

AFTER RECORDING, RETURN TO:

William M. Ganong  
Attorney at Law  
514 Walnut Avenue  
Klamath Falls OR 97601

00150617201400029000040042

04/04/2014 08:37:00 AM

Fee: \$57.00



TRUSTEE'S NOTICE OF DEFAULT AND ELECTION TO SELL

**Beneficiary Exemption Affidavit recorded as Document 2014-002686 on 3/25/14**

The Beneficiary has elected to foreclose the Trust Deed described below pursuant to the provisions of Oregon Revised Statutes 86.705 to 86.795.

1. The Trust Deed is described as follows:

- A. Name of Grantor: David M. Cook
- B. Name of Trustee: First American Title
- C. Name of Successor Trustee: William M. Ganong  
Attorney at Law
- D. Mailing Address of Successor Trustee: 514 Walnut Avenue  
Klamath Falls OR 97601
- E. Name of Beneficiary: Irene Barry, Trustee of the Barry Family Trust

2. The legal description of the property covered by the subject Trust Deed is described as:

Lot 13, Block 107, BUENA VISTA ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Klamath County Assessor's Parcel No. R-3809-032BB-06200 and  
Property ID No. R832861

3. The volume, page number, and date of the mortgage records that record the Trust Deed are: Document No. 2012-007963, records of Klamath County, Oregon on July 20, 2012.

4. The defaults for which the foreclosure is made are Grantor's failure to pay the principal balance of the Note in the amount of \$90,000, which was due and payable in full on July 20, 2013, plus interest thereon at the rate of 12.0% per annum from January 19, 2013 until paid; Grantor's failure to pay six late payment charges of \$50 each; and Grantor's failure to pay the real property taxes assessed against the real property described above for the tax years 2012-2013 before they became delinquent.

5. As of the date of this Notice, the sums owing on the obligation secured by the Trust Deed are:

The principal balance of the Promissory Note of \$90,000, plus interest thereon at the rate of 12 percent per annum from January 19, 2013 until paid; six late payment charges of \$50 each, totaling \$300;

\$420 for the foreclosure guarantee; and attorney's fees and trustee's fees, together with any other sums due or that may become due under the Note or by reason of this foreclosure, and any advances made by the Beneficiary as allowed by the Note and Trust Deed.

6. The real property described above will be sold to satisfy the obligations.
7. The Successor Trustee will conduct the sale at 10 a.m. on the 28th day of August 2014 at the front entrance to the office of William M. Ganong, Attorney at Law, at 514 Walnut Avenue, Klamath Falls, Oregon.
8. 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.

#### **NOTICE TO RESIDENTIAL TENANTS**

**The property in which you are living is in foreclosure. A foreclosure sale is scheduled for August 28, 2014. 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:**

**• THE REMAINDER OF YOUR FIXED TERM LEASE, IF YOU HAVE A FIXED TERM LEASE; OR**

**• AT LEAST 90 DAYS FROM THE DATE YOU ARE GIVEN A WRITTEN TERMINATION NOTICE.**

**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 90 days, even though you have a fixed term lease with more than 90 days left.**

**You must be provided with at least 90 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 90 days or at the end of your fixed term lease. 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 90 days or before your fixed term lease expires. 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.

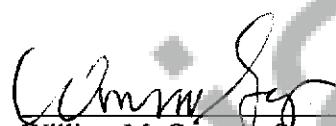
Contact information for the Oregon State Bar is included with this notice. If you do not have enough money to pay a lawyer and are otherwise eligible, you may be able to receive

legal assistance for free. Information about whom to contact for free legal assistance is included with this notice.

Contact information for the Oregon State Bar: you may call the Oregon State Bar's Lawyer Referral Service at 503-684-3763 or toll-free in Oregon at 800-452-7636 or you may visit its Web site at: [www.osbar.org](http://www.osbar.org).

Contact information for an organization that provides legal help to individuals at no charge to the individual: Legal Aid Service of Oregon (LASO) 403 Pine Street, Suite 250, Klamath Falls, Oregon 97601, telephone: 541.273-0533 or 1.800.480.9160, website: [www.oregonlawhelp.org](http://www.oregonlawhelp.org).

Dated this 2 day of April 2014.

  
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William M. Ganong, Successor Trustee  
Attorney at Law  
514 Walnut Avenue  
Klamath Falls OR 97601  
541-882-7228 or  
toll free: 877-641-1963

STATE OF OREGON, County of Klamath) ss.

This instrument was acknowledged before me on April 2, 2014 by William M. Ganong, in his capacity as Successor Trustee.

  
\_\_\_\_\_  
Wendy Young  
Notary Public for Oregon  
My Commission Expires: 8.31.2015

