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LINN COUNTY  
SHERIFFS OFFICE

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

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, AS TRUSTEE FOR  
AMERIQUEST MORTGAGE SECURITIES  
INC., ASSET-BACKED PASS-THROUGH  
CERTIFICATES, SERIES 2006-R2,

Plaintiff,

v.

ROBERT M. HURZELER; KATHI L.  
HURZELER; SPRING MEADOW  
HOMEOWNERS ASSOCIATION; CAPITAL  
ONE BANK (USA) N.A.; OCCUPANTS OF  
THE PROPERTY,

Defendants.

Case No.: 17CV32780

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE LINN COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on September 26, 2017.

A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the  
Plaintiff:

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR  
AMERIQUEST MORTGAGE SECURITIES INC., ASSET-BACKED PASS-  
THROUGH CERTIFICATES, SERIES 2006-R2  
c/o Bryan Kidder  
Attorney for Plaintiff  
McCarthy & Holthus, LLP  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204

1 With the adjudicated amount due of \$346,688.90, plus post-judgment interest at the statutory rate  
2 of 9.0% per annum from September 26, 2017 to February 26, 2018 in the amount of \$13,079.19,  
3 and accruing at \$85.48 *per diem*, currently totaling \$359,768.09.

4 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are  
5 hereby commanded to sell, in the manner prescribed by law for the sale of real property on  
6 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or  
7 about January 20, 2006, the date of the Deed of Trust, and also the interest that the Defendant  
8 had thereafter, in the real property described in the attached *Exhibit 1*, APN/Parcel #: 882598 and  
9 commonly known as: 1760 Bobcat Ave, Albany, OR 97321.

10 Sale of the property is to satisfy the sum listed above, plus the costs incurred in  
11 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under  
12 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.  
13 You are to make the return within 60 days after you receive this Writ. Should the sale be  
14 continued, the writ may be automatically extended for 30 days.

15 **DATED:** \_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed 2/27/2018 04:33 PM

*Cynthia Mitchell*

Title Cynthia Mitchell, Administrative Authority

18 By: \_\_\_\_\_

19 Dated: February 23, 2018 and submitted by:

20 **McCarthy & Holthus, LLP**

21 s/ Bryan Kidder

22 Bryan Kidder, OSB No. 140459  
23 920 SW 3rd Ave, 1st Floor  
24 Portland, OR 97204  
25 Phone: (971) 201-3200  
26 Fax: (971) 201-3202  
27 bkidder@mccarthyholthus.com  
28 Of Attorneys for Plaintiff



# EXHIBIT "1"

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**LEGAL DESCRIPTION**

Lot 305, SPRING MEADOW - FOURTH ADDITION, Albany, Linn County, Oregon.

**MORE ACCURATELY DESCRIBED AS:**

Lot 305, SPRING MEADOW - FOURTH ADDITION, in the City of Albany, Linn County, Oregon.

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

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, AS TRUSTEE FOR  
AMERIQUEST MORTGAGE  
SECURITIES INC., ASSET-BACKED  
PASS-THROUGH CERTIFICATES,  
SERIES 2006-R2,

Plaintiff,

v.

ROBERT M. HURZELER; KATHI L.  
HURZELER; SPRING MEADOW  
HOMEOWNERS ASSOCIATION;  
CAPITAL ONE BANK (USA) N.A.;  
OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 17CV32780

GENERAL JUDGMENT OF  
FORECLOSURE

1.

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

All defendants ("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;

2.

IT IS HEREBY ADJUDGED that Plaintiff shall have judgment as follows:

- a. The real property to which this judgment relates is located and situated in Linn County, Oregon, and is commonly known as 1760 Bobcat Ave, Albany, OR 97321 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 882598.

1 b. Plaintiff is entitled to enforce the note dated January 20, 2006 and made, delivered, and  
2 executed by ROBERT M. HURZELER and KATHI L. HURZELER to AMERIQUEST  
3 MORTGAGE COMPANY in the amount of \$292,500.00 (the "Note"). The Note was  
4 transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note.

5 c. A deed of trust was made, executed, and delivered by Defendants ROBERT M. HURZELER  
6 and KATHI L. HURZELER on or about January 20, 2006 (the "Deed of Trust"). The Deed  
7 of Trust was recorded on February 8, 2006 as Instrument No. 2006-03071 in the official  
8 records of Linn County, Oregon. The Deed of Trust is a valid and perfected lien against all  
9 of the Property for and securing the Amount Due. The lien of the Plaintiff is superior to any  
10 interest, lien, or claim of the Defendants and shall remain in effect until issuance of a  
11 Sheriff's Deed.

12 d. The Borrower failed to make the payment that was due for January 1, 2017 and has not cured  
13 the default. The amount of debt secured by the Deed of Trust that is now due and owing is  
14 comprised of the following amounts (the "Amount Due"):

- |    |                                       |                     |
|----|---------------------------------------|---------------------|
| 15 | a) Unpaid principal balance:          | \$276,000.00        |
| 16 | b) Deferred principal balance:        | \$59,123.68         |
| 17 | c) Prejudgment interest accruing from |                     |
| 18 | 12/1/2016 through 9/22/2017 and       |                     |
| 19 | continuing until the entry of         |                     |
|    | judgment at the current Note rate of  |                     |
|    | 3.0%:                                 | \$6,716.00          |
| 20 | d) Additional amounts due under the   | \$1,498.88          |
| 21 | terms of the loan:                    |                     |
| 22 | e) Attorney fees and costs:           | \$3,265.34          |
| 23 | f) Prevailing party fee (ORS 20.190   | \$85.00             |
|    | (1)(b)):                              |                     |
| 24 | <b>Total:</b>                         | <b>\$346,688.90</b> |

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

4 e. The interest of the Defendants and any successor in interest in the Subject Property is  
5 foreclosed and terminated excepting only any statutory right of redemption as provided by  
6 Oregon law.

7 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.

8 g. All right, title and interest in the Subject Property that Defendants ROBERT M. HURZELER  
9 and KATHI L. HURZELER had as of the date of the Deed of Trust or thereafter acquired is  
10 hereby ordered to be sold by the Linn County Sheriff's Office in accordance with the process  
11 for sale upon execution, and the proceeds of sale shall be applied:

12 1) First, to the costs of sale not incurred by Plaintiff;

13 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of  
14 entry of judgment through the date of the sale and any incurred costs of sale;

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

18 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS  
19 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from  
20 the date of entry of judgment through the date of the sale and any incurred costs of sale.

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

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

1 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,  
2 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be  
3 terminated.

4 l. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the  
5 Deed of Trust are as follows:

- 6 1) Defendant CAPITAL ONE BANK (USA) N.A. may claim an interest in Subject  
7 Property by virtue of a judgment entered on December 12, 2011 in the Circuit Court  
8 of Linn County, Case No. 111998, in the amount of \$6,023.85.

Signed 9/25/2017 04:30 PM



**Circuit Court Judge, Thomas A. McHill**

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

This proposed Judgment of Foreclosure is ready for judicial signature because:

[x] An order of default is being requested with this proposed judgment.

Dated: September 22, 2017 and submitted by:

**McCarthy & Holthus, LLP**

s/ Bryan Kidder

Bryan Kidder, OSB No. 140459  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204  
Phone: (971) 201-3200  
Fax: (971) 201-3202  
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