

AFTER RECORDING RETURN TO:  
FRANK C. ROTE, III, Attorney  
612 NW FIFTH STREET  
GRANTS PASS, OR 97526

**2016-010020**

Klamath County, Oregon

09/21/2016 11:59:00 AM

Fee: \$72.00

**Re: Trust Deed from:**

Thomas and Jeanette K. Matthias  
Grantors,

to  
Frank C. Rote, III, Attorney  
Trustee,

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## **NOTICE OF DEFAULT AND ELECTION TO SELL**

REFERENCE is made to that certain Trust Deed made by **Thomas Matthias and Jeanette K. Matthias, with full rights of survivorship**, as Grantors, to **First American Title**, as Trustee, and **Owen W. MacPhee and Neva K. MacPhee Trustees of the Owen W. MacPhee Family Trust** dated **March 20, 2008**, as Beneficiary, dated September 29, 2011, notarized on October 13, 2011, and recorded on October 18, 2011, in the Official Records of Klamath County, Oregon, as Instrument No. 2011-011675, covering the following described real property situated in Klamath County, Oregon, to-wit:

**TRACT 92 OF YALTA GARDENS, IN THE COUNTY OF KLAMATH, STATE OF OREGON, AND A PORTION OF TRACT 93 OF YALTA GARDENS, IN THE COUNTY OF KLAMATH, STATE OF OREGON, DESCRIBED AS FOLLOWS:**

**BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 93; THENCE NORTH ALONG THE EAST BOUNDARY LINE OF SAID TRACT 93 A DISTANCE OF 15 FEET TO A POINT; THENCE WEST AND PARALLEL TO THE SOUTH LINE OF SAID TRACT A DISTANCE OF 91 FEET TO A POINT; THENCE SOUTH, AND PARALLEL TO THE EAST LINE OF SAID TRACT A DISTANCE OF 15 FEET TO THE SOUTH LINE OF SAID TRACT; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 91 FEET TO THE POINT OF BEGINNING.**

Said real property is commonly known as: 1724 Homedale Road, Klamath Falls, Oregon 97603

**Frank C. Rote, III**, Attorney, OSB #893898, is now the Successor Trustee. His office is located at 612 NW Fifth Street, Grants Pass, OR 97526, and his telephone number is (541) 479-2678.

The undersigned hereby certifies that no assignments of the trust deed by the trustee or by the beneficiary and no appointment 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, that 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 86.752.

There are defaults by the grantor or other person owing an obligation, the 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 defaults for which foreclosure is made are grantor's failure to pay when due the following sums:

(a) Failure to make the payment of \$444.89 due March 14, 2015, and the payment due on the 15<sup>th</sup> of each and every month thereafter.

(b) Failure to pay the late fee of \$22.14 for the March, 2015, payment through the payment due August, 2016, and for each and every month thereafter for which an installment is due.

(c) Title expense, costs, trustee's fees and attorney fees incurred herein by reason of said default.

(d) Failure to pay real property taxes in the amount of \$2,054.61, paid by the beneficiary.

(e) Failure to pay real property taxes for 2013-2014 through 2015-2016 in the amount of \$4,458.79 plus unpaid interest.

By reason of the defaults, 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:

(a) The principal sum of \$13,370.18, with accrued interest thereon at the rate of 12% per annum beginning July 2, 2016, until paid.

(b) Title expense, costs, trustee's fees and attorney's fees incurred herein by reason of said default; and any further sums advanced by beneficiary for protection of the above described real property and beneficiary's interest therein.

(c) Any other defaults which may exist prior to the foreclosure sale not hereinabove mentioned for the protection of the above-described real property and beneficiary's interest therein.

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 86.815. Pursuant to said statutes, the interest in the described property that grantor has, or had the power to convey, at the time that grantor executed the trust deed, together with any interest the 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 **10:00 o'clock, A.M.**, in accord with the standard of time established by ORS 187.110 on **February 14, 2017**, at the following place: the front steps of the **Klamath County Circuit Court, located at 316 Main Street, Klamath Falls, Oregon, 97601.**

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 the 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

Occupants  
1724 Homedale Road  
Klamath Falls, OR 97603

Possessory Interest

Thomas Matthias PO Box 452 Keno, OR 97627	Grantor
Thomas Matthias 1724 Homedale Road Klamath Falls, OR 97603	Grantor
Thomas Matthias 15055 Pucket Road Keno, OR 97627	Grantor
Jeanette Matthias PO Box 452 Keno, OR 97627	Grantor
Jeanette Matthias 1724 Homedale Road Klamath Falls, OR 97603	Grantor
Jeanette Matthias 15055 Pucket Road Keno, OR 97627	Grantor
State Administration Unit Oregon Department of Human Resources Attn: Dianne L. Holmes PO Box 14021 Salem, OR 97309	Request for Notice
Carter-Jones Collection Service 1143 Pine Street Klamath Falls, OR 97601	Judgment Liens
Labor Ready Northwest, Inc. 4401 N I-10 Service Road W Metairie, LA 70006	Judgment Lien
Rhonda Marie Matthias 3950 Homedale Road #56 Klamath Falls, OR 97603	Judgment Lien
Quick Collect, Inc. PO Box 55457 Portland, OR 97238	Judgment Lien
General Credit Service, Inc. 2724 West Main Street Medford, OR 97501	Judgment Lien

Notice is further given to any person named in ORS 86.778 that the right exists under ORS 86.778 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.

**Without limiting the trustee's disclaimer of representations or warranties, Oregon law requires the trustee to state in this notice that some residential property sold at a trustee's sale may have been used in manufacturing methamphetamines, the chemical components of which are known to be toxic. Prospective purchasers of residential property should be aware of this potential danger before deciding to place a bid for this property at the trustee's sale.**

### **NOTICE TO RESIDENTIAL TENANTS**

The property in which you are living is in foreclosure. A foreclosure sale is scheduled for **February 14, 2017**. 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 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 who 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 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 30 or 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 at 1-503-620-0222 or toll-free in Oregon at 1-800-452-8260 or you may visit its website at [www.osbar.org](http://www.osbar.org) and ask for the lawyer referral service. 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, go to <http://www.oregonlawhelp.org>.

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: September 21, 2016



Frank C. Rote, III, OSB #893898  
612 NW Fifth Street, Grants Pass, OR 97526  
(541) 479-2678

STATE OF OREGON     )  
                                  ) ss.  
County of Josephine    )

This instrument was acknowledged before me on September 21, 2016, by Frank C. Rote, III, Successor Trustee.

  
Notary Public for Oregon

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**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.

**AFTER RECORDING RETURN TO:**

FRANK C. ROTE, III, Attorney  
612 NW FIFTH STREET  
GRANTS PASS, OR 97526

**OREGON FORECLOSURE AVOIDANCE PROGRAM  
BENEFICIARY EXEMPTION AFFIDAVIT**

Lender/Beneficiary:	Owen W. MacPhee and Neva K. MacPhee Trustees of the Owen W. MacPhee Family Trust dated March 20, 2008
Jurisdiction*	Klamath Falls

\*If Lender/Beneficiary is not a natural person, provide the state or other jurisdiction in which the Lender/Beneficiary is organized.

I, Frank C. Rote, III, being first duly sworn, depose, and state that:

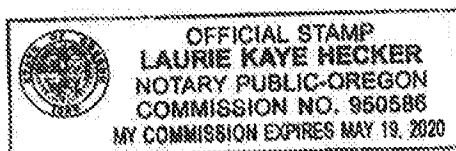
This affidavit is submitted for a claim of exemption to the Office of the Attorney General of Oregon under Oregon Laws 2013, chapter 304, §2(1)(b).

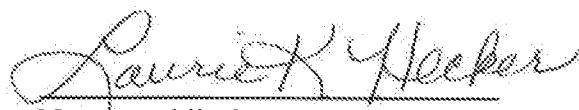
1. The above named individual or entity commenced or caused an affiliate or agent of the individual or entity to commence the following number of actions to foreclose a residential trust deed by advertisement and sale under ORS 86.752 or by suit under ORS 88.010 during the calendar year preceding the date of this affidavit: none [not to exceed 175];
2. The undersigned further certified that he is the attorney for: [check one of the following boxes]  
☐ the individual claiming exemption from requirements established under Or Laws 2013, ch 304, or  
☒ is the attorney [insert title] of the entity claiming exemption from requirements established under OR Laws 2013, ch 304, and is authorized by such entity to execute this affidavit on its behalf.

  
Frank C. Rote, III

State of Oregon       )  
                                  ) ss.  
County of Josephine   )

Signed and sworn to before me this 21<sup>ST</sup> day of September, 2016, by Frank C. Rote, III.



  
Notary Public for Oregon  
My commission expires: 5-19-2020