

UTC-80351

2010-002259

Klamath County, Oregon



00079979201000022590020026

02/12/2010 11:19:56 AM

Fee: \$42.00

**Non-Merger Deed in Lieu of Foreclosure**

**Grantor:**

Richard M. Hines  
6012 Coopers Hawk Road  
Klamath Falls, OR 97601

**Grantee:**

South Valley Bank & Trust  
803 Main Street, Ste 403  
Klamath Falls, OR 97601

**After recording, return to:**

James R. Uerlings  
Boivin, Uerlings & DiIaconi, P.C.  
803 Main Street, Ste 201  
Klamath Falls, OR 97601

**Send property tax statements to:**

South Valley Bank & Trust  
Attn: John Lake  
803 Main Street, Ste 403  
Klamath Falls, OR 97601

**Recitals**

A. This Non-Merger Deed in Lieu of Foreclosure is made, executed and entered into as of the 6<sup>th</sup> day of February, 2010 between Richard M. Hines ("Grantor"), and South Valley Bank & Trust, an Oregon banking corporation ("Grantee"). Capitalized words and terms used herein without other definition shall have the meanings given in the Settlement Agreement between Grantor and Grantee of even date herewith.

B. Grantor owns fee simple title to the real property ("Real Property") legally described as follows:

Lot 178, Running Y Resort, Phase 3, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

C. To evidence and secure a loan ("Loan") made by Grantee to Richard M. Hines ("Hines"), executed and delivered a Trust Deed dated October 7, 2005, and recorded on October 11, 2005, at Volume M05, page 66191 in the records of Klamath County, Oregon ("Trust Deed"), which secures a Note signed by Hines dated October 7, 2005, in the principal amount of \$109,600.00 ("Note").

D. Grantor agrees that the Trust Deed and the other documents evidencing and securing the Loan (collectively, the "Loan Documents") are in default and are currently in foreclosure in Klamath County, as evidenced by the Notice of Default and Election to Sell dated October 26, 2009 and recorded on October 26, 2009 in the real property records of Klamath County, Oregon, at Volume 2009, page 013828. Grantor further agrees that all notice provisions have been complied with and all grace periods have either expired or have been waived by Grantor. Grantor acknowledges that Grantee has declared the Note and all indebtedness under and secured by the Loan Documents due and payable and that the present fair market value of the Real Property is less than the amount owing under the Note.

E. Pursuant to the Settlement Agreement between Grantee and Grantor dated February 6<sup>th</sup>, 2010 (the "Settlement Agreement"), the parties desire to avoid Grantor's further involvement in the foreclosure process and reduce the cost and expense of such foreclosure by providing for a conveyance of the Real Property to Grantee.

**Agreement**

NOW, THEREFORE, in consideration of the foregoing Recitals and the recitals and mutual covenants described herein and in the Settlement Agreement, the parties agree as follows:

1. Grantor hereby conveys to Grantee, its successors and assigns, the Real Property, together with all appurtenances thereunto belonging or in any way appertaining, whether now or hereafter acquired.

42amt

2. Grantors acknowledges and agrees that the conveyance of the Real Property to Grantee according to the terms of the Settlement Agreement and this Non-Merger Deed In Lieu of Foreclosure is an absolute and unconditional conveyance of all of its rights, title, and interest in and to the Real Property, in fact, as well as form, and was not and is not now intended as a mortgage, trust, conveyance, deed of trust, or other security instrument of any kind, the consideration for such conveyance being exactly as recited in the Settlement Agreement and herein; that Grantor has no further interests (including rights of redemption, equitable or statutory) or claims in and to the Real Property or to the proceeds and profits that may be derived therefrom of any kind whatsoever; that possession of the Real Property hereby is surrendered and delivered to Grantee; that in executing this deed, Grantor is acting with the advice of counsel, and is not acting under any misapprehension as to the effect thereof or any duress, undue influence, or misrepresentation by Grantee or its representatives, agents, or attorneys; that this deed is not given as a preference over other creditors of Grantor and that there is no person, partnership, or corporation other than Grantee interested in the Real Property directly or indirectly in any manner whatsoever except as aforesaid.

3. It is the express intent of the Grantee and Grantor that the interests of the Grantor in and to the Real Property conveyed herein shall not merge with the security and other interests of Grantee so as to forfeit or in any way prejudice the rights of Grantee with respect to the Real Property, but shall be and remain at all times separate and distinct interests, notwithstanding any union of said interests in the Grantee at any time by operation of this Deed in Lieu of Foreclosure or Settlement Agreement; and, that the lien or liens of the Grantee in and to the Real Property conveyed hereby created by the Trustee Deed and the other Loan Documents shall be and remain at all times valid and continuous liens upon the Real Property.

4. Grantor does hereby convey to Grantee all of its rights of redemption and rights to cure the default concerning the Real Property and Trust Deed, in equity, by statute or otherwise.

5. The true consideration for this conveyance is the recitals and the mutual covenants set forth in the Settlement Agreement.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

Grantor:

Richard M. Hines

STATE OF OREGON)

) ss

County of Klamath )

On this 4<sup>th</sup> day of February, 2010, this instrument was acknowledged before me by Richard M. Hines, Grantor.



Notary Public for Oregon

My Commission expires: 2/22/13