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No. 67608-3-I

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION ONE

BANK OF AMERICA, N.A., *Appellant,*

v.

MICHAEL FULBRIGHT, *Respondent.*

SUPPLEMENTAL BRIEF
of
Appellant
BANK OF AMERICA, N.A.

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COURT OF APPEALS
DIVISION ONE
APR 09 2012

Appeal from the Superior Court of King County,
The Honorable Suzanne Barnett, Case No. 11-2-16855-7 SEA

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INTRODUCTION

On March 5, 2012, this Court requested supplemental briefing to discuss the impact on this appeal, if any, of *Summerhill Village Homeowners Ass'n v. Roughley*, 270 P.3d 639 (2012). The *Summerhill* decision should not impact or control this appeal, which presents different factual and legal arguments.

In *Summerhill*, GMACM presented no argument based on RCW 64.34.364(7), and instead assumed that its deed of trust was *prior in time* to the condominium association ("COA") lien: "Nearly two years after her purchase of the unit, and the recording of the deed of trust, Ms. Roughley defaulted in payment of her condominium assessments to Summerhill.... This default gave rise to Summerhill's lien for delinquent assessments ... under RCW 64.34.364(1)" (GMACM Opening Br. 6).

As a result, neither the Superior Court nor this Court considered the impact of RCW 64.34.364(7). GMACM argued solely that the Court should interpret the Redemption Act to apply to liens subsequent in priority but not "subsequent in time" to a COA lien (Order at 6-7; see GMACM Opening Br. 18-30). This Court declined to accept that interpretation of the Redemption Act, and held that it applies only to liens that are "subsequent in time" to a COA lien (Order at 7-8).

In stark contrast, Bank of America contends on this appeal that, the plain language of RCW 64.34.364(7) shows that its deed of trust was *subsequent in time* to the COA lien, which was created and perfected when the COA recorded its COA declaration: "[P]ursuant to RCW 64.34.364(7), the COA Lien was *perfected* and *created* by statute on [December 20, 2006]. Consequently, [the] 2007 Deed of Trust was *chronologically* subsequent in time to the COA Lien" (CP 400-01; emphasis in original).

Summerhill should not affect this appeal because the statute establishing *when* a COA lien is created is RCW 64.34.364(7), not RCW 64.34.364(1).

ARGUMENT

(A) RCW 64.34.364(7) Created the COA Lien.

The statutory right of redemption is based upon *when* the foreclosed lien was created, not its *priority*. RCW 6.23.010(1)(b) authorizes redemption by "[a] creditor having a lien by judgment, decree, deed of trust, or mortgage, on any portion of the property, or any portion of any part thereof, separately sold, *subsequent in time*..." to the foreclosed lien.

RCW 64.34.364(7) specifies in plain and unequivocal language that a COA lien is created and perfected *when* the COA declaration is recorded: "Recording of the [COA] declaration constitutes record notice and perfection of the lien for assessments."

Here, Tanglewood's COA lien was created on December 20, 2006, when Tanglewood recorded its COA declaration. Bank of America's deed of trust, recorded on March 9, 2007, was "subsequent in time" to that lien as a matter of fact and law.

The *Summerhill* opinion is based on GMACM's representation that GMACM's deed of trust was *prior in time* to the COA lien, which, in turn, is based on the erroneous assumption that the COA lien was *created* pursuant to RCW 64.34.364(1) when the unit owner failed to pay the assessment. *Summerhill*, 270 P.3d at 641.

RCW 64.34.364(1) declares that unpaid assessments constitute a lien against the unit: "The association has a lien on a unit for any unpaid assessments levied against a unit from the time the assessment is due." RCW 64.34.364(1) is a general rule establishing the lien priority of a COA lien. It does not establish *when* that COA lien was first created and perfected. That is the role

of RCW 64.34.364(7), which *Summerhill* did not consider and states as follows:

> Recording of the [COA] declaration constitutes record notice and perfection of the lien for assessments.

The official comments to RCW 64.34.364(7) explain:

> Subsection (7) makes clear that *the only document which needs to be recorded to give record notice of and to perfect the association's lien is the declaration.*

Washington State Bar Association, Real Property, Probate & Trust Section, *Comments to the Washington Condominium Act*, Feb. 7, 1990 at 43-44 n.8 (emphasis added). Black's Law Dictionary defines perfection as: "Validation of a security interest as against other creditors . . . ." Black's Law Dictionary 1157 (7th ed. 1999).

Thus, a COA lien is *created, perfected, and validated* – and record notice of that lien is given – when the COA records its declaration (RCW 64.34.364(7)), not when unpaid assessments accrue (RCW 64.34.364(1)).

For purposes of determining redemption rights, the issue is chronological: *when* was the COA lien created and perfected? The following timeline shows that Bank of America's deed of trust was subsequent in time to the COA lien:

December 20, 2006: Tanglewood COA records its condominium declaration (CP 40), which "constitutes record notice and perfection of the lien for assessments." RCW 64.34.364(7).

March 9, 2007:	Bank of America records its $277,000 deed of trust subsequent in time to Tanglewood's declaration (CP 14).
May 2, 2008:	Homeowner Lewis defaults on COA assessments (CP 372).
May 7, 2010:	Sheriff's Sale. Fulbright purchases the condominium for $14,481.83 (CP 175).
April 29, 2011:	Bank of America tenders timely redemption request under RCW 6.23 et seq. (CP 9).

(B) RCW 64.34.364(7) is Consistent With the Creation and Perfection of a Home Equity Line of Credit Deed of Trust.

The relationship between RCW 64.34.364(1) and RCW 64.34.364(7) is comparable to RCW 60.04.226, which governs lien priority for a Home Equity Line of Credit ("HELOC"). A HELOC works like a credit card: a line of credit is secured by a deed of trust against real property. Sterrett, *A Primer on Equity Lines of Credit and Related Issues*, 48 Consumer Fin. L.Q. Rep. 459 (1994). The loan balance can fluctuate from zero to fully drawn and back again over time.

Under RCW 60.04.226, a HELOC deed of trust is *perfected* and prioritized on the date the HELOC deed of trust is recorded, not the default date. RCW 64.34.364(1) and (7) adopt the same approach: "Recording of the declaration" – like recording of the HELOC deed of trust – "constitutes record notice and perfection of the lien for

assessments." RCW 64.34.364(7). A subsequent delinquency or default in the payment of assessments – like a default on HELOC payments – does not *create* a lien, but merely triggers the right to enforce the pre-existing lien. RCW 64.34.364(1).

Just as most HELOC payments are due monthly, condominium assessments are due monthly. If a HELOC or COA payment is missed, no new lien is created. Rather, the lien was created and perfected when the HELOC deed of trust or the COA declaration was recorded.

(C) Bank of America's Position is Consistent With That of a Condominium Association Aware of the *Summerhill* Holding.

Mr. Fulbright, like the client he represents in *Summerhill*, is a third-party purchaser, not a COA. The arguments he asserts conflict not only with the clear language of RCW 64.34.364(7), but also with the position of at least one COA represented by a leading State of Washington COA attorney, who views the law as Bank of America has presented here.

In *Lakewest Condominium Ass'n v. Blumfield*, No. 11-2-04005-4SEA (King County), Lakewest moved for summary judgment claiming that a deed of trust contained an invalid legal description, thus giving Lakewest full lien priority over the deed of trust, not merely "super priority," which is limited to six months of unpaid assessments (*see* Appendix A and B).

Lakewest's Summary Judgment Reply Brief presents the same points Bank of America has presented on this appeal:

> Here, Plaintiff's [COA's] lien arose in 1988 upon the 1988 recording of the Declaration of Condominium creating the lien securing assessments, which predates the 2005 recording of the two *invalid* Deeds of Trust of DOT Claimants. . . . The Declaration of Condominium Lien is a continuing lien that existed since 1988 and continues to exist so long as the Declaration of Condominium operates as a real property encumbrance:
>
> The association has a lien on a unit for any unpaid assessments levied against a unit from the time assessment is due. RCW 64.34.364(1). And:
>
> Recording of the declaration constitutes record notice and perfection of the lien for assessments. RCW 64.34.364(7).

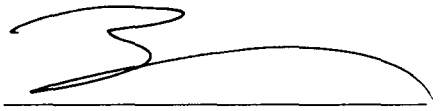
(Appendix B at 1-2; record citations omitted; emphasis in original). Lakewest is well aware of the *Summerhill* opinion, which it cites at elsewhere in its Motion for Summary Judgment (Appendix A at 15).

CONCLUSION

The *Summerhill* decision is not controlling and not dispositive of this appeal. *Summerhill* did not consider RCW 64.34.364(7) or its plain meaning. Bank of America's deed of trust was "subsequent in time" to Tanglewood's COA lien as a matter of fact and law, and Bank of America is thus a qualified redemptioner under RCW 6.23.010(1)(b). This Court should reverse the Superior Court and grant the relief requested by Bank of America in its Opening Brief.

Dated: April 5, 2012

Respectfully submitted,



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APPENDIX TO THE SUPPLEMENTAL BRIEF of *Appellant* BANK OF AMERICA, N.A.

Tab A. Plaintiff's Motion and Declaration for Summary Judgment, *Lakewest Condominium Association v. Blumfield, et al*, King County Superior Court Cause No. 11-2-04005-SEA

Tab B. Plaintiff's Reply to Opposition to Motion for Summary Judgment, *Lakewest Condominium Association v. Blumfield, et al*, King County Superior Court Cause No. 11-2-04005-SEA

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KING COUNTY
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CASE NUMBER: 11-2-04005-4 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

LAKEWEST CONDOMINIUM ASSOCIATION, a Washington nonprofit corporation, Plaintiff, v. SCOTT BLUMFIELD and JANE DOE BLUMFIELD, husband and wife or state registered domestic partners; JPMORGAN CHASE BANK, N.A., successor in interest to WASHINGTON MUTUAL BANK, a Washington corporation; WELLS FARGO BANK, N.A., as Trustee of WaMu Mortgage Pass-Through Certificates, Series 2005-PR4, successor in interest to Washington Mutual Bank, a Washington corporation; NATIONAL CITY BANK, a national association; PNC BANK, National Association, a national banking association, successor by merger to National City Bank, a national association; JOHN DOE and JANE DOE, Unknown Occupants of the Subject Real Property; and also all other persons or parties unknown claiming any right, title, estate, lien, or interest in the real estate described in the Complaint herein, Defendants.	No. 11-2-04005-4SEA **PLAINTIFF'S MOTION AND DECLARATION FOR SUMMARY JUDGMENT**

RELIEF REQUESTED

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Plaintiff, Lakewest Condominium Association ("Plaintiff" or "Association"), seeks entry of default judgment as to certain defendants, and, as to other defendants, entry of summary judgment pursuant to CR 56, on the ground that there is no genuine issue of material fact and that Plaintiff is entitled to judgment in its favor as a matter of law, as follows:

A. Default Judgment on prior Order of Default against Defendants **Scott Blumfield and Jane Doe Blumfield** ("Defendants Blumfield"), in the amount of $151,562.48 for delinquent regular monthly and special assessments, $58,280.86 for late fees and interest, $23.25 for a security deposit; plus $831.60 ($415.80 March 1, 2012 and April 1, 2012), regular monthly assessments, $40.00 late fees and $2,670.10 interest for the period subsequent to the date of this Motion through the date on which this Motion will be heard; plus attorneys' fees of $12,780.10 through the date of this Motion; plus an additional award of $825.00 (3.0 x $275/hour) for attendance at hearing and $1,500.00 for post-judgment attorneys fees necessarily incurred in this judicial foreclosure action; plus taxable costs of $2,396.23; plus any additional assessments, late fees and interest which come due between the date hereof and the date of Judgment; and decree of foreclosure as against said Defendants, foreclosing Plaintiff's lien as against any right, title, estate, lien, or interest in the real estate described below; and

B. Default Judgment on prior Order of Default against Defendants **National City Bank**, a national association, **PNC Bank**, National Association, and **John Doe and Jane Doe Occupants w/t/n/i Daniel Sluss**, and all other persons or parties unknown claiming any right, title, estate, lien, or interest in the real estate described in the Complaint herein, subsequent to the recording of Plaintiff's Lis Pendens in this action, for the following declaratory relief: Decree of foreclosure declaring Plaintiff's lien prior and superior to any right, title, estate, lien or interest of said defendants in the real estate described below, decreeing that Plaintiff's lien be foreclosed and the property covered thereby be sold at foreclosure sale, extinguishing any such interest of said defendants.

C. Summary Judgment against Defendants **JPMorgan Chase Bank N.A.**, successor in interest to Washington Mutual Bank, a Washington corporation, and **Wells Fargo Bank, N.A., as Trustee** of WaMu Mortgage Pass-Through Certificates, Series 2005-PR4, successor in interest to Washington Mutual Bank, a Washington corporation, for the following declaratory relief:

I. For declaratory judgment decreeing that any deeds of trust held by said Defendants purporting to encumber the below-described real property are invalid, voiding said deeds of trust as any encumbrance thereon, and declaring that said defendants hold no right, title, estate, lien or interest in said real property;

II. In the alternative, decree of foreclosure declaring Plaintiff's lien prior and superior to any right, title, estate, lien or interest of said defendants in the real estate described below, decreeing that Plaintiff's lien be foreclosed and the property covered thereby be sold at foreclosure sale, extinguishing any such interest of said defendants.

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1. STATEMENT OF FACTS

2.1 Plaintiff is a non-profit corporation duly organized pursuant to the Horizontal Property Regimes Act, RCW 64.32, as amended by the Washington Condominium Act, RCW 64.34 (hereinafter referred to as the "Act") for the operation of Lakewest, a condominium established under the Act. Guyott Decl. The Association was created under the terms of the Declaration of Condominium recorded in the records of King County, Washington under Recorder's No. 8808260522, Restated Declaration recorded under King County Recorder's No. 9003291014, as thereafter amended of record, and under Survey Map and Plans recorded in the records of said County in Volume 89 of Condominiums, Pages 12 through 22, inclusive, as thereafter amended of record (hereinafter collectively referred to as the "Declaration"), Id.

2.2 Record title to the below-described parcel of real estate is vested in Defendant Scott Blumfield ("Defendant Blumfield" or "Debtor"): Real property commonly known as 2125 Westlake Avenue N, #301, Seattle, Washington 98109 (and legally described on attached Motion Exh. A). Id. Title vested in Debtor by Trustee's Deed dated August 14, 2003 and recorded August 18, 2003 under King County Recording No. 20030818001409. Id.

2.3 This is an action to foreclose a lien against real property located in King County, Washington, satisfying jurisdictional and venue requirements for this action.

2.4 Pursuant to Section 14.1 of the Declaration, the affairs of the Association are managed by a Board of Directors (the "Board") elected by the unit owners who comprise the membership of the Association. Id.

2.5 As owner of a condominium unit formed under the Act, Defendants all and each of them are legally bound to abide by all provisions of the Act, as well as to the Association's Declaration and By-Laws. Section 17.2 of the Amended and Restated Declaration states that:

> 17.2 Enforcement of Declaration, Etc. The Board (or Declarant, Declarant's managing agent, or the interim board of directors until the Transition Date) shall have the power and duty to enforce the provisions of this Declaration, the Bylaws, and the rules and regulation of the Association, as the same may be lawfully amended from time to time, for the benefit of the Association. If a legal action is brought to interpret or enforce compliance with the provisions of this Declaration, the Bylaws, or the rules or regulations of the Association, the prevailing party shall be entitled to judgment against the other party for its reasonable expenses, court costs, and attorneys' fees in the amount awarded by the Id.

2.6 The Board has the right to levy assessments for the Association's common expenses against Condominium unit owners pursuant to Section 18.3 of the Amended and Restated Declaration. Said section provides:

> 18.3 Monthly Assessments for Common Expenses. The sums required by the Association for common expenses as reflected by the annual budget and

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> any supplemental budgets shall be divided into equal installments to be paid each month over the period of time covered by the budget or supplemental budget. The monthly installments shall be assessed to the apartments and their respective owners in proportion to the apartments' percentages of undivided interest in the common areas and facilities taking into account special allocations between the townhomes and the other units. A working capital fund shall be established equal to at least a two months' estimated common area charge for each apartment. Monthly assessments and each apartment's pro rata share of the working capital begin accruing with respect to each apartment upon the closing of the sale of that apartment by Declarant and, in any event, within 60 days after sale of the first apartment. During such time as garbage collection charges and any other utility or service charges are based on the number of occupied apartments, any apartments owned by Declarant and not occupied shall be exempt from assessment for such charges.

Id.

2.7 Debtor is obligated to the Association to pay such assessments pursuant to Section 18.6 of the Amended and Restated Declaration which provides:

> 18.6 Payment of Monthly Assessments. On or before the first day of each calendar month each apartment owner shall pay or cause to be paid to the treasurer of its Association the assessment against the apartment for that month. Any assessment not paid by the first day of the calendar month for which it is due shall be delinquent and subject to late charges, interest charges and collection procedures as provided in Article 19.

Id.

2.8 Debtor is personally liable to the Association to pay such assessments pursuant to Section 19.5 of the Amendment to Declaration which provides:

> 19.5 Assessments are Personal Obligations. In addition to constituting a lien on the apartment and all of the appurtenances to the Apartment, each Assessment, including interest, late charges, costs and attorney's fees in the event of the delinquency, shall be the joint and several personal debt and obligation of the fee owner or owners and the contract purchasers of Apartments for which they are assessed as of the time the Assessment is made, and, except as provided in Section 19.2, their grantees and successors in interest. In connection with the voluntary conveyance of an Apartment, the grantee or successor in interest shall be jointly and severally liable with the grantor for all unpaid Assessments up to the time of conveyance, without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee therefor. Suit to recover personal judgment for any delinquent Assessments shall be maintainable without foreclosing or waiving the liens securing the Assessments.

Id.

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2.9 Debtor is currently assessed $415.80 due the first (1st) day of each month for regular monthly assessments. Id.

2.10 Debtor is assessed a late fee of $40.00 for each month in which his account is not paid in full by the fifteenth (15th) day of the month, plus interest on the special assessment sub-balance at the rate of $1,335.05 on the thirtieth (30th) day of each month. Id.

2.11 As of February 29, 2012, there is due and owing to Plaintiff by Debtor the following amounts: $151,562.48 for regular monthly and special assessments, $58,280.86 for late fees and interest, $23.25 for a security deposit assessment, plus attorney fees and recoverable costs and taxable (statutory) costs as detailed below. Id.

2.12 Regular monthly assessments levied March 1, 2012 and April 1, 2012, in the amount of $415.80 each, a $40.00 late charge to be levied March 15, 2012, and interest levied March 1, 2012 and April 1, 2012 in the amount of $1,335.05 each, will come due prior to the date on which this Motion will be heard. Id.

2.13 In connection with the prosecution of this action, as of the date of this Motion, the Association has incurred taxable and/or recoverable costs under the Declaration of $383.25 for a litigation guarantee, $230.00 for the filing fee, $1,510.00 for service of process, $30.00 for ex-parte fees, $4.98 for efiling fees, and $133.00 for recording fees (lis pendens and amendments thereto). The Association will incur future recoverable costs of recording fees of $70.00 (judgment), certified copy costs of $11.00 (judgment), and Order of Sale fee of $24.00 to be charged pursuant to Decree of Foreclosure, for total taxable and/or recoverable costs of $2,396.23. Decl. of Counsel.

2.14 In connection with the prosecution of this matter, as of the date of this Motion, Plaintiff has accrued reasonable attorney's fees of $12,780.10 for work both prior to and after commencement of this action. Id. Plaintiff will be required to continue incurring attorneys' fees and costs in collecting the delinquent assessments owed by Debtor, in the further preparation of this Motion and argument at the hearing on said Motion. In the absence of any response from Defendants and if Plaintiff's further work is limited to hearing in this matter, Plaintiff seeks the further amount of $825.00 (3.0 x $275/hour) for attendance at hearing and the sum of $1,500.00 for post-judgment work to set up the sheriff's sale, coordinate the opening bid with the sheriff, prepare the motion, declaration and order for confirmation of sale, attend hearing thereon, prepare any statutory notice of redemption, and handle reinstatement of any senior tax lien interest, if any. If Plaintiff receives a response to this Motion, additional attorney fees beyond the foregoing will be incurred; said additional attorney fees shall be evidenced by a Supplemental Declaration of Counsel to be presented with any Reply or at the hearing of Plaintiff's Motion. Id.

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2.15 Debtor has been in default in payment of assessments *since April 1, 2008.* Despite due demand, Debtor has failed and refused to pay the delinquent regular monthly and special assessments levied against him and the Unit. Guyott Decl.

2.16 The Association has a lien against the Unit and a personal claim against Defendants Blumfield as the owners of the Unit, to secure the payment of all assessments levied by the Board, including late charges, costs, and reasonable attorneys' fees, pursuant to Section 19.1 of the Amended Declaration.

> 19.1. Lien Indebtedness The amount of any Assessment assessed to any Apartment and the Owner and/or contract purchaser of any Apartment shall be a lien upon the Apartment and any appurtenant Common Elements. The lien for payment of Assessments shall have priority over all other liens and encumbrances, recorded and unrecorded, to the extent provided in RCW 64.34.364 and Section 19.2. A payment on a Owner's Assessment account shall be applied first to outstanding fines, then to costs of collection, including attorney's fees, chargeable to an Owner as provided in the Declaration, then to interest and late fees, then to regular Assessments, and finally to special Assessments and charges.

2.17 The Association has the right to recover costs and attorneys fees pursuant to Section 19.7 of the Amended Declaration.

> 19.7 Recovery of Attorney's Fees and Costs In addition to any attorney's fees and costs recoverable in an action brought under Section 19.5 or Section 19.12, the Association shall be entitled to recover any costs and reasonable attorney's fees incurred in connection with the collection of delinquent Assessments, whether or not the collection activities result in suit being commenced or prosecuted to judgment. In addition, the prevailing party shall be entitled to recover costs and reasonable attorney's fees on appeal and in the enforcement of a judgment, whether in the State of Washington or a sister state.

2.18 The Association may foreclose the lien for assessments against the Unit pursuant to Section 19.12 of the Amendment to Declaration which provides:

> 19.12. Judicial Foreclosure of Assessment Lien The board or managing agent on behalf of the Association may initiate an action to foreclose the lien of any Assessment judicially in the manner provided for mortgages. In any action to foreclose a lien against an Apartment for nonpayment of delinquent Assessments, any judgment rendered against the Apartment or the Owners of the Apartment in favor of the Association shall include a reasonable sum for attorney's fees and all costs reasonably incurred in preparation for or in the prosecution of the action in addition to taxable costs permitted by law.

2.19 The Association is entitled to the appointment of a receiver for the Unit pursuant to Section 19.13 of the Amendment to Declaration which provides:

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> 19.13 Rental Value. From the time of commencement of any action to foreclose a lien for nonpayment of delinquent Assessments, the Owner or contract purchaser of the Apartment shall pay to the Association the reasonable rental value of the Apartment to be fixed by the Board and the plaintiff in the foreclosure action shall be entitled to the appointment, without bond, of a receiver to collect the reasonable rental value, who may, if the rent is not paid, obtain possession of the Apartment, refurbish it for rental up to a reasonable standard for rental units in this type of Condominium, rent the Apartment or permit its rental to others, and apply rents received first to the costs and attorney's fees of the receivership and receiver, including the costs of renting the Apartment, then to the costs of refurbishing the Apartment, then to costs, fees and charges of the foreclosure action, and then to the payment of the delinquent Assessments or charges.

Id.

Defendants Jane Doe Blumfield, as spouse or state registered domestic partner of Defendant Scott Blumfield, if any, and John Doe and Jane Doe, unknown occupants of the subject real property, w/t/n/i Daniel Sluss, may claim some interest in the subject real property. Any such interest is junior and subordinate to the lien being foreclosed.

An Order of Default was entered on August 4, 2011 against Defendants Scott Blumfield and Jane Doe Blumfield,, National City Bank, PNC Bank, and. John Doe and Jane Doe Occupants w/t/n/i Daniel Sluss.. Court file.

Respective Answers were filed by Defendants JPMorgan Chase Bank N.A., and Wells Fargo Bank, N.A., as Trustee. Court file.

A Lis Pendens was filed in this action. An Amended Lis Pendens and Second Amended Lis Pendens were filed in this action and recorded March 7, 2011 under King County Recording No. 20110307001695 and April 19, 2011 under 20110419000178. Decl. Counsel. Any persons known or unknown, as captioned in the Complaint hereof, with any interest in the subject real property attaching after recording of said Amended Lis Pendens, is also junior and subordinate to the lien being foreclosed.

Purported Deeds of Trust:

Debtor purportedly executed two deeds of trust:

a. A deed of trust to beneficiary Washington Mutual Bank, a Washington corporation, recorded under King Co. Rec. No. 20051031003600. Decl. Counsel Exh. E. Defendant JPMorgan Chase Bank, N.A. has succeeded to all of said beneficiary's interest under said deed of trust. Court file (Answer dated 7/26/11).

B. A deed of trust to beneficiary National City Bank, a national association, recorded under King Co. Rec. No. 20051031003601. Decl. Counsel Exh. F. Defendant Wells Fargo Bank, N.A., as

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Trustee of WaMu Mortgage Pass-Through Certificates, Series 2005-PR4, has succeeded to all of said beneficiary's interest under said deed of trust. Court file (Answer dated 8/16/11).

The foregoing deeds of trust are hereafter collectively referred to as "Deeds of Trust." The legal description of the real property appearing in the Deeds of Trust reads as follows:

> Unit 301, of Lakewest, a Condominium, according to Declaration thereof recorded under King County Recording No. 880826040522 and any amendments thereto; said Unit is located on Survey Map and Plans filed in Volume 89 of Condominiums, at Pages 12 through 22, in King County Washington.

Decl. Counsel Exh. E, F. The legal description contained in the Deeds of Trust is incorrect and erroneous because, as shown on Plaintiff's title report describing the Unit, the Deeds of Trust fail to include reference to any Building Number. Decl. Counsel Exh G. The Lakewest Condominium is comprised of multiple buildings. Guyott Decl. Exh. B (Survey Map & Plans); Exh. C (Amended and Restated Declaration), exhibit C thereto. There are multiple condominium units identified as "Unit 301, Building ___." Id. As a result, the Deeds of Trust fail to sufficiently describe any particular parcel of real property.

3. STATEMENT OF ISSUES

3.1 Is Plaintiff entitled to Default Judgment on prior Order of Default as to certain defendants pursuant to CR 55, where Plaintiff has submitted its Tender of Proof?

3.2 Is Plaintiff entitled to Summary Judgment as to certain other defendants pursuant to CR 56(a) as a matter of law, where such defendants fail to establish a legitimate dispute as to any material fact?

4. EVIDENCE RELIED UPON

4.1 Declaration of Robert Guyott in Support of Plaintiff's Motion for Summary Judgment and the exhibits attached thereto.

4.2 Subjoined Declaration of Counsel and exhibits attached thereto.

4.3 The pleadings and files herein.

5. AUTHORITY

5.1 Summary Judgment is appropriate in an action based upon a written instrument where there are no genuine issues of material fact as demonstrated by the pleadings and other admissible evidence. CR 56; *Del Guzzi Construction v. Global Northwest*, 105 Wn.2d 878, 719 P.2d 120 (1986).

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5.2 The non-moving party may not rest on mere denials or allegations in its pleadings, but must present specific facts upon which it relies, demonstrating that a genuine issue of material fact does exist. *Mackey v. Graham*, 99 Wn.2d 572, 663 P.2d 490 (1983); *Tokartz v. Frontier Federal Savings & Loan Association*, 33 Wn.App. 456, 656 P.2d 1089 (1982).

5.3 Summary Judgment is proper where the dispute involves interpretation of language in an unambiguous written agreement. *Portland Electric and Plumbing v. City of Vancouver*, 29 Wn.App. 292, 627 P.2d 1350 (1981); *Allstate Insurance Co. v. Neel*, 25 Wn.App. 722, 612 P.2d 6 (1980).

5.4 Based upon the record established herein, summary judgment in favor of Plaintiff and against Defendants all is appropriate. In this instance, there is no genuine issue of material fact, but rather answering Defendants JPMorgan Chase Bank, N.A. and Wells Fargo Bank N.A. as Trustee simply deny the clear and unambiguous language found in applicable statutes, cases and the Declaration.

5.5 Owners of condominium units formed under the Act are legally bound to abide by all provisions of the Horizontal Property Regimes Act, RCW 64.32, as amended by the Washington Condominium Act, RCW 64.34 (hereinafter referred to as the "Act"), as well as to the Association's Declaration and By-Laws.

5.6 The liability for payment of assessments levied by a condominium association is clearly and unambiguously established by statute, case law and written instrument (the Declaration), as detailed below. As a unit owner, Debtor is obligated to pay her proportionate share of the Condominium's regular and special assessments levied by the Board to cover the Condominium's common expenses. That share is based upon the percentage of an owner's undivided interest in the common areas and facilities. The Washington Condominium Act mandates how costs are to be allocated:

(1) The association has a lien on a unit for any unpaid assessments levied against a unit from the time the assessment is due.

* * *

> (9) The lien arising under this section may be enforced judicially by the association or its authorized representative in the manner set forth in Chapter 61.12 RCW.
>
> * * *
>
> (12) In addition to constituting a lien on the unit, each assessment shall be the joint and several obligation of the owner or owners of the unit to which the same are assessed as of the time the assessment is due. In a voluntary conveyance the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Suit to recover a personal judgment for any

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> delinquent assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

RCW 64.34.364 (1), (9), (12); RCW 64.32.200. The Act also provides for recovery of collection (attorney) fees:

> The association shall be entitled to recover any costs and reasonable attorneys fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment.

RCW 64.34.364 (14).

Besides the foregoing statutory rights, the Declaration of Condominium contains various provisions establishing the Plaintiff's right to assess the Debtor personally and the unit in particular, the method for same, and the right to foreclose in the event of default, as further stated in the Statement Of Facts, above, incorporated herein by reference.

Condominium assessments are due in every case, from every condominium owner and secured by a declaration of condominium lien on every unit at Lakewest Condominium - that is the law. The recorded Declaration of Condominium *mandates* that the Plaintiff assess all units *subject to the Declaration of Condominium* for common expenses under the per-unit formula provided in the Declaration. *There are no exceptions.* The Association's common expenses are defined as expenditures made by or financial liabilities of the Association, together with any allocations to reserves. Guyott Decl. Exh. C § 18.2. Such common expenses are provided for under an annual budget prepared by the Association. Id.

Thus, if the Debtor fails to pay her share of the common expenses, as represented by the assessments levied against the subject Unit, all the other unit owners must make up the difference. That is contrary to the above statutes and Declaration of Condominium provisions. The Court should not excuse Debtor and the Unit from shouldering the Unit's portion of the common expenses.

6. NO APPEARANCE BY DEBTOR; PLAINTIFF HAS SUBMITTED ITS TENDER OF PROOF AND IS ENTITLED TO DEFAULT JUDGMENT UNDER CR 55(B)(1).

Plaintiff has met its burden to establish the existence and extent of the debt. The Court has previously entered an Order of Default as to Defendants **Scott Blumfield and Jane Doe Blumfield ("Debtor"), National City Bank, PNC Bank,** and **John Doe and Jane Doe Occupants w/t/n/i Daniel Sluss.** Order dated August 4, 2011 (Court file). Plaintiff has submitted its Tender of Proof under the Guyott Declaration and subjoined Declaration of Counsel. Plaintiff is therefore entitled to Default Judgment against said defendants pursuant to CR 55(b)(1).

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7. ISSUES OR DEFENSES ASSERTED BY ANSWERING DEFENDANTS JPMORGAN CHASE BANK NA AND WELLS FARGO BANK NA AS TRUSTEE

A. Plaintiff Entitled To Limit Issues To Those Raised Under Answers of Defendants JPMorgan Chase Bank NA and Wells Fargo Bank NA as Trustee.

Plaintiff is entitled to proceed with its summary judgment motion as against answering Defendants JPMorgan Chase Bank NA and Wells Fargo Bank NA as Trustee and limit the issues to be heard to those raised in said defendants' respective Answers. *Bickford v. City of Seattle,* 104 Wn. App. 809, 813 (2001) (affirmative defenses are waived unless (1) affirmatively pleaded, (2) asserted in a motion to dismiss, or (3) tried by the express or implied consent of the parties). In addition, any averments in a pleading are deemed admitted unless denied in a mandatory responsive pleading. CR 8(d); *Jansen v. Nu-West, Inc.,* 102 Wn App. 432, 438-9 (2000). Here, said defendants' respective Answers deny Plaintiff's claims based on lack of knowledge, and assert limited affirmative defenses, in substance asserting that said defendants hold valid deed of trust encumbrances and that such encumbrances enjoy lien priority over the Declaration of Condominium lien of Plaintiff. Answer dated July 26, 2011; Answer dated August 16, 2011 (collectively, "Answers") (Court file). Accordingly, the issues to be heard on the motion for summary judgment must be limited to those arising from the respective Answer and pled affirmative defenses.

B. ISSUES OR DEFENSES RAISED BY DEFENDANTS JPMORGAN CHASE BANK N.A. and WELLS FARGO BANK N.A. AS TRUSTEE

1. Insufficient Legal Descriptions Result in No Valid Lien On Real Property

Defendants JPMorgan Chase Bank N.A. and Wells Fargo Bank N.A. as Trustee (collectively, "DOT Claimants") claim interests in the Unit under their respective purported Deeds of Trust. Answers (Court file). DOT Claimants deny that the Deeds of Trust are invalid. Id.

However, the Deeds of Trust contain invalid legal descriptions, as they fail to describe the particular real property that is to be encumbered by any deed of trust. The Deeds of Trust identify a condominium unit by number, to wit, "Unit 301," but fail to identify any Building number. Decl. Counsel Exh E, F. There are multiple "Unit 301s" at Lakewest Condominium. Guyott Decl. Exh.Guyott Decl. Exh. B (Survey Map & Plans); Exh. C (Amended and Restated Declaration), exhibit C thereto. Thus, each unit must be described by not only a unit number, but also by a building number; the Unit at issue must be described by unit number and building number, among other required terms. Id.; Decl. Counsel Exh. G.

Washington law provides in relevant part as follows:

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> A conveyance of real property, when acknowledged by the person executing the same. . . may be recorded in the office of the recording officer of the county where the property is situated. Every such conveyance not so recorded *is void* as against any subsequent purchaser *or mortgagee in good faith.*

RCW 65.08.070 (emphasis added). Thus, under this statute a purchaser or encumbrancer in good faith collectively enjoy the rights of a "Bona Fide Purchaser" ("BFP"). In Washington, a BFP defeats the rights and interests of a purported deed of trust beneficiary where the latter party's interest is based on an instrument with an erroneous legal description. *Koch v. Swanson,* 4 Wn. App 456, 459 (1971); *Dickson v. Kates,* 132 Wn. App. 724, 737 (2006). To obtain the benefits of prevailing over a BFP, a deed of trust beneficiary must properly record the deed of trust with the county auditor/recorder where the real property is located. RCW 65.08.070. The county auditor/recorder is statutorily required to maintain an index of real property recordings containing the date of recording, volume and page of recording, and description of the property, among other requirements. RCW 65.04.050. This index serves to impart notice of recordings effecting particular parcels of real property. *Koch,* 4 Wn. App at 458. A deed of trust that is properly recorded gives notice of same to third parties. *Id.* As a result, subsequent lien holders would obtain their interests in the property with notice of such properly recorded deed of trust. *Id.*

However, a deed of trust that fails to include a sufficient legal description does not impart notice to third parties inspecting the county auditor/recorder's index. *Koch,* 4 Wn. App at 459. Addressing a plaintiff's deed of trust that failed to describe the correct Tract (lot) number, the Court of Appeals opined:

> [D]efendants were required to go no further than a search of the records as to Tract 124 [(the correct tract number)]. To adopt plaintiff's position would impose an almost impossible burden upon a party seeking to become a bona fide purchaser in that each and every conveyance shown of record *and involving a common grantor* would have to be investigated beyond the auditor's records for possible error. . . . This would destroy the strength of our recording system.

Koch, 4 Wn. App at 459 (emphasis added). Thus, under Washington law, a third party is not obligated to search the county records based on grantor name; to prevail over BFPs, a deed of trust must contain an accurate legal description.

In addition to subordination of the invalid Deeds of Trust to BFP encumbrancers such as the Declaration of Condominium lien, case law interpreting Washington's Statute of Frauds, RCW 64.04.010 *et seq.,* requires that any conveyance of developed real property must contain the description of the property by correct lot number, block number, addition, county and state: *Martin v. Siegel,* 35 Wn.2d 223, 229 (1949).

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Plaintiff, as a statutory lienholder under its Declaration of Condominium, enjoys superior lien rights in the Unit over the Deeds of Trust, which violate the Statute of Frauds and thus do not encumber any real property.

II. Declaration of Condominium Lien Enjoys BFP Encumbrancer Status

In the instant case, Plaintiff is a lienholder with a security interest in the Unit under its recorded Declaration of Condominium, RCW 64.34.364(1), with a resulting security interest in the Unit, analogous to a third party mortgagee under a properly recorded deed of trust, to the extent that such lien secures an obligation and may be foreclosed judicially, as is being done here. That statute expressly provides that Plaintiff's lien may be foreclosed judicially, as here, or nonjudicially, by trustee's sale. RCW 64.34.364(9). As a result, as a lienholder, Plaintiff is entitled, under the authorities recited *supra* in Motion Section 7(B)(I), to BFP status prevailing over any purported deed of trust that fails to accurately describe a particular parcel of real property - here, the Deeds of Trust. The DOT Claimants hold no valid encumbrance on the Unit, and Plaintiff is accordingly entitled to judgment declaring such Deeds of Trust invalid.

III. Declaration of Condominium Lien Only Statutorily Subordinated to Certain *Valid* Deeds of Trust

Washington ordinarily follows the "first in time, first in right" prioritization of *valid* recorded competing liens on real property, based on who recorded first. RCW 65.08.070. Here, the recording of the Declaration of Condominium predates the recording of the two *invalid* Deeds of Trust. However, our Legislature determined that Declaration of Condominium liens, such as here, are statutorily subordinated to certain *valid* deeds of trust, under certain conditions:

> A lien under this section shall be prior to all other liens and encumbrances on a unit except (a) liens and encumbrances recorded before the recording of the declaration; (b) a mortgage *on the unit recorded before the date on which the assessment sought to be enforced became delinquent.*

RCW 64.34.364(2) (emphasis added). Plaintiff's Declaration of Condominium, as amended, contains a substantially identical provision. Guyott Decl. Exh. D (Declaration Amendment § 19.2. Such amendment preceded the recording of the invalid Deeds of Trust. Said statutory and Declaration provisions providing limited subordination are *of necessity* predicated on a "mortgage" *actually existing as a valid encumbrance* on a particular unit ("on the unit"). Except as statutorily mandated in RCW 64.34.364(2)(b) regarding respective lien priorities, nothing in Ch. 64.34 RCW purports to modify the

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BFP law and Statute of Frauds law addressed *supra*, or limits Plaintiff's enjoyment of the rights of a third party BFP lienholder in the face of the Deeds of Trust that fail to sufficiently describe the Unit at issue:

> The principles of law and equity, including the law of corporations and unincorporated associations, *the law of real property*, and the law relative to capacity to contract, principal and agent, condemnation, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, *or other* validating or *invalidating cause supplement* the provisions of this chapter, *except to the extent inconsistent with this chapter.*

RCW 64.34.070 (emphasis added). Here, the Deeds of Trust simply fail to describe any parcel of real property. The Deeds of Trust are invalid encumbrances. Plaintiff is entitled to judgment declaring such Deeds of Trust void and of no effect.

IV. Effect of Lis Pendens Recording On Any Subsequently Recorded *Valid Encumbrances*:

Plaintiff recorded a Lis Pendens as part of this action. Thus, any hypothetical *subsequent* attempts to seek *reformation* of the Deeds of Trust to amend the legal descriptions of the Deeds of Trust to describe this particular real property is subject to the Lis Pendens statute, which provides in relevant part:

> [E]very person whose conveyance or *encumbrance* is subsequently executed or *subsequently recorded shall be deemed a subsequent* purchaser or *encumbrancer*, and shall be bound by all proceedings taken after the filing of such notice to the same extent as if he or she were a party to the action.

RCW 4.28.320 (emphasis added). As such, any hypothetical *reformation* of the Deeds of Trust would be subsequent in time to Plaintiff's Lis Pendens and any encumbrance upon the Unit resulting from such reformation action would in any event be subsequent to Plaintiff's Lis Pendens; thus any hypothetical judgment *reforming* the Deeds of Trust would be junior and subordinate to Plaintiff's Declaration of Condominium lien being foreclosed herein.

V. Effect of Limited Statutory Priority On Any Subsequently Recorded *Valid* Deeds of Trust:

Plaintiff's Declaration of Condominium lien is subordinate to *valid* deeds of trust only under limited circumstances; if a *valid* deed of trust is recorded *after* a default on assessments levied by Plaintiff, that deed of trust is wholly subordinate to Plaintiff's Declaration of Condominium lien. RCW 64.34.364(2)(b); *see,* Section 7(B)(III), *supra.* The intent of our Legislature in this regard is crystal clear: Any mortgage lender that intends to record a *valid* deed of trust on a condominium unit in Washington may not do so at the expense of then-delinquent statutory assessments, and thus must ensure that there is no default on statutory assessments when it records a *valid* deed of trust, or face *statutory subordination* to the Declaration of Condominium lien.

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The statutory assessment obligation secured by the Declaration of Condominium has been in default since August 1, 2008. Guyott Decl. Exh. E.

As such, any hypothetical judgment *reforming* the Deeds of Trust would be subsequent in time to the default on the statutory assessment obligation secured by Plaintiff's Declaration of Condominium lien, and thus the Deeds of Trust would be subject to statutory subordination under RCW 64.34.364(2)(b). As a result, the Deeds of Trust would be junior and subordinate to Plaintiff's Declaration of Condominium lien being foreclosed herein.

Although not the scenario in this particular case, even when a *valid* deed of trust is recorded *prior* to any default on assessments, condominium associations, including the Plaintiff, enjoy a limited "six month" floating lien priority, which declaration of condominium lien can be foreclosed against deed of trust beneficiaries if not paid. RCW 64.34.364(3). *GMAC Mortgage LLC v. Summerhill Village Homeowners Assoc.*, ___ Wn. App. ____, No. 66455-7, (Division I Feb. 21, 2012) (published opinion).

8. PROPOSED JUDGMENT

Plaintiff's proposed Summary Judgment is submitted herewith.

RESPECTFULLY SUBMITTED this 1 day of March, 2012.

LAW OFFICES OF JAMES L. STRICHARTZ

Michael A. Padilla, WSBA No. 26284
Attorneys for Plaintiff

DECLARATION OF COUNSEL

Michael A. Padilla declares as follows:

1. I am over the age of eighteen years and a resident of the State of Washington. I am the attorney for the Plaintiff and make this Declaration on behalf of same in Support of its Motion for Summary Judgment. I am competent to testify as to the limited matters declared herein.

2. In connection with the prosecution of this action, as of the date of this Declaration, the Association has incurred taxable costs of $230.00 for the filing fee, and taxable and/or recoverable costs under the Declaration in the amount of $383.25 for a litigation guarantee, $1,510.00 for service of process, $4.98 for the e-filing fee, $133.00 for recording fees (Amended Lis Pendens and Second

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Amended Lis Pendens), and $30.00 for ex-parte fees. The Association will incur future recoverable costs of recording of $70.00 (judgment), certified copy costs (judgment) of $11.00, and Order of Sale fee of $24.00 to be charged pursuant to Decree of Foreclosure, for total taxable costs of $2,396.23.

3. Attached hereto as Exhibit B and incorporated herein by reference, is a listing of all attorney fees for services rendered Plaintiff and costs incurred in regard to the collection of the delinquencies of the Defendant by undersigned's law firm. Hourly time for attorney James Strichartz was billed at $275.00 per hour, for attorney Michael Padilla at $225.00 per hour, and for attorney William Justyk at $190.00 per hour, and for paralegals at a rate of $75.00 and $85.00 per hour through December 31, 2010. Commencing January 1, 2011, hourly time for attorney James Strichartz is billed at $325.00 per hour, for attorney Michael Padilla at $275.00 per hour, for attorney William Justyk at $200.00 per hour, and for paralegals at a rate of $90.00 per hour. As of the date of this Declaration, the Association has incurred reasonable attorney's fees of $12,780.10.

4. The attorney fee amount stated above does not include any additional time which may be necessary for any Rebuttal to any Opposition to this Motion and for attendance at hearing on this motion. In the absence of any response from Defendants and if Plaintiff's further work is limited to hearing in this matter, Plaintiff seeks the further amount of $825.00 (3.0 x $275/hour) for attendance at hearing and the sum of $1,500.00 for post-judgment work to set up the sheriff's sale, coordinate the opening bid with Plaintiff and the sheriff, prepare the motion, declaration and order for confirmation of sale, attend hearing thereon, prepare any statutory notice of redemption, and handle reinstatement of any senior tax lien interest, if any. If Plaintiff receives a response to this Motion, additional attorney fees beyond the foregoing will be incurred; said additional attorney fees shall be evidenced by a Supplemental Declaration of Counsel to be presented with any Reply or at the hearing of Plaintiff's Motion.

5. Attached hereto as Exh. C is a true and correct copy of the Amended Lis Pendens in this action, as recorded March 7, 2011 under King County Recording No. 20110307001695.

6. Attached hereto as Exh. D is a true and correct copy of the Second Amended Lis Pendens in this action, as recorded April 19, 2011 under King County Recording No. 20110419000178.

7. Attached hereto as Exh. E is a true and correct copy of a purported deed of trust to beneficiary Washington Mutual Bank, a Washington corporation, recorded under King Co. Rec. No. 20051031003600.

8. Attached hereto as Exh. F is a true and correct copy of a purported deed of trust to beneficiary National City Bank, a national association, recorded under King Co. Rec. No. 20051031003601.

9. Attached hereto as Exh. G is a true and correct copy of the relevant excerpt of a litigation guarantee dated January 27, 2011, showing the correct legal description for the subject real property.

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10. Declarant states that Defendants Scott Blumfield, Jane Doe Blumfield and John Doe and Jane Doe Occupants w/t/n/i Daniel Sluss are not infants or incompetents and that Plaintiff is unable to determine whether said defendants are in active military service or are a dependent of a service member in military service. Attached hereto as Exh. H is a true and correct copy of the Department of Defense search report for Defendant Scott Blumfield. Plaintiff does not have sufficient information for Defendants Jane Doe Blumfield or John Doe and Jane Doe Occupants w/t/n/i Daniel Sluss to obtain a Department of Defense report on said Defendants.

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

EXECUTED at Seattle, Washington this 1 day of March, 2012.

Michael A. Padilla

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MOTION EXHIBIT "A"
LEGAL DESCRIPTION OF UNIT

Unit 301, Building 2125, Lakewest, a Condominium, intended for single family residential use only, according to Survey Map and Set of Plans recorded in Volume 89 of Condominiums, Pages 12 through 22, inclusive, records of King County, Washington under Recording No. 9003291013, as thereafter amended of record, and according to the Condominium Declaration recorded under Recording No. 9003291014, as thereafter amended;

Together with an undivided 1.89503 percentage interest in the common areas and facilities appertaining to said unit;

Situate in the City of Seattle, County of King, State of Washington.

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EXHIBIT B

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

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March 01, 2012

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle, WA 98109

Tax ID: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: February 01, 2012 - February 29, 2012

Professional Services

			Hours	Amount
2/6/2012	MAP	Draft Plaintiff's Disclosure of Primary Witnesses; review file regarding same	0.80	220.00
2/21/2012	MAP	Draft motion for summary judgment, declaration of counsel, Guyott Declaration, proposed summary judgment; review title documents regarding same; review client case documents regarding same	8.20	2,255.00
2/22/2012	CDG	Order date down	0.10	9.00
	CDG	Draft email to Kim Whittle, court bailiff	0.10	9.00
	MAP	Revise motion for summary judgment; legal research regarding same	7.50	2,062.50
2/27/2012	CDG	Update file ledger	0.30	27.00
	CDG	Draft email to Robert Guyott	0.20	18.00
2/28/2012	CDG	Review email from Robert Guyott	0.10	9.00
	CDG	Review email from Kim Whittle; draft email to Kim Whittle; review email from Pam Oldham, court bailiff	0.10	9.00
2/29/2012	MAP	Review date down	0.10	27.50
	MAP	Review Defendant Wells Fargo Disclosure of Possible Primary Witnesses	0.10	27.50

			Hours	Amount
2/29/2012	MAP	Revise motion for summary judgment, declaration of counsel, Guyott Declaration, proposed summary judgment	3.60	990.00
	MAP	Legal research; revise motion for summary judgment	2.30	632.50
	For professional services rendered			$6,296.00
	Additional Charges :			
	Court Messenger Fee			7.00
	Total additional charges			$7.00
	Total amount of this bill			$6,303.00
	Balance due			**$6,303.00**

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A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

December 31, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle, WA 98109

Tax ID: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: December 01, 2011 - December 31, 2011

Professional Services

			Hours	Amount
12/9/2011	CDG	Draft email to Robert Guyott	0.10	9.00
	CDG	Review email from Robert Guyott	0.10	9.00
	CDG	Update file ledger	0.20	18.00
	For professional services rendered			$36.00
	Previous balance			$525.03
	Accounts receivable transactions			
12/27/2011	Payment - Thank You. Check No. 2524			($525.03)
	Total payments and adjustments			($525.03)
	Balance due			**$36.00**

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A PROFESSIONAL SERVICES CORPORATION

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Seattle, WA 98109

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November 30, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle, WA 98109

Tax ID: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: November 01, 2011 - November 30, 2011

Professional Services

			Hours	Amount
11/3/2011	CDG	Draft email to Angi Arends	0.20	18.00
11/8/2011	CDG	Request ledger from client	0.10	9.00
11/9/2011	CDG	Telephone call from bailiff Kim Whittle at King County Superior Court	0.10	9.00
	CDG	Telephone call to Kim Whittle at King County Superior Court	0.10	9.00
11/11/2011	MAP	Review email and attachments from Angi Arends	0.10	27.50
	CDG	Draft email to Angi Arends	0.10	9.00
11/15/2011	CDG	Review email from Angi Arends	0.10	9.00
11/16/2011	MAP	Draft notice of repair assessment; review client-supplied case documents regarding same; review governing documents regarding same	1.00	275.00
	CDG	Forward payment of $2,295.24 to client	0.20	18.00
11/21/2011	CDG	Telephone call from Scott Blumfield	0.20	18.00
	CDG	Review email from Robert Guyott and reply	0.20	18.00

			Hours	Amount
11/22/2011	CDG	Draft email to judge's bailiff	0.10	9.00
	MAP	Review email from Angi Arends	0.10	27.50
	MAP	Review email from Robert Guyott	0.10	27.50
	MAP	Review email (add'l) from Robert Guyott (no charge)	0.10	NO CHARGE
	MAP	Review email (add'l) from Angi Arends (no charge)	0.10	NO CHARGE
11/29/2011	CDG	Draft email to Kiersten George regarding ledger	0.20	18.00
	For professional services rendered			$501.50
	Additional Charges :			
	Photocopies			5.00
	Postage			18.53
	Total additional charges			$23.53
	Total amount of this bill			$525.03
	Previous balance			$1,145.00
	Accounts receivable transactions			
11/18/2011	Payment - Thank You. Check No. 2509			($1,145.00)
	Total payments and adjustments			($1,145.00)
	Balance due			**$525.03**

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

October 31, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle, WA 98109

Tax ID: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: October 01, 2011 - October 31, 2011

Professional Services

			Hours	Amount
10/5/2011	MAP	Review Answer of Defendant Wells Fargo	0.10	27.50
	MAP	Review Answer of Defendant JP Morgan Chase	0.10	27.50
	MAP	Call to Angi Arends	0.60	165.00
	MAP	Call to Caitlin Finley	0.40	110.00
10/10/2011	CDG	Draft email to Robert Guyott	0.10	9.00
10/11/2011	MAP	Research governing documents	0.40	110.00
	MAP	Call to Angi Arends; review file regarding same	0.40	110.00
	CDG	Telephone call to Judge Barnett's courtroom at King County Superior Court	0.10	9.00
	CDG	Draft email to Robert Guyott	0.10	9.00
	MAP	Draft email to Angi Arends (no charge)	0.10	NO CHARGE
	MAP	Call from Robert Guyott	0.20	55.00
	MAP	Legal research	0.50	137.50

			Hours	Amount
10/13/2011	MAP	Call to Angi Arends	0.80	220.00
10/17/2011	MAP	Review email from Angi Arends (no charge)	0.10	NO CHARGE
	CDG	Telephone call to Kim Whittle, bailiff to Judge Barnett	0.10	9.00
10/19/2011	MAP	Review email from Angi Arends	0.10	27.50
	MAP	Review email from Robert Guyott	0.10	27.50
	MAP	Review email from Angi Arends (add'l)	0.10	27.50
	MAP	Review email (add'l) from Robert Guyott (no charge)	0.10	NO CHARGE
	MAP	Review email (add'l) from Robert Guyott	0.10	27.50
	MAP	Review email (add'l) from Angi Arends (no charge)	0.10	NO CHARGE
	MAP	Review email (add'l) from Angi Arends (no charge)	0.10	NO CHARGE
10/24/2011	CDG	Draft email to Angi Arends	0.10	9.00
10/31/2011	MAP	Review email from Angi Arends	0.10	27.50
	For professional services rendered			$1,145.00
	Previous balance			$27.50
	Accounts receivable transactions			
10/20/2011	Payment - Thank You. Check No. 2497			($27.50)
	Total payments and adjustments			($27.50)
	Balance due			**$1,145.00**

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September 30, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle, WA 98109

Tax ID: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: September 01, 2011 - September 30, 2011

Professional Services

			Hours	Amount
9/9/2011	MAP	Review email from Angi Arends (8/31/11)	0.10	27.50
	For professional services rendered			$27.50
	Previous balance			$306.22
	Accounts receivable transactions			
9/16/2011	Payment - Thank You. Check No. 2481			($306.22)
	Total payments and adjustments			($306.22)
	Balance due			**$27.50**

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A PROFESSIONAL SERVICES CORPORATION

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August 31, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle, WA 98109

Tax ID: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: August 01, 2011 - August 31, 2011

Professional Services

			Hours	Amount
8/1/2011	CDG	Draft email to Judge Barnett's bailiff	0.20	18.00
	CDG	Review email from Kim Whittle, court bailiff	0.10	9.00
8/12/2011	MAP	Draft motion, affidavit and order for default	0.60	162.50
	CDG	Efile Note for Hearing, Motion for Default, Affidavit of Counsel and Affidavit of Mailing; prepare same for mailing and delivery of judge's copies to court	0.50	45.00
8/31/2011	CDG	Review email from Angi Arends	0.10	9.00
	CDG	Request ledger from client	0.10	9.00
	CDG	Update file ledger; draft email to Angi Arends	0.50	45.00
	For professional services rendered			$297.50

Additional Charges :

Court Messenger Fee	7.00
Postage	1.72
Total additional charges	$8.72

		Amount
	Total amount of this bill	$306.22
	Previous balance	$304.98
	Accounts receivable transactions	
8/19/2011	Payment - Thank You. Check No. 2471	($304.98)
	Total payments and adjustments	($304.98)
	Balance due	**$306.22**

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July 31, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle, WA 98109

Tax ID: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: July 01, 2011 - July 31, 2011

Professional Services

			Hours	Amount
7/19/2011	MAP	Review server reports	0.20	55.00
	MAP	Draft motion, affidavit and order for default	0.60	162.50
	CDG	Efile Notice for Hearing, Motion for Default, Affidavit of Counsel and Affidavit of Mailing; prepare same for mailing and delivery to Judge	0.50	45.00
	For professional services rendered			$262.50
	Additional Charges :			
	Court Messenger Fee			7.00
	Photocopies			30.00
	Postage			5.48
	Total additional charges			$42.48
	Total amount of this bill			$304.98
	Previous balance			$223.00
	Accounts receivable transactions			
7/6/2011	Payment - Thank You. Check No. 2446			($223.00)

	Amount
Total payments and adjustments	($223.00)
Balance due	**$304.98**

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June 30, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle, WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: June 01, 2011 - June 30, 2011

Professional Services

			Hours	Amount
6/27/2011	MAP	Draft confirmation of joinder	0.20	55.00
	CDG	Efile Confirmation of Joinder with King County Superior Court	0.20	18.00
	For professional services rendered			$73.00
	Additional Charges :			
	Service of Process			150.00
	Total additional charges			$150.00
	Total amount of this bill			$223.00
	Previous balance			$1,328.05
	Accounts receivable transactions			
6/13/2011	Payment - Thank You. Check No. 2435			($145.50)
6/23/2011	Payment - Thank You. Check No. 2443			($1,182.55)
	Total payments and adjustments			($1,328.05)

	Amount
Balance due	**$223.00**

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May 31, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle, WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: May 01, 2011 - May 31, 2011

Professional Services

			Hours	Amount
5/2/2011	CDG	Request ledger from client	0.10	9.00
	CDG	Request ledger from client	0.10	9.00
	CDG	Draft email to Randy at Legal Dispatch	0.10	9.00
5/5/2011	CDG	Calculate payoff	0.30	27.00
5/20/2011	MAP	Revise payoff quote (no charge)	0.20	NO CHARGE
	MAP	Draft escrow payoff letter	0.40	97.50
5/23/2011	CDG	Review email from Kristopher Perkins at JP Morgan Chase	0.10	9.00
5/24/2011	MAP	Draft letter to Wells Fargo	0.30	82.50
5/25/2011	CDG	Review email from Kristopher Perkins at JP Morgan Chase	0.10	9.00
	MAP	Review email from Kristopher Perkins	0.10	27.50
	For professional services rendered			$279.50

Additional Charges :

	Amount
Fax	3.25
Photocopies	7.00
Postage	2.80
Service of Process	890.00
Total additional charges	$903.05
Total amount of this bill	$1,182.55
Previous balance	$145.50
Balance due	**$1,328.05**

Current	30 Days	60 Days	90 Days	120 Days
1,182.55	145.50	0.00	0.00	0.00

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April 30, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: April 01, 2011 - April 30, 2011

Professional Services

			Hours	Amount
4/21/2011	CDG	Telephone call from Shaun, Ohio process server regarding service on National City Bank	0.10	9.00
	CDG	Review email from JP Morgan Chase	0.10	9.00
4/26/2011	MAP	Review email from Kristopher Perkins	0.10	27.50
4/27/2011	CDG	Review email from Randy at Legal Dispatch	0.10	9.00
4/29/2011	CDG	Review email from Randy at Legal Dispatch	0.10	9.00
	For professional services rendered			$63.50
	Additional Charges :			
	Court Messenger Fee			7.00
	Service of Process			75.00
	Total additional charges			$82.00
	Total amount of this bill			$145.50
	Previous balance			$2,882.49

		Amount
	Accounts receivable transactions	
4/18/2011	Payment - Thank You. Check No. 2412	($2,882.49)
	Total payments and adjustments	($2,882.49)
	Balance due	**$145.50**

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March 31, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: March 01, 2011 - March 31, 2011

Professional Services

			Hours	Amount
3/1/2011	MAP	Review email (add'l) and attachment from Beth Jones	0.10	27.50
	MAP	Review email (add'l) from Beth Jones	0.10	27.50
	MAP	Review email and attachments from Beth Jones	0.10	27.50
3/3/2011	MAP	Online research county treasurer, assessor records	0.30	82.50
	MAP	Draft complaint for foreclosure and lis pendens	1.30	325.00
3/4/2011	CDG	Prepare Lis Pendens for recording	0.30	27.00
	MAP	Review online skip trace reports regarding junior lienholder	0.10	27.50
	CDG	Efile Amended Complaint, Summons, Lis Pendens	0.20	18.00
3/7/2011	CDG	Review email from Angi Arends and reply	0.20	18.00
	CDG	Prepare Summons, Complaint and Lis Pendens for service (additional defendant)	0.20	18.00
	CDG	Review ABC Legal Messenger Investigation Report	0.20	18.00

			Hours	Amount
3/7/2011	CDG	Draft email to Angi Arends	0.10	9.00
	CDG	Prepare Summons, Complaint and Lis Pendens for service (multiple defendants)	0.60	54.00
	CDG	Draft email to ABC Legal Messenger investigations department	0.30	27.00
3/9/2011	MAP	Review email from Angi Arends	0.10	27.50
	MAP	Draft email to Angi Arends; review file regarding same	0.30	82.50
3/11/2011	MAP	Review email (add'l) from Angi Arends (no charge)	0.10	NO CHARGE
	MAP	Draft email (add'l) to Angi Arends	0.50	137.50
	MAP	Review email (add'l) from Angi Arends	0.10	27.50
	MAP	Draft advice memorandum to Angi Arends; review title documents regarding same; review governing documents regarding same	1.50	412.50
	CDG	Draft email to Angi Arends	0.10	9.00
	MAP	Review email and attachment from Angi Arends	0.10	27.50
	CDG	Review email from Randy at Legal Dispatch and reply	0.10	9.00
	CDG	Draft email to Randy at Legal Dispatch	0.10	9.00
	CDG	Order date down	0.10	9.00
3/14/2011	CDG	Review email from Randy at Legal Dispatch	0.10	9.00
3/15/2011	MAP	Review date down	0.10	27.50
	MAP	Review federal agency financial institution research	0.30	82.50
	MAP	Draft second amended complaint	1.00	275.00
	MAP	Draft motion/declaration/proposed order for leave of court to amend complaint	1.00	275.00
3/16/2011	CDG	Efile Motion to Amend Complaint	0.20	18.00
3/18/2011	MAP	Draft email to Angi Arends	0.10	27.50
3/21/2011	MAP	Review email from Angi Arends	0.10	27.50

			Hours	Amount
3/22/2011	CDG	Telephone call from Judge Barnett's bailiff	0.10	9.00
	MAP	Review email from Angi Arends (no charge)	0.10	NO CHARGE
3/25/2011	CDG	Telephone call to Judge Barnett's bailiff	0.10	9.00
3/28/2011	CDG	Efile Second Amended Complaint	0.20	18.00
	MAP	Draft amended lis pendens, amended summons	0.20	55.00
3/29/2011	CDG	Prepare Second Amended Summons, Complaint and Lis Pendens for service; record Second Amended Complaint	0.70	63.00
	MAP	Review secretary of state corporate records	0.10	27.50
	For professional services rendered			$2,381.00
	Additional Charges :			
	Court Messenger Fee			7.00
	E-Filing Fee			2.49
	Ex Parte Fee			30.00
	Recording Fees			67.00
	Service of Process			395.00
	Total additional charges			$501.49
	Total amount of this bill			$2,882.49
	Previous balance			$659.50
	Accounts receivable transactions			
3/14/2011	Payment - Thank You. Check No. 2390			($659.50)
	Total payments and adjustments			($659.50)
	Balance due			**$2,882.49**

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

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Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

February 28, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: February 01, 2011 - February 28, 2011

Professional Services

			Hours	Amount
2/1/2011	CDG	Review email from Jessica Smith at First American Title	0.10	9.00
2/9/2011	MAP	Review email from Jessica Smith	0.10	27.50
	MAP	Review amended litigation guarantee, supplemental title documents, governing documents regarding title issues	0.80	220.00
	MAP	Call to Beth at FATIC	0.30	82.50
2/10/2011	MAP	Call from Angi Arends	0.30	82.50
2/22/2011	MAP	Draft email to Marcy Savage; review file regarding same	0.30	82.50
2/23/2011	MB	Draft email to Marcy Savage with First American Title	0.20	18.00
2/25/2011	MAP	Call to Beth Jones at FATIC; draft email to Beth Jones regarding same	0.40	110.00
	MAP	Review supplemental title documents	0.10	27.50
	For professional services rendered			$659.50
	Previous balance			$987.99

		Amount
	Accounts receivable transactions	
2/22/2011	Payment - Thank You. Check No. 2382	($987.99)
	Total payments and adjustments	($987.99)
	Balance due	**$659.50**

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January 31, 2011

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: January 01, 2011 - January 31, 2011

Professional Services

			Hours	Amount
1/11/2011	CF	Apply partial payments to ledger	1.40	91.00
1/19/2011	MAP	Review email from Angi Arends	0.10	27.50
1/21/2011	MAP	Review date down	0.10	27.50
	MAP	Draft complaint for foreclosure and lis pendens	1.30	325.00
	CDG	Efile Summons, Complaint and Lis Pendens	0.40	36.00
1/24/2011	CDG	Draft email to Angie Arends	0.20	18.00
	CDG	Conference with Michael Padilla; draft email to Marcy Savage at First American Title	0.30	27.00
	MAP	Review supplemental title documents; draft file memo regarding same	0.50	137.50
	For professional services rendered			$689.50

Additional Charges :

E-Filing Fee	2.49
Filing Fee	230.00
Recording Fees	66.00

		Amount
	Total additional charges	$298.49
	Total amount of this bill	$987.99
	Previous balance	$8.50
	Accounts receivable transactions	
1/24/2011	Payment - Thank You. Check No. 2372	($8.50)
	Total payments and adjustments	($8.50)
	Balance due	**$987.99**

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December 31, 2010

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: December 01, 2010 - December 31, 2010

Professional Services

			Hours	Amount
12/20/2010	CDG	Draft email to Robert Guyott and review reply	0.10	8.50
	For professional services rendered			$8.50
	Previous balance			$42.50
	Accounts receivable transactions			
12/20/2010	Payment - Thank You. Check No. 2360			($42.50)
	Total payments and adjustments			($42.50)
	Balance due			**$8.50**

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Seattle, WA 98109

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November 30, 2010

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: November 01, 2010 - November 30, 2010

Professional Services

			Hours	Amount
11/4/2010	CDG	Request ledger from client	0.10	8.50
11/11/2010	CDG	Order date down from title company	0.10	8.50
11/15/2010	CDG	Draft email to Norma at First American Title	0.10	8.50
	CDG	Request ledger from client	0.10	8.50
	CDG	Review email from First American Title	0.10	8.50
	For professional services rendered			$42.50
	Balance due			**$42.50**

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September 30, 2010

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: September 01, 2010 - September 30, 2010

Professional Services

			Hours	Amount
9/3/2010	CDG	Update file ledger	0.50	42.50
9/13/2010	MAP	Research governing documents	0.30	67.50
	CDG	Draft email to Robert Guyott	0.10	8.50
9/21/2010	CDG	Review email from Robert Guyott	0.10	8.50
9/24/2010	MAP	Review email from Robert Guyott	0.10	22.50
	MAP	Draft payoff letter	0.40	75.00
	MAP	Review litigation guarantee, title documents	0.20	45.00
	For professional services rendered			$269.50

Additional Charges :

Photocopies	3.75
Postage	1.32
Total additional charges	$5.07
Total amount of this bill	$274.57

	Amount
Balance due	**$274.57**

LAW OFFICES OF JAMES L. STRICHARTZ

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June 30, 2010

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: June 01, 2010 - June 30, 2010

Professional Services

			Hours	Amount
6/2/2010	CDG	Draft email to Kathi Wiuff	0.10	8.50
6/3/2010	CDG	Review email from Kathi Wiuff and reply	0.10	8.50
		For professional services rendered		$17.00
		Previous balance		$53.50
		Accounts receivable transactions		
6/18/2010		Payment - Thank You. Check No. 2280		($53.50)
		Total payments and adjustments		($53.50)
		Balance due		**$17.00**

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A PROFESSIONAL SERVICES CORPORATION

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May 31, 2010

Lakewest Condominium Association
Robert Guyott
Lakewest Condominium Association
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: May 01, 2010 - May 31, 2010

Professional Services

			Hours	Amount
5/11/2010	MAP	Review letter from Robert Guyott	0.10	22.50
	MAP	Review client ledger	0.10	22.50
5/13/2010	CDG	Draft email to Kathi Wiuff	0.10	8.50
	For professional services rendered			$53.50
	Balance due			**$53.50**

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

February 28, 2010

Lakewest Condominium Association
Robert Guyott
Phillips Real Estate Services, Inc.
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: February 01, 2010 - February 28, 2010

Professional Services

			Hours	Amount
2/1/2010	MAP	Review email and attachment from Robert Guyott	0.10	22.50
2/3/2010	MAP	Review file (no charge)	0.10	NO CHARGE
		For professional services rendered		$22.50
		Previous balance		$157.50
		Accounts receivable transactions		
2/19/2010		Payment - Thank You. Check No. 2225		($157.50)
		Total payments and adjustments		($157.50)
		Balance due		**$22.50**

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

January 31, 2010

Lakewest Condominium Association
Robert Guyott
Phillips Real Estate Services, Inc.
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: January 01, 2010 - January 31, 2010

Professional Services

			Hours	Amount
1/5/2010	MAP	Review email from Robert Guyott	0.10	22.50
	MAP	Draft email to Robert Guyott	0.10	22.50
1/21/2010	MAP	Review email and attachment from Robert Guyott	0.10	22.50
	MAP	Draft email to Robert Guyott; revise notice to debtor	0.40	90.00
	For professional services rendered			$157.50
	Previous balance			$98.50
	Accounts receivable transactions			
1/27/2010	Payment - Thank You. Check No. 2214			($98.50)
	Total payments and adjustments			($98.50)
	Balance due			**$157.50**

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

December 31, 2009

Lakewest Condominium Association
Robert Guyott
Phillips Real Estate Services, Inc.
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: December 01, 2009 - December 31, 2009

Professional Services

			Hours	Amount
12/7/2009	MAP	Call to Robert Guyott; review client-supplied case documents regarding same	0.40	90.00
12/21/2009	CDG	Draft email to Robert Guyott	0.10	8.50
		For professional services rendered		$98.50
		Previous balance		$451.25
		Accounts receivable transactions		
12/18/2009		Payment - Thank You. Check No. 2203		($451.25)
		Total payments and adjustments		($451.25)
		Balance due		**$98.50**

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

November 30, 2009

Lakewest Condominium Association
Robert Guyott
Phillips Real Estate Services, Inc.
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: November 01, 2009 - November 30, 2009

Professional Services

			Hours	Amount
11/2/2009	BZ	Receive and review email from Robert Guyott	0.10	8.50
11/3/2009	CDG	Order Litigation Guarantee	0.20	17.00
11/13/2009	CDG	Request ledger from client	0.10	8.50
11/19/2009	CDG	Review client ledger; draft email to Kathi Wiuff	0.20	17.00
11/23/2009	CDG	Draft email to Robert Guyott	0.10	8.50
11/24/2009	CDG	Review email from Kathi Wiuff	0.10	8.50
		For professional services rendered		$68.00
		Additional Charges :		
		Litigation Guarantee		383.25
		Total additional charges		$383.25
		Total amount of this bill		$451.25
		Previous balance		$8.50

		Amount
	Accounts receivable transactions	
11/20/2009	Payment - Thank You. Check No. 2188	($8.50)
	Total payments and adjustments	($8.50)
	Balance due	**$451.25**

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

October 31, 2009

Lakewest Condominium Association
Robert Guyott
Phillips Real Estate Services, Inc.
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: October 01, 2009 - October 31, 2009

Professional Services

			Hours	Amount
10/29/2009	BZ	Draft email to Robert Guyott	0.10	8.50
		For professional services rendered		$8.50
		Previous balance		$184.00
		Accounts receivable transactions		
10/15/2009		Payment - Thank You. Check No. 2170		($184.00)
		Total payments and adjustments		($184.00)
		Balance due		**$8.50**

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

August 31, 2009

Lakewest Condominium Association
Robert Guyott
Phillips Real Estate Services, Inc.
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: August 01, 2009 - August 31, 2009

Professional Services

			Hours	Amount
8/3/2009	RP	Review title documents; review credit report; conduct online bankruptcy search; complete foreclosure feasibility worksheet	0.40	34.00
	WJJ	Receive and review email from RP; review file; research public record; review credit report; research property value	0.40	70.00
8/4/2009	WJJ	Continue reviewing title documents; research debtor employment information; draft email to JLS	0.20	35.00
	JLS	Review file; receive and respond to email from WJJ	0.10	27.50
	WJJ	Receive and review email from JLS; draft email to Robert Guyott	0.10	17.50
	For professional services rendered			$184.00
	Previous balance			$32.00
	Accounts receivable transactions			
8/21/2009	Payment - Thank You. Check No. 2127			($32.00)
	Total payments and adjustments			($32.00)

	Amount
Balance due	**$184.00**

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

July 31, 2009

Lakewest Condominium Association
Robert Guyott
Phillips Real Estate Services, Inc.
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: July 01, 2009 - July 31, 2009

Professional Services

			Hours	Amount
7/24/2009	RP	Draft email to Robert Guyott	0.10	8.50
7/28/2009	RP	Receive and review email from Robert Guyott	0.10	8.50
7/29/2009	BZ	Run credit report		15.00
		For professional services rendered		$32.00
		Previous balance		$358.08
		Accounts receivable transactions		
7/17/2009		Payment - Thank You. Check No. 2111		($248.32)
7/28/2009		Payment - Thank You. Check No. 2115		($109.76)
		Total payments and adjustments		($358.08)
		Balance due		**$32.00**

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

June 30, 2009

Lakewest Condominium Association
Robert Guyott
Phillips Real Estate Services, Inc.
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: June 01, 2009 - June 30, 2009

Professional Services

			Hours	Amount
6/1/2009	RP	Request ledger from client	0.10	8.50
6/4/2009	AP	Update and balance ledger	0.20	13.00
6/5/2009	RP	Draft email to Kathi Scully (no charge)	0.10	NO CHARGE
6/9/2009	WJJ	Draft follow up demand letter		75.00
6/26/2009	RP	Draft email to Robert Guyott	0.10	8.50
6/30/2009	RP	Receive and review email from Robert Guyott (no charge)	0.10	NO CHARGE

For professional services rendered	$105.00
Additional Charges :	
Photocopies	3.00
Postage	1.76
Total additional charges	$4.76
Total amount of this bill	$109.76
Previous balance	$248.32

	Amount
Balance due	**$358.08**

Current	30 Days	60 Days	90 Days	120 Days
109.76	248.32	0.00	0.00	0.00

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

May 31, 2009

Lakewest Condominium Association
Robert Guyott
Phillips Real Estate Services, Inc.
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: May 01, 2009 - May 31, 2009

Professional Services

			Hours	Amount
5/8/2009	JLS	Draft notice of claim of lien		75.00
5/11/2009	RP	Request ledger from client; search online phone book	0.20	17.00
5/13/2009	AP	Receive and review client ledger; update and balance ledger	0.20	13.00
5/18/2009	WJJ	Draft follow up demand letter		75.00
5/28/2009	RP	Receive and review email from Robert Guyott (discounted)	0.10	4.25
	WJJ	Receive and respond to email from RP; review file	0.10	17.50
	For professional services rendered			$201.75

Additional Charges :

Photocopies	2.25
Postage	1.32
Recording Fees	43.00
Total additional charges	$46.57
Total amount of this bill	$248.32

		Amount
	Previous balance	$63.50
	Accounts receivable transactions	
5/22/2009	Payment - Thank You. Check No. 2073	($48.50)
5/29/2009	Payment - Thank You. Check No. 2078	($15.00)
	Total payments and adjustments	($63.50)
	Balance due	**$248.32**

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

April 30, 2009

Lakewest Condominium Association
Robert Guyott
Phillips Real Estate Services, Inc.
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: April 01, 2009 - April 30, 2009

Professional Services

			Hours	Amount
4/7/2009	DRL	Receive and respond to email from Kathi Scully	0.10	7.50
4/10/2009	DRL	Request ledger from client	0.10	7.50
		For professional services rendered		$15.00
		Previous balance		$48.50
		Balance due		**$63.50**

Current	30 Days	60 Days	90 Days	120 Days
15.00	48.50	0.00	0.00	0.00

LAW OFFICES OF JAMES L. STRICHARTZ

A PROFESSIONAL SERVICES CORPORATION

201 Queen Anne Ave N, Suite 400
Seattle, WA 98109

(206) 388-0600
(206) 286-2650 (FAX)

March 31, 2009

Lakewest Condominium Association
Robert Guyott
Phillips Real Estate Services, Inc.
223 Taylor Avenue North, Suite 200
Seattle WA 98109

FEIN: 91-1357151

FOR PROFESSIONAL SERVICES RENDERED

In Reference To: Lakewest Condominium Association - 25-301
Collection of Delinquent Assessments - Blumfield
Our File No. - 09702-19

Period Covered: March 01, 2009 - March 31, 2009

Professional Services

			Hours	Amount
3/16/2009	CF	Research and retrieve title documents	0.40	26.00
3/20/2009	DRL	Review governing documents; review title documents; online bankruptcy search	0.30	22.50
		For professional services rendered		$48.50
		Balance due		**$48.50**

EXHIBIT C

Return Address:

LAW OFFICES OF JAMES L. STRICHARTZ
201 Queen Anne Avenue North
Suite 400
Seattle, WA 98109-4824

20110307001695
LAW OFFICES OF LP 65.00
PAGE-001 OF 004
03/07/2011 15:56
KING COUNTY, WA

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document must be filled in)

1. Amended Lis Pendens 2. _____

3. _____ 4. _____

Reference Number(s) of Documents assigned or released:

Additional reference #'s on page _____ of document

Grantor(s) Exactly as name(s) appear on document

1. Scott Blumfield _____, _____

2. _____, _____

Additional names on page _____ of document.

Grantee(s) Exactly as name(s) appear on document

1. Lakewest Condominium Association

2. _____, _____

Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

Unit 301, Building 2125, Lakewest, a Condominium

Additional legal is on page _____ of document.

Assessor's Property Tax Parcel/Account Number ☐ Assessor Tax # not yet assigned

415233 0420 01

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

"I am signing below and paying an additional $50 recording fee (as provided in RCW 36.18.010 and referred to as an emergency nonstandard document), because this document does not meet margin and formatting requirements. Furthermore, I hereby understand that the recording process may cover up or otherwise obscure some part of the text of the original document as a result of this request."

_____ Signature of Requesting Party

Note to submitter: Do not sign above nor pay additional $50 fee if the document meets margin/formatting requirements

Law Offices
James L. Strichartz

MAY 3 1 2011

RECEIVED

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

LAKEWEST CONDOMINIUM ASSOCIATION, a Washington nonprofit corporation, Plaintiff, v. SCOTT BLUMFIELD and JANE DOE BLUMFIELD, husband and wife or state registered domestic partners; JPMORGAN CHASE BANK, N.A., successor in interest to WASHINGTON MUTUAL BANK, a Washington corporation; NATIONAL CITY BANK, a national association; JOHN DOE and JANE DOE, Unknown Occupants of the Subject Real Property; and also all other persons or parties unknown claiming any right, title, estate, lien, or interest in the real estate described in the Complaint herein, Defendants.	No. 11-2-04005-4SEA AMENDED LIS PENDENS

NOTICE is hereby given that an action has been instituted and is now pending in the Superior Court of the State of Washington in and for King County upon the Complaint of Lakewest Condominium Association, a Washington nonprofit corporation, Plaintiff, against the above-named Defendants, SCOTT BLUMFIELD and JANE DOE BLUMFIELD, husband and wife or state registered domestic partners; Defendant JPMORGAN CHASE BANK, N.A., successor in interest to WASHINGTON MUTUAL BANK, a Washington corporation, NATIONAL CITY BANK, a national association, JOHN DOE and JANE DOE,

LAW OFFICES OF JAMES L. STRICHARTZ
201 QUEEN ANNE AVENUE NORTH,SUITE 400
SEATTLE, WASHINGTON 98109-4824
(206) 388-0600
FAX (206) 286-2650

Unknown Occupants of the Subject Real Property and all other persons claiming any right, title, estate, lien or interest in the real estate described in the Complaint, and that the object of that action is to adjudge and foreclose Plaintiff's liens upon the hereinafter described real property arising under the provisions of the Declaration for Lakewest, a condominium, which was recorded in the records of King County, State of Washington, under Recording No. 8808260522, as thereafter amended of record, (hereinafter the "Declaration"), as thereafter amended of record and that the action affects the title to the real property described on Exhibit "A", attached hereto and incorporated herein by reference.

All persons in any manner dealing with the real estate subsequent to the filing hereof, will take subject to the rights of the Plaintiff as established in the aforesaid action.

DATED this 3 day of March, 2011.

LAW OFFICES OF JAMES L. STRICHARTZ

Michael A. Padilla, WSBA# 26284
Attorneys for Plaintiff

STATE OF WASHINGTON)
) ss:
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Michael A. Padilla signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as ~~the attorney~~ for the Grantee/Claimant identified above to be the free and voluntary act of that party for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal hereto affixed this 3rd day of March, 2011.

CAROLYN GLAUNER
NOTARY PUBLIC
COMMISSION EXPIRES 03-10-14
STATE OF WASHINGTON

Carolyn Glauner
Notary Public in and for the State of Washington,
residing at: Woodinville
My Commission Expires: 03/10/14

LAW OFFICES OF JAMES L. STRICHARTZ
201 QUEEN ANNE AVENUE NORTH,SUITE 400
SEATTLE, WASHINGTON 98109-4824
(206) 388-0600
FAX (206) 286-2650

EXHIBIT "A"

LEGAL DESCRIPTION OF UNIT

Unit No. 301, Building 2125, Lakewest, a Condominium, intended for single family residential use only, according to Survey Map and Set of Plans recorded in Volume 89 of Condominiums, Pages 12 through 22, inclusive, records of King County, Washington under Recording No. 9003291013, as thereafter amended of record, and according to the Condominium Declaration recorded under Recording No. 9003291014, as thereafter amended of record;

Together with an undivided 1.89503 percentage interest in the common areas and facilities appertaining to said unit;

Situate in the City of Seattle, County of King, State of Washington.

LAW OFFICES OF JAMES L. STRICHARTZ
201 QUEEN ANNE AVENUE NORTH,SUITE 400
SEATTLE, WASHINGTON 98109-4824
(206) 388-0600
FAX (206) 286-2650

EXHIBIT D

Return Address:

LAW OFFICES OF JAMES L. STRICHARTZ
201 Queen Anne Avenue North
Suite 400
Seattle, WA 98109-4824

20110419000178
LAW OFFICES OF LP 66.00
PAGE-001 OF 005
04/19/2011 10:37
KING COUNTY, WA

Law Offices
James L. Strichartz

JUL 11 2011

RECEIVED

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document must be filled in)

1. Second Amended Lis Pendens

3. _____ 4. _____

Reference Number(s) of Documents assigned or released:

Additional reference #'s on page _____ of document

Grantor(s) Exactly as name(s) appear on document

1. Scott Blumfield, _____

2. _____, _____

Additional names on page _____ of document.

Grantee(s) Exactly as name(s) appear on document

1. Lakewest Condominium Association

2. _____, _____

Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

Unit 301, Building 2125, Lakewest, a Condominium

Additional legal is on page _____ of document.

Assessor's Property Tax Parcel/Account Number ☐ Assessor Tax # not yet assigned

415233 0420 01

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

"I am signing below and paying an additional $50 recording fee (as provided in RCW 36.18.010 and referred to as an emergency nonstandard document), because this document does not meet margin and formatting requirements. Furthermore, I hereby understand that the recording process may cover up or otherwise obscure some part of the text of the original document as a result of this request."

_____ Signature of Requesting Party

Note to submitter: Do not sign above nor pay additional $50 fee if the document meets margin/formatting requirements

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

LAKEWEST CONDOMINIUM ASSOCIATION, a Washington nonprofit corporation, Plaintiff, v. SCOTT BLUMFIELD and JANE DOE BLUMFIELD, husband and wife or state registered domestic partners; JPMORGAN CHASE BANK, N.A., successor in interest to WASHINGTON MUTUAL BANK, a Washington corporation; WELLS FARGO BANK, N.A., as Trustee of WaMu Mortgage Pass-Through Certificates, Series 2005-PR4, successor in interest to Washington Mutual Bank, a Washington corporation; NATIONAL CITY BANK, a national association; PNC BANK, National Association, a national banking association, successor by merger to National City Bank, a national association; JOHN DOE and JANE DOE, Unknown Occupants of the Subject Real Property; and also all other persons or parties unknown claiming any right, title, estate, lien, or interest in the real estate described in the Complaint herein, Defendants.	No. 11-2-04005-4SEA SECOND AMENDED LIS PENDENS

LAW OFFICES OF JAMES L. STRICHARTZ
201 QUEEN ANNE AVENUE NORTH,SUITE 400
SEATTLE, WASHINGTON 98109-4824
(206) 388-0600
FAX (206) 286-2650

NOTICE is hereby given that an action has been instituted and is now pending in the Superior Court of the State of Washington in and for King County upon the Complaint of Lakewest Condominium Association, a Washington nonprofit corporation, Plaintiff, against the above-named Defendants, SCOTT BLUMFIELD and JANE DOE BLUMFIELD, husband and wife or state registered domestic partners; JPMORGAN CHASE BANK, N.A., successor in interest to WASHINGTON MUTUAL BANK, a Washington corporation; WELLS FARGO BANK, N.A., as Trustee of WaMu Mortgage Pass-Through Certificates, Series 2005-PR4, successor in interest to Washington Mutual Bank, a Washington corporation; NATIONAL CITY BANK, a national association; PNC BANK, National Association, a national banking association, successor by merger to National City Bank, a national association; JOHN DOE and JANE DOE, Unknown Occupants of the Subject Real Property and all other persons claiming any right, title, estate, lien or interest in the real estate described in the Complaint, and that the object of that action is to adjudge and foreclose Plaintiff's liens upon the hereinafter described real property arising under the provisions of the Declaration for Lakewest, a condominium, which was recorded in the records of King County, State of Washington, under Recording No. 8808260522, as thereafter amended of record, (hereinafter the "Declaration"), as thereafter amended of record and that the action affects the title to the real property described on Exhibit "A", attached hereto and incorporated herein by reference.

All persons in any manner dealing with the real estate subsequent to the filing hereof, will take subject to the rights of the Plaintiff as established in the aforesaid action.

DATED this 28 day of March, 2011.

LAW OFFICES OF JAMES L. STRICHARTZ

Michael A. Padilla, WSBA# 26284
Attorneys for Plaintiff

LAW OFFICES OF JAMES L. STRICHARTZ
201 QUEEN ANNE AVENUE NORTH,SUITE 400
SEATTLE, WASHINGTON 98109-4824
(206) 388-0600
FAX (206) 286-2650

STATE OF WASHINGTON)
) ss:
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Michael A. Padilla signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the attorney for the Grantee/Claimant identified above to be the free and voluntary act of that party for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal hereto affixed this 28th day of March, 2011.

Carolyn Glauner
Notary Public in and for the State of Washington,
residing at: Woodinville
My Commission Expires: 03/10/14

LAW OFFICES OF JAMES L. STRICHARTZ
201 QUEEN ANNE AVENUE NORTH,SUITE 400
SEATTLE, WASHINGTON 98109-4824
(206) 388-0600
FAX (206) 286-2650

EXHIBIT "A"

LEGAL DESCRIPTION OF UNIT

Unit No. 301, Building 2125, Lakewest, a Condominium, intended for single family residential use only, according to Survey Map and Set of Plans recorded in Volume 89 of Condominiums, Pages 12 through 22, inclusive, records of King County, Washington under Recording No. 9003291013, as thereafter amended of record, and according to the Condominium Declaration recorded under Recording No. 9003291014, as thereafter amended of record;

Together with an undivided 1.89503 percentage interest in the common areas and facilities appertaining to said unit;

Situate in the City of Seattle, County of King, State of Washington.

LAW OFFICES OF JAMES L. STRICHARTZ
201 QUEEN ANNE AVENUE NORTH,SUITE 400
SEATTLE, WASHINGTON 98109-4824
(206) 388-0600
FAX (206) 286-2650

EXHIBIT E

AFTER RECORDING RETURN TO:
Washington Mutual Bank
C/O ACS IMAGE SOLUTIONS
12691 PALA DRIVE - MS156DPCA
GARDEN GROVE, CA 92841

20051031003600
THE TALON GROU DT 59.00
PAGE001 OF 027
10/31/2005 15:44
KING COUNTY, WA

WAD2

SECURITY INSTRUMENT COVER SHEET

01-0836-070342483-8

Please print or type information
Document Title(s) (or transactions contained therein):

1. Deed of Trust

Grantor/Trustor/Mortgagor(s) (Last name first, then first name and initials) 27/60

1. SCOTT A BLUMFIELD
2.
3.
4.
5. ☐ Additional names on page _____ of document.

Talon Group
686108
A division of First American Title Insurance Company

Grantee/Beneficiary/Mortgagee(s)

1. Washington Mutual Bank

Legal Description (abbreviated: i.e. lot, block, plat or section, township, range)

UNIT 301, OF LAKEWEST, A CONDOMINIUM, ACCORDING TO DECLARATION THEREOF RECORDED UNDER KING COUNTY RECORDING NO. 8808260522 AND ANY AMENDMENT(S) THERETO; SAID UNIT IS LOCATED ON SURVEY MAP AND PLANS FILED IN VOLUME 89 OF CONDOMINIUMS, AT PAGES 12 THROUGH 22, IN KING COUNTY, WASHINGTON

☐ Additional legal is on page _____ of document.

Assessor's Property Tax Parcel/Account Number(s)

1. 415233-0420-01 2.
3. 4.

This document prepared by:

BRYAN G IVANICH
3060 139TH AVE SE, STE 401
BELLEVUE, WA 98005

2636 (12-00)

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AFTER RECORDING RETURN TO:
Washington Mutual Bank
C/O ACS IMAGE SOLUTIONS
B 12691 PALA DRIVE - MS156DPCA
GARDEN GROVE, CA 92841
B

[Space Above This Line For Recording Data]

THE TALON GROUP 686108

DEED OF TRUST

01-0836-070342483-8

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 October 26, 2005, together with all Riders to this document.
(B) "Borrower" is SCOTT A BLUMFIELD, UNMARRIED INDIVIDUAL AS SEPARATE ESTATE
T T

Borrower is the trustor under this Security Instrument.
(C) "Lender" is 1 Washington Mutual Bank, 1 a Washington corporation.
Lender is a Bank organized and existing under the laws of Washington. Lender's address is
A 1201 Third Avenue Seattle, WA 98101 A.
Lender is the beneficiary under this Security Instrument.
(D) "Trustee" is THE TALON GROUP, a Washington corporation.
(E) "Note" means the promissory note signed by Borrower and dated October 26, 2005.
The Note states that Borrower owes Lender Three Hundred Fifty-Nine Thousand Two Hundred & 00/100

Dollars (U.S. $ 359,200.00) plus interest. Borrower has promised to pay this debt in regular Periodic Pay~~ments and to pay~~ the debt in full not later than November 1, 2035.
(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
(G) "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.

(H) "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]:

- [x] Adjustable Rate Rider
- [ ] Graduated Payment Rider
- [ ] Balloon Rider
- [ ] Other(s) [specify]
- [x] Condominium Rider
- [ ] Planned Unit Development Rider
- [ ] Rate Improvement Rider
- [ ] 1-4 Family Rider
- [ ] Biweekly Payment Rider
- [ ] Second Home Rider

(I) "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.
(J) "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.
(K) "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.
(L) "Escrow Items" means those items that are described in Section 3.
(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds, whether by way of judgment, settlement or otherwise, 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.
(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.
(O) "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.
(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, 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.
(Q) "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

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note; and (iii) the performance of all agreements of borrower to pay fees and charges arising of the Loan whether or not herein set forth. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power

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of sale, the following described property located in King County, Washington:

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which currently has the address of 2125 WESTLAKE AVE N #301 [Street],

SEATTLE [City], Washington 98109 [Zip Code] ("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

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

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

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges 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 of 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 of 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 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 twelve 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 twelve monthly payments.

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

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

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

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

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

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Lender may purchase such insurance from or through any company acceptable to Lender including, without limitation, an affiliate of Lender, and Borrower acknowledges and agrees that Lender's affiliate may receive consideration for such purchase. 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 polices 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.

Borrower hereby absolutely and irrevocably assigns to Lender all of Borrower's right, title and interest in and to all proceeds from any insurance policy (whether or not the insurance policy was required by Lender) that are due, paid or payable with respect to any damage to such property, regardless of whether the insurance policy is established before, on or after the date of this Security instrument. By absolutely and irrevocably assigning to Lender all of Borrower's rights to receive any and all proceeds from any insurance policy, Borrower hereby waives, to the full extent allowed by law, all of Borrower's rights to receive any and all of such insurance proceeds.

Borrower hereby absolutely and irrevocably assigns to Lender all of Borrower's right, title and interest in and to (a) any and all claims, present and future, known or unknown, absolute or contingent, (b) any and all causes of action, (c) any and all judgments and settlements (whether through litigation, mediation, arbitration or otherwise), (d) any and all funds sought against or from any party or parties whosoever, and (e) any and all funds received or receivable in connection with any damage to such property, resulting from any cause or causes whatsoever,

including but not limited to, land subsidence, landslide, windstorm, earthquake, fire, flood or any other cause.

Borrower agrees to execute, acknowledge if requested, and deliver to Lender, and/or upon notice from Lender shall request any insurance agency or company that has issued any insurance policy to execute and deliver to Lender, any additional instruments or documents requested by Lender from time to time to evidence Borrower's absolute and irrevocable assignments set forth in this paragraph.

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 sixty 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, or remove or demolish any building thereon, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in good condition and repair 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 in good and workman like manner if damaged to avoid further

deterioration or damage. Lender shall, unless otherwise agreed in writing between Lender and Borrower, have the right to hold insurance or condemnation proceeds. 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. Lender does not make any warranty or representation regarding, and assumes no responsibility for, the work done on the Property, and Borrower shall not have any right to rely in any way on any inspection(s) by or for Lender or its agent. Borrower shall be solely responsible for determining that the work is done in a good, thorough, efficient and workmanlike manner in accordance with all applicable laws.

Borrower shall (a) appear in and defend any action or proceeding purporting to affect the security hereof, the Property or the rights or powers of Lender or Trustee; (b) at Lender's option, assign to Lender, to the extent of Lender's interest, any claims, demands, or causes of action of any kind, and any award, court judgement, or proceeds of settlement of any such claim, demand or cause of action of any kind which Borrower now has or may hereafter acquire arising out of or relating to any interest in the acquisition or ownership of the Property. Lender and Trustee shall not have any duty to prosecute any such claim, demand or cause of action. Without limiting the foregoing, any such claim, demand or cause of action arising out of or relating to any interest in the acquisition or ownership of the Property may include (i) any such injury or damage to the Property including without limit injury or damage to any structure or improvement situated thereon, (ii) or any claim or cause of action in favor of Borrower which arises out of the transaction financed in whole or in part by the making of the loan secured hereby, (iii) any claim or cause of action in favor of Borrower (except for bodily injury) which arises as a result of any negligent or improper construction, installation or repair of the Property including without limit, any surface or subsurface thereof, or of any building or structure thereon or (iv) any proceeds of insurance, whether or not required by Lender payable as a result of any damage to or otherwise relating to the Property or any interest therein. Lender may apply, use or release such monies so received by it in the same manner as provided in Paragraph 5 for the proceeds of insurance.

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 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.

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 judgement, 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 judgement, 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.** This Security Instrument cannot be changed or modified except as otherwise provided herein or by agreement in writing signed by Borrower, or any successor in interest to Borrower and Lender. 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. No waiver by Lender of any right under this Security Instrument shall be effective unless in writing. Waiver by Lender of any right granted to Lender under this Security Instrument or of any provision of this Security Instrument as to any transaction or occurrence shall not be deemed a waiver as to any future transaction or occurrence.

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. Borrower shall pay such other charges as Lender may deem reasonable for services rendered by Lender and furnished at the request of Borrower, any successor in interest to Borrower or any agent of Borrower. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

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

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or 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 judgement 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 substance in consumer products).

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

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

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and 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 may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale 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 Borrower or any successor in interest to Borrower files (or has filed against Borrower or any successor in interest to Borrower) a bankruptcy petition under Title II or any successor title of the United States Code which provides for the curing of prepetition default due on the Note, interest at a rate determined by the Court shall be paid to Lender on post-petition arrears.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Trustee and Lender shall take such action regarding notice of sale and shall give such notices to Borrower and and to other persons as Applicable Law may require. After the time required by Applicable Law and after publication and posting of the notice of sale, 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 the Property for a period or periods permitted by Applicable Law by public announcement at the time and place fixed in the notice of 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 or to the clerk of the superior court of the county in which the sale took place.

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. Lender or the Trustee (whether or not the Trustee is affiliated with Lender) may charge such person or persons a fee for reconveying the Property, but only if the fee is not prohibited by Applicable Law.

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24. **Substitute Trustee.** In accordance with Applicable Law, Lender may from time to time appoint a successor trustee to any Trustee appointed hereunder who has ceased to act. 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. Trustee may destroy the Note and the Security Instrument three (3) years after issuance of a full reconveyance or release (unless directed in such request to retain them).

25. **Use of Property.** The Property is not used principally for agricultural purposes.

26. **Attorneys' Fees.** Lender shall be entitled to recover its reasonable attorneys' fees and costs in any action or proceeding to construe or enforce any term of this Security Instrument. The term "attorneys' fees," whenever used in this Security Instrument, shall include without limitation attorneys' fees incurred by Lender in any bankruptcy proceeding or on appeal.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON 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.

X _____
SCOTT A BLUMFIELD

01-0836-070342483-8

(Space Below This Line For Acknowledgment)

STATE OF WASHINGTON
King County ss:

On this 26th day of October 2005, before me the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Scott A. Blumfield

to me known to be the individual(s) described in and who executed the foregoing instrument, and acknowledged to me that he/she/they signed and sealed the said instrument as his/her/their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal affixed the day and year in this certificate above written.

My Commission expires: 12-31-08

Constance Crothers
Notary Public in and for the State of Washington residing at: Bothell

CONSTANCE CROTHERS
COMMISSION EXPIRES
NOTARY
PUBLIC
12-31-08
STATE OF WASHINGTON

ADJUSTABLE RATE RIDER
(12-MTA Index - Payment and Rate Caps)

01-0836-070342483-8

THIS ADJUSTABLE RATE RIDER is made this 26th day of October, 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 Adjustable Rate Note (the "Note") to Washington Mutual Bank (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

2125 WESTLAKE AVE N #301, SEATTLE, WA 98109
(Property Address)

THIS RIDER CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. MY MONTHLY PAYMENT INCREASES WILL HAVE LIMITS WHICH COULD RESULT IN THE PRINCIPAL AMOUNT I MUST REPAY BEING LARGER THAN THE AMOUNT I ORIGINALLY BORROWED, BUT NOT MORE THAN 125% OF THE ORIGINAL AMOUNT (OR $ 449,000.00). MY INTEREST RATE CAN NEVER EXCEED THE LIMIT STATED IN THE NOTE AND RIDER. A BALLOON PAYMENT MAY BE DUE AT MATURITY.

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

A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

Interest will be charged on unpaid Principal until the full amount of Principal has been paid. Up until the first day of the calendar month that immediately precedes the first payment due date set forth in Section 3 of the Note, I will pay interest at a yearly rate of 5.563 %. Thereafter until the first Change Date (as defined in Section 4 of the Note) I will pay interest at a yearly rate of 1.150 %. The interest rate I will pay will thereafter change in accordance with Section 4 of the Note.

Section 4 of the Note provides for changes in the interest rate and monthly payment as follows:

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4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the 1st day of December, 2005, and on that day every month thereafter. Each such day is called a "Change Date".

(B) The Index

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

The most recent Index figure available as of the date 15 days before each Change Date is called the "Current Index".

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

(C) Interest Rate Change

Before each Change Date, the Note Holder will calculate my new interest rate by adding Two & Four-Tenths percentage points 2.400 % ("Margin") to Current Index. The Note Holder will then round the result of this addition to the nearest one thousandth of one percentage point (0.001%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date. In the event a new Index is selected, pursuant to paragraph 4(B), a new Margin will be determined. The new Margin will be the difference between the average of the old Index for the most recent three year period which ends on the last date the Index was available plus the Margin on the last date the old Index was available and the average of the new Index for the most recent three year period which ends on that date (or if not available for such three year period, for such time as it is available). The difference will be rounded to the next higher 1/8 of 1%.

(D) Interest Rate Limit

My interest rate will never be greater than 9.850 % ("Cap"), except that following any sale or transfer of the property which secures repayment of this Note after the first interest rate Change Date, the maximum interest rate will be the higher of the Cap or 5 percentage points greater than the interest rate in effect at the time of such sale or transfer.

(E) Payment Change Dates

Effective every year commencing December 1, 2006, and on the same date each twelfth month thereafter ("Payment Change Date"), the Note Holder will determine the

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amount of the monthly payment that would be sufficient to repay the projected Principal balance I am expected to owe as of the Payment Change Date in full on the maturity date at the interest rate in effect 45 days prior to the Payment Change Date in substantially equal payments. The result of this calculation is the new amount of my monthly payment, subject to Section 4(F) below, and I will make payments in the new amount until the next Payment Change Date unless my payments are changed earlier under Section 4(H) of the Note.

(F) Monthly Payment Limitations

Unless Section 4(H) and 4(I) below apply, the amount of my new monthly payment, beginning with a Payment Change Date, will be limited to 7 1/2% more or less than the amount I have been paying. This payment cap applies only to the Principal Payment and does not apply to any escrow payments Lender may require under the Security Instrument.

(G) Changes in My Unpaid Principal Due to Negative Amortization or Accelerated Amortization

Since my payment amount changes less frequently than the interest rate and since the monthly payment is subject to the payment limitations described in Section 4(F), my monthly payment could be less or greater than the amount of the interest portion of the monthly payment that would be sufficient to repay the unpaid Principal I owe at the monthly payment date in full on the maturity date in substantially equal payments. For each month that the monthly payment is less than the interest portion, the Note Holder will subtract the monthly payment from the amount of the interest portion and will add the difference to my unpaid Principal, and interest will accrue on the amount of this difference at the current interest rate. For each month that the monthly payment is greater than the interest portion, the Note Holder will apply the excess towards a Principal reduction of the Note.

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

My unpaid Principal can never exceed a maximum amount equal to __125%__ of the principal amount original borrowed. In the event my unpaid Principal would otherwise exceed that __125%__ limitation, I will begin paying a new monthly payment until the next Payment Change Date notwithstanding the 7 1/2% annual payment increase limitation. The new monthly payment will be an amount which would be sufficient to repay my then unpaid principal in full on the maturity date at my interest rate in effect the month prior to the payment due date in substantially equal payments.

(I) Required Full Monthly Payment

On the __FIFTH__ anniversary of the due date of the first monthly payment, and on that same day every __FIFTH__ year thereafter, the monthly payment will be adjusted without regard to the payment cap limitation in Section 4(F).

(J) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in the amount of my

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monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any questions I may have regarding the notice.

(K) Failure to Make Adjustments

If for any reason Note Holder fails to make an adjustment to the interest rate or payment amount as described in this Note, regardless of any notice requirement, I agree that Note Holder may, upon discovery of such failure, then make the adjustment as if they had been made on time. I also agree not to hold Note Holder responsible for any damages to me which may result from Note Holder's failure to make the adjustment and to let the Note Holder, at its option, apply any excess monies which I may have paid to partial prepayment of unpaid "Principal."

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

Section 18 of the Security Instrument is amended to read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement , the intent of which is the transfer of title by Borrower at a future date to a purchaser. If all or any part of the Property or any interest in the Property is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) 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 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; (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 Agreement or other obligations related to the Note or other loan document is acceptable to Lender, (d) Assuming party executes Assumption Agreement acceptable to Lender at its sole choice and discretion, which Agreement may include an increase to Cap as set forth below and (d) payment of Assumption Fee if requested by 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, and Lender may increase the maximum interest rate limit to the higher of the Cap or 5 percentage points greater than the interest rate in effect at the time of the transfer. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the

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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 has entered into a written assumption agreement with transferee and formally releases Borrower.

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.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Adjustable Rate Rider. Borrower agrees to execute any document necessary to reform this Agreement to accurately reflect the terms of the Agreement between Borrower and Beneficiary or if the original Note, Trust Deed or other document is lost, mutilated or destroyed.

X _____
SCOTT A BLUMFIELD

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Order: DSF Comment:

CONDOMINIUM RIDER

01-0836-070342483-8

THIS CONDOMINIUM RIDER is made this 26th day of October, 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 Washington Mutual Bank (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

2125 WESTLAKE AVE N #301, SEATTLE, WA 98109
(Property Address)

The Property includes a unit in, together with an undivided interest in the common elements of, a condominium project known as: LAKEWEST CONDOMINIUM (the "Condominium Project").

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

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

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

B. Property Insurance. So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy on the Condominium Project which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended

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Order: DSF Comment:

coverage," and any other hazards, including, but not limited to, earthquakes and floods, from which the 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, whether to the unit or to common elements, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender for application to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

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

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

E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to:

(i) the abandonment or termination of the Condominium Project, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(ii) any amendment to any provision of the Constituent Documents if the provision is for the express benefit of Lender;

(iii) termination of professional management and assumption of self-management of the Owners Association; or

(iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

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

01-0836-070342483-8

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

X _____
SCOTT A BLUMFIELD

Description: King,WA Document - Year.Month.Day.DocID 2005.1031.3600 Page: 27 of 27
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EXHIBIT F

49

20051031003601
THE TALON GROU DT 39.00
PAGE001 OF 007
10/31/2005 15:44
KING COUNTY, WA

WAD2

D1R

NCB
A PO Box 5570
CLEVELAND OH 44101
A

This Space Provided for Recorder's Use

Document Title(s)
Grantor(s)
Grantee(s)
Legal Description UNIT 301, LAKEWEST CONDO, VOL. 89, P. 12-32
Assessor's Property Tax Parcel or Account Number 415233-0420-01
Reference Numbers of Documents Assigned or Released

THIS DOCUMENT IS RECORDED AS A COURTESY ONLY. TALON GROUP, FIRST AMERICAN TITLE INSURANCE CO. ASSUMES NO LIABILITY FOR SUFFICIENCY, VALIDITY OR ACCURACY

State of Washington — Space Above This Line For Recording Data

DEED OF TRUST
(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Deed of Trust (Security Instrument) is October 19, 2005 and the parties and their addresses are as follows:

GRANTOR: SCOTT BLUMFIELD, UNMARRIED INDIVIDUAL AS SEPARATE ESTATE
X 2125 WESTLAKE AVE N UNIT 301, SEATTLE, Washington, 98109 X

☐ If checked, refer to the attached Addendum incorporated herein, for additional Grantors, their signatures and acknowledgments.

TRUSTEE: TALON GROUP

7/40
Talon Group
WILD 686108
A division of First American Title Insurance Company

LENDER: NATIONAL CITY BANK
1 1

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, the following described property:

This Deed of Trust is the 2nd and Subordinate to the certain Deed of trust dated 10-26-05 recorded under KING county recording number 20051031003600

The property is located in King (County) at 2125 WESTLAKE AVE N UNIT 301 (Address), SEATTLE (City), Washington 98109 (ZIP Code)

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Order: DSF Comment:

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 $ 72,320.00 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 all promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. *(You must specifically identify the debt(s) secured and you should include the* final maturity *date of such debt(s).)* Maturity Date: 10/19/2035

   B. All future advances from Lender to Grantor or other future obligations of Grantor to Lender under any promissory note, contract, guaranty, or other evidence of debt executed by Grantor in favor of Lender after this Security Instrument whether or not this Security Instrument is specifically referenced. If more than one person signs this Security Instrument, each Grantor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Grantor, or any one or more Grantor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations 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 in any amount. Any such commitment must be agreed to in a separate writing.
   C. All other obligations Grantor owes to Lender, which may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Grantor and Lender.
   D. All additional 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.

   In the event that Lender fails to provide any required notice of the right of rescission, Lender waives any subsequent security interest in the Grantor's principal dwelling that is created by this Security Instrument.

5. **DEED OF TRUST COVENANTS.** Grantor agrees that the covenants in this section are material obligations under the Secured Debt and this Security Instrument. If Grantor breaches any covenant in this section, Lender may refuse to make additional extensions of credit and reduce the credit limit. By not exercising either remedy on Grantor's breach, Lender does not waive Lender's right to later consider the event a breach if it happens again.

   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.

   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 to make all payments when due and to perform or comply with all covenants. Grantor also agrees 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 approval.

   Claims Against Title. Grantor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property 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 this 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.

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VMP-C465(WA) (0505)

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 agrees that the nature of the occupancy and use will not substantially change without Lender's prior 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.

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.

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 includes a unit in a condominium or a planned unit development, Grantor will perform all of Grantor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

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's name in any of the above 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 considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

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. What Lender requires pursuant to the preceding two sentences can change during the term of the Secured Debt. 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.

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 the 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.

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.

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. **DUE ON SALE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, a transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable.

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8. **DEFAULT.** Grantor will be in default if any of the following occur:

Fraud. Any Consumer Borrower engages in fraud or material misrepresentation in connection with the Secured Debt that is an open-end home equity plan.

Payments. Any Consumer Borrower on any Secured Debt that is an open-end home equity plan fails to make a payment when due.

Property. Any action or inaction by the Borrower or Grantor occurs that adversely affects the Property or Lender's rights in the Property. This includes, but is not limited to, the following: (a) Grantor fails to maintain required insurance on the Property; (b) Grantor transfers the Property; (c) Grantor commits waste or otherwise destructively uses or fails to maintain the Property such that the action or inaction adversely affects Lender's security; (d) Grantor fails to pay taxes on the Property or otherwise fails to act and thereby causes a lien to be filed against the Property that is senior to the lien of this Security Instrument; (e) a sole Grantor dies; (f) if more than one Grantor, any Grantor dies and Lender's security is adversely affected; (g) the Property is taken through eminent domain; (h) a judgment is filed against Grantor and subjects Grantor and the Property to action that adversely affects Lender's interest; or (i) a prior lienholder forecloses on the Property and as a result, Lender's interest is adversely affected.

Executive Officers. Any Borrower is an executive officer of Lender or an affiliate and such Borrower becomes indebted to Lender or another lender in an aggregate amount greater than the amount permitted under federal laws and regulations.

9. **REMEDIES ON DEFAULT.** In addition to any other remedy available under the terms of this Security Instrument, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Grantor is in 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.

At the option of the 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. Lender shall be entitled to, without limitation, the power to sell the Property.

If there is a default, Trustee shall, 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 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.

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 happens again.

10. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** If Grantor breaches any covenant in this Security Instrument, Grantor agrees to pay all expenses Lender incurs in performing such covenants or protecting its security interest in the Property. Such expenses include, but are not limited to, fees incurred for inspecting, preserving, or otherwise protecting the Property and Lender's security interest. These expenses are payable on demand and will bear interest from the date of payment until paid in full at the highest rate of interest 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 Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, attorneys' fees, court costs, and other legal expenses. To the extent permitted by the United States Bankruptcy Code, Grantor agrees to pay the reasonable attorneys' fees Lender incurs to collect the Secured Debt as awarded by any court exercising jurisdiction under the Bankruptcy Code. This Security Instrument shall remain in effect until released. Grantor agrees to pay for any recordation costs of such release.

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11. **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," "hazardous substance," or "regulated 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.

12. **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.

13. **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 mortgage 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. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Grantor and Lender.

14. **SEVERABILITY; INTERPRETATION.** This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. 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.

15. **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.

16. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by both first class mail and either registered or certified mail, return receipt requested, to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one grantor will be deemed to be notice to all grantors.

17. **USE OF PROPERTY.** The property subject to this Deed of Trust is not used principally for agricultural purposes.

18. **LINE OF CREDIT.** The Secured Debt includes a revolving line of credit. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.

19. **APPLICABLE LAW.** This Security Instrument is governed by the laws as agreed to in the Secured Debt, except to the extent required by the laws of the jurisdiction where the Property is located, and applicable federal laws and regulations.

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-C465(WA) (0506)

20. RIDERS. The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument.
[Check all applicable boxes]
☐ Assignment of Leases and Rents ☐ Other .....
21. ☐ ADDITIONAL TERMS.

Prepared by:
GINA DURKAY, National City Bank
6750 Miller Road, Brecksville, OH 44141

22. 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 on the date stated on page 1.

10/26/05

(Signature) SCOTT BLUMFIELD (Date) (Signature) (Date)

ACKNOWLEDGMENT:
STATE OF Washington
COUNTY OF King) ss.
I certify that I know or have satisfactory evidence that
(Individual) Scott A. Blumfield
(is/are the individual(s) who appeared before me, and said individual(s) acknowledged that she/he/they signed this instrument and acknowledged it to be a free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: Oct 26, 2005

Constance Cothers
(Notary Public in and for the State of Washington, residing at)
Bothell, WA.

My appointment expires: 12-31-08

CONSTANCE CROTHERS
COMMISSION EXPIRES
NOTARY
PUBLIC
12-31-08
STATE OF WASHINGTON

REQUEST FOR RECONVEYANCE
(Not to be completed until paid in full)

TO TRUSTEE:
The undersigned is the holder of the note or notes secured by this Deed of Trust. Said note or notes, together with all other indebtedness secured by this Deed of Trust, have been paid in full. You are hereby directed to cancel this Deed of Trust, which is delivered hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the person or persons legally entitled thereto.

....
(Authorized Bank Signature) Date

Exhibit "A"

Real property in the County of King, State of Washington, described as follows:

Unit 301, of Lakewest, a Condominium, according to Declaration thereof recorded under King County Recording No. 8808260522 and any amendment(s) thereto; said Unit is located on Survey Map and Plans filed in Volume 89 of Condominiums, at Pages 12 through 22, in King County, Washington.

Tax Parcel Number: 415233-0420-01

EXHIBIT G

LITIGATION GUARANTEE

SUBJECT TO THE LIMITATIONS CONTAINED HEREIN, 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 California corporation, herein called the Company

GUARANTEES

the Assured named in Schedule A against loss not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurance which the Company hereby gives that, according to the public records, as of Date of Guarantee shown in Schedule A:

1. The title to the herein described estate or interest is vested in the vestee named in Schedule A.

2. Except for the matters shown in Schedule B, there are no defects, liens, encumbrances or other matters affecting title to the estate or interest in the land shown in Schedule A, which matters are not necessarily shown in the order of their priority.

3. a) The current interest holders claiming some right, title or interest by reason of the matters shown in Part II of Schedule B are as shown therein. The vestee named in Schedule A and parties claiming to have some right, title or interest by reason of the matters shown in Part II of Schedule B may be necessary parties defendant in an action, the nature of which is referred to in Schedule A.

   b) The current interest holders claiming some right, title or interest by reason of the matters shown in Part I of Schedule B may also be necessary parties defendant in an action, the nature of which is referred to in Schedule A. However, no assurance is given hereby as to those current interest holders.

4. The return addresses for mailing after recording, if any, as shown on each and every document referred to in Part II of Schedule B by specific recording information, and as shown on the document(s) vesting title as shown in Schedule A are as shown in Schedule C.

5. Any failure by the foreclosing Trustee or Beneficiary to comply with the requirements of a County or City Ordinance, if any, as it pertains to the maintenance of the property described herein, prior to or during the foreclosure process.

THIS LITIGATION GUARANTEE IS FURNISHED SOLELY FOR THE PURPOSE OF FACILITATING THE FILING OF THE ACTION REFERRED TO IN SCHEDULE A. IT SHALL NOT BE USED OR RELIED UPON FOR ANY OTHER PURPOSE.

First American Title Insurance Company

BY PARKER S. KENNEDY - PRESIDENT

BY MARCY SAVAGE
ASSISTANT SECRETARY
TITLE OFFICER
PH: 206-728-7215
FX: 206-448-6248

SCHEDULE A

LIABILITY: **$50,000.00** **FEE:** **$350.00**

1. NAME OF ASSURED:

   LAW OFFICES OF JAMES L. STRICHARTZ AND LAKEWEST CONDOMINIUM ASSOCIATION.

2. DATE OF GUARANTEE:

   JANUARY 27, 2011 AT 7:30 A.M.

3. THIS LITIGATION GUARANTEE IS FURNISHED SOLELY FOR THE PURPOSE OF FACILITATING THE FILING OF AN ACTION TO:

   TO FORECLOSED A LIEN.

4. THE ESTATE OR INTEREST IN THE LAND WHICH IS COVERED BY THIS GUARANTEE IS:

   A FEE.

5. TITLE TO THE ESTATE OR INTEREST IN THE LAND IS VESTED IN:

   SCOTT BLUMFIELD, PRESUPMTIVELY SUBJECT TO THE COMMUNITY INTEREST OF HIS SPOUSE, IF MARRIED ON MARCH 18, 2003, DATE OF ACUIRING TITLE.

6. THE LAND REFERRED TO IN THIS GUARANTEE IS DESCRIBED AS FOLLOWS:

   (SEE ATTACHED EXHIBIT "A")

EXHIBIT A

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

UNIT NO. 301, BUILDING 2125, LAKEWEST, A CONDOMINIUM, INTENDED FOR SINGLE FAMILY RESIDENTIAL USE ONLY, ACCORDING TO SURVEY MAP AND SET OF PLANS RECORDED IN VOLUME 89 OF CONDOMINIUMS, PAGES 12 THROUGH 22, INCLUSIVE, RECORDS OF KING COUNTY, WASHINGTON UNDER RECORDING NO. 9003291013, AS THEREAFTER AMENDED OF RECORD, AND ACCORDING TO CONDOMINIUM DECLARATION RECORDED UNDER RECORDING NO. 9003291014, AS THEREAFTER AMENDED OF RECORD;

TOGETHER WITH AN UNDIVIDED 1.89503 PERCENTAGE INTEREST IN THE COMMON AREAS AND FACILITIES APPERTAINING TO SAID UNIT;

SITUATE IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF WASHINGTON.

EXHIBIT H

Department of Defense Manpower Data Center Mar-01-2012 07:47:33

Military Status Report
Pursuant to the Service Members Civil Relief Act

< Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
BLUMFIELD	SCOTT	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavely-Dixon

Mary M. Snavely-Dixon, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL http://www.defenselink.mil/faq/pis/PC09SLDR.html. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

More information on "Active Duty Status"
Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases
Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.
Report ID:7E32E3AVGQ

FILED

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KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE NUMBER: 11-2-04005-4 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

LAKEWEST CONDOMINIUM ASSOCIATION, a Washington nonprofit corporation, Plaintiff, v. SCOTT BLUMFIELD et al., Defendants.	No. 11-2-04005-4SEA **PLAINTIFF'S REPLY TO OPPOSITION TO MOTION FOR SUMMARY JUDGMENT**

COMES NOW Plaintiff Lakewest Condominium Association, a Washington nonprofit corporation ("Plaintiff" or "Association") and hereby presents its Reply to that Opposition dated March 26, 2012 filed by Defendant JPMorgan Chase and Joinder in same by Defendant Wells Fargo Bank of even date (collectively, "DOT Claimants" and "Opposition," respectively), to Plaintiff's Motion For Summary Judgment dated March 1, 2012 ("Motion") as follows. Filed herewith is Plaintiff's Supplemental Declaration of Counsel and revised proposed Summary Judgment.

1. Deeds of Trust Were Recorded *after* Recording of Plaintiff's Declaration of Condominium Lien, and Are *Statutorily* Subordinated to the Declaration of Condominium lien.

DOT Claimants assert that "Any such [Plaintiff] lien arose nearly two and one-half years after JP Morgan recorded its Deed of Trust." Opposition at 4. DOT Claimants also assert that the Deeds of Trut are superior "because JPMorgan's [deed of trust] was recorded first. Opposition at 7. These assertions exhibit a fundamental misunderstanding of the nature of Plaintiff's *statutory* Declaration of Condominium lien: Here, Plaintiff's lien arose in 1988 upon the 1988 recording of the Declaration of Condominium creating the lien securing assessments, which predates the 2005 recording of the two *invalid* Deeds of Trust of DOT

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Claimants ("Deeds of Trust"). Guyott Decl. Exh A. The Declaration of Condominium lien is a continuing lien that existed since 1988 and continues to exist so long as the Declaration of Condominium operates as a real property encumbrance:

> The association has a lien on a unit for any unpaid assessments levied against a unit from the time the assessment is due.

RCW 64.34.364(1). And:

> Recording of the declaration constitutes record notice and perfection of the lien for assessments.

RCW 64.34.364(7). Even if the Deeds of Trust acted as valid encumbrances on the subject real property ("Unit"), the DOT Claimants would have taken such interest subsequent and *subject to* the previously existing Declaration of Condominium lien and Washington statutes (addressed immediately below) that establish limited subordination of declaration of condominium liens to *valid* deeds of trust.

Washington ordinarily follows the "first in time, first in right" prioritization of *valid* recorded competing liens on real property, based on who recorded first. RCW 65.08.070. However, our Legislature determined that Declaration of Condominium liens, such as here, are statutorily subordinated to certain *valid* deeds of trust, under certain conditions:

> A lien under this section shall be prior to all other liens and encumbrances on a unit except (a) liens and encumbrances recorded before the recording of the declaration; (b) a mortgage *on the unit recorded before the date on which the assessment sought to be enforced became delinquent.*

RCW 64.34.364(2) (emphasis added). Plaintiff's Declaration of Condominium, as amended, contains a substantially identical provision. Guyott Decl. Exh. D (Declaration Amendment § 19.2). Such amendment preceded the recording of the invalid Deeds of Trust. Said statutory and Declaration provisions providing limited subordination are *of necessity* predicated on a "mortgage" *actually existing as a valid encumbrance* on a particular unit ("on the unit").

Plaintiff's Declaration of Condominium lien arose well before the purported deeds of trust were recorded; the Deeds of Trust, even if valid, would have been subject to the previously existing Declaration of Condominium lien and the foregoing statutes establishing limited subordination of the Declaration of Condominium to subsequent *valid* deeds of trust only to the extent provided in RCW 64.34.364(2)(b). Thus, DOT Claimants' assertion that Plaintiff had actual or constructive notice of the Deeds of Trust, Opposition at 7-8, is unsupported by the facts of this case: Plaintiff held a previously existing Declaration of Condominium lien on the Unit. The DOT Claimants then recorded Deeds of Trust with invalid legal descriptions that fail to encumber the Unit. Under the race-notice analysis that DOT Claimants put forth, Opposition at 8, the Plaintiff's prior Declaration of Condominium lien enjoys lien priority: After recording

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of these defective Deeds of Trust, the Plaintiff did not somehow take some *new* interest in the Unit that should be held subject to these Deeds of Trust; *the Plaintiff already had an interest.*

Addressing the fact that all condominium unit deeds of trust would be recorded after creation of declaration of condominium liens, our Legislature then statutorily subordinated the previously-existing Declaration of Condominium lien to subsequent *valid* deeds of trust, to the extent provided in RCW 64.34.364(2)(b) ("a mortgage *on the unit recorded before the date on which the assessment sought to be enforced became delinquent*"). However, these Deeds of Trust are invalid, as they do not sufficiently describe any real property, and are thus void encumbrances in this case.

2. Recital to Tax Parcel Number Insufficient if County Tax Parcel Record Does Not Contain a Sufficient Legal Description.

DOT Claimants assert that the Deeds of Trust satisfy the Statute of Frauds because the Deeds of Trust recite the tax parcel number. Opposition at 5-6. DOT Claimants cite to *Bingham v. Sherfey,* 38 Wn.2d 886, 889, 234 P.2d 489 (1951) for the proposition that describing real property by tax parcel number in a deed of trust is sufficient, where the assessor's records for that tax parcel actually recite a sufficient legal description. Id.

DOT Claimants' Opposition fails to address the fact that King County's tax parcel record for this tax parcel does not contain a sufficient legal description for the Unit. Suppl Decl. Counsel. Indeed, DOT Claimants fail to meet their burden of presenting any evidence of the county's tax parcel record.

Thus, the DOT Claimants face the same result as that party before the Court of Appeals claiming a sufficient legal description by resort to a tax parcel recital, where the county tax parcel record failed to include a sufficient legal description: The Court of Appeals in that case held that the instrument's failure to include a full legal description and reference to county tax records which failed to establish a sufficient legal description was fatally defective. *Asotin Co. Port Dist. v. Clarkston Comm. Corp.,* 2 Wn. App. 1007, 1010, 472 P.2d 554 (1970).

Thus in this case, the Deeds of Trust fail to meet the *Bingham* "tax parcel" criteria, as the tax parcel record fails to furnish a legal description sufficient to satisfy the Statute of Frauds. As a result, the Deeds of Trust do not sufficiently describe any parcel of real property, and therefor are invalid encumbrances on the Unit.

3. Common Street Address Is Not a Legal Description and Does Not Legally Describe Any Parcel of Real Property;

DOT Claimants admit that the Deeds of Trust fail to describe the necessary building number in this multiple-building condominium, Opposition at 6, but assert that a recital of the street address, "taken

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together" with the insufficient legal description, makes the legal description sufficient. Opposition at 6-7. DOT Claimants' theory that a street address can be resorted to, to sufficiently describe any real property, directly contradicts black-letter law that an instrument "containing a description of certain property by street number, city, county, and state, was insufficient to satisfy the statute of frauds, and that the contract was, therefore, unenforceable." *Tensco, Inc. v. Manning,* 59 Wn.2d 479, 484, 368 P.2d 372 (1962), citing *Martin v. Seigel*, 35 Wn.2d 223, 212 P.2d 107 (1949). The street address on the Deeds of Trust are insufficient.

Also, DOT Claimants engage in speculation by implying, Opposition at 6-7, that because the house number of the street address just happens to match the vital missing building number in the Deeds of Trust legal descriptions, that the Court should *make the assumption* that every house number of every street address for every condominium unit in every multiple-building condominium in Washington will always match that condominium's legally described building number. That is a huge assumption (what if a house number does not match a building number?), and DOT Claimants fail to present any authority for such an implied assertion. The Deeds of Trust legal description is fatally insufficient, and a street address does not satisfy the Statute of Frauds.

4. Grantor-Grantee (Name Only) Indexing of a Purported Encumbrance Alone Does Not Remedy An Invalid Legal Description And Is Insufficient To Establish An Encumbrance On Any Real Property.

DOT Claimants assert that "there is constructive notice of information that is reasonably disclosed in the statutorily required columns of the general [grantor-grantee] index." Opposition at 8. DOT Claimants cite no controlling authority for this expansive argument, and cite only to the commentary of Professor Stoebuck. Id. In any event, even the cited commentary does not address whether an encumbrance that fails to sufficiently describe any real property violates the Statute of Frauds, and is inopposite to the current case because Plaintiff *already had* a Declaration of Condominium lien encumbering the unit years before the invalid Deeds of Trust were recorded.

DOT Claimants provide an analysis of the grantor-grantee name indexing system, Opposition at 8-9, apparently to support an implication that even in the case of an utter failure of a deed of trust to sufficiently describe any real property, that simply reciting the names of the grantor and grantee (beneficiary) on any deed of trust is sufficient to render that deed a valid encumbrance. DOT Claimants go on to suggest that "a person examining title using the official index would have discovered the JPMorgan deed of trust." Opposition at 9. However, DOT Claimant have cited to no controlling authority for such a bold proposition (and indeed only recite title insurance "best practice" commentaries in an attempt to support this proposition). Id. A title insurance company's practices in attempting to minimize the risk of a claim against any title insurance policy for failing to except from coverage a prior encumbrance (by also examining the

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voluminous grantor-grantee indexes for every recording involving a common name) is wholly irrelevant to what Washington law requires for a deed of trust to serve as a valid encumbrance on real property: Washington law does not deem a deed of trust valid simply because it recites the name of the grantor and grantee and is indexed under such names:

> [D]efendants were required to go no further than a search of the records as to Tract 124 [(the correct tract number)]. To adopt plaintiff's position would impose an almost impossible burden upon a party seeking to become a bona fide purchaser in that each and every conveyance shown of record *and involving a common grantor* would have to be investigated beyond the auditor's records for possible error. . . . This would destroy the strength of our recording system.

Koch v. Swanson, 4 Wn. App 456, 459 (1971) (emphasis added). DOT Claimants attempt to distinguish *Koch* by asserting that the case before that Court involved an encumbrance of a different parcel than that intended, but at least it legally described *some* parcel of real property. The distinction has no bearing on the *Koch* court's determination, cited above, that reciting a grantor and grantee name alone is wholly insufficient to encumber any real property in Washington. Indeed, "where existing property *is described*, the index and the recorded document imparts notice only as to matters within its chain of title." *Koch,* 4 Wn. App. at 459 (emphasis added). Thus, as the *Koch* court observed, an encumbrance must sufficiently describe the real property to be encumbered for the indexing system to impart notice. A "chain of title" refers to successive interests in a specific parcel of real property, not to all interests that a particular person or entity may be granted or grant. Id.; *Dickson v. Kates,* 132 Wn. App. 724, 737 (2006).

Again, title companies may examine thousands of recordings of grantors and grantees in the grantor-grantee index for a particular name, such as "John A. Smith," to determine whether to except out certain encumbrances from coverage, to reduce the risk of a title claim. However, under Washington law, a third party is not obligated to search the voluminous county records based on a common grantor name, which could involve thousands of documents involving thousands of properties and may involve different grantors/grantees that just happen to share the same name.

DOT Claimants have cited to no controlling authority holding that a deed of trust that only recites names of grantor and grantee (beneficiary), but fails to describe the real property, acts as any encumbrance on anything. Under Washington law, a third party is not obligated to search the county records based on a common grantor name; a deed of trust must contain an accurate legal description to satisfy the Statute of Frauds and give notice. In any event, the Declaration of Condominium lien predates the recording of the invalid Deeds of Trust, and thus Plaintiff took no new interest in the Unit subsequent to those Deeds of Trust.

5. RCW 64.34.364(3) "Six Month Lien Priority" Provision Not Applicable to This Case.

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DOT Claimants assert that the Declaration of Condominium lien only enjoys lien priority to the extent of the most recent six months' worth of regular monthly assessments, citing to RCW 64.34.364(3). Opposition at 11. DOT Claimants confuse the relationship between RCW 64.34.364(2)(b) and RCW 64.34.364(3). The former provides that *valid* deeds of trust recorded after a default on the statutory assessment obligation are subordinate to the Declaration of Condominium lien; the latter provides that, even if a *valid* deed of trust is recorded before any default on the assessment obligation, the lien priority of the Declaration of Condominium lien is reduced to the extent provided in RCW 64.34.364(3) ("the lien *shall also be* prior to the mortgages described in subsection (2)(b) of this section to the extent of [the reduced lien priority]"). RCW 64.34.364(3) (emphasis added).

However, RCW 64.34.364(3) has no applicability to this case. RCW 64.34.364(3) is of necessity predicated on: (a) there being a valid deed of trust on the Unit to begin with; and (b) that the deed of trust became a valid encumbrance *before* a default on the statutory assessment obligation.

Neither is applicable here: The Deeds of Trust fail to adequately describe any real property to be encumbered, and thus fail to act as liens on the Unit. Plaintiff's Declaration of Condominium lien is subordinate to *valid* deeds of trust only under limited circumstances; if a *valid* deed of trust is recorded *after* a default on assessments levied by Plaintiff, that deed of trust is wholly subordinate to Plaintiff's Declaration of Condominium lien. RCW 64.34.364(2)(b). The intent of our Legislature in this regard is crystal clear: Any mortgage lender that intends to record a *valid* deed of trust on a condominium unit in Washington may not do so at the expense of then-delinquent statutory assessments, and thus must ensure that there is no default on statutory assessments when it records a *valid* deed of trust, or face *statutory subordination* to the Declaration of Condominium lien.

The Deeds of Trust at issue utterly fail to describe any parcel of real property. They are not encumbrances on the Unit. That said, any hypothetical judgment *reforming* the Deeds of Trust to property describe any parcel of real property would be subsequent in time to the default on the statutory assessment obligation secured by Plaintiff's Declaration of Condominium lien, and thus the Deeds of Trust would be subject to statutory subordination under RCW 64.34.364(2)(b). As a result, the Deeds of Trust would be junior and subordinate to Plaintiff's Declaration of Condominium lien being foreclosed herein.

6. Recording of Notice of Claim of Lien Does Not Modify Plaintiff's Declaration of Condominium Lien and Is Irrelevant To The Issue Of Whether DOT Claimants Hold Any Valid Interest in the Unit.

DOT Claimants assert that a "legal description in the Claim of Lien" contains a defective legal description, Opposition at 4, 7, apparently to imply that somehow that is relevant to the core issue of whether

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DOT Claimants have any valid interest in the Unit. DOT claimants confuse a notice of claim of lien with the Declaration of Condominium lien:

> Recording of the declaration constitutes record notice and perfection of the lien for assessments. While no further recording of any claim of lien for assessments under this section shall be required to perfect the association's lien, the association may record a notice of claim of lien for assessments under this section in the real property records of any county in which the condominium is located.

RCW 64.34.364(7). Under this statute, a notice of claim of lien does nothing to affect an association's declaration of condominium lien, and need not even be recorded. In any event, whether a notice of claim of lien was recorded or not has no relevance to whether the Deeds of Trust act as valid encumbrances on the unit.

DOT Claimants assert that Plaintiff's original Complaint (not the Second Amended Complaint that was subsequently served on DOT Claimants) contains a defective legal description, Opposition at 4, 7, apparently to imply that somehow that is relevant to the core issue of whether DOT Claimants have any valid interest in the Unit. The Second Amended Complaint was amended by the Court's Order as provided under CR 15(a), and relates back to the original complaint as provided under CR 15(c). DOT Claimants have not presented any authority holding, or evidence supporting, the proposition that a complaint as it existed prior to a court-approved amended complaint and never served on these DOT Claimants operates as any admission, waiver or estoppel by a plaintiff. In any event, a superseded complaint has no relevance to whether the Deeds of Trust act as valid encumbrances on the Unit.

RESPECTFULLY SUBMITTED this 29 day of March, 2012.

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