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IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF CLACKAMAS

BELLA CASA HOMEOWNERS'
ASSOCIATION, an Oregon non-profit
corporation,

Plaintiff,

v.

TIM MOOTHART aka TIMOTHY J.
MOOTHART, an individual; LESLIE G.
MOOTHART aka LESLIE G. BARLOW, an
individual; MIDLAND FUNDING LLC, a
foreign limited liability company; and
OCCUPANTS OF THE PREMISES OR
PARTIES IN POSSESSION,

Defendants.

Case No. 18CV22353

**WRIT OF EXECUTION IN
FORECLOSURE OF
RESIDENTIAL REAL
PROPERTY**

TO THE SHERIFF OF CLACKAMAS COUNTY:

WHEREAS, on December 13, 2018, in the above-entitled court, a General Judgment of Foreclosure was enrolled and docketed in the above-entitled cause, a true copy of which is attached hereto as *Exhibit 1* and made part hereof;

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 residential real property upon execution (subject to redemption), all of the interest which the defendants had on April 12, 2018, the date the homeowner's association lien was recorded, and also all of the interest which the defendants had thereafter, in the real property described in the judgment, described as follows:

Lot 35, BELLA CASA, in the City of Happy Valley, County of Clackamas and State of Oregon.

The property is commonly known as 12484 SE Bari Ave., Happy Valley, Oregon 97086 ("Property").

To satisfy the general judgment listed below; all amounts owed to Plaintiff by Defendants which accrued from date of judgment to date of sale; and the cost of this writ, making due return within 60 days after you receive this writ. The proceeds from the sale shall be applied in accordance with the judgment.

The balance as of December 20, 2018, exclusive of post judgment attorney fees and post judgment dues and assessments is as follows:

- 1. Principal Amount: \$ 9,686.00
- 2. Amount of Costs and Disbursements: \$ 798.00
- 3. Amount of Attorney Fees: \$ 460.25
- 4. Amount of Post-Judgment Interest of 9% on Principal Amount and Attorney Fees and Costs (through December 20, 2018): \$ 18.89
- 5. Subtotal through December 20, 2018: \$ 10,963.14
(Per diem thereafter for Principal and Attorney Fees and Costs \$2.70/day)
- 6. Total amount through December 20, 2018: \$ 10,963.14

The mailing address of the judgment creditor is:

Bella Casa Homeowners' Association
c/o Vial Fotheringham LLP
Attn: Noam Amir-Brownstein
17355 SW Boones Ferry Rd. Suite A
Lake Oswego, OR 97035

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.

DATED this 9th day of January 2019 ~~December, 2018.~~

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 Submitted by:

Dorothy Dawson
Clerk of the Court



By: *Noam Amir-Brownstein*
Noam Amir-Brownstein, OSB #142726
nab@vf-law.com
Of Attorneys for Plaintiff

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BELLA CASA HOMEOWNERS'
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TIM MOOTHART aka TIMOTHY J.
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MOOTHART aka LESLIE G. BARLOW,
an individual; MIDLAND FUNDING LLC,
a foreign limited liability company; and
OCCUPANTS OF THE PREMISES OR
PARTIES IN POSSESSION,

Defendants.

Case No. 18CV22353

**GENERAL JUDGMENT OF
FORECLOSURE**

Based on the Orders of Default against Tim Moothart aka Timothy J. Moothart ("Moothart"), Leslie G. Moothart aka Leslie G. Barlow ("Barlow"), Midland Funding LLC ("Midland") and Occupants of the Premises or Parties in Possession ("Occupants"), and the records and files herein;

**NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED AND
DECREED AS TO PLAINTIFF'S CLAIM FOR RELIEF AGAINST DEFENDANTS
MOOTHART, BARLOW, MIDLAND AND OCCUPANTS FOR FORECLOSURE OF
THE CONDOMINIUM ASSOCIATION LIEN:**

PAGE 1 of 5--GENERAL DEFAULT JUDGMENT OF FORECLOSURE OF CONDOMINIUM
ASSOCIATION LIEN - 6824-017

1 1. The real property to which the judgment relates (hereinafter the "Property") is
2 situated in Clackamas County, Oregon is commonly known 12484 SE Bari Avenue Happy
3 Valley OR 97086 and is legally described as follows:

4 Lot 35, BELLA CASA, in the City of Happy Valley, County of Clackamas and
5 State of Oregon.

6 2. Plaintiff's lien recorded on April 12, 2018 as Document No. 2018-022307
7 in the official records of Clackamas, Oregon is a valid and perfected continuing lien
8 against all of the Property for the following amounts:

9 a. Through August 28, 2018, Plaintiff is due and owing the following amounts:

Lien Principle:	Principal	\$8,463.55
Pre-judgment Interest:		\$1,222.45
Total:		\$9,686.00

14 b. Attorney Fees and Costs are awarded to Plaintiff as follows:

Attorney Fees (on Plaintiff's first claim):	\$460.25
Costs:	
Filing Fee:	\$165.00
Process Server Cost:	\$210.00
Recording Fee:	\$93.00
E-filing Cost:	\$5.00
Prevailing Party Fee:	\$325.00
Cost Subtotal:	\$798.00
Total:	\$1,258.25

1 for a total amount due through August 28, 2018, of \$10,944.25.

2 3. Post-judgment simple interest on the aggregate of all amounts declared due above
3 shall accrue from the date of judgment at the rate of nine percent (9%) per annum on the amount
4 of monthly and special assessments, late fees, fines, prejudgment interest, attorney fees, costs
5 and disbursements, from date of entry of judgment until paid.
6

7 4. Since the amount of the lien referenced herein includes only assessments, attorney
8 fees, and costs incurred through August 28, 2018, and regular assessments, attorney fees and
9 costs increase the balance of the lien, Plaintiff shall be entitled to apply to the Court for one or
10 more supplemental judgment(s) for assessments, attorney fees and costs which accrue through
11 the date of sale but are not included in this judgment.
12

13 5. The amounts declared due in paragraphs 2, 3, and 4 of this judgment shall
14 collectively declare the secured amount due under this Judgment of Foreclosure.
15

16 6. The lien of the Plaintiff is superior to any interest, lien, or claim of
17 Defendants Moothart, Barlow, Midland, and Occupants, and shall remain in effect until
18 issuance of a Sheriff's Deed.

19 7. Plaintiff's lien is foreclosed and all interest which the Defendants
20 Moothart, Barlow, Midland, and Occupants have on, or before, August 28, 2018 in the
21 real property shall be sold by the Clackamas County Sheriff to satisfy any and all
22 amounts due and owing its Lien as determined herein and in accordance to the process
23 for sale upon execution.
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28 PAGE 3 of 5- GENERAL DEFAULT JUDGMENT OF FORECLOSURE OF CONDOMINIUM
ASSOCIATION LIEN - 6824-017

Vial Fotheringham J.J.P
17355 SW Boones Ferry Rd., Ste. A
Lake Oswego, OR 97035/503-684-4111/503-598-7758 FAX
nab@vfl-law.com

1 8. The interest of all remaining Defendants and any successors in interest, in
2 the Property is ordered foreclosed and terminated by Sheriff's sale upon entry of this
3 General Judgment of Foreclosure, expecting only any statutory right of redemption as
4 provided by Oregon Law.
5

6 9. The proceeds of sale shall be applied first to the costs of sale; second to
7 satisfaction of Plaintiff's judgment awarded in this matter; to any assessments of the
8 Plaintiff which shall accrue from August 28, 2018 to the date of sale; with surplus, if any,
9 to the Defendants in the priority as their interest may appear or to the clerk of the court to
10 be distributed to such party of parties as may establish a right thereto.
11

12 10. Plaintiff is entitled to an award of its attorney fees costs and disbursements
13 in an amount to be determined under ORCP 68 for purposes of execution.
14

15 11. Defendants, as well as all persons claiming through or under Defendants
16 as purchasers, encumbrances, or otherwise, are forever foreclosed of all interest, lien or
17 claim in the real property described above and every portion thereof, excepting any
18 statutory right of the redemption as Defendants, or any of them may have therein.
19

20 12. Plaintiff may become purchaser at the sale of the Property and may credit
21 bid up to the aggregate amount of its judgment plus interest and any costs of sale
22 advanced by Plaintiff from the date of judgment until sale.
23

24 13. The purchaser at the sale is entitled to exclusive and immediate possession
25 of the Property from and after the date of sale and is entitled to such remedies as are
26 available at law or in equity to secure possession.
27

28 PAGE 4 of 5 GENERAL DEFAULT JUDGMENT OF FORECLOSURE OF CONDOMINIUM
ASSOCIATION LIEN - 6824-017

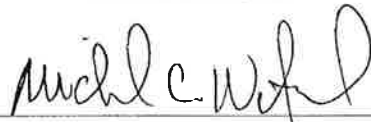
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1 14. If before sale, such amount, including sheriff's fees for the execution, is tendered
2 to the court and paid to the clerk, the execution, if issued, shall be recalled and the effect of the
3 judgment as to the amounts due shall be terminated.

4 Purchase may apply for
5 15. ~~The General Judgment shall have the same effect as~~ a writ of assistance if
6 Defendant(s), or any of them, or any other party of person shall refuse to surrender
7 possession to the purchaser immediately on the purchaser's demand for possession.


8 16. This Court shall retain jurisdiction to enter such additional order,
9 judgment or decree necessary to enforce this judgment or for the purchaser at the
10 foreclosure sale to obtain possession.
11

Signed: 12/12/2018 11:01 AM



Circuit Court Judge Michael C. Wetzel

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17 Submitted by:
18 Attorneys for Plaintiff,
19 **VIAL FOTHERINGHAM LLP**

20 By: 
21 Noam Amir-Brownstein, OSB #142726
22 *Of Attorneys for Plaintiff*

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28 PAGE 5 of 5 - GENERAL DEFAULT JUDGMENT OF FORECLOSURE OF CONDOMINIUM
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