

1st county

**NOTICE OF DEFAULT  
AND ELECTION TO SELL**

**2012-003286**  
Klamath County, Oregon



00115968201200032860050051

SPACE RESERVE  
FOR  
RECORDER'S USE

03/29/2012 11:58:04 AM

Fee: \$57.00

RE: Trust Deed from  
DWH Development, LLC  
1404 Brownsboro Hwy  
Eagle Point, OR 97524  
Grantor

To:  
Curry County Title Inc.  
PO Box 1363  
Brookings, OR 97415  
Trustee

After recording, return to (Name, Address, Zip):  
PATRICK J. KELLY, Attorney at Law  
717 NW Fifth Street  
Grants Pass, OR 97526

Best American Title Ins. Co. has recorded this instrument by request as an accommodation only, and has not examined it for regularity and sufficiency as to its effect upon the title to any real property that may be described therein.

Reference is made to that certain Trust Deed made by **DWH Development, LLC**, or assigns, as Grantor, **Curry County Title Inc.**, as Trustee, in favor of **Robert B. And Doris Allsup, husband and wife**, as Beneficiary, dated **August 9, 2007**, recorded on **August 17, 2007**, in the Official Records of **Klamath County, Oregon**, in as Document No. **#2007-014562**, covering the following described real property situated in the above-mentioned county and state, to-wit:

**Lot 35, Block 1, LAKEWOODS SUBDIVISION UNIT NO. 3, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.**

Said real property is commonly known as: **7900 Dead Indian Memorial Road, and 41734 Timber Circle, Klamath Falls, Oregon, 97601.**

PATRICK J. KELLY, Attorney at Law, OSB #792882, is now the Successor Trustee. His office is located at 717 NW Fifth St., Grants Pass, OR 97526, and his telephone number is (541) 474-1908.

The beneficiary's interest in said trust deed was assigned to: NONE

The undersigned hereby certifies that no assignments of the trust deed by the trustee or by the beneficiary and no appointments of a successor trustee have been made, except as recorded in the Records of the County or counties in which the above-described real property is situated. Further, no action has been instituted to recover the debt, or any part thereof, now remaining secured by the trust deed, or, if such action has been instituted, such action has been dismissed except as permitted by ORS 86.735(4).

(SEE NEXT PAGE)

There is a default by grantor or other person owing an obligation, performance of which is secured by the trust deed, or by the 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:

**The unpaid principal balance in the amount of \$400,000.00 with interest thereon at 7% per annum August 9, 2007 until paid, plus late charges of \$80,000.00.**

By reason of the default, the beneficiary has declared all sums owing on the obligation that the trust deed secures immediately due and payable, those sums being the following, to-wit:

**The unpaid principal balance in the amount of \$400,000.00 with interest thereon at 7% per annum from August 9, 2007 until paid, plus late charges of \$80,000.00.**

Notice hereby is given that the beneficiary and/or trustee, by reason of the default, have elected and do hereby elect to foreclose the trust deed by advertisement and sale pursuant to ORS 86.705 to 86.795. Pursuant to said statutes, the interest in the described property that grantor had, or had the power to convey, at the time that grantor executed the trust deed, together with any interest grantor or grantor's successor in interest acquired after the execution of the trust deed will be sold by the beneficiary and trustee, at public auction to the highest bidder for cash, to satisfy the obligations secured by the 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.

The sale will be held at the hour of 1:30 o'clock, PM., in accord with the standard of time established by ORS 187.110 on **August 21, 2012**, at the following place: **Front entrance of the Klamath County Courthouse, 316 East Main Street**, in the City of **Klamath Falls**, County of **Klamath**, State of Oregon, which is the hour, date and place last set for the sale.

Other than as shown of record, neither the beneficiary nor the trustee has any actual notice of any person having or claiming to have any lien upon or interest in the real property hereinabove described subsequent to the interest of the trustee in the trust deed, or of any successor in interest to grantor or of any lessee or other person in possession of or occupying the property, except:

Name and Last Known Address	Nature of Right, Lien or Interest
NONE	NONE

Notice is further given to any person named in ORS 86.753 that the right exists under ORS 86.753 to have the proceeding dismissed and the trust deed reinstated by paying the entire amount then due, together with costs, trustee's fees and attorney fees, and by curing any other default complained of in the notice of default, at any time that is not later than five days before the date last set for the sale.

(SEE NEXT PAGE)

## **NOTICE TO RESIDENTIAL TENANTS:**

The property in which you are living is in foreclosure. A foreclosure sale is scheduled for **AUGUST 21, 2012**. The date of this sale may be postponed. Unless the lender that is foreclosing on this property is paid before the sale date, the foreclosure will go through and someone new will own this property. After the sale, the new owner is required to provide you with contact information and notice that the sale took place. The following information applies to you only if you are a bona fide tenant occupying and renting this property as a residential dwelling under a legitimate rental agreement. The information does not apply to you if you own this property or if you are not a bona fide residential tenant. If the foreclosure sale goes through, the new owner will have the right to require you to move out. Before the new owner can require you to move, the new owner must provide you with written notice that specifies the date by which you must move out. If you do not leave before the move-out date, the new owner can have the sheriff remove you from the property after a court hearing. You will receive notice of the court hearing.

### **PROTECTION FROM EVICTION**

**IF YOU ARE A BONA FIDE TENANT OCCUPYING AND RENTING THIS PROPERTY AS A RESIDENTIAL DWELLING, YOU HAVE THE RIGHT TO CONTINUE LIVING IN THIS PROPERTY AFTER THE FORECLOSURE SALE FOR 60 DAYS FROM THE DATE YOU ARE GIVEN A WRITTEN TERMINATION NOTICE, IF YOU HAVE A FIXED TERM LEASE; OR AT LEAST 30 DAYS FROM THE DATE YOU ARE GIVEN A WRITTEN TERMINATION NOTICE, IF YOU HAVE A MONTH-TO-MONTH OR WEEK-TO-WEEK RENTAL AGREEMENT.**

If the new owner wants to move in and use this property as a primary residence, the new owner can give you written notice and require you to move out after 30 days, even though you have a fixed term lease with more than 30 days left. You must be provided with at least 30 days written notice after the foreclosure sale before you can be required to move. A bona fide tenant is a residential tenant who is not the borrower (property owner) or a child, spouse or parent of the borrower, and whose rental agreement:

- Is the result of an arm's-length transaction;
- Requires the payment of rent that is not substantially less than fair market rent for the property, unless the rent is reduced or subsidized due to a federal, state or local subsidy; and
- Was entered into prior to the date of the foreclosure sale.

### **ABOUT YOUR TENANCY BETWEEN NOW AND THE FORECLOSURE SALE;**

#### **RENT:**

**YOU SHOULD CONTINUE TO PAY RENT TO YOUR LANDLORD UNTIL THE PROPERTY IS SOLD OR UNTIL A COURT TELLS YOU OTHERWISE. IF YOU DO NOT PAY RENT, YOU CAN BE EVICTED. BE SURE TO KEEP PROOF OF ANY PAYMENTS YOU MAKE.**

## **SECURITY DEPOSIT:**

**You may apply your security deposit and any rent you paid in advance against the current rent you owe your landlord as provided in ORS 90.367. To do this, you must notify your landlord in writing that you want to subtract the amount of your security deposit or prepaid rent from your rent payment. You may do this only for the rent you owe your current landlord. If you do this, you must do so before the foreclosure sale. The business or individual who buys this property at the foreclosure sale is not responsible to you for any deposit or prepaid rent you paid to your landlord.**

## **ABOUT YOUR TENANCY AFTER THE FORECLOSURE SALE:**

**The new owner that buys this property at the foreclosure sale may be willing to allow you to stay as a tenant instead of requiring you to move out after 30 or 60 days. After the sale, you should receive a written notice informing you that the sale took place and giving you the new owner's name and contact information. You should contact the new owner if you would like to stay. If the new owner accepts rent from you, signs a new residential rental agreement with you or does not notify you in writing within 30 days after the date of the foreclosure sale that you must move out, the new owner becomes your new landlord and must maintain the property, OTHERWISE:**

**You do not owe rent;**

**The new owner is not your landlord and is not responsible for maintaining the property on your behalf; and**


**You must move out by the date the new owner specifies in a notice to you.**

**The new owner may offer to pay your moving expenses and any other costs or amounts you and the new owner agree on in exchange for your agreement to leave the premises in less than 30 or 60 days. You should speak with a lawyer to fully understand your rights before making any decisions regarding your tenancy.**

**IT IS UNLAWFUL FOR ANY PERSON TO TRY TO FORCE YOU TO LEAVE YOUR DWELLING UNIT WITHOUT FIRST GIVING YOU WRITTEN NOTICE AND GOING TO COURT TO EVICT YOU. FOR MORE INFORMATION ABOUT YOUR RIGHTS, YOU SHOULD CONSULT A LAWYER. If you believe you need legal assistance, contact the Oregon State Bar and ask for the lawyer referral service. Contact information for the Oregon State Bar is included with this notice. If you do not have enough money to pay a lawyer and are otherwise eligible, you may be able to receive legal assistance for free. Information about whom to contact for free legal assistance is included with this notice.**

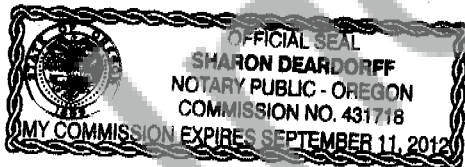
In construing this notice, the singular includes the plural, the word "grantor" includes any successor in interest to the grantor as well as any other person owing an obligation, the performance of which is secured by the trust deed, and the words "trustee" and "beneficiary" include their respective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

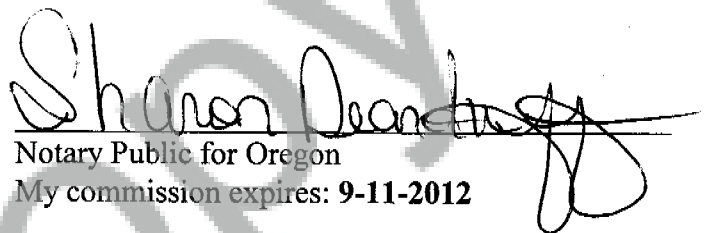
DATED: March 21, 2012

  
\_\_\_\_\_  
PATRICK J. KELLY, OSB #792882  
Attorney at Law  
717 NW Fifth Street  
Grants Pass, OR 97526  
(541) 474-1908

STATE OF OREGON, (County of Josephine ) ss.

This instrument was acknowledged before me on March 21, 2012, by PATRICK J. KELLY, Attorney at Law, Successor Trustee.



  
\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: 9-11-2012

### FAIR DEBT COLLECTION PRACTICES ACT NOTICE

**Trustee is a debt collector. This communication is an attempt to collect a debt and any information obtained will be used for that purpose.**