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CLACKAMAS COUNTY SHERIFF

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

BAYVIEW LOAN SERVICING, LLC,

Plaintiff,

vs.

GARRETT A. RUPP AKA GARRETT
AUSTIN RUPP; HEIDI M. RUPP AKA
HEIDI MAY RUPP AKA HEIDI MAY
BARTEL; VILLAGE AT WILSONVILLE
CONDOMINIUMS OWNERS'
ASSOCIATION; UNITED STATES OF
AMERICA; AMERICAN EXPRESS BANK
FSB; AMERICAN EXPRESS CENTURION
BANK; STATE OF OREGON; OCCUPANTS
OF THE PROPERTY,

Defendants.

Case No.: 16CV20511

WRIT OF EXECUTION IN
FORECLOSURE

TO THE CLACKAMAS COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on 5/8/2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Judgment Creditor:



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BAYVIEW LOAN SERVICING, LLC
Submitted By:
Brady Godbout
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

With the adjudicated amount due of \$212,548.87, plus post judgment interest at the statutory rate of 9.0% per annum from 5/8/2017 to 7/24/2017 in the amount \$4,035.57, and continuing with a per diem of \$52.41, currently totaling \$216,584.44.

NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are hereby commanded to sell, in the manner prescribed by law for the sale of real property on execution (subject to redemption of 180 days), all of the interest that the Defendant had on or about 7/25/2006, the date of the Deed of Trust, and also the interest that the Defendant had thereafter, in the real property legally described in the attached *Exhibit 1* having APN/Parcel # 01831423 and 01792091 and commonly known as: 29640 SW Volley Street, Unit #39, Wilsonville, OR 97070.

Sale of the property is to satisfy the sum listed above, plus the costs incurred in performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.

8/2/17  

Court Administrator relies on the information provided by the person seeking issuance of this writ of execution and is not liable for any errors or omissions in the information

COURT CLERK HAS NOT VERIFIED FIGURES IN THIS WRIT. IF YOU HAVE ANY QUESTIONS REGARDING THIS WRIT, PLEASE CONTACT YOUR LEGAL COUNSEL, THE ISSUING ATTORNEY OR THE ISSUING COMPANY. DEBTOR MAY CONTEST THIS WRIT BY FILING A CLAIM OF EXEMPTION.

1 Dated: 7/20/2017 and submitted by:

2 **McCarthy & Holthus, LLP**

3 *Brady Godbout*

-
- 4 _ John Thomas OSB No. 024691
 - 5 _ Robert Hakari OSB No. 114082
 - 6 _ Andreanna Smith OSB No. 131336
 - 7 Brady Godbout OSB No. 132708
 - 8 _ Samuel Burton OSB No. 136522
 - 9 _ Brian Kidder OSB No. 140459
 - 10 _ Jeremy Clifford OSB No. 142987
 - 11 _ Michael Scott OSB No. 973947

12 920 SW 3rd Ave, 1st Floor

13 Portland, OR 97204

14 Phone: (971) 201-3200

15 Fax: (971) 201-3202

16 bgodbout@mccarthyholthus.com

17 Of Attorneys for Plaintiff

EXHIBIT 1

UNIT NO. 39, GARAGE UNIT 7 AND PARKING SPACE NO. 39, VILLAGE AT WILSONVILLE CONDOMINIUMS, STAGE 2, IN THE CITY OF WILSONVILLE, COUNTY OF CLACKAMAS, STATE OF OREGON. TOGETHER WITH AN UNDIVIDED INTEREST IN AND TO THE COMMON ELEMENTS APPERTAINING TO SAID UNIT AS SET FORTH IN THE DECLARATION OF UNIT OWNERSHIP MADE PURSUANT TO THE OREGON CONDOMINIUM ACT, RECORDED OCTOBER 19, 1998, RECORDING NUMBER 98-098005

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

BAYVIEW LOAN SERVICING, LLC,

Plaintiff,

vs.

GARRETT A. RUPP AKA GARRETT
AUSTIN RUPP; HEIDI M. RUPP AKA
HEIDI MAY RUPP AKA HEIDI MAY
BARTEL; VILLAGE AT WILSONVILLE
CONDOMINIUMS OWNERS'
ASSOCIATION; UNITED STATES OF
AMERICA; AMERICAN EXPRESS BANK
FSB; AMERICAN EXPRESS CENTURION
BANK; STATE OF OREGON; OCCUPANTS
OF THE PROPERTY,

Defendants.

Case No.: 16CV20511

GENERAL JUDGMENT OF
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion.

a. Defendants GARRETT A. RUPP AKA GARRETT AUSTIN RUPP; HEIDI M. RUPP AKA HEIDI MAY RUPP AKA HEIDI MAY BARTEL; VILLAGE AT WILSONVILLE CONDOMINIUMS OWNERS' ASSOCIATION; UNITED STATES OF AMERICA; AMERICAN EXPRESS BANK FSB; AMERICAN EXPRESS CENTURION BANK; STATE OF OREGON; OCCUPANTS OF THE PROPERTY ("Defaulted Defendants") were duly served with process and failed to appear; the default has been entered against Defaulted Defendants, and it appearing that Defaulted Defendants are not incapacitated, protected persons, respondents as defined in ORS 125.005, minors, or in the military service of the United States; now therefore,

1	a) Unpaid principal balance:	\$124,394.11
2	b) Prejudgment interest accruing from	\$50,774.47
3	4/1/2011 through 4/20/2017 and	
4	continuing until the entry of judgment	
5	at the current Note rate of 6.7500%:	
6	c) Additional amounts due under the	\$31,963.26
7	terms of the loan:	
8	d) Attorney fees and costs:	\$5,332.03
9	e) Prevailing party fee (ORS 20.190	\$85.00
10	(2)(a)):	
11	Total:	\$212,548.87

Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the date of entry of this judgment through the sale of the Subject Property at the rate of 9.00% per annum.

- e. The interest of the Defendants and any successor in interest in the Subject Property is foreclosed and terminated excepting only any statutory right of redemption as provided by Oregon law.
- f. Pursuant to 28 U.S.C. § 2410 (c), the lien of the United States, which arises under the Internal Revenue Code, shall have a period of 120 days from the Sheriff's Sale in which to redeem their interest in the Subject Property.
- g. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.
- h. All right, title and interest in the Subject Property that Defendants Garrett A. Rupp and Heidi M. Rupp had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the Clackamas County Sheriff's Office in accordance with the process for sale upon execution, and the proceeds of sale shall be applied:
 - 1) First, to the costs of sale not incurred by Plaintiff;
 - 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of entry of judgment through the date of the sale and any incurred costs of sale;

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1 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
2 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
3 such party or parties as they may establish their right thereto.

4 i. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
5 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
6 the date of entry of judgment through the date of the sale and any incurred costs of sale.

7 j. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
8 Property from and after the date of the sale and is entitled to such remedies as are available at
9 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
10 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
11 possession to the purchaser immediately upon the purchaser's demand for possession.

12 k. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
13 entitled to any further or other judgment, including a judgment for the deficiency.

14 l. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
15 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
16 terminated.

17 m. Pursuant to ORS 88.050, the apparent priority of liens subsequent and inferior to the Deed of
18 Trust are as follows:

19 1) Defendant VILLAGE AT WILSONVILLE CONDOMINIUMS OWNERS'
20 ASSOCIATION may claim an interest in Subject Property by virtue of a "Covenants,
21 Conditions and Restrictions" document recorded on 02/05/1998 in the Circuit Court
22 of Clackamas County, Instrument No. 98008676.

23 2) Defendant UNITED STATES OF AMERICA may claim an interest in the Subject
24 Property by virtue of a federal tax lien, notice of which was filed as follows:

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1 i. Notice of federal tax lien in the amount of \$44,127.97, filed 05/31/2011,
2 Office of County Record, Clackamas County, Instrument Number 2011-
3 031347 wherein GARRETT A. RUPP AKA GARRETT AUSTIN RUPP of
4 29640 SW Volley Street, Unit #39, Wilsonville, OR 97070 is named as
5 taxpayer. The notice was filed by the Internal Revenue Service and bears
6 serial number 787441411.

7 ii. Notice of federal tax lien in the amount of \$156,045.43, filed 02/03/2014,
8 Office of County Record, Clackamas County, Instrument Number 2014-
9 004978 wherein GARRETT A. RUPP AKA GARRETT AUSTIN RUPP of
10 29640 SW Volley Street, Unit #39, Wilsonville, OR 97070 is named as
11 taxpayer. The notice was filed by the Internal Revenue Service and bears
12 serial number 980767914.

13 3) Defendant AMERICAN EXPRESS BANK FSB may claim an interest in Subject
14 Property by virtue of a judgment entered on 06/14/2013 in the Circuit Court of
15 Clackamas County, Case No. CV13030646, in the amount of \$13,190.38.

16 4) Defendant AMERICAN EXPRESS CENTURION BANK may claim an interest in
17 Subject Property by virtue of a judgment entered on 4/22/2013 in the Circuit Court of
18 Clackamas County, Case No. LV13030647, in the amount of \$2,772.26.

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1 5) Defendant STATE OF OREGON may claim an interest in Subject Property by virtue
2 of a Dstraint Warrant recorded 01/17/2014 as Instrument No. 2014-002471 in the
3 amount of \$14,515.98.
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7 Signed: 5/5/2017 12:13 PM

8 
9 _____
10 Circuit Court Judge Michael C. Wetzel
11

12 I hereby certify that the requirements of UTCR 5.100 have been satisfied.
13

14 An order of default is being requested with this proposed judgment.
15

16 Dated: April 20, 2017
17

18 Presented by:

19 **McCarthy & Holthus, LLP**

20 s/ Brady Godbout
21 _____

22 [x] Brady Godbout, OSB No. 132708

23 920 SW 3rd Ave, 1st Floor

24 Portland, OR 97204

25 Phone: (971) 201-3200

26 Fax: (971) 201-3202

27 bgodbout@mccarthyholthus.com

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