On July 31, 2002, Mr. Greer granted a Deed of Trust to Citibank on his property to secure a \$25,000 line of credit. That Deed of Trust was recorded on August 23, 2002, under Thurston County recording number 3457030.
3. Thereafter, on July 25, 2003, Mr. Greer granted a Deed of Trust to Citibank on his property to secure a \$70,031.00 loan. That Deed of Trust was recorded on October 2, 2003, under Thurston County recording number 3582024.
4. On July 29, 2004, Mr. Greer signed a Mortgage Modification Agreement with respect to Loan One. In that Modification Agreement, Mr. Greer agreed to modify Loan One to increase his credit limit on that loan from \$25,000 to \$75,000. That

DECLARATION OF
 JENNIFER T. KAROL - 1

BISHOP, WHITE & MARSHALL, P.S.
 720 Olive Way, Suite 1301
 Seattle, WA 98101-1801
 206-622-5306 Fax: 206-622-0354

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modification agreement was recorded on July 13, 2005, under Thurston County recording number 223976.

5. On December 27, 2006, Citibank subordinated its interest on Loan One. Declaration of Jennifer T. Karol, Exhibit D.

6. A non judicial foreclosure sale occurred on January 5, 2007, Mr. Greer's property was sold, and Loan Two was satisfied in full. The sale also eliminated Citibank's interest in Loan One. Thereafter, on or about January 25, 2007 surplus proceeds totaling \$65,015.40 were deposited into the court registry.

7. On April 9, 2007, a Motion for Disbursement of Funds was filed by counsel for Mr. Greer. That Motion was not served upon Citibank. A hearing occurred on May 4, 2007, and the Court disbursed \$35,015.40 of the surplus funds to Mr. Greer. The Court ordered that \$30,000.00 of the surplus funds would remain in the registry until further order of the Court.

8. Citibank did not come to know of the disbursement until May 10, 2007, when it requested its counsel to pursue the surplus funds in the court registry.

9. Though counsel for Mr. Greer has received the disbursement check for \$35,015.40, and deposited the check into his own account, it appears that those funds have not yet been disbursed to Mr. Greer. Mr. Greer's counsel has agreed to hold the funds until this matter is resolved.

10. The total obligation secured by the petitioner's deed of trust as of June 8, 2007, the date of this proposed hearing, is \$81,531.48. This amount is calculated as follows:

- A. \$80,805.53 in principal and interest.
- B. \$275.95 in costs and expenses.

DECLARATION OF
JENNIFER T. KAROL - 2

BISHOP, WHITE & MARSHALL, P.S.
720 Olive Way, Suite 1301
Seattle, WA 98101-1801
206-622-5306 Fax: 206-622-0354

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C. \$450.00 in attorney fees.

The petitioner's deed of trust authorizes costs and fees to be collected as part of the debt secured by the deed of trust.

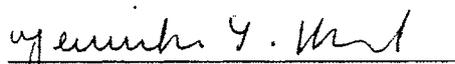
11. Attached hereto are true and correct copies of the following documents:

- A. July 31, 2002 Deed of Trust;
- B. July 25, 2003 Deed of Trust;
- C. July 29, 2004 Modification Agreement;
- D. December 27, 2006 Subordination Agreement;
- E. Trustee Sale Guarantee;
- F. Payoff Statement.

12. It is necessary to hear the motion for reconsideration on shortened time because funds have already been disbursed to counsel for Mr. Greer. Though, I have filed a Notice of Appeal regarding this Court's May 4, 2007, order disbursing funds, the stay effectuated by that notice will expire on May 18, 2007. CR 62. This matter needs to be heard before the stay expires. I have contacted counsel for Mr. Greer and have informed him that I am filing this motion to shorten time to hear the motion for reconsideration.

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

DATED this 14th day of May, 2007, at Seattle, Washington.


Jennifer T. Karol

APP-4

SCHEDULE A

ALL THAT CERTAIN PIECE OR PARCEL OF LAND WITH THE BUILDINGS AND IMPROVEMENTS THEREON SITUATED, LYING AND BEING IN THE CITY OF OLYMPIA, COUNTY OF THURSTON AND STATE OF WASHINGTON:

THAT PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 19 NORTH, RANGE 1 WEST, W.M., DELINEATED AS PARCEL NO. 3 OF SHORT SUBDIVISION NO. 22-0932 AS RECORDED NOVEMBER 28, 1978 UNDER AUDITOR'S FILE NO. 1059600.

MEANING AND INTENDING TO DESCRIBE THE SAME PREMISES CONVEYED TO THE MORTGAGOR IN BOOK 1851 AT PAGE 326 DATED 8/12/91 AND RECORDED 8/14/91 IN THE THURSTON COUNTY CLERK'S OFFICE.

ASSESSOR'S PARCEL NO.: 11904330303

RETURN TO:
CITICORP MORTGAGE, INC.
C/O INTEGRATED LOAN SERVICES
31 INWOOD ROAD
ROCKY HILL, CT 06067

SECTION: --
BLOCK: --
LOT: --
TOWN: OLYMPIA
COUNTY: THURSTON



3457030
Page: 9 of 9
98/23/2002 03:13P
Thurston Co. WA

Exhibit "A"

THAT PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 19 NORTH, RANGE 1 WEST WILLAMETTE MERIDIAN, DELINEATED AS PARCEL NUMBER 3 OF SHORT SUBDIVISION NUMBER 22-0952 AS RECORDED NOVEMBER 28, 1978 UNDER AUDITOR'S FILE NUMBER 1059600. SITUATED IN THE COUNTY OF THURSTON AND STATE OF WASHINGTON. ABBRV. LEGAL. SW 1/4, OF THE SW 1/4 OF SEC. 4, T19N, R1W, W.M., PN 3 OF SSN 220952.

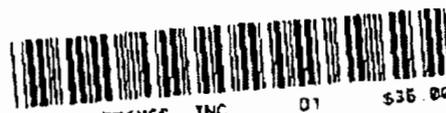
APN# 95-8015-30X00



U15850836-01ND16

DEED OF TRUST
LCRN# 1036734
US Recordings

16



3582024
Page: 16 of 16
01/27/2003 12:12P
Thurston Co. Wa.

US RECORDINGS, INC

01

\$35.00

APP 6



**NOTE AND MORTGAGE MODIFICATION AGREEMENT
RIDER A - PROPERTY DESCRIPTION**

ALL THAT CERTAIN PIECE OR PARCEL OF LAND WITH THE BUILDINGS AND IMPROVEMENTS THEREON SITUATED, LYING AND BEING IN THE CITY OF OLYMPIA, COUNTY OF THURSTON AND STATE OF WASHINGTON:

THAT PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 19 NORTH, RANGE 1 WEST, W.M. DELINEATED AS PARCEL NO. 3 OF SHORT SUBDIVISION NO. 22-0932 AS RECORDED NOVEMBER 28, 1978 UNDER AUDITOR'S FILE NO. 1059600

MEANING AND INTENDING TO DESCRIBE THE SAME PREMISES CONVEYED TO THE MORTGAGOR IN BOOK 1851 AT PAGE 326 DATED 8/12/91 AND RECORDED 8/14/91 IN THE THURSTON COUNTY CLERK'S OFFICE.

ASSESSOR'S PARCEL NO.: 11904330303

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4 of 4

Revised 06/01/2004
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Page: 4 of 4
07/12/2005 01:44F

NATIONWIDE

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\$22.00

Thurston Co. Wa.

Description: Thurston, WA Document-DocID 3747920 Page: 4 of 4
Order: Donna Comment:

APP 7

TRUSTEE'S SALE GUARANTEE

ORDER NO.: 3079002

REFERENCE NO.: 0065238/7301.23166

LIABILITY: \$67,427.72

FEE: \$387.00

TAX: \$34.06

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE.

First American Title Insurance Company
a corporation, herein called the Company,

GUARANTEES

**ROUTH CRABTREE OLSEN, P.S. & NORTHWEST TRUSTEE SERVICES, INC., AS
TRUSTEE
AND CITIMORTGAGE, INC., AS BENEFICIARY**

HEREIN CALLED THE ASSURED, AGAINST LOSS NOT EXCEEDING THE LIABILITY AMOUNT STATED ABOVE WHICH THE ASSURED SHALL SUSTAIN BY REASON OF ANY INCORRECTNESS IN THE ASSURANCE WHICH THE COMPANY HEREBY GIVES THAT, ACCORDING TO THE PUBLIC RECORDS, ON THE DATE STATED BELOW,

- 1 THE TITLE TO THE HEREIN DESCRIBED ESTATE OR INTEREST WAS VESTED IN THE VESTEE NAMED, SUBJECT TO THE MATTERS SHOWN AS EXCEPTIONS HEREIN, WHICH EXCEPTIONS ARE NOT NECESSARILY SHOWN IN THE ORDER OF THEIR PRIORITY;
- 2 THE NAMES AND ADDRESSES OF PERSONS WHO HAVE RECORDED REQUESTS FOR A COPY OF THE NOTICE OF SALE AND OF ADDITIONAL PERSONS WHO ARE ENTITLED TO RECEIVE A COPY OF THE NOTICE OF SALE, AS PROVIDED BY RCW 61.24.040(1)(b), (c) AND (d), ARE AS SHOWN HEREIN.

DATED AUGUST 31, 2006

First American Title Insurance Company

BY GARY L. KERMOTT - PRESIDENT

BY MARCY SAVAGE
ASSISTANT SECRETARY
TITLE OFFICER
PH 206-728-7215
FX 206-448-6244

NW TRUSTEE NO

TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN

ROSS D. GREER, AS HIS SEPARATE ESTATE.

THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS GUARANTEE IS

FEE SIMPLE ESTATE.

THE LAND REFERRED TO IN THIS GUARANTEE IS SITUATED IN THE **STATE OF WASHINGTON, COUNTY OF THURSTON** AND IS DESCRIBED AS FOLLOWS:

(SEE EXHIBIT "A" ATTACHED)

EXCEPTIONS:

- 1. LIABILITY FOR ASSESSMENTS AND/OR PERSONAL PROPERTY TAXES, IF ANY.
- 2. GENERAL AND SPECIAL TAXES FOR THE CALENDAR YEAR 2007, A LIEN NOT YET DUE OR PAYABLE.
- 3. GENERAL TAXES. THE FIRST HALF BECOMES DELINQUENT AFTER APRIL 30TH. THE SECOND HALF BECOMES DELINQUENT AFTER OCTOBER 31ST.

YEAR:	2006
AMOUNT BILLED:	\$847.93
AMOUNT PAID:	\$446.97
AMOUNT DUE:	\$446.97
TAX ACCOUNT NO.:	11904330303
LAND:	\$71,050.00
IMPROVEMENTS:	\$0.00

- 4. PERSONAL PROPERTY TAXES.

YEAR:	2006
AMOUNT BILLED:	\$0.00
AMOUNT PAID:	\$0.00
AMOUNT DUE:	\$0.00
ACCOUNT NO.:	99801530800

- 5. SAID TAXES AS BILLED FOR THE CURRENT YEAR REFLECT AN EXEMPTION AS ALLOWED UNDER RCW 84.36 FOR SENIOR CITIZENS. ANY CURTAILMENT OF THE EXEMPTION MAY RESULT IN AN ADDITIONAL AMOUNT BEING DUE FOR THE CURRENT YEAR AND FOR ANY RE-ASSESSMENT OF LAND AND IMPROVEMENT VALUES.

- 6. A DEED OF TRUST TO SECURE AN ORIGINAL INDEBTEDNESS OF \$25,000.00, AND ANY AMOUNTS OR OBLIGATIONS SECURED THEREBY, RECORDED AUGUST 23, 2002 AS INSTRUMENT NO. 3457030 OF OFFICIAL RECORDS.

DATED:	JULY 31, 2002.
GRANTOR:	ROSS D. GREER, HUSBAND.
TRUSTEE:	M.V. JUDD P.S.
BENEFICIARY:	CITIBANK FEDERAL SAVINGS BANK.

NOTE: A DOCUMENT DECLARING MODIFICATIONS THEREOF RECORDED JULY 13, 2005 AS INSTRUMENT NO. 3747920 OF OFFICIAL RECORDS.

7. A DEED OF TRUST TO SECURE AN ORIGINAL INDEBTEDNESS OF \$70,031.00, AND ANY AMOUNTS OR OBLIGATIONS SECURED THEREBY, RECORDED OCTOBER 2, 2003 AS INSTRUMENT NO. 3582024 OF OFFICIAL RECORDS.

DATED: JULY 25, 2003.
GRANTOR: ROSS D. GREER.
TRUSTEE: FIRST AMERICAN TITLE COMPANY.
BENEFICIARY: CITIMORTGAGE, INC., A BANK.

8. ANY AND ALL OFFERS OF DEDICATION, CONDITIONS, RESTRICTIONS, EASEMENTS, FENCELINE/BOUNDARY DISCREPANCIES, NOTES AND/OR PROVISIONS SHOWN OR DISCLOSED BY THE FILED OR RECORDED MAP REFERRED TO IN THE LEGAL DESCRIPTION.

9. TERMS, COVENANTS, CONDITIONS AND RESTRICTIONS AS CONTAINED IN SHORT PLAT NO. SS-0932

RECORDED: NOVEMBER 28, 1978

RECORDING NO.: 1059600

REFERENCE IS MADE TO SAID DOCUMENT FOR FULL PARTICULARS.
A COPY OF WHICH IS HERETO ATTACHED.

10. RESTRICTIONS CONTAINED ON THE FACE OF THE PLAT AS FOLLOWS:

1. APPROVED FOR ONE SINGLE FAMILY RESIDENCE PER LOT.

2. 75% OF STORM WATER RUNOFF SHALL BE RETAINED ON SITE.

11. MANUFACTURED HOME TITLE ELIMINATION APPLICATION RECORDED DECEMBER 14, 1992 UNDER RECORDING NO. 9212140275, VOL. 2036, PAGE 706 WHICH RECITES THAT A MANUFACTURED (MOBILE) HOME IS, OR IS BEING, AFFIXED TO SAID PREMISES.

12. PROCEEDINGS PENDING IN THE BANKRUPTCY COURT OF THE WESTERN DISTRICT OF THE U. S. DISTRICT COURT, WASHINGTON, ENTITLED IN RE ROSS D GREER, DEBTOR, CASE NO. 06-40889-PBS, WHEREIN A PETITION FOR RELIEF WAS FILED ON APRIL 28, 2006.

NOTE: AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY WAS FILED JUNE 29, 2006 IN FAVOR OF CITIMORTGAGE, HOWEVER, SAID CASE HAS NOT BEEN CLOSED.

13. UNLESS THE PROPERTY DESCRIBED IN THIS REPORT IS LOCATED IN KING, PIERCE OR SPOKANE COUNTIES NO SEARCH OF THE RECORDS OF THE UNITED STATES BANKRUPTCY COURT HAS BEEN MADE.

EXHIBIT "A"

THE LAND REFERRED TO IN THIS GUARANTEE IS SITUATED IN THE STATE OF WASHINGTON, COUNTY OF THURSTON AND IS DESCRIBED AS FOLLOWS:

THAT PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 19 NORTH, RANGE 1 WEST WILLAMETTE MERIDIAN, DELINEATED AS PARCEL NUMBER 3 OF SHORT SUBDIVISION NUMBER 22-0952 AS RECORDED NOVEMBER 28, 1978 UNDER AUDITOR'S FILE NUMBER 1059600. SITUATED IN THE COUNTY OF THURSTON AND STATE OF WASHINGTON.

INFORMATION FOR TRUSTEE

RELATIVE TO THE DEED OF TRUST SHOWN AS EXCEPTION 6.

- 1 CITY IN WHICH SAID LAND IS LOCATED: UNINCORPORATED AREA
- 2. PROPERTY ADDRESS: 8654 JOHNSON POINT ROAD NORTHEAST, OLYMPIA, WA 98516.
ASSESSORS PARCEL NO: 11904330303.
ABBREVIATED LEGAL: PART OF SW 1/4 SW 1/2 SEC 4, TWP 19N RANGE 1 W WILLAMETTE MERIDIAN
- 3. THE NAMES AND ADDRESSES OF PERSONS WHO HAVE RECORDED REQUESTS FOR, OR ARE ENTITLED TO RECEIVE A COPY OF THE NOTICE OF SALE, AS PROVIDED BY THE REVISED CODE OF WASHINGTON CHAPTER 61.24 ET. SEQ:

ROSS D. GREER
8645 JOHNSON POINT RD NE
OLYMPIA WA 98516-9558
(GRANTOR UNDER FCL DEED OF TRUST)

- 4. ATTENTION IS CALLED TO THE FEDERAL TAX LIEN ACT OF 1966 (PUBLIC LAW 89-719) WHICH, AMONG OTHER THINGS, PROVIDES FOR THE GIVING OF WRITTEN NOTICE OF SALE IN A SPECIFIED MANNER TO THE SECRETARY OF TREASURY OR HIS DELEGATE AS A REQUIREMENT FOR THE DISCHARGE OR DIVESTMENT OF A FEDERAL TAX LIEN IN A NON-JUDICIAL SALE, AND ESTABLISHES WITH RESPECT TO SUCH LIEN A RIGHT IN THE UNITED STATES TO REDEEM THE PROPERTY WITHIN A PERIOD OF 120 DAYS FROM THE DATE OF ANY SUCH SALE:

NONE
- 5. ATTENTION IS CALLED TO THE SERVICEMEMBERS CIVIL RELIEF ACT WHICH CONTAINS INHIBITIONS AGAINST THE SALE OF THE LAND UNDER A MORTGAGE IF THE VESTEE IS ENTITLED TO THE BENEFITS OF THE ACT.
- 6 THE MAP ATTACHED HERETO MAY OR MAY NOT BE A SURVEY OF THE LAND DEPICTED THEREON. YOU SHOULD NOT RELY UPON IT FOR ANY PURPOSE OTHER THAN ORIENTATION TO THE GENERAL LOCATION OF THE PARCEL OR PARCELS DEPICTED. FIRST AMERICAN EXPRESSLY DISCLAIMS ANY LIABILITY FOR ALLEGED LOSS OR DAMAGE WHICH MAY RESULT FROM RELIANCE UPON THIS MAP

APP 12

EXHIBIT "A"

THE LAND REFERRED TO IN THIS GUARANTEE IS SITUATED IN THE STATE OF WASHINGTON, COUNTY OF THURSTON AND IS DESCRIBED AS FOLLOWS:

THAT PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 19 NORTH, RANGE 1 WEST WILLAMETTE MERIDIAN, DELINEATED AS PARCEL NUMBER 3 OF SHORT SUBDIVISION NUMBER 22-0952 AS RECORDED NOVEMBER 28, 1978 UNDER AUDITOR'S FILE NUMBER 1059600. SITUATED IN THE COUNTY OF THURSTON AND STATE OF WASHINGTON.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **APPELLANT'S REPLY BRIEF** on:

Jennifer T. Karol
Bishop, White, Marshall PS
720 Olive Way, Suite 1301
Seattle WA 98101
FAX: 206-622-0354

Jeffrey N. Rupert
Attorney at Law
410 SW 153rd St.
Burien WA 98166

by the following indicated method or methods:

- by **mailing** a full, true and correct copy of said documents in a sealed, first-class, postage-prepaid envelope, addressed to the attorney(s) as shown above, the last-known office addresses of the attorneys, and deposited with the United States Postal Service at Portland, Oregon, on the date set forth below.
- by causing a full, true and correct copy thereof to be **hand-delivered** to the attorney at the attorney's last-known office listed above on the date set forth below.
- by sending a full, true and correct copy thereof via **overnight courier** in a sealed, prepaid envelope, addressed to the attorney as shown above, to the last-known office address of the attorney, on the date set forth below.
- by **faxing** a full, true and correct copy thereof to the attorney at the last-known facsimile number for the attorney's office, on the date set forth below. The receiving facsimile machine was operating at the time of service and the transmission was properly completed. The facsimile confirmation sheet has been retained in our case file.
- by **electronic mail** a full, true and correct copy thereof to the attorney at the last-known email address for the attorney's office, on the date set forth below. To the best of my knowledge, the receiving email was operating at the time of service. The email communication sheet has been retained in our case file.

Dated this 6th day of February, 2008.



Darcie Hildreth, Assistant to:
Terrance J. Slominski, OSB# 81376
Of Attorneys for Greer