

04 JUL 29 PM 3:00

Vol M04 Page 49713

AFTER RECORDING RETURN TO:  
Shapiro & Kreisman  
201 NE Park Plaza Drive, #150  
Vancouver, WA 98684  
04-17305

State of Oregon, County of Klamath  
Recorded 07/29/04 3:00 P m  
Vol M04 Pg 49713-21  
Linda Smith, County Clerk  
Fee \$ 61.00 # of Pgs 9

Aspen 58480

**OREGON  
AFFIDAVIT OF MAILING OF NOTICE OF SALE**

I, Kelly D. Sutherland, say and certify that:

I was and now am a resident of the State of Oregon, a competent person over the age of eighteen years and not the beneficiary or the successor in interest named in the Trust Deed described in the attached Notice of Sale.

I have given notice of sale of the real property described in the attached Notice of Sale by mailing a copy of the notice by registered or certified mail, return receipt requested, and first class mail to each of the following named persons at their last known addresses, to-wit:

Ramon F. Benavides  
15726 Chukkar Drive  
Sprague River, OR 97639

Jean M. Benavides  
15726 Chukkar Drive  
Sprague River, OR 97639

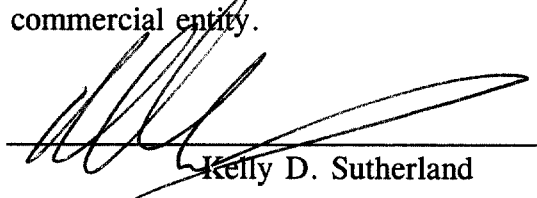
The persons mailed to include the grantor in the trust deed, any successor in interest to the grantor whose interest appears of record or whose interest the trustee or the beneficiary has actual notice and any person requesting notice as provided in ORS 86.785 and all junior lien holders as provided in ORS 86.740.

Each of the notices so mailed was certified to be a true copy of the original Notice of Sale by Kelly D. Sutherland, Shapiro & Kreisman, the trustee named in said notice; each copy was mailed in a sealed envelope, with postage prepaid, and was deposited by me in the United States post office at Vancouver, Washington, on January 13, 2004. Each notice was mailed after the date that the Notice of Default and Election to Sell described in said Notice of Sale was recorded which was at least 120 days before the day of the trustee sale.

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49714

As used herein, the singular includes the plural, trustee includes successor trustee, and person includes corporation and any other legal or commercial entity.

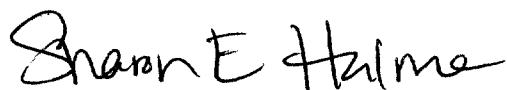
  
\_\_\_\_\_  
Kelly D. Sutherland

State of Washington )

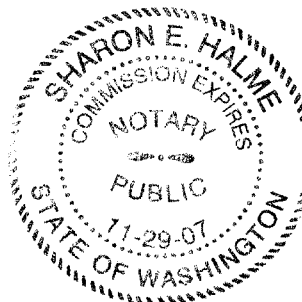
County of Clark )

On this 15<sup>th</sup> day of January, in the year 2007, before me the undersigned, a Notary Public in and for said County and State, personally appeared Kelly D. Sutherland personally known to me to be the person whose name is subscribed to this instrument and acknowledged that he executed.

Witness my hand and official seal

  
\_\_\_\_\_  
Notary Public  
My Commission Expires 11-29-07

Lender Loan #: 33397795



## TRUSTEE'S NOTICE OF SALE

A default has occurred under the terms of a trust deed made by Ramon F. Benavides and Jean M. Benavides, as tenants by the entirety, as grantor, to Aspen Title & Escrow, as Trustee, in favor of Washington Mutual Bank, as Beneficiary, dated February 2, 2000, recorded February 9, 2000, in the mortgage records of Klamath County, Oregon, as Volume No. M00, at Page 4200, covering the following described real property:

Lot 5, Block 3, Tract No. 1055, Saddle Mountain Estates, in the County of Klamath, State of Oregon

**COMMONLY KNOWN AS:** 15726 Chukkar Drive, Sprague River, OR 97639

Both the beneficiary and the trustee have elected to sell the said real property to satisfy the obligations secured by said trust deed and a notice of default has been recorded pursuant to Oregon Revised Statutes 86.735(3); the default for which the foreclosure is made is grantor's failure to pay when due the following sums:

Monthly payments in the sum of \$500.02 from July 1, 2003, together with all costs, disbursements, and/or fees incurred or paid by the beneficiary and/or trustee, their employees, agents or assigns.

By reason of said default the beneficiary has declared all sums owing on the obligation secured by said trust deed immediately due and payable, said sum being the following, to-wit:

\$69,758.80, together with interest thereon at the rate of 4.14600% per annum from June 1, 2003, together with all costs, disbursements, and/or fees incurred or paid by the beneficiary and/or trustee, their employees, agents or assigns.

WHEREFORE, notice hereby is given that the undersigned trustee will on May 19, 2004, at the hour of 11:00 AM, in accord with the standard time established by ORS 187.110, at the main entrance of the Klamath County Courthouse, located at 316 Main Street, in the City of Klamath Falls, County of Klamath, State of Oregon, sell at public auction to the highest bidder for cash the interest in the said described real property which the grantor has or had power to convey at the time of the execution of said trust deed, together with any interest which the grantor or his successors in interest acquired after the execution of said trust deed, to satisfy the foregoing obligations thereby secured and the costs and expenses of sale, including a reasonable charge by the trustee. Notice is further given that any person named in ORS 86.753 has the right, at any time prior to five days before the date last set for the sale, to have this foreclosure proceeding dismissed and the trust deed reinstated by payment to the beneficiary of the entire amount due (other than such portion of the principal as would not then be due had no default occurred) and by curing any other default complained of herein that is capable of being cured by tendering the performance required under the obligations or trust deed, and in addition to paying said sums or tendering the performance necessary to cure the default, by paying all costs

and expenses actually incurred in enforcing the obligation and trust deed, together with trustee's and attorney's fees not exceeding the amounts provided by said ORS 86.753.

In construing this notice, the masculine gender includes the feminine and the neuter, the singular includes the plural, the word "grantor" includes any successor in interest to the grantor as well as any other person owing an obligation, the performance of which is secured by said trust deed, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

Also, please be advised that pursuant to the terms stated on the Deed of Trust and Note, the beneficiary is allowed to conduct property inspections while property is in default. This shall serve as notice that the beneficiary shall be conducting property inspections on the said referenced property.

The Fair Debt Collection Practice Act requires that we state the following: This is an attempt to collect a debt, and any information obtained will be used for that purpose. If a discharge has been obtained by any party through bankruptcy proceedings: This shall not be construed to be an attempt to collect the outstanding indebtedness or hold you personally liable for the debt.

KELLY D. SUTHERLAND  
Successor Trustee

Dated

1/8/04

By: 

State of Washington, County of Clark, ss:

I, the undersigned certify that the foregoing instrument is a complete and exact copy of the original Trustee's Notice of Sale

\_\_\_\_\_  
SHAPIRO & KREISMAN  
201 NE Park Plaza Drive, #150  
Vancouver, WA 98684  
(360) 260-2253

Lender Loan #: 33397795

AFTER RECORDING RETURN TO:  
Shapiro & Sutherland, LLC  
12500 SE 2nd Circle, Suite 120  
Vancouver, WA 98684  
04-17305

49717

**TRUSTEE'S AFFIDAVIT AS TO NON-OCCUPANCY**

State of Washington           )  
  )  
County of Clark                )

I, Kelly D. Sutherland, being first duly sworn, depose, say and certify that:  
I am the Successor trustee in that certain trust deed executed and delivered by Ramon F. Benavides and Jean M. Benavides, as tenants by the entirety as grantor to Aspen Title & Escrow as trustee, in which Washington Mutual Bank is beneficiary, recorded on February 9, 2000, in the mortgage records of Klamath County, Oregon as Volume No. M00, at Page 4200, covering the following described real property situated in said county:

Lot 5, Block 3, Tract No. 1055, Saddle Mountain Estates, in the County of Klamath, State of Oregon

Commonly known as: 15726 Chukkar Drive, Sprague River, OR 97639

I hereby certify that on January 16, 2004, the above described real property was not occupied.  
The word "trustee" as used in this affidavit means any successor-trustee to the trustee named in the trust deed first mentioned above.




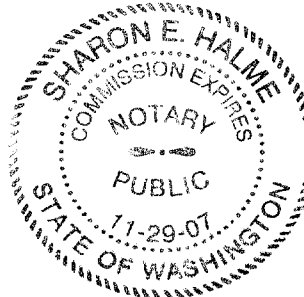
Kelly D. Sutherland

State of Washington           )  
  )  
County of Clark                )

On this 16th day of July, in the year 2004, before me the undersigned, a Notary Public in and for said County and State, personally appeared Kelly D. Sutherland personally known to me to be the person whose name is subscribed to this instrument and acknowledged that he executed.

Witness my hand and official seal

  
Notary Public  
My Commission Expires 11-29-07  
Lender Loan #: 0006626857



# Affidavit of Publication

49718

## STATE OF OREGON, COUNTY OF KLAMATH

I, Jeanine P. Day, Business Manager, being first duly sworn, depose and say that I am the principal clerk of the publisher of the Herald and News a newspaper in general circulation, as defined by Chapter 193 ORS, printed and published at Klamath Falls in the aforesaid county and state; that I know from my personal knowledge that the

Legal # 6632

Notice of Sale/Benavides

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for: ( 4 )

Four

Insertion(s) in the following issues:  
May 5, 12, 19, 26, 2004

Total Cost: \$823.50

*Jeanine P. Day*

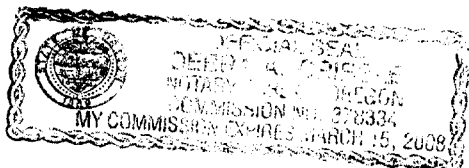
Subscribed and sworn

before me on: May 26, 2004

*Debra A. Snell*

Notary Public of Oregon

My commission expires March 15, 2008



### AMENDED TRUSTEE'S NOTICE OF SALE (After Release From Stay)

Reference is made to that certain trust deed made by Ramon F. Benavides and Jean M. Benavides, as tenants by the entirety, as grantor, to Aspen Title & Escrow, as trustee, in favor of Washington Mutual Bank, as Beneficiary, dated February 2, 2000, recorded February 9, 2000, in the mortgage records of Klamath County, Oregon, in Volume M00, at page 4200, covering the described real property in said county and state, to-wit:

Lot 5, Block 3, Tract No. 1055, Saddle Mountain Estates, in the County of Klamath, State of Oregon. COMMONLY KNOWN as: 15726 Chukkar Drive, Sprague River, OR 97639.

Both the beneficiary and the trustee have elected to sell the said real property to satisfy the obligations secured by said trust deed and a notice of default has been recorded pursuant to Oregon Revised Statutes 86.735(3); the default for which the foreclosure is made is grantor's failure to pay when due the following sums:

Monthly payments in the sum of \$500.02 from July 1, 2003 together with all costs, disbursements and/or fees incurred and/or paid by the beneficiary and/or trustee, their employees, agents or assigns.

By reason of said default the beneficiary has declared

all sums owing on the obligation secured by said trust deed immediately due and payable, said sums being the following, to-wit:

\$69,758.80, together with interest thereon at the rate of 4.146% per annum from June 1, 2003 together with all costs, disbursements, and/or fees incurred or paid by the beneficiary and/or trustee, their employees, agents or assigns.

The Notice of Default and original Notice of Sale given pursuant thereto stated that the property would be sold on May 19, 2004 at 11:00 AM, in accord with the standard of time established by ORS 187.110, at the main entrance of the Klamath County Courthouse, located at 316 Main Street, in the City of Klamath Falls, County of Klamath, State of Oregon; however, subsequent to the recording of said Notice of Default the original sale proceedings were stayed by order of the court or by proceedings under the National Bankruptcy Act of for other lawful reason. The beneficiary did not participate in obtaining such stay. Said stay was terminated on March 27, 2004.

WHEREFORE, notice hereby is given that the undersigned trustee will on August 25, 2004 at 11:00 AM, in accord with the standard of time established by ORS 187.110, at the main entrance of the Klamath County Courthouse, located at 316 Main Street, in the City of Klamath Falls, County of Klamath, State of Oregon, to sell at public auction to the highest bidder foreclose the interest in the said described real property which the grantor has or had power to convey at the time of the execution by him of the said trust deed, together with any interest which the grantor or his successors in interest acquired after the execution of said trust deed, to satisfy the foregoing obligations thereby secured and the costs and expenses of sale, including a reasonable charge by the trustee. Notice is further given that any person named in ORS 86.753 has the right, at any time prior to five days before the date last set for the sale, to have this foreclosure proceeding dismissed and the trust deed reinstated by payment to the beneficiary of the entire amount due (other than such portion of the principal as would not then be due had no default occurred) and by curing any other default complained of herein that is capable of being cured by tendering the performance required under the obligations or trust deed, and in addition to paying said sums or tendering the performance necessary to cure the default, by paying all costs and expenses actually incurred in enforcing the obligation and trust deed, together with trustee's and attorney's fees not exceeding the amounts provided by said ORS 86.753.

In construing this notice, the masculine gender includes

the feminine and the neuter, the singular includes the plural, the word "grantor" includes any successor in interest to the grantor as well as any other person owing an obligation, the performance of which is secured by said trust deed, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

Dated: April 19, 2004. By: Kelly D. Sutherland, Successor Trustee. Shapiro & Sutherland, LLC, 12500 SE 2nd Circle, Suite 120, Vancouver, WA 98684.

The Fair Debt Collection Practice Act requires that we state the following: This is an attempt to collect a debt, and any information obtained will be used for that purpose.

I, the undersigned certify that I am the attorney or one of the attorneys for the above named trustee and the foregoing is a complete and exact copy of the original trustee's notice of sale as amended.  
#6632 May 5, 12, 19, 26, 2004.

AFTER RECORDING RETURN TO:  
Shapiro & Sutherland, LLC  
12500 SE 2nd Circle, Suite 120  
Vancouver, WA 98684  
Telephone:(360) 260-2253  
04-17305

49720

## CERTIFICATE OF NON-MILITARY SERVICE

STATE OF WASHINGTON )  
 ) SS.  
County of CLARK )

THIS IS TO CERTIFY THAT I, Lynnette S. Allen, am the Assistant Vice President of Washington Mutual Bank, F.A., the current beneficiary in that certain trust deed in which Ramon F. Benavides and Jean M. Benavides, as tenants by the entirety, as grantor, conveyed to Aspen Title & Escrow, as trustee, certain real property in Klamath County, Oregon; which said trust deed was dated February 2, 2000, and recorded February 9, 2000, in the mortgage records of said county, in Volume No. M00, at Page 4200; thereafter a Notice of Default with respect to said trust deed was recorded January 7, 2004, Volume No. M04, Page No. 00768, of said mortgage records; thereafter the said trust deed was duly foreclosed by advertisement and sale and the real property covered by said trust deed is scheduled to be sold at the trustee's sale on August 25, 2004; I reasonably believe at no time during the period of three months and one day immediately preceding the day of said sale and including the day thereof, was the real property described in and covered by said trust deed, or any interest therein, owned by a person in the military service as defined in Article I of the "Soldiers' and Sailor's Civil Relief Act of 1940," as amended, or legally incompetent under the laws of the State of Oregon.

In construing this certificate, the masculine includes the feminine, the singular includes the plural, the word "grantor" includes any successor in interest to the grantor, the word "trustee" includes any successor trustee, and the word "beneficiary" includes any successor in interest to the beneficiary named in said trust deed.

Washington Mutual Bank, F.A.  
Beneficiary

By: 

Lynnette S. Allen,  
Assistant Vice President



STATE OF WASHINGTON

49721

COUNTY OF CLARK

)  
) SS.  
)

On this 16<sup>th</sup> day of July, 2004, before me the undersigned a Notary Public appeared Lynnette S. Allen, personally known to me or proved to me on the basis of satisfactory evidence to be the Assistant Vice President of the corporation that executed the within instrument, also known to me to be the person who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal, the date first hereinabove written.

Sharon E. Halme

Notary Public for State indicated above

My commission expires: 11-29-07

Loan #: 0006626857

