

2017-011768

Klamath County, Oregon



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10/16/2017 02:48:16 PM

Fee: \$57.00

Russell E. Withem
1342 W. Wyomissing Blvd, Apt. 1
West Lawn, PA 19609
Grantor

Clark M. Bird And Lisa L. Bird, Trustees
5311 Vivian Court
Atwater, CA 95301
Grantee

After Recording return to:
Grantee
Send Tax Statements to:
Grantee

ESTOPPEL DEED

RUSSELL E. WITHEM, (Grantor), convey to CLARK M. BIRD and LISA L. BIRD, Trustees under the Bird Family Trust Agreement dated May 4, 2006, (Grantee), the following real property (the "property"), together with all Grantor's right, title, and interest in any land sale contract, trust deed or lease option agreement involving the property. Grantor is the owner of the property free and clear of all encumbrances.

Grantor executed and delivered to CLARK M. BIRD and LISA L. BIRD, Trustees under the Bird Family Trust Agreement dated May 4, 2006, a Trust Deed dated September 14, 2007 and recorded on October 1, 2007 in the mortgage records of Klamath County, State of Oregon, as Instrument No. 2007-017109 of the Microfilm Records of Klamath County, Oregon thereof, to secure payment of a Promissory Note in the sum of \$84,000.00. The Note and Trust Deed are in default and said Trust Deed is subject to immediate foreclosure. In consideration of Grantee's acceptance of this deed in lieu of foreclosure (this deed) and waiver of the right to collect against Grantor on the Note, Grantee may retain all payments previously made on the Note, with no duty to account therefor.

This Deed is intended as a conveyance absolute in legal effect, as well as in form, of the title to the property to Grantee and this Deed is not intended as security of any kind. Grantor waives, surrenders, and relinquishes any equity of redemption and statutory rights of redemption that Grantor may have in connection with the property and the foreclosure of the Trust Deed. That in executing this deed, Grantor, is not acting under any misapprehension as to the effect thereof or under any duress, undue influence, or misrepresentation by Grantee, or Grantee's representatives, agents or attorneys. Grantee does not expressly or impliedly agree to assume or pay any contract balances, debts, liens, charges, or obligations that relate to or attach to the property.

Grantor does hereby grant, bargain, sell and convey unto Grantee, her heirs, successors and assigns, all the following described real property situate in Klamath County, State of Oregon, to wit:

All that part of the fractional SW 1/4 of the NW 1/4 of Section 19, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, described as follows:

Beginning at a point 30 feet North of and 30 feet East of the Southwest corner of the SW 1/4 of the NW 1/4 Section 19, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon; thence North along the East line of the right of way of the State Highway, 195 feet; thence East 110 feet to a fence corner on the West side of an irrigation ditch; thence Southeasterly along said fence on the West side the said ditch, 224 feet to a fence corner in the North line of the County Road along the South side of the fractional SW 1/4 of the NW 1/4; thence West along the North line of the road 223 feet to the point of beginning.

TOGETHER WITH any land the grantor may own between the aforesaid tract and the ditches along the East and North sides thereof.

LESS AND EXCEPT any portion of the above described property which lies within the U.S.B.R. Canal.

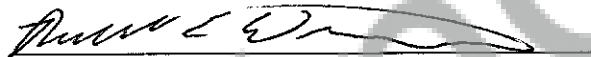
together with all of the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Grantor warrants that during the time period that the Property was owned by Grantor, the Property was never used for the generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous substance, as those terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 USC Section 9601 et seq, the Superfund Amendments and Reauthorization ACT (SARA), other applicable state or federal laws, or regulations adopted pursuant to any of the foregoing. Grantor agrees to indemnify and hold Grantee harmless against any and all claims and loses resulting from a breach of this warranty.

IN WITNESS WHEREOF, the first party above named has executed this instrument; if first party is corporation, it has caused its corporate name to be signed hereto and its corporate seal affixed by its officers duly authorized thereunto by order of its Board of Directors.

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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 4 day of OCT 2017, 2017.

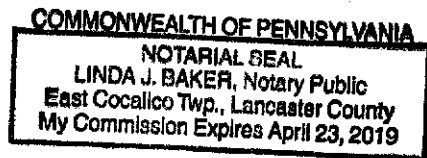

Russell B. Withem

STATE OF PENNSYLVANIA)
County of Lancaster) ss.

Sworn to (or affirmed) and subscribed before me this 4th day of Oct. 2017, 2017 by
Russell B. Withem.

Linda J. Baker
Print Notary Name

Personally known ✓ co-owner
Or Produced Identification _____
Type of Identification Produced _____



AFFIDAVIT AND ESTOPPEL CERTIFICATE

(Deed in Lieu of Foreclosure)

State of PENNSYLVANIA, County of Berks: ss:

I, Russell E. Withern, being first duly sworn, depose and say that:

- (1) I am the grantor (herein "Grantor") that made, executed, and delivered that certain deed-in-lieu of foreclosure (herein "the Deed") to Clark M. Bird and Lisa L. Bird, Trustees under the Bird Family Trust Agreement dated May 4, 2006, (herein "the Grantee") dated October 4, 2017, recorded on October 16, 2017 as Recording Reference 2017-011768, records of the below referenced county in Oregon, conveying the following described property (herein "the Property"), to wit:

All that part of the fractional SW 1/4 of the NW 1/4 of Section 19, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, described as follows:

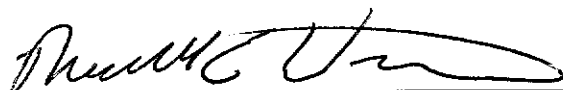
Beginning at a point 30 feet North of and 30 feet East of the Southwest corner of the SW 1/4 of the NW 1/4 Section 19, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon; thence North along the East line of the right of way of the State Highway, 195 feet; thence East 110 feet to a fence corner on the West side of an irrigation ditch; thence Southeasterly along said fence on the West side the said ditch, 224 feet to a fence corner in the North line of the County Road along the South side of the fractional SW 1/4 of the NW 1/4; thence West along the North line of the road 223 feet to the point of beginning.

TOGETHER WITH any land the grantor may own between the aforesaid tract and the ditches along the East and North sides thereof.

LESS AND EXCEPT any portion of the above described property which lies within the U.S.B.R. Canal.

- (2) I make this Affidavit for and on behalf of Grantor pursuant to appropriate resolution that duly authorized the Deed.
- (3) The Deed is intended to be and is an absolute conveyance of the title to the Property to Clark M. Bird and Lisa L. Bird, Trustees under the Bird Family Trust Agreement dated May 4, 2006, and was not and is not now intended as a mortgage, trust deed, or security instrument of any kind. It was the intention of Grantor in said deed to convey to the Grantee all of Grantor's right, title and interest absolutely in and to the Property. Grantor relinquished to the Grantee any equity of redemption and any statutory right of redemption concerning the Property. Possession of the Property has been surrendered to the Grantee. The consideration for the Deed was and is forbearance of foreclosure against Grantor and forbearance of an action on the debt against Grantor or of a deficiency judgment against Grantor, with respect to the debt secured by that certain trust deed (herein "the Trust Deed") dated September 14, 2007, recorded on October 1, 2007 as Recording Reference 2007-017109, records of above referenced county in Oregon. At the time of making the Deed, Grantor was in default of the terms and provisions of the Trust Deed. At the time of making the Deed, Grantor believed, and its duly empowered officers, directors and representatives believed, and now believe, that the aforesaid consideration represents fair value for the Property.
- (4) This Affidavit and Estoppel Certificate is made for the protection and benefit of the Grantee, its successors and assigns, and all other parties hereafter dealing with, or who may acquire an interest in, the Property, and particularly for the benefit of any title insurer that insures the title to the Property directly or indirectly in reliance on the facts and representations contained in this Affidavit and Estoppel Certificate.
- (5) That In the execution and delivery of the Deed, affiant was not acting under any misapprehension as to the effect thereof and Grantor acted freely and voluntarily and was not acting under coercion or duress.

- (6) That the aforesaid deed was not given as a preference against any other creditor; that at the time it was given there was no other person or persons, firms or corporations, other than Clark M. Bird and Lisa L. Bird, Trustees under the Bird Family Trust Agreement dated May 4, 2006, who have an interest, either directly or indirectly, in said premise; that this deponent is solvent and has no other creditors whose rights would be prejudiced by such conveyance, and that deponent is not obligated upon any bond or mortgage or other security whereby any lien has been created or exists against the premises described in said deed.
- (7) That I understand and agree that I have waived or released any and all claims, known or unknown, that I have or might have had against Clark M. Bird and Lisa L. Bird, Trustees under the Bird Family Trust Agreement dated May 4, 2006, and/or their accountants, agents, attorneys, directors, employees, managers, members, officers, servants and/or shareholders.
- (8) The undersigned affiant will testify, declare, depose or certify before any competent tribunal, officer or person, in any case now pending or that may hereafter be instituted, to the truth of the facts and representations contained in this Affidavit and Estoppel Certificate.
- (9) The undersigned affiant has executed this Affidavit and Estoppel Certificate as an individual, and also for and on behalf of the Grantor.



Russell B. Withem

STATE OF PENNSYLVANIA)
County of Lancaster) ss.

Sworn to (or affirmed) and subscribed before me this 4th day of Oct. 2017,
2017 by Russell B. Withem.

Linda J. Baker

Print Notary Name

Personally known ✓ Co-worker
Or Produced Identification _____
Type of Identification Produced _____

