

2009-015654

Klamath County, Oregon



00076638200900156540030032

12/11/2009 02:28:56 PM

Fee: \$47.00

AFTER RECORDING RETURN TO:  
Shapiro & Sutherland, LLC  
5501 N.E. 109th Court, Suite N  
Vancouver, WA 98662  
09-101634  
ATE 67402

## NOTICE OF DEFAULT AND ELECTION TO SELL

A default has occurred under the terms of a trust deed made by James W. Kincaid and Wendy L. Kincaid, husband and wife, as grantor to First American Title, as trustee, in favor of Mortgage Electronic Registration Systems, Inc., as nominee for InstaMortgage.com, as beneficiary, dated September 20, 2006, recorded October 2, 2006, in the mortgage records of Klamath County, Oregon, as Instrument No. 2006-019773, beneficial interest having been assigned to Mortgage Electronic Registration Systems, Inc., as nominee for PHH Mortgage Corporation, as covering the following described real property:

See complete Legal description attached hereto as Exhibit "A"

**COMMONLY KNOWN AS:** 3210 Sprague River Road, Chiloquin, OR 97624

Kelly D. Sutherland, Successor Trustee, hereby certifies that no action has been instituted to recover the debt, or any part thereof, now remaining secured by the said trust deed, or, if such action has been instituted, such action has been dismissed except as permitted by ORS 86.735(4).

There is a default by the grantor or other person owing an obligation, the performance of which is secured by said trust deed, or by their successor in interest, with respect to provisions therein which authorize sale in the event of default of such provision; the default for which foreclosure is made is grantor's failure to pay when due the following sums:

Monthly payments in the sum of \$1,465.66, from November 1, 2008, and monthly payments in the sum of \$1,485.89, from November 1, 2009, 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 that the trust deed secures immediately due and payable, said sums being the following, to-wit:

\$203,126.45, together with interest thereon at the rate of 6.45% per annum from October 1, 2008, together with all costs, disbursements, and/or fees incurred or paid by the beneficiary and/or trustee, their employees, agents or assigns.

Notice hereby is given that the beneficiary and trustee, by reason of said default, have elected and do hereby elect to foreclosure said trust deed by advertisement and sale pursuant to

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ORS 86.705 to 86.795, and to cause to be sold at public auction to the highest bidder for cash the execution by him of the trust deed, together with any interest the grantor or his successors in interest acquired after the execution of the trust deed, to satisfy the obligations secured by said trust deed and the expenses of the sale, including the compensations of the trustee as provided by law, and the reasonable fees of trustee's attorneys.

Said sale will be held at the hour of 10:00 AM PT, in accordance with the standard time established by ORS 187.110 on April 15, 2010, at the following place: 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, which is the hour, date and place last set for said sale.

Notice is further given to any person named in ORS 86.753 that the right exists, at any time that is not later than five days before the date last set for the sale, to have this foreclosure proceeding dismissed and the trust deed reinstated by paying to the beneficiary of the entire amount then 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 obligation 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 fees and attorney 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.

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.

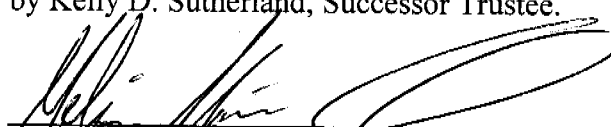
Dated: 12-10-09

By:

  
**KELLY D. SUTHERLAND**  
Successor Trustee

STATE OF WASHINGTON           )  
  ) SS.  
COUNTY OF CLARK           )

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of December, 2009,  
by Kelly D. Sutherland, Successor Trustee.

  
Notary Public for Washington

My commission expires 10/29/2012

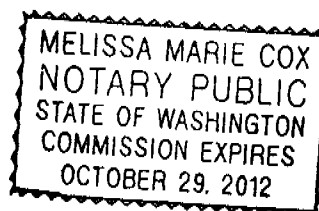


Exhibit A

A PARCEL OF LAND SITUATED IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 34 SOUTH, RANGE 7 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS CAP MONUMENT MARKING THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE NORTH 88 DEGREES 56 MINUTES 56 SECONDS EAST ALONG THE NORTH LINE OF SAID SECTION 35, 700.37 FEET TO A POINT THAT IS LOCATED 700 FEET EAST, MEASURED AT RIGHT ANGLES FROM THE WEST LINE OF THE SAID NORTHEAST 1/4 OF THE NORTHEAST 1/4; THENCE SOUTH 00 DEGREES 47 MINUTES 57 SECONDS WEST PARALLEL TO THE WEST LINE OF SAID NORTHEAST 1/4 OF THE NORTHEAST 1/4 508.41 FEET, MORE OR LESS, TO THE SOUTHERLY RIGHT OF WAY LINE OF THE CHILOQUIN-SPRAGUE RIVER HIGHWAY, AND THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE SOUTH 00 DEGREES 47 MINUTES 57 SECONDS WEST PARALLEL TO THE WEST LINE OF THE SAID NORTHEAST 1/4 OF THE NORTHEAST 1/4 373.57 FEET TO A 5/8 INCH IRON PIN ON THE NORTH BANK OF THE SPRAGUE RIVER; THENCE CONTINUING SOUTH 00 DEGREES 47 MINUTES 57 SECONDS WEST PARALLEL TO THE WEST LINE OF THE SAID NORTHEAST 1/4 OF THE NORTHEAST 1/4 91.00 FEET, MORE OR LESS, TO THE THREAD OF THE SPRAGUE RIVER; THENCE NORTH 72 DEGREES 49 MINUTES 58 SECONDS EAST ALONG THE THREAD OF THE SPRAGUE RIVER 231.28 FEET TO A POINT LOCATED 920 FEET EAST, MEASURED AT RIGHT ANGLES, FROM THE WEST LINE OF THE SAID NORTHEAST 1/4 OF THE NORTHEAST 1/4; THENCE NORTH 00 DEGREES 47 MINUTES 57 SECONDS EAST PARALLEL TO THE WEST LINE OF THE SAID NORTHEAST 1/4 OF THE NORTHEAST 1/4 83.00 FEET TO A 5/8 INCH IRON PIN ON THE NORTH BANK OF THE SPRAGUE RIVER; THENCE CONTINUING NORTH 00 DEGREES 47 MINUTES 57 SECONDS EAST PARALLEL TO THE SAID WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 380.86 FEET, MORE OR LESS, TO THE SOUTHERLY RIGHT OF WAY LINE OF THE CHILOQUIN-SPRAGUE RIVER HIGHWAY; THENCE SOUTH 72 DEGREES 59 MINUTES 59 SECONDS WEST ALONG THE SOUTHERLY RIGHT OF WAY LINE OF SAID CHILOQUIN-SPRAGUE RIVER HIGHWAY 231.06 FEET TO THE SAID TRUE POINT OF BEGINNING. BEARING BASED ON AND REFER TO RECORD SURVEY 4939.

SITUATED IN THE COUNTY OF KLAMATH AND STATE OF OREGON.