

At an IAS Part *FRP-1* of the Supreme Court of
the State of New York County held in and
for the County of Kings, at the Courthouse
thereof, 360 Adams Street, Brooklyn, New
York, on *9th* the *may* 2018

P R E S E N T:

HON. *Noach Dear*

-----X
WILMINGTON TRUST NATIONAL ASSOCIATION,
AS SUCCESSOR TRUSTEE TO CITIBANK, NA, etc.,

ORDER TO SHOW CAUSE

Plaintiff,

OREF/D
-against-

Index No. 504024/2017

MARIE CHAVANES, BLUE OAK HOLDING GROUP, LLC,
et., al.

Defendants.
-----X

UPON the annexed affidavit of IOSIF YUSHUBAYEV, sworn to on April 24, 2018, the
affirmation of IRWIN POPKIN, ESQ., dated April 23, 2018 and upon all of the pleading and
proceedings heretofore had herein,

LET, the Plaintiff, WILMINGTON TRUST NATIONAL ASSOCIATION,
AS SUCCESSOR TRUSTEE TO CITIBANK, NA ("Wilmington"), or its attorney, show cause
at an Individual Assignment Part of this Court, before the Hon. Noach Dear, at the Courthouse
thereof, 360 Adams Street, Brooklyn, New York, 11201, Part 1, Room 763, on *June 25*, 2018,
at 9:30 A.M, or as soon thereafter as Counsel can be heard why an Order should not be made
and entered herein granting Defendant BLUE OAK HOLDING GROUP, LLC the following
relief:

1) pursuant to CPLR 5015(a)(1), setting aside the Order of Reference made on April 9, 2018 and entered herein on April 20, 2018 and for;

2) an Order pursuant to CPLR § 3012 (d) granting Defendant BLUE OAK HOLDING GROUP, LLC, leave to serve an untimely Answer in the form annexed hereto.

SUFFICIENT CAUSE APPEARING, let service of a copy of this Order and the papers upon which it is granted be served upon, Gross Polowy, LLC, 1775 Wehrle Drive, Suite 100, Williamsville, NY 14221, Attorneys for Plaintiff, by ~~First Class~~ ^{overnight} Mail and by electronic means in accordance with the New York State Courts Electronic Filing System (NYSCEF) be deemed sufficient service. *on or before May 25, 2018.*

Enter,


J.S.C.

HON. NOACH DEAR J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
WILMINGTON TRUST NATIONAL ASSOCIATION,
AS SUCCESSOR TRUSTEE TO CITIBANK, NA, etc.,

**AFFIDAVIT IN SUPPORT
OF ORDER TO SHOW
CAUSE**

Plaintiff,

-against-

Index No. 504024/2017

MARIE CHAVANES, BLUE OAK HOLDING GROUP, LLC,
et., al.

Defendants.

-----X
State of New York)
 :ss.:
County of Queens)

IOSIF YUSHUBAYEV, being duly sworn, deposes and says:

1. I am the Managing Member of BLUE OAK HOLDING GROUP, LLC ("Blue Oak"), a defendant herein. This is an action to foreclose a mortgage securing 4589 Kings Highway, Brooklyn, New York. Blue Oak is named as a party because it became the owner of the subject property prior to the commencement of this action. Paragraph 5 of the Complaint, annexed as Exhibit "A" (ECF Doc No. 1) acknowledges that "On October 20th, 2016 Marie Chavannes transferred the property to Blue Oak HOLDING Group, LLC..."

2. I respectfully submit this affidavit in support of Blue Oak's application for an Order granting Blue Oak the following relief: 1) pursuant to CPLR 5015(a)(1), setting aside the Order of Reference made on April 9, 2018 and entered herein on April 20, 2018 and 2) pursuant to CPLR § 3012 (d) for leave to serve an untimely Answer in the form annexed hereto.

The Reasonable Excuse for Blue Oak's Delays and Defaults

3. Counsel advised that "Upon an application satisfying the requirements of subdivision (d) of section 3012 or subdivision (a) of rule 5015, the court shall not, as a matter of law, be precluded from exercising its discretion in the interests of justice to excuse delay or default resulting from law office failure."¹ Law Office Failure is the reason for Blue Oak's present circumstance. I ask the Court to exercise its discretion and in the interest of justice to excuse Blue Oak's delays and defaults.

4. Upon being served with the Summons and Complaint in this action, Blue Oak retained Margarita Rubin, Esq., to defend the action. She investigated the matter and determined that there were viable defenses. Particularly, the fact that Citibank N.A. had instituted a prior action to foreclose the subject mortgage on September 20, 2010 which was subsequently discontinued. Ms. Rubin assured that the Statute of Limitations was a valid and meritorious defense to this action filed on February 28, 2017.

5. Blue Oak's delays and defaults were not wilful. They were the consequence of Margarita Rubin's unfortunate disease, drug addiction, which prevented her from functioning and discharging her professional responsibilities. The members of Blue Oaks only recently became aware of her illness. Blue Oak is anxious to defend this action and, with the Court's permission, will vigorously do so.

6. I have come to understand that addiction is a chronic, relapsing brain disease that is characterized by compulsive drug use, despite harmful consequences leading often to self-destructive behavior.

¹CPLR 2005.

7. Recently, Ms. Rubin's responses to inquiries about this case were evasive. Finally, she admitted that her inability to focus on her professional responsibilities was attributable to both her husband having recently undergone heart surgery and her drug addiction. She admitted to having succumbed to the illegal use of psychoactive and hallucinogenic drugs. Ms. Rubin's use of such illicit drugs is corroborated by a news article reporting her arrest on drug related charges. A copy of the article is annexed as Exhibit "B."

8. For the reasons stated herein and in the affirmation of Irwin Popkin, Esq., it is respectfully requested that Blue Oak's application for an Order setting aside the decision of this Court made on April 9, 2018 granting Plaintiff Wilmington's application for the appointment of a Referee as well as any Order made and entered pursuant thereto and for leave to serve an untimely Answer in the form annexed hereto be granted in all respects.

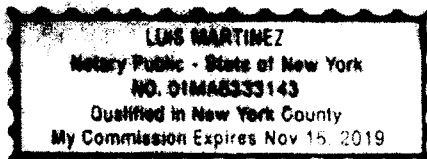

IRWIN POPKIN

Sworn to before me

APRIL 24, 2018



Notary Public



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
WILMINGTON TRUST NATIONAL ASSOCIATION,
AS SUCCESSOR TRUSTEE TO CITIBANK, NA, etc.,

**AFFIRMATION IN
SUPPORT OF ORDER TO
SHOW CAUSE**

Plaintiff,

-against-

Index No. 504024/2017

MARIE CHAVANES, BLUE OAK HOLDING GROUP, LLC,
et., al.

Defendants.
-----X

IRWIN POPKIN, an attorney at law, admitted to practice before the Courts of this State,
affirms the following to be true under the penalties of perjury.

1. I am the attorney for Defendant BLUE OAK HOLDING GROUP, LLC ("Blue Oak") I respectfully submit this affirmation in support of Blue Oak's application for an Order granting Blue Oak the following relief: 1) pursuant to CPLR 5015(a)(1), setting aside the Order of Reference made on April 9, 2018 and entered herein on April 20, 2018 and 2) pursuant to CPLR § 3012 (d) for leave to serve an untimely Answer in the form annexed hereto.

2. I respectfully submit that there exists both a reasonable excuse as a well as meritorious defenses to warrant the requested relief. "Resolution of disputes on the merits rather than by default is favored, and to that end a liberal policy toward opening defaults exists."

Pabone v Jon-Bar Enterprises Corp., 140 AD2d 872, 873, 528 NYS2d 912, 913 [3d Dept 1988].

"It goes without saying that the law favors resolution of disputes on the merits (see CPLR 5015[a]; *Glass v. Janbach Props.*, 73 A.D.2d 106, 110, 425 N.Y.S.2d 343; *Le Cesse v.*

Giancursio, 38 A.D.2d 873, 329 N.Y.S.2d 289)." *Smithtown Gen. Hosp. v Allstate Ins. Co.*, 111

AD2d 382, 489 NYS2d 590, 591 [2d Dept 1985].

3. Annexed hereto are true copies of the following documents:

- a. The Summons and Complaint herein (ECF Doc No. 1);
- b. The Order of Reference made on April 9, 2018 and entered herein on April 20, 2018
- c. The subject Note and Mortgage (ECF Doc. No. 38);
- d. Article from THE HOUR "Police: South Salem women caught huffing nitrous oxide;
- e. Copy of Summons and Complaint in the action entitled *Citibank N.A., as Trustee, etc., v. Marie Chavannes*, Index No. 2250/2015 and county Clerk Minutes relating thereto;
- f. Proposed Answer.

The Reasonable Excuse for Blue Oak's Delays and Defaults

4. Iosif Yushubayev, Blue Oak's Managing Member, established that the delays and defaults chargeable to Blue Oaks are a result of its prior attorney's serious illness, Margarita Rubin's drug addiction.¹ "It is well established that the illness of an attorney may constitute a

¹ "In reality, drug addiction is a complex disease, and quitting usually takes more than good intentions or a strong will. Drugs change the brain in ways that make quitting hard, even for those who want to"

<https://www.drugabuse.gov/publications/drugfacts/understanding-drug-use-addiction>

"Addiction is a disease that affects your brain and behavior. When you're addicted to drugs, you can't resist the urge to use them, no matter how much harm the drugs may cause.

Drug addiction isn't about just heroin, cocaine, or other illegal drugs. You can get addicted to alcohol, nicotine, opioid painkillers, and other legal substances.

reasonable excuse for a default” (Collins v. Elbadawi, 265 A.D.2d 850, 851, 695 N.Y.S.2d 634; see e.g. Imperato v. Mount Sinai Med. Ctr., 82 A.D.3d 414, 415, 917 N.Y.S.2d 857, affd. 18 N.Y.3d 871, 938 N.Y.S.2d 853, 962 N.E.2d 278; Goldstein v. Meadows Redevelopment Co Owners Corp. I, 46 A.D.3d 509, 511, 846 N.Y.S.2d 384; Weitzenberg v. Nassau County Dept. of Recreation & Parks, 29 A.D.3d 683, 684–685, 815 N.Y.S.2d 151). *Loucks v Klimek*, 108 AD3d 1037, 1038, 969 NYS2d 322, 323 [4th Dept 2013].

5. An attorney's illness has been held to be deemed “a reasonable excuse” for the vacatur of a party's default in appearing in court or in responding and participating in litigation. See, *Mr. Ho Charter Service, Inc. v. Ho*, 94 A.D.3d 631, 632, 942 N.Y.S.2d 531, [attorney assigned to case “was sick” and unable to attend the scheduled conference]; *Berardo v. Guillet*, 86 A.D.3d 459, 926 N.Y.S.2d 521, [attorney was so ill that he was unable to defend the motion]; *Weitzenberg v. Nassau County Department of Recreation and Parks*, 29 A.D.3d 683, 685, 815 N.Y.S.2d 151, [attorney's mental illness caused various defaults]; *Zeltser v. Sacerdote*, 24 A.D.3d 541, 542, 808 N.Y.S.2d 286, [trial counsel's wife emergency dental treatment].

Williams v Moberg & Assoc., P.L.L.C., 40 Misc 3d 1230(A), 975 NYS2d 713 [Sup. Ct., Queens Co. 2012].

6. Significantly, in *Weitzenberg v Nassau County Dept. of Recreation and Parks*, 29 AD3d 683, 815 NYS2d 151[2d Dept 2006], the Second Department affirmed the lower courts Order vacating default in an analogous situation where the former attorney was suffering from a

At first, you may choose to take a drug because you like the way it makes you feel. You may think you can control how much and how often you use it. But over time, drugs change how your brain works. These physical changes can last a long time. They make you lose self-control and can lead you to damaging behaviors.”

<https://www.webmd.com/mental-health/addiction/drug-abuse-addiction#1>

mental illness that adversely affected his ability to function. The attorneys illness in *Weitzenberg* consequently resulted in the various defaults in that action. Ms. Rubin's illness, in this instance is corroborated by the published report of her arrest.

Blue Oak's Meritorious Defenses To This Action

A. The Statute of Limitations

7. Blue Oak's is able to assert a the Statute of Limitations as a meritorious defense to this action. The Statute of Limitations in this instance was accelerated on September 13, 2010 . This action was instituted more than six years later on February 28, 2017. CPLR 213 (4) provides for a six year statute of limitations for commencing "an action upon a bond or note, the payment of which is secured by a mortgage upon real property, or upon a bond or note and mortgage so secured, or upon a mortgage of real property, or any interest therein."

8. The Plaintiff in this action is identified as Wilmington Trust National Association, as Successor Trustee to Citibank, NA, as Trustee. Annexed hereto as Exhibit "D" is a copy of the Summons and Complaint filed on September 13, 2010 behalf of Index No. 2250/2015, as Plaintiff, bearing Index No. 2250/2015 to foreclose on the very same mortgage which is the subject of this action. The County Clerk's Minutes reflect the filing on July 19, 2016 of an Order of Discontinuance in that action. Paragraph FIFTH of the Complaint there in states "Accordingly, Plaintiff elects to call due the entire amount secured by the mortgage." " However, "even if a mortgage is payable in installments, once a mortgage debt is accelerated, the entire amount is due and the Statute of Limitations begins to run on the entire debt" (EMC Mtge. Corp. v. Patella, 279 A.D.2d 604, 605, 720 N.Y.S.2d 161; see Lavin v. Elmakiss, 302 A.D.2d 638, 639, 754 N.Y.S.2d 741; Zinker v. Makler, 298 A.D.2d 516, 517, 748 N.Y.S.2d 780). *Wells Fargo Bank, N.A. v*

Burke, 94 AD3d 980, 982, 943 NYS2d 540, 542 [2d Dept 2012].

B. Failure to Comply With RPL § 254 (8)

10. Where the Mortgage Requires Issuance of a Notice to Cure as a Condition Precedent to the Institution of a Foreclosure Action Such Notice must Be Given to the then Owner of the Property. RPL § 254 (8) provides:

Notice and demand. A covenant “that notice and demand or request may be made in writing and may be served in person or by mail” **must be construed as meaning that every provision for notice and demand or request shall be deemed fulfilled by written notice and demand or request personally served on one or more of the persons who shall at the time hold the record title to the premises**, or on their heirs or successors, or mailed by depositing it in any post-office station or letter-box, enclosed in a post-paid envelope addressed to such person or persons, or their heirs or successors, at his, their or its address to the mortgagee last known. (Emphasis added).

11. Clearly, the Statute mandated that notice be given to the party most affected. In the instance of a Notice to Cure as a condition precedent to the institution of a foreclosure action, or regarding any other notice concerning a mortgage, the party affected would be the mortgagor if he or she was the current owner, otherwise the party currently in title would be the most concerned.

12. RPL § 254 (8) applies in the instance where “that notice and demand or request may be made in writing and may be served in person or by mail. ” Paragraph 15 of the subject mortgage requires that “[a]ll notices given by me or Lender in connection with this Security Agreement will be in writing. Any notice to me in connection with this Security Instrument is considered given to me when mailed by first class...”

C. Wilmington Trust National Association As Trustee Lacks Standing to Maintain This Action

13. Paragraph 3 of the Complaint alleges Citibank, N.A., as Trustee to be the last assignee of the subject mortgage, yet fails to reference the basis for Wilmington Trust National Association's authority to institute this action.

14. By reason of the foregoing, Wilmington Trust National Association, as Trustee or otherwise, fails to have standing to maintain this action.

15. For the reasons stated herein and in the affidavit of Iosif Yushubayev,, it is respectfully requested that Blue Oak's application for an Order setting aside the decision of this Court made on April 9, 2018 granting Plaintiff Wilmington's application for the appointment of a Referee as well as any Order made and entered pursuant thereto and for leave to serve an untimely Answer in the form annexed hereto be granted in all respects.

Dated: Melville, New York
April 24, 2018

s/Irwin Popkin

IRWIN POPKIN

Exhibit “A”

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
WILMINGTON TRUST, NATIONAL
ASSOCIATION AS SUCCESSOR TRUSTEE
TO CITIBANK, N.A. AS TRUSTEE FOR
BEAR STEARNS ALT-A TRUST II 2007-1

SUMMONS

Plaintiff

vs

INDEX #:

MARIE CHAVANNES, BLUE OAK
HOLDING GROUP, LLC, PEOPLE OF THE
STATE OF NEW YORK, NEW YORK CITY
DEPARTMENT OF FINANCE, FF CREDIT
CORP, FIRST AMERICAN TITLE
INSURANCE COMPANY, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD,

ORIGINAL FILED WITH THE
CLERK ON:

MORTGAGED PREMISES:
4589 KINGS HIGHWAY,
BROOKLYN, NY 11234

JOHN DOE (Those unknown tenants, occupants,
persons or corporations or their heirs,
distributees, executors, administrators, trustees,
guardians, assignees, creditors or successors
claiming an interest in the mortgaged premises.)

BL #: 7749 - 12

Defendant(s)

-----X
TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in the above captioned action and to serve a copy of your Answer on the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after completion of service where service is made in any other manner than by personal delivery within the State. The United States of America, if designated as a Defendant in this action, may answer or appear within sixty (60) days of service hereof. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME

If you do not respond to this summons and complaint by serving a copy of the answer on the attorney for the mortgage company who filed this foreclosure proceeding against you and filing the answer with the court, a default judgment may be entered and you can lose your home.

Speak to an attorney or go to the court where your case is pending for further information on how to answer the summons and protect your property.

Sending a payment to your mortgage company will not stop this foreclosure action.

YOU MUST RESPOND BY SERVING A COPY OF THE ANSWER ON THE ATTORNEY FOR THE PLAINTIFF (MORTGAGE COMPANY) AND FILING THE ANSWER WITH THE COURT.

Kings County is designated as the place of trial. The basis of venue is the location of the mortgaged premises foreclosed herein.

DATED: *February 27, 2017*



Sarah K. Hyman, Esq.
Gross Polowy, LLC
Attorneys for Plaintiff
1775 Wehrle Drive, Suite 100
Williamsville, NY 14221
Tel.: (716)204-1700

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS-----X
WILMINGTON TRUST, NATIONAL
ASSOCIATION AS SUCCESSOR TRUSTEE
TO CITIBANK, N.A. AS TRUSTEE FOR
BEAR STEARNS ALT-A TRUST II 2007-1COMPLAINT

Plaintiff

vs

INDEX #:

MARIE CHAVANNES, BLUE OAK
HOLDING GROUP, LLC, PEOPLE OF THE
STATE OF NEW YORK, NEW YORK CITY
DEPARTMENT OF FINANCE, FF CREDIT
CORP, FIRST AMERICAN TITLE
INSURANCE COMPANY, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD,ORIGINAL FILED WITH THE
CLERK ON:MORTGAGED PREMISES:
4589 KINGS HIGHWAY,
BROOKLYN, NY 11234JOHN DOE (Those unknown tenants, occupants,
persons or corporations or their heirs,
distributees, executors, administrators, trustees,
guardians, assignees, creditors or successors
claiming an interest in the mortgaged premises.)

BL #: 7749 - 12

Defendant(s)
-----X

The Plaintiff by its attorneys, Gross Polowy, LLC, for its complaint against the Defendant(s) alleges upon information and belief as follows:

AS AND FOR A FIRST CAUSE OF ACTION:

1. Plaintiff, WILMINGTON TRUST, NATIONAL ASSOCIATION AS SUCCESSOR TRUSTEE TO CITIBANK, N.A. AS TRUSTEE FOR BEAR STEARNS ALT-A TRUST II 2007-1 is a national association organized and existing under the laws of the United States of America and the holder of the subject note and mortgage or has been delegated authority to institute this mortgage foreclosure action by the owner and holder of the subject note and mortgage and has the right to foreclose. Attached here as Schedule A is an attorney certified copy of the original note.

2. On or about March 20, 2007, Marie Chavannes executed and delivered a note whereby Marie Chavannes promised to pay the sum of \$453,000.00 plus interest on the unpaid amount due.

3. As security for the payment of the note Marie Chavannes duly executed and delivered a mortgage, in the amount of \$453,000.00 which was recorded as follows.

Recording Date: June 1, 2007

CRFN 2007000285304

City Register of the City of New York, Kings County

The mortgage was subsequently assigned to National City Mortgage Co., a subsidiary of National City Bank.

The mortgage was subsequently assigned to Citibank, N.A. as trustee for BSAAT 2007-1.

4. The mortgaged property is known as 4589 KINGS HIGHWAY, BROOKLYN, NY 11234. The tax map designation is BLOCK 7749, LOT 12. Plaintiff is foreclosing the land, buildings, and other improvements located on the property. The property is more fully described in Schedule B attached to this complaint.

5. At the time the note and mortgage were executed and delivered Marie Chavannes was in title to the property. On October 20th, 2016 Marie Chavannes transferred the property to Blue Oak Holding Group, LLC who is listed on Schedule C as the current owner of the property.

6. Marie Chavannes failed to comply with the conditions of the note and mortgage by not making the payment that was due on March 1, 2011 and subsequent payments.

7. There is now due and owing on the note and mortgage the following amounts:

Principal Balance: \$453,000.00

Interest Rate: 7.5%

Date Interest Accrues from: February 1, 2011

Together with accrued late charges, monies advanced for taxes, assessments, insurance, securing, inspections, posting of notices, maintenance and preservation of the property. The interest rate stated above may change in accordance with the adjustable rate feature of the note.

8. In order to protect the value of the property and its rights in the property, the Plaintiff may have to pay additional taxes, assessments, water charges, insurance premiums and other charges and the costs, allowances, expenses of sale, and reasonable attorney's fees for the foreclosure. Plaintiff requests that any amount it pays, together with interest, be included in the total amount due.

9. The defendant(s) may have an interest encumbering the property, which is either subordinate to Plaintiff's mortgage, or paid in full, equitably subordinated, or adverse to Plaintiff's mortgage. The interest of each defendant is set forth in "Schedule C" of this complaint.

10. The interest or lien of the United States of America, the State, City or local government entity is set forth in "Schedule D" of this complaint.

11. Plaintiff has complied with sections 1304 and 1306 of the Real Property Actions and Proceedings Law, and the mortgage was originated in compliance with all provisions of section 595-a of the Banking Law and any rules or regulations promulgated there under, and, if applicable, sections 6-l or 6-m of the Banking law.

12. No separate pending action was brought to recover any part of the mortgage debt or if any such action is pending final judgment for Plaintiff was not rendered and it is the intent of the Plaintiff to discontinue it.

AS AND FOR A SECOND CAUSE OF ACTION,
PLAINTIFF HEREIN ALLEGES

13. Repeats and realleges the allegations contained in Paragraphs "1" through "12" as though fully set forth herein.

14. That the recorded mortgage, that is the subject of this action, accurately references the address of the property encumbered by the mortgage as: 4589 KINGS HIGHWAY, BROOKLYN, NY 11234

15. That the legal description in Mortgage recorded on June 1, 2007 in CRFN 2007000285304 in the City Register of the City of New York, Kings County contained an error to wit: incorrectly states "THENCE SOUTHERLY ON A LINE FORMING" but should read as "THENCE SOUTHEASTERLY ON A LINE FORMING".

16. Plaintiff hereby requests reformation of the Mortgage recorded on June 1, 2007 in CRFN 2007000285304 in the City Register of the City of New York, Kings County by Order of this Court as contained in a clause in the Order of Reference stating the following:

ORDERED, that the legal description in the Mortgage recorded on June 1, 2007 in CRFN 2007000285304 in the City Register of the City of New York, Kings County is hereby reformed so that the property reads as follows:

ALL THAT CERTAIN PARCEL OF LAND SITUATED IN THE BOROUGH OF
BROOKLYN, COUNTY OF KINGS AND STATE OF NEW YORK, BEING KNOWN
AND DESIGNATED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY SIDE OF KINGS
HIGHWAY DISTANT 81 FEET 11 INCHES NORTHEASTERLY FROM THE
CORNER FORMED BY THE INTERSECTION OF THE NORTHWESTERLY SIDE
OF KINGS HIGHWAY WITH THE NORTHERLY SIDE OF AVENUE I;

RUNNING THENCE NORTHWESTERLY ON A LINE FORMING AN EXTERIOR ANGLE OF 82 DEGREES 36 MINUTES WITH THE NORTHWESTERLY SIDE OF KINGS HIGHWAY, 56 FEET 11 INCHES;

THENCE NORTHEASTERLY AT RIGHT ANGLES TO THE LAST MENTIONED COURSE, 0 FEET 9 INCHES;

THENCE NORTHWESTERLY ON A LINE FORMING AN EXTERIOR ANGLE OF 52 DEGREES 24 MINUTES 10 SECONDS WITH THE EASTERLY SIDE OF EAST 45TH STREET, 69 FEET 9 3/4 INCHES TO THE EASTERLY SIDE OF EAST 45TH STREET;

THENCE NORTHERLY ALONG THE EASTERLY SIDE OF EAST 45TH STREET, 11 FEET 1 7/8 INCHES;

THENCE EASTERLY AT RIGHT ANGLES TO THE EASTERLY SIDE OF EAST 45TH STREET 18 FEET 10 INCHES TO A POINT;

THENCE SOUTHEASTERLY ON A LINE FORMING AN INTERIOR ANGLE OF 82 DEGREES 36 MINUTES WITH THE NORTHWESTERLY SIDE OF KINGS HIGHWAY 121 FEET 4 1/4 INCHES TO THE NORTHWESTERLY SIDE OF KINGS HIGHWAY;

THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY SIDE OF KINGS HIGHWAY 21 FEET 3 1/8 INCHES TO THE POINT OR PLACE OF BEGINNING.

WHEREFORE, PLAINTIFF DEMANDS:

- a. Judgment accelerating the maturity of the debt and determining the amount due Plaintiff for principal, interest, late charges, taxes, assessments, insurance, maintenance and preservation of the property and other similar charges, together with costs, allowances, expenses of sale, reasonable attorney's fees, all with interest, pursuant to the terms of the Note and Mortgage.
- b. That the property be sold at auction to the highest bidder in accordance with the referee's terms of sale.
- c. That the interest of the defendant(s) and all persons claiming by or through them be foreclosed and their title, right, claim, lien, interest or equity of redemption to the property be forever extinguished.
- d. That out of the sale proceeds, the Plaintiff be paid the amounts due for principal, interest, late charges, taxes, assessments, insurance, securing, inspections, posting of notices, maintenance and preservation of the property, and other similar charges, together with court costs, allowances, expenses of sale, and reasonable attorney's fees, all with interest.
- e. That the property be sold in as is condition and subject to the facts an inspection or accurate survey of the property would disclose, covenants, restrictions, easements and public utility agreements of record, building and zoning ordinances and violations, and the equity of redemption of the United States of America.
- f. That Plaintiff may purchase the property at the sale.
- g. That a receiver be appointed for the property, if requested by Plaintiff.
- h. That a deficiency judgment against Marie Chavannes, to the extent allowable by law, for the amount that remains due after distribution of the sale proceeds, unless the debt was discharged in a bankruptcy or is otherwise uncollectable, be granted if requested by Plaintiff.
- i. That if the Plaintiff possesses other liens against the property, they not merge with the mortgage being foreclosed and that Plaintiff, as a subordinate lien holder, be allowed to share in any surplus proceeds resulting from the sale.
- j. Awarding the relief requested in the SECOND cause of action stated in this complaint.
- k. That the Court award Plaintiff additional relief that is just, equitable and proper.



Sarah K. Hyman, Esq.
Gross Polowy, LLC
1775 Wehrle Drive, Suite 100
Williamsville, NY 14221

Schedule A

Attached here as Schedule A is an attorney certified copy of the original note. If applicable, certain non-public personal information has been redacted from the attached document.

NYSCEF DOC. NO. 19

RECEIVED NYSCEF: 05/09/2018

ORIGINAL ADJUSTABLE RATE NOTE(6-Month LIBOR Index - Rate Floor)
(Assumable after Initial Period) (45 Day Lookback)THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE
AND MY MONTHLY PAYMENT. THIS NOTE LIMITS THE AMOUNT MY INTEREST RATE
CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

March 30, 2007

BROOKLYN

NEW YORK

(Date)

(City)

(State)

6645 21st AVE, BROOKLYN, New York 11234

(Property Address)

1. BORROWER'S PROMISE TO PAYIn return for a loan that I have received, I promise to pay U.S. \$ 454,000.00 (this amount is called
"Principal"), plus interest, to the order of the Lender. The Lender is: National City Mortgage

a division of National City Bank

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled
to receive payments under this Note is called the "Note Holder."**2. INTEREST**Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 7.500 %.

The interest rate I will pay will change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default
described in Section 7(B) of this Note.**3. PAYMENTS****(A) Time and Place of Payments**

I will pay principal and interest by making a payment every month.

I will make my monthly payments on the first day of each month beginning on May 1, 2007.I will make these payments every month until I have paid all of the principal and interest and any other charges described below
that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to the amount
before Principal. If on April 1, 2017 I still owe amounts under this Note, I will pay these amounts

in full on that date, which is called the "Maturity Date."

I will make my monthly payments at

National City Mortgage Co., PO Box 533510, Atlanta, GA 30153-3510
or at a different place if required by the Note Holder.**(B) Amount of My Initial Monthly Payments**Each of my initial monthly payments will be in the amount of U.S. \$ 3,167.45 (This amount may change.)**(C) Monthly Payment Changes**Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay.
The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4
of this Note.MULTISTATE ADJUSTABLE RATE NOTE - 6-Month LIBOR Index (Assumable after Initial Period) (45 Day Lookback) - Single
Party - Freddie Mac UNIFORM INSTRUMENT

NYSCEF DOC. NO. 19

Form 554-533

NYSCEF DOC. NO. 19

NYSCEF DOC. NO. 19

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

ORIGINAL

(A) Change Dates

The interest rate I will pay may change on the first day of April 1, 2012 and may change on the day every sixth month thereafter. Each date on which my interest rate may change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an index. The "Index" is the six-month London Interbank Offered Rate ("LIBOR") which is the average of interbank offered rates for six-month U.S. dollar denominated deposits in the London market, as published in *The Wall Street Journal*. The most recent Index figure available as of the date of my change each Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index which is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

On each Change Date the Note Holder will calculate my new interest rate by adding two and one-half (percentage points) to the Current Index. The Note Holder will then round the result of this addition to the nearest one eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 12.500 % or less than 2.750 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than one (percentage points) 1.000 % from the rate of interest I have been paying for the preceding six months. My interest rate will never be greater than 12.500 %.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any change in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

5. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payment unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

6. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

NYSCEF DOC. NO. 1

Form 5524 (5-01)

NYSCEF

BORROWER FAILURE TO PAY AS REQUIRED**(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of the due date, I will pay a late charge to the Note Holder. The amount of the charge will be \$1.00 per month on each late payment. I will pay this late charge promptly, but only once on each late payment.

(B) Default

If I do not pay the full amount of any monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that I did not pay the amount due and that the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that is due on that amount. This date must be at least 30 days after the date on which the notice is mailed or delivered by other means.

(D) No Waiver by Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 5(A) above or at a different address if I have given a notice of that different address.

9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

10. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

11. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given in the Note, under this Note, a Mortgage, Deed of Trust, or Security Document (the "Security Instrument"), dated the same date as this Note, secures the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

(A) UNTIL MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT IS DESCRIBED AS FOLLOWS:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

(B) AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION 11(A) ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL INSTEAD BE DESCRIBED AS FOLLOWS:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee, and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

ORIGINAL

WITNESS THE HANDS AND SEALS OF THE CLERK OF THE COUNTY OF KINGS

[Signature]
KATIE CHAVANNEZ

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

ORIGINAL

(Sign Original Only)

PAY TO THE ORDER OF
NATIONAL CITY MORTGAGE CO
A subsidiary of National City Bank of ~~Indiana~~ *act*
WITHOUT RECOURSE
National City Mortgage, *act*
a division of National City Bank of ~~Indiana~~
Angela Tegtmeyer
ANGELA TEGTMEYER
DELIVERY SHIPPER

PAY TO THE ORDER OF
WITHOUT RECOURSE
NATIONAL CITY MORTGAGE CO *act*
A subsidiary of National City Bank of ~~Indiana~~
Angela Tegtmeyer
ANGELA TEGTMEYER
DELIVERY SHIPPER

INTEREST ONLY PAYMENT PERIOD NOTE ADDENDUM TO ADJUSTABLE RATE NOTE

(Index: Six-month London Interbank Offered Rate (LIBOR) as published in The Wall Street Journal - Rate Caps)
(Not to be Used for: Loan Disclosures of Consumer Loans, Transactions Governed by the Truth in Lending Act, Refinance of Purchase Money)

THIS ADDENDUM TO NOTE PROVIDES FOR A PERIOD OF MONTHLY PAYMENTS OF INTEREST ONLY FOLLOWED BY MONTHLY PAYMENTS OF BOTH PRINCIPAL AND INTEREST. THE INTEREST RATE AND MONTHLY PAYMENT CAN CHANGE DURING AND AFTER THE INTEREST ONLY PAYMENT PERIOD. THIS ADDENDUM LIMITS THE AMOUNT MY INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

This Interest Only Payment Period Note Addendum to Adjustable Rate Note (this "Addendum") is made this 20th day of March, 2007, and is incorporated into and shall be deemed to amend and supplement the Adjustable Rate Note of the same date (the "Note") given by the undersigned (the "Borrower") to evidence Borrower's indebtedness to National City Mortgage a division of

National City Bank (the "Lender"), which indebtedness is secured by a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), of the same date and covering the property described in the Security Instrument and located at:

4589 KINGS HWY BROOKLYN

New York 11234

ADDITIONAL COVENANTS: Unless specifically defined in this Addendum, any capitalized terms shall have the same meaning as in the Note. Notwithstanding anything to the contrary set forth in the Note or Security Instrument, Borrower further covenants and agrees as follows:

1. The Note is modified to provide that the equal one hundred twenty (120) payments due consist of interest only on the unpaid principal balance of the Note ("Interest Only Payment Period") at the interest rates determined in accordance with Section 2 of the Note and Section 4 of this Addendum. Sections 3, 4, 5 and 7(A) of the Note are hereby restated as follows:

3. PAYMENTS

(A) Time and Place of Payments

I will pay interest on the unpaid principal balance of this Note during the Interest Only Payment Period, and principal and interest thereafter, by making payments every month.

I will make my monthly payments on the first day of each month beginning on May 2007. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and, if the payment includes both principal and interest, it will be applied to interest before principal. If, on April 1st, 2037, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at National City Mortgage Co., PO Box 533810, Atlanta, GA 30353-3510, or at a different place if required by the Note Holder.

(B) Amount of My Interest On

Each of my interest payments will be in the amount of \$1,451.25. The first interest payment will be due on May 1st, 2017. These payments are called the "Interest Only Payments." No payments of principal are due during the Interest Only Payment Period. The Interest Only Payments will not reduce the principal amount of this Note.

(C) Monthly Payment Changes and Date of First Principal and Interest Payment

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Sections 3(C) and 4(C) below. These payments are called the "Interest Only Payments." No payments of principal are due during the Interest Only Payment Period. The Interest Only Payments will not reduce the principal amount of this Note.

The date of my first payment consisting of both principal and interest on this Note (the "First Principal and Interest Due Date") is May 1st, 2017, which is the first monthly payment date after the one hundred twentieth (120th) monthly payment is due.

Before the First Principal and Interest Due Date, my monthly payment may change to reflect changes in the interest rate as provided in Section 4(C) of this Addendum. My payment may also change if I make a partial prepayment as provided in Section 5 of this Addendum. Before the effective date of any change in my monthly payment, the Note Holder will deliver or mail to me a notice of the change as provided in this Note.

Beginning with the First Principal and Interest Due Date, my monthly payment will change to an amount sufficient to repay the unpaid principal and interest as the rate described in Section 4(C) of this Addendum in substantially equal payments by the Maturity Date.

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the first day of April, 2012, and may change on that day every sixth (6th) month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the six month London Interbank Offered Rate ("LIBOR") which is the average of interbank offered rates for six month U.S. dollar denominated deposits in the London market, as published in *The Wall Street Journal*. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding Two AND 3/4ths (2.75%) percentage points (2.75%) to the Current Index. The Note Holder will then round the result of this addition to the nearest one eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date. The Note Holder will then determine my new monthly payment as follows:

TABLE 1

Table 1 of 4

Addendum to Adjustable Rate Note
(Form S-2271-AN & S-2271-AN)
Interest Only Payments
6-Month LIBOR Index
(06/05)

(i) **Interest Only Payment Period.** For monthly payments due after the first Change Date up to but not including the First Principal and Interest Due Date, the Note Holder will determine the amount of the monthly payment that would be sufficient to pay the interest that accrues on the unpaid principal that I am expected to owe at the Change Date at my new interest rate determined above in this Section 4(c). The result of this calculation will be the new amount of my Interest Only Payment until the next Change Date unless I make a partial Prepayment as provided in Section 5 of this Addendum.

(ii) **Principal and Interest Payments Due Beginning With the First Principal and Interest Due Date.** For monthly payments due on or after the First Principal and Interest Due Date, the Note Holder will determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate determined above in this Section 4(c) in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(A) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 12.500 % or less than 1.750 %. Thereafter, my interest rate will never be increased or decreased on any Change Date by more than one percentage point (1.000 %) from the rate of interest I have been paying for the preceding six months. My interest rate will never be greater than 12.500 %.

(B) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(C) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

5. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payment unless the Note Holder agrees in writing to those changes. If I make a partial Prepayment during the Interest Only Payment Period, the amount of the monthly payment will decrease until the next Change Date. At the next Change Date during the Interest Only Payment Period, any reduction due to a partial Prepayment may be offset by an interest rate increase. If I make a partial Prepayment after the First Principal and Interest Due Date, my partial Prepayment may reduce the amount of my monthly payments starting with the next Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

7. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charges for Overdue Payments

ORIGINAL

If the Note Holder has not received the full amount of my monthly payments by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 2.00 % of my overdue payment of interest, during the Interest Only Payment Period, and of principal and interest thereafter. I will pay this late charge promptly but only once on each late payment.

If All other provisions of the Note are unchanged by this Addendum and remain in full force and effect.

By signing below, Borrower accepts and agrees to the terms and conditions contained in this Interest Only Payment Period Note Addendum to Adjustable Rate Note.

Marie Chavannes (Seal)
Borrower MARIE CHAVANNES

Borrower (Seal)

Borrower (Seal)

Borrower (Seal)

I understand that if I only make Interest Only Payments during the Interest Only Payment Period, at the end of the Interest Only Payment Period the principal balance will not be reduced.

Marie Chavannes (Seal)
Borrower MARIE CHAVANNES

Borrower (Seal)

Borrower (Seal)

Borrower (Seal)

Marie Chavannes
Marie Chavannes

Schedule B – Legal Description

ALL THAT CERTAIN PARCEL OF LAND SITUATED IN THE BOROUGH OF BROOKLYN, COUNTY OF KINGS AND STATE OF NEW YORK, BEING KNOWN AND DESIGNATED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY SIDE OF KINGS HIGHWAY DISTANT 81 FEET 11 INCHES NORTHEASTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHWESTERLY SIDE OF KINGS HIGHWAY WITH THE NORTHERLY SIDE OF AVENUE I;

RUNNING THENCE NORTHWESTERLY ON A LINE FORMING AN EXTERIOR ANGLE OF 82 DEGREES 36 MINUTES WITH THE NORTHWESTERLY SIDE OF KINGS HIGHWAY, 56 FEET 11 INCHES;

THENCE NORTHEASTERLY AT RIGHT ANGLES TO THE LAST MENTIONED COURSE, 0 FEET 9 INCHES;

THENCE NORTHWESTERLY ON A LINE FORMING AN EXTERIOR ANGLE OF 52 DEGREES 24 MINUTES 10 SECONDS WITH THE EASTERLY SIDE OF EAST 45TH STREET, 69 FEET 9 3/4 INCHES TO THE EASTERLY SIDE OF EAST 45TH STREET;

THENCE NORTHERLY ALONG THE EASTERLY SIDE OF EAST 45TH STREET, 11 FEET 1 7/8 INCHES;

THENCE EASTERLY AT RIGHT ANGLES TO THE EASTERLY SIDE OF EAST 45TH STREET 18 FEET 10 INCHES TO A POINT;

THENCE SOUTHEASTERLY ON A LINE FORMING AN INTERIOR ANGLE OF 82 DEGREES 36 MINUTES WITH THE NORTHWESTERLY SIDE OF KINGS HIGHWAY 121 FEET 4 1/4 INCHES TO THE NORTHWESTERLY SIDE OF KINGS HIGHWAY;

THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY SIDE OF KINGS HIGHWAY 21 FEET 3 1/8 INCHES TO THE POINT OR PLACE OF BEGINNING.

Schedule C – Defendants

Marie Chavannes	Borrower
Blue Oak Holding Group, LLC	Record owner
FF Credit Corp	Holder of a judgment(s)
First American Title Insurance Company	Holder of a judgment(s)

Schedule D – Defendants

People of the State of New York	Possible Franchise taxes due for Blue Oak Holding Group, LLC
New York City Department of Finance	Possible Franchise taxes due for Blue Oak Holding Group, LLC
New York City Environmental Control Board	Holder of a lien, see attached

PROGRAM-ID: CVPB0096

ENVIRONMENTAL CONTROL BOARD
MONTHLY JUDGEMENT FILE
PERIOD ENDING: NOVEMBER 30 - 2016RUN DATE: 12/17/2016
PAGE: 30,835

PART 1 OF 2: CASES IN JUDGEMENT

RESPONDENT NAME VIOLATION NUMBER	RESPONDENT ADDRESS	ORDER DATE	NOTICE DATE	DOCKET DATE	BALANCE DUE	SATISF/VACAT
MARIE DEMISE CHARLES 041452168X	3321 AVENUE I	11/23/09	01/07/10	04/10	\$300.00	
MARIE DEMISE CHARLES 032073371Y	3321 AVENUE I	12/28/15	02/11/16	03/16	\$2,500.00	
MARIE DEMISE CHARLES 032072225H	3321 AVENUE I	08/13/12	09/27/12	11/12	\$2,000.00	
MARIE DERILUS 034970293L	3219 CLARENDON ROAD	01/30/12	03/15/12	04/12	\$4,000.00	
MARIE DERILUS 034970292J	3219 CLARENDON ROAD	01/30/12	03/15/12	04/12	\$4,000.00	
MARIE DESMORRES 011147153Y	970 EAST 89 STREET	11/21/11	01/05/12	02/12	\$5,000.00	
MARIE DESMORRES 034962699L	970 EAST 89 STREET	01/30/12	03/15/12	04/12	\$12,000.00	
MARIE DOWD 035161044R	1403 ATLANTIC AVENUE	05/09/16	06/23/16	08/16	\$4,000.00	
MARIE DOCHATELIER 034933912Z	1441 FLATBUSH AVENUE	05/04/12	06/22/12	08/12	\$1,450.00	
MARIE DOCHATELIER 034933914H	1441 FLATBUSH AVENUE	05/08/12	06/22/12	08/12	\$500.00	
MARIE DOCHATELIER 034933915K	1441 FLATBUSH AVENUE	04/26/12	06/12/12	07/12	\$850.00	
MARIE E BLASER LLC 017170294Z	2155 GRAND CONCOURSE	06/01/10	07/16/10	09/10	\$300.00	
MARIE E BLASER LLC C/O T P 0171708159	2155 GRAND CONCOURSE	02/01/10	03/18/10	05/10	\$25.00	
*MARIE E CHAVANNEK 011131058L	4589 KINGS HIGHWAY	12/07/09	01/21/10	04/10	\$1,000.00	
MARIE E FORNICHIELLA 035095833R	2028 EAST 9 STREET	08/04/14	09/18/14	11/14	\$5,000.00	
MARIE E FORNICHIELLA 041997148Z	2028 EAST 9 STREET	02/22/16	04/07/16	05/16	\$300.00	
MARIE E FORNICHIELLA 040546343P	2028 EAST 9 STREET	03/09/15	04/23/15	06/15	\$350.00	
MARIE E FORNICHIELLA 041745135Z	2028 EAST 9 STREET	06/01/15	07/16/15	08/15	\$300.00	
MARIE E FRASER 034623113Z	315 PENNSYLVANIA AVENUE	10/02/09	11/16/09	01/10	\$2,614.81	
MARIE F AMICKY 035145022X	135-08 245 STREET	08/09/16	10/17/16	11/16	\$1,600.00	
MARIE F AMICKY 035145005Y	135-08 245 STREET	08/19/16	10/17/16	11/16	\$1,200.00	
MARIE F AMICKY 035186377X	135-08 245 STREET	08/19/16	10/17/16	11/16	\$2,400.00	
MARIE F LATVS 035186426W	119-18 146 STREET	08/23/16	10/17/16	11/16	\$2,400.00	
MARIE F LATVS 035052046H	119-18 146 STREET	03/13/14	04/28/14	06/14	\$6,000.00	

RECEIVED NYSCEF: 02/28/2017

FILED: KINGS COUNTY CLERK 05/09/2018 04:39 PM

INDEX NO. 504024/2017

FILED KINGS COUNTY CLERK 04/25/2018 03:00 PM

INDEX NO. 504024/2017

RECEIVED NYSCEF: 05/09/2018

NYSCEF DOC. NO. 59

RECEIVED NYSCEF: 04/25/2018

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
WILMINGTON TRUST, NATIONAL
ASSOCIATION AS SUCCESSOR
TRUSTEE TO CITIBANK, N.A. AS
TRUSTEE FOR BEAR STEARNS ALT-A
TRUST II 2007-1

Plaintiff,

vs.

MARIE CHAVANNES et al.

Defendants.

-----X
SUMMONS AND COMPLAINT

-----X
GROSS POLOWY, LLC
Attorney for Plaintiff
1775 Wehrle Drive, Suite 100
Williamsville, NY 14221

Exhibit “B”

At Part FRR of the Supreme Court
of the State of New York, held in and for the
County of Kings, at the Courthouse at Civic
Center, Brooklyn, New York, on the
9th day of April,
2018.

PRESENT
HON. Noach Dear
JUSTICE

11/29

-----X
WILMINGTON TRUST, NATIONAL
ASSOCIATION AS SUCCESSOR TRUSTEE
TO CITIBANK, N.A. AS TRUSTEE FOR
BEAR STEARNS ALT-A TRUST II 2007-1

,Plaintiff(s)

-against-

MARIE CHAVANNES, BLUE OAK
HOLDING GROUP, LLC, PEOPLE OF THE
STATE OF NEW YORK, NEW YORK CITY
DEPARTMENT OF FINANCE, FF CREDIT
CORP, FIRST AMERICAN TITLE
INSURANCE COMPANY, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD,

JOHN DOE (Those unknown tenants, occupants,
persons or corporations or their heirs,
distributees, executors, administrators, trustees,
guardians, assignees, creditors or successors
claiming an interest in the mortgaged premises.)

,Defendant(s)
-----X

ORDER OF REFERENCE

INDEX #:504024/2017

FORECLOSURE OF:
4589 KINGS HIGHWAY,
BROOKLYN, NY 11234

BL #: 7749 - 12

UPON review of the and the notice of motion dated October 19, 2017, Summons and Complaint and Notice of Pendency filed in this action on February 28, 2017, annexed thereto, and upon the Affirmation of Austin R. Caster, Esq. of Gross Polowy, LLC, counsel for Plaintiff, dated October 19, 2017, from which it appears that this action was brought to foreclose a certain mortgage on real property situated in the County of Kings, State of New York at 4589 KINGS HIGHWAY, BROOKLYN, NY 11234, BLOCK 7749, LOT 12, by reason of certain defaults as

alleged in the complaint, and upon the Affidavit of Sharon Lynch, who is Authorized Signer sworn to Barbara Wacker on September 22, 2017 and it is further appearing that all of the Defendants have been duly served with a copy of the Summons and Complaint or have appeared herein, copies of such affidavits of service are annexed to the motion as Exhibit J and no answer has been interposed by the Defendant(s) though the time to do has expired; and it appearing that none of the Defendant(s) is an infant, incompetent, or absentee except First American Title Insurance Company, or in the military and that since the filing of the Notice of Pendency of this action on February 28, 2017, the complaint herein has not been amended in any manner whatsoever, on the pleadings and papers heretofore filed herein and no one appearing in opposition hereto,

NOW, on motion of Gross Polowy, LLC, attorneys of record for the Plaintiff, it is

ORDERED, that the motion is granted; and it is further;

ORDERED, this action be, and the same as hereby referred to Jack Segal Esq. having an office at 1302 50th Street Ste. 3 Brooklyn, NY 11219 telephone number 718-683-9100, as Referee to ascertain and compute the amount due to the Plaintiff herein for principal, interest and other disbursements advanced as provided for by statute and in the Note and Mortgage upon which this action was brought, to examine and report whether or not the mortgaged premises can be sold in parcels, and that the Referee make his/her report no later than sixty (60) days of the date of this order and that, except for good cause shown, the Plaintiff shall move for Judgment no later than sixty (60) days of the date of the Referee's Report; and it is further;

ORDERED, that upon submission of the Referee's report, Plaintiff shall pay \$250 to the Referee as compensation for his/her services, which sum may be recouped as a cost of litigation; and it is further

ORDERED, that the Referee appointed herein is subject to the requirements of Rule 36.2(c) of the Chief Judge, and, if the Referee is disqualified from receiving an appointment pursuant to the provision of that Rule, the Referee shall notify the Appointing Judge forthwith; and it is further;

ORDERED, that by accepting this appointment the Referee certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCCR Part 36), including but not limited to, section 36.2(c) ("Disqualifications from appointment"), and section 36.2(d) ("Limitations on appointment based upon compensation"); and it is further;

ORDERED, that a default judgment in favor of the Plaintiff be granted as to the claim described in the Plaintiff's complaint herein; and it is further;

ORDERED, that the name of Tanya Pizzaro, Darlene Simmons, Ivan Pizzaro, Roland Simmons, Andrew Connors, and Regina Rohan be substituted in the caption of this action in place of "John Doe" and that the caption be amended to reflect this substitution; and it is further

ORDERED, that the caption of this action as amended, shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X

WILMINGTON TRUST, NATIONAL
ASSOCIATION AS SUCCESSOR TRUSTEE
TO CITIBANK, N.A. AS TRUSTEE FOR
BEAR STEARNS ALT-A TRUST II 2007-1

INDEX NO: 504024/2017

FORECLOSURE OF:
4589 KINGS HIGHWAY
BROOKLYN, NY 11234

Plaintiff,

-against-

BL#: 7749 - 12

MARIE CHAVANNES, BLUE OAK
HOLDING GROUP, LLC, PEOPLE OF THE
STATE OF NEW YORK, NEW YORK CITY
DEPARTMENT OF FINANCE, FF CREDIT
CORP, FIRST AMERICAN TITLE
INSURANCE COMPANY, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD,
TANYA PIZZARO, IVAN PIZZARO,
DARLENE SIMMONS, ROLAND SIMMONS,
ANDREW CONNORS, REGINA ROHAN,

Defendant(s)

-----X

and it is further

ORDERED, that the legal description in the Mortgage recorded on June 1, 2007 in
CRFN 2007000285304 in the City Register of the City of New York, Kings County is hereby
reformed so that the property description reads as follows:

ALL THAT CERTAIN PARCEL OF LAND SITUATED IN THE BOROUGH OF
BROOKLYN, COUNTY OF KINGS AND STATE OF NEW YORK, BEING KNOWN
AND DESIGNATED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY SIDE OF KINGS
HIGHWAY DISTANT 81 FEET 11 INCHES NORTHEASTERLY FROM THE
CORNER FORMED BY THE INTERSECTION OF THE NORTHWESTERLY SIDE
OF KINGS HIGHWAY WITH THE NORTHERLY SIDE OF AVENUE I;

RUNNING THENCE NORTHWESTERLY ON A LINE FORMING AN EXTERIOR ANGLE OF 82 DEGREES 36 MINUTES WITH THE NORTHWESTERLY SIDE OF KINGS HIGHWAY, 56 FEET 11 INCHES;

THENCE NORTHEASTERLY AT RIGHT ANGLES TO THE LAST MENTIONED COURSE, 0 FEET 9 INCHES;

THENCE NORTHWESTERLY ON A LINE FORMING AN EXTERIOR ANGLE OF 52 DEGREES 24 MINUTES 10 SECONDS WITH THE EASTERLY SIDE OF EAST 45TH STREET, 69 FEET 9 3/4 INCHES TO THE EASTERLY SIDE OF EAST 45TH STREET;

THENCE NORTHERLY ALONG THE EASTERLY SIDE OF EAST 45TH STREET, 11 FEET 1 7/8 INCHES;

THENCE EASTERLY AT RIGHT ANGLES TO THE EASTERLY SIDE OF EAST 45TH STREET 18 FEET 10 INCHES TO A POINT;

THENCE SOUTHEASTERLY ON A LINE FORMING AN INTERIOR ANGLE OF 82 DEGREES 36 MINUTES WITH THE NORTHWESTERLY SIDE OF KINGS HIGHWAY 121 FEET 4 1/4 INCHES TO THE NORTHWESTERLY SIDE OF KINGS HIGHWAY;

THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY SIDE OF KINGS HIGHWAY 21 FEET 3 1/8 INCHES TO THE POINT OR PLACE OF BEGINNING.

and it is further

ORDERED, that a copy of this order with notice of entry shall be served upon the designated Referee, the owner of the equity of redemption, any tenants named in this action and any other party entitled to notice within twenty (20) days of entry and no less than thirty (30) days prior to any hearing before the Referee. The Referee shall not proceed to take evidence as provided herein without proof of such service, which proof must accompany any application for final Judgment of Foreclosure and Sale.

ENTER,



Hon. J.S.C.

HON NOACH DEAR

2018 MAY 24 PM 3:17



Exhibit “C”

MORTGAGE NOTE

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE
AND MY MONTHLY PAYMENT. THIS NOTE LIMITS THE AMOUNT MY INTEREST RATE
CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY

March 20, 2017

BROOKLYN

New York

S. [REDACTED]

[REDACTED]

[REDACTED]

4585 KINGS HWY, BROOKLYN, New York 11234

(Property Address)

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 453,000.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is National City Mortgage

a division of National City Bank

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 7.50%.

The interest rate I will pay will change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by automatic deduction from my

I will make my monthly payments to the Lender on the day of each month.

I will make my first payment on the day of the month of 2017. I will make my last payment on the day of the month of 2017. I will make my payments to the Lender at the address of the Lender.

I will make my payments to the Lender at the address of the Lender.

I will make my payments to the Lender at the address of the Lender.

I will make my payments to the Lender at the address of the Lender. I will make my payments to the Lender at the address of the Lender.

(B) Amount of My Initial Monthly Payments

Each of my initial monthly payments will be the amount of \$ [REDACTED]

[REDACTED]

(C) Monthly Payment Changes

I will make my monthly payments to the Lender at the address of the Lender. I will make my monthly payments to the Lender at the address of the Lender.

ONE STATE ADJUSTABLE RATE (ONE - 6 Month LIBOR Index (Accumulated Initial Period) (65 Day Lookback) - 5.00%
Fixed Rate (FIXED RATE INSTRUMENT)

1. COMPUTATION OF AMOUNT TO PAY AS PROVIDED**(A) Interest Due on Overdue Payments**

1. The Note Holder has agreed to pay interest on any amount due on this Note that is not paid by the due date of payment. The interest rate shall be the prime rate as published in the Wall Street Journal New York edition, plus 2% (two percent), per annum, compounded monthly.

(B) Late Fee

1. If I do not pay the full amount due on this Note by the due date of payment, I will be liable for a late fee of \$100 (one hundred dollars).

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately in full the full amount of Principal which has not been paid and all interest due on this Note. I am aware that I will have at least 30 days after the date on which the notice is received by me to cure the default by other means.

(D) No Waiver by Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. These expenses include, for example, reasonable attorneys' fees.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including to pay the full amount owed. A person who is a co-signer, surety or endorser of this Note is also obligated to do so. If a person who takes on legal obligations, in addition to the obligations of a co-signer, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

10. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

11. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variation in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts owed under this Note. Some of these conditions are described as follows:

(B) AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT IS DESCRIBED AS FOLLOWS:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

FILED: KINGS COUNTY CLERK 05/09/2018 04:39 PM
FILED: KINGS COUNTY CLERK 05/09/2018 04:39 PM
FILED: KINGS COUNTY CLERK 05/09/2018 04:39 PM
NYSCEF DOC. NO. 63

INDEX NO. 504024/2017
INDEX NO. 504024/2017
RECEIVED NYSCEF: 05/09/2018
RECEIVED NYSCEF: 05/09/2018
RECEIVED NYSCEF: 05/09/2018

INTEREST ONLY PAYMENT PERIOD (IOPP) ADDENDUM
TO THE NOTE

(Index: Six-Month London Interbank Offered Rate ("LIBOR") As Published in *The Wall St. Journal* - Rate Caps)
 (Not to be used for Texas Homeowner Loans Only - Principle Used Only for Purchase Money or Refinance of Purchase Money)

THIS ADDENDUM TO NOTE PROVIDES FOR A PERIOD OF MONTHLY PAYMENTS OF INTEREST ONLY FOLLOWED BY MONTHLY PAYMENTS OF BOTH PRINCIPAL AND INTEREST. THE INTEREST RATE AND MONTHLY PAYMENT CAN CHANGE DURING AND AFTER THE INTEREST ONLY PAYMENT PERIOD. THIS ADDENDUM LIMITS THE AMOUNT MY INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

This Interest Only Payment Period Note Addendum to Adjustable Rate Note (this "Addendum") is made this 20th day of March, 2007, and is incorporated herein and shall be deemed to amend and supplement the Adjustable Rate Note of the same date (the "Note") given by the undersigned (the "Borrower") to evidence Borrower's indebtedness to National City Mortgage a division of

National City Bank (the "Lender"), which indebtedness is secured by a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), of the same date and covering the property described in the Security Instrument and located at:

1552 KINGS LANE, BROOKLYN, NEW YORK 11224

New York 11224

ADDITIONAL COVENANTS. Unless specifically defined in this Addendum, any capitalized terms shall have the same meaning as in the Note. Notwithstanding anything to the contrary set forth in the Note or Security Instrument, Borrower further covenants and agrees as follows:

I. The Note is modified to provide that the initial one hundred twenty (120) payments due consist of interest only on the unpaid principal balance of the Note ("Interest Only Payment Period") at the interest rates determined in accordance with Section 2 of the Note and Section 4 of this Addendum. Sections 3, 4, 5 and 7(A) of the Note are hereby restated as follows:

2. PAYMENTS

(A) Time and Place of Payments

I will pay interest on the unpaid principal balance of the Note during the Interest Only Payment Period, and principal and interest thereafter, by making payments every month.

I will make my monthly payments on the first day of each month beginning on 04/01/2007. I will make my payments every month until I have paid all of the principal and interest and any other charges described below due on the Note. Each monthly payment will be applied as of its scheduled due date and, if the payment includes both principal and interest, it will be applied to interest before principal. If on April 1st, 2007, I still owe money under this Note, I will pay those amounts in full on that day, which is called the "Maturity Date."

I will make my monthly payments to National City Bank, 1000 Peachtree St., N.E., Box 975100, Atlanta, GA 30352-5100 or to such other place designated by the Lender.

WITNESSES:

[illegible]

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Sections 4 and 5 of this Addendum.

The date of my first payment consisting of both principal and interest on this Note (the "First Principal and Interest Payment") is 1st 7, which is the first monthly payment date after the one dred (120th) monthly payment is due.

Before the First Principal and Interest Due Date, my monthly payment may change to reflect changes in the interest rate as provided in Section 4(C) of this Addendum. My payment may also change if I make a partial Prepayment as provided in Section 5 of this Addendum. Before the effective date of any change in my monthly payment, the Note Holder will deliver or mail to me a notice of the change as provided in this Note.

Beginning with the First Principal and Interest Due Date, my monthly payment will change to an amount sufficient to repay the unpaid principal and interest at the rate described in Section 4(C) of this Addendum in substantially equal payments by the Maturity Date.

(A) Change Dates

on the day covered by paragraph 1 of this article, the bank shall, at the request of the depositor, change the date of the change date.^b

2. The Index

Beginning with the first Change Date, any interest rate will be based on an Index. The "Index" is the six month London Interbank Offered Rate ("LIBOR") which is the average of interbank offered rates for six month U.S. dollar-denominated deposits in the London market, as published in *The Wall Street Journal*. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give one notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding 1 3/4% percentage point(s) to the Current Index. The 2.750% or will then round the result of this calculation to the nearest one eighth of one percentage point (0.125%). Subject to the limits stated in Section 14(b) below, this rounded amount will be my new interest rate until the next Change Date. The Note Holder will then determine my new monthly payment as follows:

Addendum to Adjustable Rate Note
 (Form 5-22-194N & 53247-1-74)
 © 1974 by Fidelity Investments
 5 North Beacon Street
 Boston, MA 02116

(d) **Interest Only Payment Period.** For monthly payments due prior to the first Change Date, the Note Holder will determine the amount of the monthly payment that I am required to pay. The result of the calculation of the monthly payment will be the amount of the monthly payment that I am required to pay. The result of the calculation of the monthly payment will be the amount of the monthly payment that I am required to pay.

(e) **Principal and Interest Payments Due Beginning With the first Principal and Interest Due Date.** For monthly payments due beginning with the first Principal and Interest Due Date, the Note Holder will determine the amount of the monthly payment that would be sufficient to pay the amount of principal that I am required to pay. The result of the calculation of the monthly payment will be the amount of the monthly payment that I am required to pay. The result of the calculation of the monthly payment will be the amount of the monthly payment that I am required to pay.

(A) **Limit on Interest Rate Changes**

The interest rate that I am required to pay will be the interest rate that I am required to pay. The interest rate that I am required to pay will be the interest rate that I am required to pay. The interest rate that I am required to pay will be the interest rate that I am required to pay.

(B) **Effective Date of Changes**

My monthly payments will be made on the first day of each month. I will pay the amount of the monthly payment that I am required to pay. The amount of the monthly payment that I am required to pay will be the amount of the monthly payment that I am required to pay.

(C) **Notice of Changes**

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payments. The notice will be delivered or mailed to me at the address that I have provided to the Note Holder. The notice will be delivered or mailed to me at the address that I have provided to the Note Holder.

5. **BORROWER'S RIGHT TO PREPAY**

I may prepay all or part of the amount of the Note at any time. A prepayment of the principal amount of the Note will reduce the amount of principal that I owe under this Note. However, the Note Holder may apply the prepayment to the accrued and unpaid interest on the Note. If I make a partial prepayment, there will be no change in the amount of the monthly payment that I am required to pay.

If I make a partial prepayment, there will be no change in the amount of the monthly payment that I am required to pay. The amount of the monthly payment that I am required to pay will be the amount of the monthly payment that I am required to pay. The amount of the monthly payment that I am required to pay will be the amount of the monthly payment that I am required to pay.

51 of 107

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.

2007032200330001001E6C57

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 26

Document ID: 2007032200330001

Document Date: 03-20-2007

Preparation Date: 03-22-2007

Document Type: MORTGAGE

Document Page Count: 24

PRESENTER:

SERVICE LINK

4000 INDUSTRIAL BLVD

ALIQUIPPA, PA 15001

800-439-5451

RETURN TO:

NATIONALLINK

400 CORPORATION DR.

ALIQUIPPA, PA 15001

888-422-7911

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BROOKLYN	7749	12	Entire Lot	4589 KINGS HIGHWAY

Property Type: DWELLING ONLY - 1 FAMILY

CROSS REFERENCE DATA

CRFN _____ or Document ID _____ or Year _____ Reel _____ Page _____ or File Number _____

PARTIES

MORTGAGOR/BORROWER:

MARIE CHAVANNES

4589 KINGS HWY

BROOKLYN, NY 11234

MORTGAGEE/LENDER:

NATIONAL CITY MORTGAGE A DIVISION OF

3232 NEWMARK DR.

MIAMISBURG, OH 45342

x Additional Parties Listed on Continuation Page

FEES AND TAXES

Mortgage

Mortgage Amount: \$ 453,000.00

Taxable Mortgage Amount: \$ 453,000.00

Exemption:

TAXES: County (Basic): \$ 2,265.00

City (Additional): \$ 4,530.00

Spec (Additional): \$ 0.00

TASF: \$ 1,132.50

MTA: \$ 1,329.00

NYCTA: \$ 0.00

Additional MRT: \$ 0.00

TOTAL: \$ 9,256.50

Recording Fee: \$ 157.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 0.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 0.00

RECORDED OR FILED IN THE OFFICE

OF THE CITY REGISTER OF THE

CITY OF NEW YORK

Recorded/Filed 06-01-2007 17:22

City Register File No. (CRFN):

2007000285304



Carroll M. Hill

City Register Official Signature

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2007032200330001001C6ED7

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 2 OF 26

Document ID: 2007032200330001

Document Date: 03-20-2007

Preparation Date: 03-22-2007

Document Type: MORTGAGE

PARTIES

MORTGAGEE/LENDER:

NATIONAL CITY BANK
3232 NEWMARK DR.
MIAMISBURG, OH 45342

Return To:
NationalLink 144032
400 Corporation Drive
Aliquippa, PA 15001
1.888.422.7911 24

Prepared By:
MELANIE JORGENSEN

National City Bank
P.O. Box 8800
Dayton, OH 45401-8800

[Space Above This Line For Recording Data]

MORTGAGE

WORDS USED OFTEN IN THIS DOCUMENT

(A) "Security Instrument." This document, which is dated March 20, 2007 together with all Riders to this document, will be called the "Security Instrument."
(B) "Borrower."

MARIE CHAVANNES Sole Owner

whose address is 4589 KINGS HWY BROOKLYN, New York 11234
sometimes will be called "Borrower" and sometimes simply "I" or "me."

(C) "Lender." National City Mortgage a division of

National City Bank
will be called "Lender." Lender is a corporation or association which exists under the laws of
United States Lender's address is

3232 NEWMARK DRIVE, MARIETTA, OH 45342

This Real Property is or will be improved by A 1 OR
2 Family dwelling

Section: Block: 7749 Lot: 12 Unit:

NEW YORK - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 3033 1/01

VMP-6(NY) (0504)

Page 1 of 1

Initials

VMP Mortgage Solutions, Inc. (600)521-7291

(D) "Note." The note signed by Borrower and dated March 20, 2007, will be called the "Note." The Note shows that I owe Lender FOUR HUNDRED FIFTY THREE THOUSAND & 00/100

Dollars (U.S. \$ 453,000.00) plus interest and other amounts that may be payable. I have promised to pay this debt in Periodic Payments and to pay the debt in full by April 1, 2037

(E) "Property." The property that is described below in the section titled "Description of the Property," will be called the "Property."

(F) "Loan." The "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(G) "Sums Secured." The amounts described below in the section titled "Borrower's Transfer to Lender of Rights in the Property" sometimes will be called the "Sums Secured."

(H) "Riders." All Riders attached to this Security Instrument that are signed by Borrower will be called "Riders." The following Riders are to be signed by Borrower (check box as applicable):

<input checked="" type="checkbox"/> Adjustable Rate Rider	<input type="checkbox"/> Condominium Rider	<input type="checkbox"/> Second Home Rider
<input type="checkbox"/> Balloon Rider	<input type="checkbox"/> Planned Unit Development Rider	<input checked="" type="checkbox"/> 1-4 Family Rider
<input type="checkbox"/> VA Rider	<input type="checkbox"/> Biweekly Payment Rider	<input type="checkbox"/> Other(s) [specify]

(I) "Applicable Law." All controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable, judicial opinions will be called "Applicable Law."

(J) "Community Association Dues, Fees, and Assessments." All dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization will be called "Community Association Dues, Fees, and Assessments."

(K) "Electronic Funds Transfer." "Electronic Funds Transfer" means any transfer of money, other than by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Some common examples of an Electronic Funds Transfer are point-of-sale transfers (where a card such as an asset or debit card is used at a merchant), automated teller machine (or ATM) transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items." Those items that are described in Section 3 will be called "Escrow Items."

(M) "Miscellaneous Proceeds." "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (rather than Insurance Proceeds, as defined in, and paid under the coverage described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) Condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of Condemnation or sale to avoid Condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property. A taking of the Property by any governmental authority by eminent domain is known as "Condemnation."

(N) "Mortgage Insurance." "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment." The regularly scheduled amount due for (i) principal and interest under the Note, and (ii) any amounts under Section 3 will be called "Periodic Payment."

(P) "RESPA." "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

BORROWER'S TRANSFER TO LENDER OF RIGHTS IN THE PROPERTY

I mortgage, grant and convey the Property to Lender subject to the terms of this Security Instrument. This means that, by signing this Security Instrument, I am giving Lender those rights that are stated in this Security Instrument and also those rights that Applicable Law gives to lenders who hold mortgages on real property. I am giving Lender these rights to protect Lender from possible losses that might result if I fail to:

- (A) Pay all the amounts that I owe Lender as stated in the Note including, but not limited to, all renewals, extensions and modifications of the Note;
- (B) Pay, with interest, any amounts that Lender spends under this Security Instrument to protect the value of the Property and Lender's rights in the Property; and
- (C) Keep all of my other promises and agreements under this Security Instrument and the Note.

DESCRIPTION OF THE PROPERTY

I give Lender rights in the Property described in (A) through (G) below:

- (A) The Property which is located at

4589 KINGS HWY,
BROOKLYN

[Street]
[City, Town or Village], New York 11234 [Zip Code].

This Property is in
description:

Kings

County. It has the following legal

FOR LEGAL PROPERTY DESCRIPTION SEE ATTACHED EXHIBIT "A"

- (B) All buildings and other improvements that are located on the Property described in subsection (A) of this section;
- (C) All rights in other property that I have as owner of the Property described in subsection (A) of this section. These rights are known as "easements and appurtenances attached to the Property;"
- (D) All rights that I have in the land which lies in the streets or roads in front of, or next to, the Property described in subsection (A) of this section;
- (E) All fixtures that are now or in the future will be on the Property described in subsections (A) and (B) of this section;
- (F) All of the rights and property described in subsections (B) through (E) of this section that I acquire in the future; and
- (G) All replacements of or additions to the Property described in subsections (B) through (F) of this section and all Insurance Proceeds for loss or damage to, and all Miscellaneous Proceeds of the Property described in subsections (A) through (F) of this section.

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In Date, *HL*

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BORROWER'S TRANSFER TO LENDER OF RIGHTS IN THE PROPERTY

I mortgage, grant and convey the Property to Lender subject to the terms of this Security Instrument. This means that, by signing this Security Instrument, I am giving Lender those rights that are stated in this Security Instrument and also those rights that Applicable Law gives to lenders who hold mortgages on real property. I am giving Lender these rights to protect Lender from possible losses that might result if I fail to:

- (A) Pay all the amounts that I owe Lender as stated in the Note including, but not limited to, all renewals, extensions and modifications of the Note;
- (B) Pay, with interest, any amount that Lender spends under this Security Instrument to protect the value of the Property and Lender's rights in the Property; and
- (C) Keep all of my other promises and agreements under this Security Instrument and the Note.

DESCRIPTION OF THE PROPERTY

I give Lender rights in the Property described in (A) through (G) below:

- (A) The Property which is located at

4589 KINGS HWY,

BROOKLYN

[City, Town or Village], New York

11234

[Street]

[Zip Code]

This Property is in
description:

Kings

County. It has the following legal

FOR LEGAL PROPERTY DESCRIPTION SEE ATTACHED EXHIBIT "A"

- (B) All buildings and other improvements that are located on the Property described in subsection (A) of this section;
- (C) All rights in other property that I have as owner of the Property described in subsection (A) of this section. These rights are known as "easements and appurtenances attached to the Property;"
- (D) All rights that I have in the land which lies in the streets or roads in front of, or next to, the Property described in subsection (A) of this section;
- (E) All fixtures that are now or in the future will be on the Property described in subsections (A) and (B) of this section;
- (F) All of the rights and property described in subsections (B) through (E) of this section that I acquire in the future; and
- (G) All replacements of or additions to the Property described in subsections (B) through (F) of this section and all Insurance Proceeds for loss or damage to, and all Miscellaneous Proceeds of the Property described in subsections (A) through (F) of this section.

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Notarized

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BORROWER'S RIGHT TO MORTGAGE THE PROPERTY AND BORROWER'S OBLIGATION TO DEFEND OWNERSHIP OF THE PROPERTY

I promise that: (A) I lawfully own the Property; (B) I have the right to mortgage, grant and convey the Property to Lender; and (C) there are no outstanding claims or charges against the Property, except for those which are of public record.

I give a general warranty of title to Lender. This means that I will be fully responsible for any losses which Lender suffers because someone other than myself has some of the rights in the Property which I promise that I have. I promise that I will defend my ownership of the Property against any claims of such rights.

PLAIN LANGUAGE SECURITY INSTRUMENT

This Security Instrument contains promises and agreements that are used in real property security instruments all over the country. It also contains other promises and agreements that vary in different parts of the country. My promises and agreements are stated in "plain language."

COVENANTS

I promise and I agree with Lender as follows.

1. **Borrower's Promise to Pay.** I will pay to Lender on time principal and interest due under the Note and any prepayment, late charges and other amounts due under the Note. I will also pay all amounts for Escrow Items under Section 3 of this Security Instrument.

Payments due under the Note and this Security Instrument shall be made in U.S. currency. If any of my payments by check or other payment instrument is returned to Lender unpaid, Lender may require my payment be made by: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location required in the Note, or at another location designated by Lender under Section 15 of this Security Instrument. Lender may return or accept any payment or partial payment if it is for an amount that is less than the amount that is then due. If Lender accepts a lesser payment, Lender may refuse to accept a lesser payment that I may make in the future and does not waive any of its rights. Lender is not obligated to apply such lesser payments when it accepts such payments. If interest on principal accrues as if all Periodic Payments had been paid when due, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until I make payments to bring the loan current. If I do not do so within a reasonable period of time, Lender will either apply such funds or return them to me. In the event of foreclosure, any unapplied funds will be applied to the outstanding principal balance immediately prior to foreclosure. No offset or claim which I might have now or in the future against Lender will relieve me from making payments due under the Note and this Security Instrument or keeping all of my other promises and agreements secured by this Security Instrument.

2. **Application of Borrower's Payments and Insurance Proceeds.** Unless Applicable Law or this Section 2 requires otherwise, Lender will apply each of my payments that Lender accepts in the following order:

First, to pay interest due under the Note;

Next, to pay principal due under the Note; and

Next, to pay the amounts due Lender under Section 3 of this Security Instrument.

Such payments will be applied to each Periodic Payment in the order in which it became due.

Any remaining amounts will be applied as follows:

First, to pay any late charges;

Next, to pay any other amounts due under this Security Instrument, and

Next, to reduce the principal balance of the Note.

HC

If Lender receives a payment from me for a late Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the late Periodic Payment and the late charge. If more than one Periodic Payment is due, Lender may apply any payment received from me: First, to the repayment of the Periodic Payments that are due if, and to the extent that, each payment can be paid in full; Next, to the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due.

Voluntary prepayments will be applied as follows. First, to any prepayment charges; and Next, as described in the Note.

Any application of payments, Insurance Proceeds, or Miscellaneous Proceeds to principal due under the Note will not extend or postpone the due date of the Periodic Payments or change the amount of those payments.

3. Monthly Payments For Taxes And Insurance.

(a) Borrower's Obligations.

I will pay to Lender all amounts necessary to pay for taxes, assessments, water charges, sewer rents and other similar charges, ground leasehold payments or rents (if any), hazard or property insurance covering the Property, flood insurance (if any), and any required Mortgage Insurance, or a Loss Reserve as described in Section 10 in the place of Mortgage Insurance. Each Periodic Payment will include an amount to be applied toward payment of the following items which are called "Escrow Items":

- (1) The taxes, assessments, water charges, sewer rents and other similar charges, on the Property which under Applicable Law may be superior to this Security Instrument as a Lien on the Property. Any claim, demand or charge that is made against property because an obligation has not been fulfilled is known as a "Lien";
- (2) The leasehold payments or ground rents on the Property (if any);
- (3) The premium for any and all insurance required by Lender under Section 5 of this Security Instrument;
- (4) The premium for Mortgage Insurance (if any);
- (5) The amount I may be required to pay Lender under Section 10 of this Security Instrument instead of the payment of the premium for Mortgage Insurance (if any); and
- (6) If required by Lender, the amount for any Community Association Dues, Fees, and Assessments.

After signing the Note, or at any time during its term, Lender may include these amounts as Escrow Items. The monthly payment I will make for Escrow Items will be based on Lender's estimate of the annual amount required.

I will pay all of these amounts to Lender unless Lender tells me, in writing, that I do not have to do so, or unless Applicable Law requires otherwise. I will make these payments on the same day that my Periodic Payment (if principal and interest are due under the Note) is due. If I do not do so within a reasonable period of

The amounts that I pay to Lender for Escrow Items under this Section 3 will be called "Escrow Funds."

I will pay Lender the Escrow Funds for Escrow Items unless Lender waives my obligation to pay the Escrow Funds for any or all Escrow Items. Lender may waive my obligation to pay to Lender Escrow Funds for any or all Escrow Items at any time. Any such waiver must be in writing. In the event of such waiver, I will pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Escrow Funds has been waived by Lender and, if Lender requires, will promptly send to Lender receipts showing such payment within such time period as Lender may require. My obligation to make such payments and to provide receipts will be considered to be a promise and agreement contained in this Security Instrument, as the phrase "promises and agreements" is used in Section 9 of this Security Instrument. If I am obligated to pay Escrow Items directly, pursuant to a waiver, and I fail to pay the amount due for an Escrow Item, Lender may pay that amount and I will then be obligated under Section 9 of this Security Instrument to repay to Lender. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 of this Security Instrument and, upon the revocation, I will pay to Lender all Escrow Funds, and in amounts, that are then required under this Section 3.

I promise to promptly send to Lender any notices that I receive of Escrow Item amounts to be paid. Lender will estimate from time to time the amount of Escrow Funds I will have to pay by using existing assessments and bills and reasonable estimates of the amount I will have to pay for Escrow Items in the future, unless Applicable Law requires Lender to use another method for determining the amount I am to pay.

Lender may, at any time, collect and hold Escrow Funds in an amount sufficient to permit Lender to apply the Escrow Funds at the time specified under RESPA. Applicable Law puts limits on the total amount of Escrow Funds Lender can at any time collect and hold. This total amount cannot be more than the maximum amount a lender could require under RESPA. If there is another Applicable Law that imposes a lower limit on the total amount of Escrow Funds Lender can collect and hold, Lender will be limited to the lower amount.

(b) Lender's Obligations.

Lender will keep the Escrow Funds in a savings or banking institution which has its deposits insured by a federal agency, instrumentality, or entity, or in any Federal Home Loan Bank. If Lender is such a savings or banking institution, Lender may hold the Escrow Funds. Lender will use the Escrow Funds to pay the Escrow Items no later than the time allowed under RESPA or other Applicable Law. Lender will give to me, without charge, an annual accounting of the Escrow Funds. That accounting will show all additions to and deductions from the Escrow Funds and the reason for each deduction.

Lender may not charge me for holding or keeping the Escrow Funds, for using the Escrow Funds to pay Escrow Items, for making a yearly analysis of my payment of Escrow Funds or for receiving, or for verifying and mailing assessments and bills. However, Lender may charge me for these services if Lender pays me interest on the Escrow Funds and if Applicable Law permits Lender to make such a charge. Lender will not be required to pay me any interest or earnings on the Escrow Funds unless either (1) Lender and I agree in writing that Lender will pay interest on the Escrow Funds, or (2) Applicable Law requires Lender to pay interest on the Escrow Funds.

(c) Adjustments to the Escrow Funds.

Under Applicable Law, there is a limit on the amount of Escrow Funds Lender may hold. If the amount of Escrow Funds held by Lender exceeds this limit, then there will be an excess amount and RESPA requires Lender to account to me in a special manner for the excess amount of Escrow Funds.

If, at any time, Lender has not received enough Escrow Funds to make the payments of Escrow Items when the payments are due, Lender may tell me in writing that an additional amount is necessary. I will pay to Lender whatever additional amount is necessary to pay the Escrow Items when the payments are due, but the number of payments will not be more than 12.

When I have paid all of the Sums Secured, Lender will promptly refund to me any Escrow Funds that are then being held by Lender.

4. Borrower's Obligation to Pay Charges, Assessments and Claims. I will pay all taxes, assessments, water charges, sewer rents and other similar charges, and any other charges and fines that may be imposed on the Property and that may be superior to this Security Instrument. I will also make ground rents or payments due under my lease if I am a tenant on the Property and Community Association Dues, Fees, and Assessments (if any) due on the Property. If these items are Escrow Items, I will do this by making the payments as described in Section 3 of this Security Instrument. In this Security Instrument, the word "Person" means any individual, organization, governmental authority or other party.

I will promptly pay or satisfy all Liens against the Property that may be superior to this Security Instrument. However, this Security Instrument does not require me to satisfy a superior Lien if: (a) I agree, in writing, to pay the obligation which gave rise to the superior Lien and Lender approves the way in which I agree to pay that obligation, but only so long as I am performing such agreement; (b) in good faith, I argue or defend against the superior Lien in a lawsuit so that in Lender's opinion, during the lawsuit, the superior Lien may not be enforced, but only until the lawsuit ends; or (c) I secure from the holder of that other Lien an agreement, approved in writing by Lender, that the Lien of this Security Instrument is superior to the Lien

held by that Person. If Lender determines that any part of the Property is subject to a superior Lien, Lender may give Borrower a notice identifying the superior Lien. Within 10 days of the date on which the notice is given, Borrower shall pay or satisfy the superior Lien or take one or more of the actions mentioned in this Section 4.

Lender also may require me to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with the Loan, unless Applicable Law does not permit Lender to make such a charge.

5. Borrower's Obligation to Maintain Hazard Insurance or Property Insurance. I will obtain hazard or property insurance to cover all buildings and other improvements that now are, or in the future will be, located on the Property. The insurance will cover loss or damage caused by fire, hazards normally covered by "Extended Coverage" hazard insurance policies, and any other hazards for which Lender requires coverage, including, but not limited to earthquakes and floods. The insurance will be in the amounts (including, but not limited to, deductible levels) and for the periods of time required by Lender. What Lender requires under the last sentence can change during the term of the Loan. I may choose the insurance company, but my choice is subject to Lender's right to disapprove. Lender may not disapprove my choice unless the disapproval is reasonable. Lender may require me to pay either (a) a one-time charge for flood zone determination, certification and tracking services, or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect the flood zone determination or certification. If I disagree with the flood zone determination, I may request the Federal Emergency Management Agency to review the flood zone determination and I promise to pay any fees charged by the Federal Emergency Management Agency for its review.

If I fail to maintain any of the insurance coverages described above, Lender may obtain insurance coverage, at Lender's option and my expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage will cover Lender, but might or might not protect me, my equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. I acknowledge that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that I could have obtained. Any amounts disbursed by Lender under this Section 5 will become my additional debt secured by this Security Instrument. These amounts will bear interest at the interest rate set forth in the Note from the date of disbursement and will be payable with such interest, upon notice from Lender to me requesting payment.

(All of the insurance policies and renewals of those policies will include what is known as a "Standard Mortgage Clause" to protect Lender and will name Lender as mortgagee and/or as an additional loss payee. The form of all policies and renewals will be acceptable to Lender. Lender will have the right to hold the policies and renewal certificates. If Lender requires, I will promptly give Lender all receipts of paid premiums and renewal notices that I receive.

If I obtain any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy will include a Standard Mortgage Clause and will name Lender as mortgagee and/or as an additional loss payee.

If there is a loss or damage to the Property, I will promptly notify the insurance company and Lender. If I do not promptly prove to the insurance company that the loss or damage occurred, then Lender may do so.

The amount paid by the insurance company for loss or damage to the Property is called "Insurance Proceeds." Unless Lender and I otherwise agree in writing, any Insurance Proceeds, whether or not the underlying insurance was required by Lender, will be used to repair or to restore the damaged Property unless: (a) it is not economically feasible to make the repairs or restoration; (b) the use of the Insurance Proceeds for that purpose would lessen the protection given to Lender by this Security Instrument; or (c)

Lender and I have agreed in writing not to use the Insurance Proceeds for that purpose. During the period that any repairs or restorations are being made, Lender may hold any Insurance Proceeds until it has had an opportunity to inspect the Property to verify that the repair work has been completed to Lender's satisfaction. However, this inspection will be done promptly. Lender may make payments for the repairs and restorations in a single payment or in a series of progress payments as the work is completed. Unless Lender and I agree otherwise in writing or unless Applicable Law requires otherwise, Lender is not required to pay me any interest or earnings on the Insurance Proceeds. I will pay for any public adjusters or other third parties that I hire, and their fees will not be paid out of the Insurance Proceeds. If the repair or restoration is not economically feasible or if it would lessen Lender's protection under this Security Instrument, then the Insurance Proceeds will be used to reduce the amount that I owe to Lender under this Security Instrument. Such Insurance Proceeds will be applied in the order provided for in Section 2. If any of the Insurance Proceeds remain after the amount that I owe to Lender has been paid in full, the remaining Insurance Proceeds will be paid to me.

If I abandon the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If I do not answer, within 30 days, a notice from Lender stating that the insurance company has offered to settle a claim, Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 of this Security Instrument or otherwise, I give Lender my rights to any Insurance Proceeds in an amount not greater than the amounts unpaid under the Note and this Security Instrument. I also give Lender any other of my rights (other than the right to any refund of unearned premiums that I paid) under all insurance policies covering the Property, if the rights are applicable to the coverage of the Property. Lender may use the Insurance Proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Borrower's Obligations to Occupy The Property.** I will occupy the Property and use the Property as my principal residence within 60 days after I sign this Security Instrument. I will continue to occupy the Property and to use the Property as my principal residence for at least one year. The one-year period will begin when I first occupy the Property. However, I will not have to occupy the Property and use the Property as my principal residence within the time frames set forth above if Lender agrees in writing that I do not have to do so. Lender may not refuse to agree unless the refusal is reasonable. I also will not have to occupy the Property and use the Property as my principal residence within the time frames set forth above if extenuating circumstances exist which are beyond my control.

7. **Borrower's Obligations to Maintain And Protect The Property And to Fulfill Any Lease Obligations.**

(a) **Maintenance and Protection of the Property.**

I will not destroy, damage or harm the Property, and I will not allow the Property to deteriorate. Whether or not I am residing in the Property, I will keep the Property in good repair so that it will not deteriorate or decrease in value due to its condition. Unless it is determined under Section 5 of this Security Instrument that repair is not economically feasible, I will promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or Condemnation (as defined in the definition of Miscellaneous Proceeds) proceeds are paid because of loss or damage to, or Condemnation of, the Property, I will repair or restore the Property only if Lender has released those proceeds for such purposes. Lender may pay for the repairs and restoration out of proceeds in a single payment or in a series of progress payments as the work is completed. If the insurance or Condemnation proceeds are not sufficient to repair or restore the Property, I promise to pay for the completion of such repair or restoration.

(b) **Lender's Inspection of Property.**

Lender, and others authorized by Lender, may enter on and inspect the Property. They will do so in a reasonable manner and at reasonable times. If it has a reasonable purpose, Lender may inspect the inside of the home or other improvements on the Property. Before or at the time an inspection is made, Lender will give me notice stating a reasonable purpose for such interior inspection.

8. **Borrower's Loan Application.** If, during the application process for the Loan, I, or any Person or entity acting at my direction or with my knowledge or consent, made false, misleading, or inaccurate statements to Lender about information important to Lender in determining my eligibility for the Loan (or did not provide Lender with such information), Lender will treat my actions as a default under this Security Instrument. False, misleading, or inaccurate statements about information important to Lender would include a misrepresentation of my intention to occupy the Property as a principal residence. This is just one example of a false, misleading, or inaccurate statement of important information.

9. **Lender's Right to Protect Its Rights in The Property.** If: (a) I do not keep my promises and agreements made in this Security Instrument; (b) someone, including me, begins a legal proceeding that may significantly affect Lender's interest in the Property or rights under this Security Instrument (such as a legal proceeding in bankruptcy, in probate, for Condemnation or Forfeiture (as defined in Section 11), proceedings which could give a Person rights which could equal or exceed Lender's interest in the Property or under this Security Instrument, proceedings for enforcement of a Lien which may become superior to this Security Instrument, or to enforce laws or regulations); or (c) I have abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and Lender's rights under this Security Instrument.

Lender's actions may include, but are not limited to: (a) protecting and/or assessing the value of the Property; (b) securing and/or repairing the Property; (c) paying sums to eliminate any Lien against the Property that may be equal or superior to this Security Instrument; (d) appearing in court; and (e) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Lender can also enter the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, have utilities turned on or off, and take any other action to secure the Property. Although Lender may take action under this Section 9, Lender does not have to do so and is under no duty to do so. I agree that Lender will not be liable for not taking any or all actions under this Section 9.

I will pay to Lender any amounts, with interest, which Lender spends under this Section 9. I will pay those amounts to Lender when Lender sends me a notice requesting that I do so. I will pay interest on those amounts at the interest rate set forth in the Note. Interest on each amount will begin on the date that the amount is spent by Lender. This Security Instrument will protect Lender in case I do not keep this promise to pay those amounts with interest.

If I do not own, but am a tenant on the Property, I will fulfill all my obligations under my lease. I also agree that, if I acquire the full title (sometimes called "Fee Title") to the Property, my lease interest and the Fee Title will not merge unless Lender agrees to the merger in writing.

10. **Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, I will pay the premiums for the Mortgage Insurance. If, for any reason, the Mortgage Insurance coverage ceases to be available from the mortgage insurer that previously provided such insurance and Lender required me to make separate payments toward the premiums for Mortgage Insurance, I will pay the premiums for substantially equivalent Mortgage Insurance coverage from an alternate mortgage insurer. However, the cost of this Mortgage Insurance coverage will be substantially equivalent to the cost to me of the previous Mortgage Insurance coverage, and the alternate mortgage insurer will be selected by Lender.

If substantially equivalent Mortgage Insurance coverage is not available, Lender will establish a non-refundable "Loss Reserve" as a substitute for the Mortgage Insurance coverage. I will continue to pay to Lender each month an amount equal to one-twelfth of the yearly Mortgage Insurance premium (as of the time the coverage lapsed or ceased to be in effect). Lender will retain these payments, and will use these payments to pay for losses that the Mortgage Insurance would have covered. The Loss Reserve is non-refundable even if the Loan is ultimately paid in full and Lender is not required to pay me any interest on the Loss Reserve. Lender can no longer require Loss Reserve payments if: (a) Mortgage Insurance

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coverage again becomes available through an insurer selected by Lender; (b) such Mortgage Insurance is obtained; (c) Lender requires separately designated payments toward the premiums for Mortgage Insurance; and (d) the Mortgage Insurance coverage is in the amount and for the period of time required by Lender.

If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separate payments toward the premiums for Mortgage Insurance, I will pay the Mortgage Insurance premiums, or the Loss Reserve payments, until the requirement for Mortgage Insurance ends according to any written agreement between Lender and me providing for such termination or until termination of Mortgage Insurance is required by Applicable Law. Lender may require me to pay the premiums, or the Loss Reserve payments, in the manner described in Section 3 of this Security Instrument. Nothing in this Section 10 will affect my obligation to pay interest at the rate provided in the Note.

A Mortgage Insurance policy pays Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance policy.

Mortgage insurers assess their total risk on all Mortgage Insurance from time to time. Mortgage insurers may enter into agreements with other parties to share or change their risk, or to reduce losses. These agreements are based on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include Mortgage Insurance premiums).

As a result of these agreements, Lender, any owner of the Note, another insurer, any reinsurer, or any other entity may receive (directly or indirectly) amounts that come from a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or changing the mortgage insurer's risk, or reducing losses. If these agreements provide that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." It also should be understood that: (a) any of these agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. These agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund; and (b) any of these agreements will not affect the rights Borrower has - if any - regarding the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right (a) to receive certain disclosures, (b) to request and obtain cancellation of the Mortgage Insurance, (c) to have the Mortgage Insurance terminated automatically, and/or (d) to receive a refund of any Mortgage Insurance premiums that were not earned at the time of such cancellation or termination.

11. Agreements About Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are assigned to and will be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds will be applied to restoration or repair of the Property, if (a) the restoration or repair is economically feasible; and (b) Lender's security given in this Security Instrument is not lessened. During such repair and restoration period, Lender will have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect the Property to verify that the work has been completed to Lender's satisfaction. However, the inspection will be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless Lender and I agree otherwise in writing or unless Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender will not be required to pay Borrower any interest or earnings on the Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security given in this Security Instrument would be lessened, the Miscellaneous Proceeds will be applied to the Sums Secured, whether or not then due. The excess, if any, will be paid to me. Such Miscellaneous Proceeds will be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds will be applied to the Sums Secured, whether or not then due. The excess, if any, will be paid to me.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the Sums Secured immediately before the partial taking, destruction, or loss in

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value, the Sums Secured will be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the Sums Secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to me.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the Sums Secured immediately before the partial taking, destruction, or loss in value, the Miscellaneous Proceeds will be applied to the Sums Secured whether or not the sums are then due.

If I abandon the Property, or if, after Lender sends me notice that the Opposing Party (as defined in the next sentence) offered to make an award to settle a claim for damages, I fail to respond to Lender within 30 days after the date Lender gives notice, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the Sums Secured, whether or not then due. "Opposing Party" means the third party that owes me Miscellaneous Proceeds or the party against whom I have a right of action in regard to Miscellaneous Proceeds.

I will be in default under this Security Instrument if any civil or criminal action or proceeding that Lender determines could result in a court ruling (a) that would require Forfeiture of the Property, or (b) that could damage Lender's interest in the Property or rights under this Security Instrument. "Forfeiture" is a court action to require the Property, or any part of the Property, to be given up. I may correct the default by obtaining a court ruling that dismisses the court action, if Lender determines that this court ruling prevents Forfeiture of the Property and also prevents any damage to Lender's interest in the Property or rights under this Security Instrument. If I correct the default, I will have the right to have enforcement of this Security Instrument discontinued, as provided in Section 19 of this Security Instrument, even if Lender has required Immediate Payment in Full (as defined in Section 22). The proceeds of any award or claim for damages that are attributable to the damage or reduction of Lender's interest in the Property are assigned, and will be paid, to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property will be applied in the order provided for in Section 2.

12. Continuation of Borrower's Obligations And of Lender's Rights.

(a) Borrower's Obligations.

Lender may allow me, or a Person who takes over my rights and obligations, to delay or to change the amount of the Periodic Payments. Even if Lender does this, however, I will still be fully obligated under the Note and under this Security Instrument unless Lender agrees to release me, in writing, from my obligations.

Lender may allow those delays or changes for me or a Person who takes over my rights and obligations, even if Lender is requested not to do so. Even if Lender is requested to do so, Lender will not be required to (1) bring a lawsuit against me or such a Person for not fulfilling obligations under the Note or under this Security Instrument; or (2) refuse to extend time for payment or otherwise modify amortization of the Sums Secured.

(b) Lender's Rights.

Even if Lender does not exercise or enforce any right of Lender under this Security Instrument or under Applicable Law, Lender will still have all of those rights and may exercise and enforce them in the future. Even if: (1) Lender obtains insurance, pays taxes, or pays other claims, charges or Liens against the Property; (2) Lender accepts payments from third Persons; or (3) Lender accepts payments in amounts less than the amount then due, Lender will have the right under Section 22 below to demand that I make Immediate Payment in Full of any amounts remaining due and payable to Lender under the Note and under this Security Instrument.

13. Obligations of Borrower And of Persons Taking Over Borrower's Rights or Obligations. If more than one Person signs this Security Instrument as Borrower, each of us is fully obligated to keep all of Borrower's promises and obligations contained in this Security Instrument. Lender may enforce Lender's rights under this Security Instrument against each of us individually or against all of us together. This means that any one of us may be required to pay all of the Sums Secured. However, if one of us does not sign the Note: (a) that Person is signing this Security Instrument only to give that Person's rights in the Property to Lender under the terms of this Security Instrument; (b) that Person is not personally obligated to pay the Sums Secured; and (c) that Person agrees that Lender may agree with the other Borrowers to

delay enforcing any of Lender's rights, to modify, or make any accommodations with regard to the terms of this Security Instrument or the Note without that Person's consent.

Subject to the provisions of Section 18 of this Security Instrument, any Person who takes over my rights or obligations under this Security Instrument in writing, and is approved by Lender in writing, will have all of my rights and will be obligated to keep all of my promises and agreements made in this Security Instrument. Borrower will not be released from Borrower's obligations and liabilities under this Security Instrument unless Lender agrees to such release in writing. Any Person who takes over Lender's rights or obligations under this Security Instrument will have all of Lender's rights and will be obligated to keep all of Lender's promises and agreements made in this Security Instrument except as provided under Section 20.

14. **Loan Charges.** Lender may charge me fees for services performed in connection with my default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. With regard to other fees, the fact that this Security Instrument does not expressly indicate that Lender may charge a certain fee does not mean that Lender cannot charge that fee. Lender may not charge fees that are prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to Applicable Law which sets maximum loan charges, and that Applicable Law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed permitted limits: (a) any such loan charge will be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (even if a prepayment charge is provided for under the Note). If I accept such a refund that is paid directly to me, I will waive any right to bring a lawsuit against Lender because of the overcharge.

15. **Notices Required under this Security Instrument.** All notices given by me or Lender in connection with this Security Instrument will be in writing. Any notice to me in connection with this Security Instrument is considered given to me when mailed by first class mail or when actually delivered to my notice address if sent by other means. Notice to any one Borrower will be notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address is the address of the Property unless I give notice to Lender of a different address. I will promptly notify Lender of my change of address. If Lender specifies a procedure for reporting my change of address, then I will only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender will be given by delivering it or by mailing it by first class mail to Lender's address stated on the first page of this Security Instrument unless Lender has given me notice of another address. Any notice in connection with this Security Instrument is given to Lender when it is actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. **Law That Governs this Security Instrument; Word Usage.** This Security Instrument is governed by federal law and the law of New York State. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might allow the parties to agree by contract or it might be silent, but such silence does not mean that Lender and I cannot agree by contract. If any term of this Security Instrument or of the Note conflicts with Applicable Law, the conflict will not affect other provisions of this Security Instrument or the Note which can operate, or be given effect, without the conflicting provision. This means that the Security Instrument or the Note will remain as if the conflicting provision did not exist.

As used in this Security Instrument: (a) words of the masculine gender mean and include corresponding words of the feminine and neuter genders; (b) words in the singular mean and include the plural, and words in the plural mean and include the singular; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. **Borrower's Copy.** I will be given one copy of the Note and of this Security Instrument.

18. **Agreements about Lender's Rights If the Property Is Sold or Transferred.** Lender may require immediate payment in full of all sums secured by this Security Instrument if all or any part of the Property, or if any right in the Property, is sold or transferred without Lender's prior written permission.

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If Borrower is not a natural Person and a beneficial interest in Borrower is sold or transferred without Lender's prior written permission, Lender also may require Immediate Payment in Full. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender requires Immediate Payment in Full under this Section 18, Lender will give me a notice which states this requirement. The notice will give me at least 30 days to make the required payment. The 30-day period will begin on the date the notice is given to me in the manner required by Section 15 of this Security Instrument. If I do not make the required payment during that period, Lender may act to enforce its rights under this Security Instrument without giving me any further notice or demand for payment.

19. Borrower's Right to Have Lender's Enforcement of this Security Instrument Discontinued. Even if Lender has required Immediate Payment in Full, I may have the right to have enforcement of this Security Instrument stopped. I will have this right at any time before the earliest of: (a) five days before sale of the Property under any power of sale granted by this Security Instrument; (b) another period as Applicable Law might specify for the termination of my right to have enforcement of the Loan stopped; or (c) a judgment has been entered enforcing this Security Instrument. In order to have this right, I will meet the following conditions:

- (a) I pay to Lender the full amount that then would be due under this Security Instrument and the Note as if Immediate Payment in Full had never been required;
- (b) I correct my failure to keep any of my other promises or agreements made in this Security Instrument;
- (c) I pay all of Lender's reasonable expenses in enforcing this Security Instrument including, for example, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and
- (d) I do whatever Lender reasonably requires to assure that Lender's interest in the Property and rights under this Security Instrument and my obligations under the Note and under this Security Instrument continue unchanged.

Lender may require that I pay the sums and expenses mentioned in (a) through (d) in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer.

If I fulfill all of the conditions in this Section 19, then this Security Instrument will remain in full effect as if Immediate Payment in Full had never been required. However, I will not have the right to have Lender's enforcement of this Security Instrument discontinued if Lender has required Immediate Payment in Full under Section 18 of this Security Instrument.

20. Note Holder's Right to Sell the Note or an Interest in the Note; Borrower's Right to Notice of Change of Loan Servicer; Lender's and Borrower's Right to Notice of Grievance. The Note, or an interest in the Note, together with this Security Instrument, may be sold one or more times. I might not receive any prior notice of these sales.

The entity that collects the Periodic Payments and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law is called the "Loan Servicer." There may be a change of the Loan Servicer as a result of the sale of the Note. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. Applicable Law requires that I be given written notice of any change of the Loan Servicer. The notice will state the name and address of the new Loan Servicer, and also tell me the address to which I should make my payments. The notice also will contain any other information required by RESPA or Applicable Law. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to me will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither I nor Lender may commence, join or be joined to any court action (as either an individual party or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other has not fulfilled any of its obligations under this Security Instrument, unless the other is notified (in the manner required under Section 15 of this Security Instrument) of the unfulfilled obligation and given a reasonable time period to take corrective action. If Applicable Law provides a time period which will elapse before certain action can be taken, that time period will be deemed to be reasonable for

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purposes of this paragraph. The notice of acceleration and opportunity to cure given to me under Section 22 and the notice of the demand for payment in full given to me under Section 22 will be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20. All rights under this paragraph are subject to Applicable Law.

21. Continuation of Borrower's Obligations to Maintain and Protect the Property. The federal laws and the laws of New York State that relate to health, safety or environmental protection are called "Environmental Law." Environmental Law classifies certain substances as toxic or hazardous. There are other substances that are considered hazardous for purposes of this Section 21. These substances are gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. The substances defined as toxic or hazardous by Environmental Law and the substances considered hazardous for purposes of this Section 21 are called "Hazardous Substances." "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law. An "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

I will not do anything affecting the Property that violates Environmental Law, and I will not allow anyone else to do so. I will not cause or permit Hazardous Substances to be present on the Property. I will not use or store Hazardous Substances on the Property. I also will not dispose of Hazardous Substances on the Property, or release any Hazardous Substance on the Property, and I will not allow anyone else to do so. I also will not do, nor allow anyone else to do, anything affecting the Property that: (a) is in violation of any Environmental Law; (b) creates an Environmental Condition; or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The promises in this paragraph do not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized as appropriate for normal residential use and maintenance of the Property (including, but not limited to, Hazardous Substances in consumer products). I may use or store these small quantities on the Property. In addition, unless Environmental Law requires removal or other action, the buildings, the improvements and the fixtures on the Property are permitted to contain asbestos and asbestos-containing materials if the asbestos and asbestos-containing materials are undisturbed and "non-friable" (that is, not easily crumbled by hand pressure).

I will promptly give Lender written notice of: (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which I have actual knowledge; (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance; and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If I learn, or any governmental or regulatory authority, or any private party, notifies me that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, I will promptly take all necessary remedial actions in accordance with Environmental Law.

Nothing in this Security Instrument creates an obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS

I also promise and agree with Lender as follows:

22. Lender's Rights If Borrower Fails to Keep Promises and Agreements. Except as provided in Section 18 of this Security Instrument, if all of the conditions stated in subsections (a), (b) and (c) of this Section 22 are met, Lender may require that I pay immediately the entire amount then remaining unpaid under the Note and under this Security Instrument. Lender may do this without making any further demand for payment. This requirement is called "Immediate Payment in Full."

If Lender requires Immediate Payment in Full, Lender may bring a lawsuit to take away all of my remaining rights in the Property and have the Property sold. At this sale Lender or another Person may acquire the Property. This is known as "Foreclosure and Sale." In any lawsuit for Foreclosure and Sale, Lender will have the right to collect all costs and disbursements and additional allowances allowed by Applicable Law and will have the right to add all reasonable attorneys' fees to

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the amount I owe Lender, which fees shall become part of the Sums Secured.

Lender may require Immediate Payment in Full under this Section 22 only if all of the following conditions are met:

- (a) I fail to keep any promise or agreement made in this Security Instrument or the Note, including, but not limited to, the promises to pay the Sums Secured when due, or if another default occurs under this Security Instrument;
- (b) Lender sends to me, in the manner described in Section 15 of this Security Instrument, a notice that states:

- (1) The promise or agreement that I failed to keep or the default that has occurred;
- (2) The action that I must take to correct that default;
- (3) A date by which I must correct the default. That date will be at least 30 days from the date on which the notice is given;
- (4) That if I do not correct the default by the date stated in the notice, Lender may require Immediate Payment in Full, and Lender or another person may acquire the Property by means of Foreclosure and Sale;
- (5) That if I meet the conditions stated in Section 19 of this Security Instrument, I will have the right to have Lender's enforcement of this Security Instrument stopped and to have the Note and this Security Instrument remain fully effective as if Immediate Payment in Full had never been required; and
- (6) That I have the right in any lawsuit for Foreclosure and Sale to argue that I did keep my promises and agreements under the Note and under this Security Instrument, and to present any other defenses that I may have; and

- (c) I do not correct the default stated in the notice from Lender by the date stated in that notice.

23. **Lender's Obligation to Discharge this Security Instrument.** When Lender has been paid all amounts due under the Note and under this Security Instrument, Lender will discharge this Security Instrument by delivering a certificate stating that this Security Instrument has been satisfied. I will pay all costs of recording the discharge in the proper official records. I agree to pay a fee for the discharge of this Security Instrument, if Lender so requires. Lender may require that I pay such a fee, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted by Applicable Law.

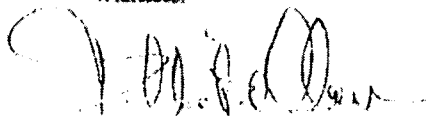
24. **Agreements about New York Lien Law.** I will receive all amounts lent to me by Lender subject to the trust fund provisions of Section 13 of the New York Lien Law. This means that I will: (a) hold all amounts which I receive and which I have a right to receive from Lender under the Note as a trust fund; and (b) use those amounts to pay for "Cost of Improvement" (as defined in Section 13 of the New York Lien Law) before I use them for any other purpose. The fact that I am holding those amounts as a trust fund means that for any building or other improvement located on the Property I have a special responsibility under the law to use the amount in the manner described in this Section 24.


25. **Borrower's Statement Regarding the Property** (check box as applicable).

- ☒ This Security Instrument covers real property improved, or to be improved, by a one or two family dwelling only.
- ☐ This Security Instrument covers real property principally improved, or to be improved, by one or more structures containing, in the aggregate, not more than six residential dwelling units with each dwelling unit having its own separate cooking facilities.
- ☐ This Security Instrument does not cover real property improved as described above.

BY SIGNING BELOW, I accept and agree to the promises and agreements contained in pages 1 through 17 of this Security Instrument and in any Rider signed by me and recorded with it.

Witnesses:




MARIE CHAVANNE (Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

STATE OF NEW YORK,

Kings
County

On the 20th day of March, 2007
public in and for said state, personally appeared
Marie Chavaunes

before me, the undersigned, a notary

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

Tax Map Information:

POLYMNIA MAKRILOU
Notary Public, State of New York
No. 01MA6136212
Qualified in Kings County
Commission Expires October 31st, 2009

1-4 FAMILY RIDER (Assignment of Rents)

THIS 1-4 FAMILY RIDER is made this 20th day of March 2007 and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to National City Mortgage a division of National City Bank (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

4589 KINGS HWY, BROOKLYN, New York 11234

[Property Address]

1-4 FAMILY COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. ADDITIONAL PROPERTY SUBJECT TO THE SECURITY INSTRUMENT. In addition to the Property described in the Security Instrument, the following items now or hereafter attached to the Property to the extent they are fixtures are added to the Property description, and shall also constitute the Property covered by the Security Instrument: building materials, appliances and goods of every nature whatsoever now or hereafter located in, on, or used, or intended to be used in connection with the Property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, attached mirrors, cabinets, paneling and attached floor coverings, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the Property covered by the Security Instrument. All of the foregoing together with the Property described in the Security Instrument (or the leasehold estate if the Security Instrument is on a leasehold) are referred to in this 1-4 Family Rider and the Security Instrument as the "Property."

additions the

B. USE OF PROPERTY; COMPLIANCE WITH LAW. Borrower shall not seek, agree to or make a change in the use of the Property or its zoning classification, unless Lender has agreed in writing to the change. Borrower shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property.

C. SUBORDINATE LIENS. Except as permitted by federal law, Borrower shall not allow any lien inferior to the Security Instrument to be perfected against the Property without Lender's prior written permission.

D. RENT LOSS INSURANCE. Borrower shall maintain insurance against rent loss in addition to the other hazards for which insurance is required by Section 5.

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(800)521 7291

E. "BORROWER'S RIGHT TO REINSTATE" DELETED. Section 19 is deleted.

F. BORROWER'S OCCUPANCY. Unless Lender and Borrower otherwise agree in writing, Section 6 concerning Borrower's occupancy of the Property is deleted.

G. ASSIGNMENT OF LEASES. Upon Lender's request after default, Borrower shall assign to Lender all leases of the Property and all security deposits made in connection with leases of the Property. Upon the assignment, Lender shall have the right to modify, extend or terminate the existing leases and to execute new leases, in Lender's sole discretion. As used in this paragraph G, the word "lease" shall mean "sublease" if the Security Instrument is on a leasehold.

H. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION. Borrower absolutely and unconditionally assigns and transfers to Lender all the rents and revenues ("Rents") of the Property, regardless of to whom the Rents of the Property are payable. Borrower authorizes Lender or Lender's agents to collect the Rents, and agrees that each tenant of the Property shall pay the Rents to Lender or Lender's agents. However, Borrower shall receive the Rents until: (i) Lender has given Borrower notice of default pursuant to Section 22 of the Security Instrument, and (ii) Lender has given notice to the tenant(s) that the Rents are to be paid to Lender or Lender's agent. This assignment of Rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of default to Borrower: (i) all Rents received by Borrower shall be held by Borrower as trustee for the benefit of Lender only, to be applied to the sums secured by the Security Instrument; (ii) Lender shall be entitled to collect and receive all of the Rents of the Property; (iii) Borrower agrees that each tenant of the Property shall pay all Rents due and unpaid to Lender or Lender's agents upon Lender's written demand to the tenant; (iv) unless applicable law provides otherwise, all Rents collected by Lender or Lender's agents shall be applied first to the costs of taking control of and managing the Property and collecting the Rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, repair and maintenance costs, insurance premiums, taxes, assessments and other charges on the Property, and then to the sums secured by the Security Instrument; (v) Lender, Lender's agents or any judicially appointed receiver shall be liable to account for only those Rents actually received; and (vi) Lender shall be entitled to have a receiver appointed to take possession of and manage the Property and collect the Rents and profits derived from the Property without any showing as to the inadequacy of the Property as security.

If the Rents of the Property are not sufficient to cover the costs of taking control of and managing the Property and of collecting the Rents any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by the Security Instrument pursuant to Section 9.

Borrower represents and warrants that Borrower has not executed any prior assignment of the Rents and has not performed, and will not perform, any act that would prevent Lender from exercising its rights under this paragraph.

Lender, or Lender's agents or a judicially appointed receiver, shall not be required to enter upon, take control of or maintain the Property before or after giving notice of default to Borrower. However, Lender, or Lender's agents or a judicially appointed receiver, may do so at any time when a default occurs. Any application of Rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of Rents of the Property shall terminate when all the sums secured by the Security Instrument are paid in full.

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Form 3170 1/01

I. CROSS-DEFAULT PROVISION. Borrower's default or breach under any note or agreement in which Lender has an interest shall be a breach under the Security Instrument and Lender may invoke any of the remedies permitted by the Security Instrument.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this 1-4 Family Rider.

Marie Chavannes (Seal) _____ (Seal)
MARIE CHAVANNES -Borrower -Borrower

_____ (Seal) _____ (Seal)
-Borrower -Borrower

_____ (Seal) _____ (Seal)
-Borrower -Borrower

_____ (Seal) _____ (Seal)
Borrower (v) Lender Lender's agent -Borrower

ADJUSTABLE RATE RIDER

(Index: Six-Month London Interbank Offered Rate ("LIBOR") As Published in *The Wall St. Journal* - Rate Caps)
(Assumable After Initial Period) (45 Day Lookback)

This Adjustable Rate Rider is made this 20th day of March, 2007 and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Adjustable Rate Note as amended and supplemented by the Interest Only Payment Period Note Addendum to Adjustable Rate Note (collectively the "Note") to National City Mortgage
a division of National City Bank

(the "Lender") of the same date and covering the property described in the Security Instrument and located at:

4589 KINGS HWY , BROOKLYN , New York 11234

[Property Address]

THE NOTE PROVIDES FOR A PERIOD OF MONTHLY PAYMENTS OF INTEREST ONLY FOLLOWED BY MONTHLY PAYMENTS OF BOTH PRINCIPAL AND INTEREST. THE NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN THE INITIAL INTEREST RATE AND MONTHLY PAYMENT DURING AND AFTER THE INTEREST ONLY PAYMENT PERIOD. THE NOTE ALSO LIMITS THE AMOUNT THE BORROWER'S INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE THE BORROWER MUST PAY.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial interest rate of 7.500 %. The First Payment and Interest Due Date is the first monthly payment date after the one hundred twentieth (120th) monthly payment is due. The Note provides for changes in the interest rate and the monthly payments as follows:

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the first day of April 2012, and may change on that day every sixth (6th) month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the six month Interbank Offered Rate ("LIBOR") which is the average of interbank offered rates for six-month U.S. dollar-denominated deposits in the London market, as published in *The Wall Street Journal*. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index based upon comparable information. The Note Holder will give me notice of this choice.

ADR0011

Page 1 of 3

6 Month LIBOR Interest Only Rider - Multistate
120 Interest Only Payments
Assumable after Initial Period
(05/05)

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding

TWO AND 3/4THS percentage points (**2.750** %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date. The Note Holder will then determine my new monthly payment as follows:

(i) **Interest Only Payment Period.** For monthly payments due after the first Change Date up to but not including the First Principal and Interest Due Date, the Note Holder will determine the amount of the monthly payment that would be sufficient to pay the interest that accrues on the unpaid principal that I am expected to owe at the Change Date at my new interest rate determined above in this Section 4(C). The result of this calculation will be the new amount of my Interest Only Payment until the next Change Date unless I make a partial Prepayment as provided in Section 5 of the Note.

(ii) **Principal and Interest Payments Due Beginning With the First Principal and Interest Due Date.** For monthly payments due on or after the First Principal and Interest Due Date, the Note Holder will determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate determined above in this Section 4(C) in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than **12.500** % or less than **2.750** %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than **ONE** percentage points (**1.000** %) from the rate of interest I have been paying for the preceding six months. My interest rate will never be greater than **12.500** %.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given and also the title and telephone number of a person who will answer any question I may have regarding the notice.

First Principal and Interest Due Date is the **12.500** % The **12.500** %

B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

1. UNTIL BORROWER'S INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION A ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL BE IN EFFECT AS FOLLOWS:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

ADR1D12

6 Month LIBOR Interest Only Rider - Multistate
120 Interest Only Payments
Assumable after Initial Period
(04/05)

Page 2 of 3

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

2. **AFTER BORROWER'S INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION A ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION B1 ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND THE PROVISIONS OF UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL BE AMENDED TO READ AS FOLLOWS:**

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Adjustable Rate Rider.

Marie Chavannes
(Seal)
MARIE CHAVANNES Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower
[Sign Original Only]

ADRI(D)

6 Month LIBOR Interest Only Rider - Multistate
120 Interest Only Payments
Assumable after Initial Period
(08/05)

Page 5 of 4

Exhibit "A"

Legal Description

All that certain parcel of land situated in the Borough of Brooklyn, County of Kings and State of New York, being known and designated as follows:

Beginning at a point on the Northwestern side of Kings Highway distant 81 feet 11 inches Northeasterly from the corner formed by the intersection of the Northwestern side of Kings Highway with the Northerly side of Avenue I;

Running thence Northwesternly on a line forming an exterior angle of 82° 36' with the Northwestern side of Kings Highway, 56 feet 11 inches;

Thence Northeasterly at right angles to the last mentioned course, 0 feet 9 inches;

Thence Northwesternly on a line forming an exterior angle of 52° 24' 10" with the Easterly side of East 45th Street, 69 feet 9 3/4 inches to the Easterly side of East 45th Street;

Thence Northerly along the Easterly side of East 45th Street, 11 feet 1 7/8 inches;

Thence Easterly at right angles to the Easterly side of East 45th Street 18 feet 10 inches to a point;

Thence Southerly on a line forming an interior angle of 82° 36' with the Northwestern side of Kings Highway 121 feet 4 1/4 inches to the Northwestern side of Kings Highway;

Thence Southwesterly along the Northwestern side of Kings Highway 21 feet 3 1/8 inches to the point or place of beginning.

Tax ID: Block 7749 Lot 12

142032 - 1

Page 4 of 7

NYSCEC DOC. NO. 68

RECEIVED NYSCEF: 05/09/2018
RECEIVED NYSCEF: 02/28/2017
RECEIVED NYSCEF: 06/25/2018NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.

2007082400550001001E12DE

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 3

Document ID: 2007082400550001

Document Date: 03-20-2007

Preparation Date: 08-24-2007

Document Type: ASSIGNMENT, MORTGAGE

Document Page Count: 2

PRESENTER:

NATIONAL CITY MORTGAGE
3232 NEWMARK DRIVE
MIAMISBURG, OH 45342
937-910-2852

RETURN TO:

NATIONAL CITY MORTGAGE
3232 NEWMARK DRIVE
MIAMISBURG, OH 45342
937-910-2852

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BROOKLYN	7749	12	Entire Lot	4589 KINGS HIGHWAY

Property Type: DWELLING ONLY - 1 FAMILY

CROSS REFERENCE DATA

CRFN: 2007000285304

PARTIES

ASSIGNOR/OLD LENDER:

NATIONAL CITY MORTGAGE, A DIVISION OF NCB
3232 NEWMARK DRIVE
MIAMISBURG, OH 45342

ASSIGNEE/NEW LENDER:

NATIONAL CITY MORTGAGE, A SUBSIDIARY OF NCB
3232 NEWMARK DRIVE
MIAMISBURG, OH 45342

FEES AND TAXES

Mortgage		Filing Fee:	
Mortgage Amount:	\$	0.00	\$ 0.00
Taxable Mortgage Amount:	\$	0.00	NYC Real Property Transfer Tax:
Exemption:			\$ 0.00
TAXES:		NYS Real Estate Transfer Tax:	
County (Basic):	\$	0.00	\$ 0.00
City (Additional):	\$	0.00	
Spec (Additional):	\$	0.00	
1.5%:	\$	0.00	
MTA:	\$	0.00	
NYCTA:	\$	0.00	
Additional MRT:	\$	0.00	
TOTAL:	\$	0.00	
Recording Fee:	\$	47.00	
Affidavit Fee:	\$	0.00	

RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE
CITY OF NEW YORK

Recorded/Filed 09-05-2007 10:34

City Register File No.(CRFN):

2007000455574



Graetz M. Hill

City Register Official Signature

This instrument Prepared By:

Harish Punabacherla

After Recording Return To:

National City Mortgage

P.O. Box 8800

Dayton, OH 45401-8800

Parcel:

New York Section#: Block 7749 Lot 10

This assignment is not subject to the requirements of the Section 275 Real Property Law because this is an assignment within the secondary mortgage market.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NCM#:

CHAVANNES, MARIE

MIN and MERS Phone:

Recording District: Kings

ASSIGNMENT OF Mortgage

For value received, National City Mortgage, a division of National City Bank with an office located at 3232 Newark Drive, Miamisburg, OH 45342 hereby grants, assigns and transfers to National City Mortgage Co., a subsidiary of National City Bank located at 3232 Newark Drive Miamisburg, OH 45342, all beneficial interest under that certain Mortgage dated 3/20/2007 executed by:

Trustor(s) MARIE CHAVANNES

to for "NATIONAL CITY MORTGAGE, A DIVISION OF NATIONAL CITY BANK", in the amount of: "\$43,000", recorded 6/1/2007 as Instrument No.: 2007000285304 in Book/Volume: Page: of the Official Records of Kings County, New York describing the land therein:

Property Address: 4589 KINGS HWY, BROOKLYN, NY 11234

SEE ATTACHED LEGAL DESCRIPTION

Together with the Note or Notes therein described or referenced to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Mortgage.

National City Mortgage, a division of National City Bank

Jeff Bhui, Supervisor

State of OHIO County of MONTGOMERY

On 8/15/2007 before me, Christa Dahlinghaus the undersigned, a Notary Public in and for the State of OHIO, personally appeared Jeff Bhui, Supervisor of National City Mortgage, a division of National City Bank personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that for his signature on the instrument the person, or the entity upon behalf of which he acted, executed the instrument.

Christa Dahlinghaus

Christa Dahlinghaus, Notary Public in and for the State of OHIO

My Commission Expires: 7/2/2011 My County of Residence: MONTGOMERY



CHRISTA DAHLINGHAUS, Notary Public
in and for the State of Ohio
My Commission Expires July 2, 2011

FAL

Legal Description (Exhibit A):

All that certain parcel of land situated in the Borough of Brooklyn, County of Kings and State of New York, being known and designated as follows:

Beginning at a point on the Northwestern side of Kings Highway distant 81 feet 11 inches Northeasterly from the corner formed by the intersection of the Northwestern side of Kings Highway with the Northerly side of Avenue I;
Running thence Northwesternly on a line forming an exterior angle of 82°36' with the Northwestern side of Kings Highway, 56 feet 11 inches;
Thence Northeasterly at right angles to the last mentioned course, 0 feet 9 inches;
Thence Northwesternly on a line forming an exterior angle of 52°24'10" with the Easterly side of East 45th Street, 69 feet 9 ¼ inches to the Easterly side of East 45th Street;
Thence Northerly along the Easterly side of East 45th Street, 11 feet 1 7/8 inches;
Thence Easterly at right angles to the Easterly side of East 45th Street 18 feet 10 inches to a point;
Thence Southerly on a line forming an interior angle of 82°36' with the Northwestern side of Kings Highway 121 feet 4 ¼ inches to the Northwestern side of Kings Highway;
Thence Southwesterly along the Northwestern side of Kings Highway 21 feet 3 1/8 inches to the point of place of beginning.

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.

2010091400690001001ED35A

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 3

Document ID: 2010091400690001

Document Date: 08-20-2010

Preparation Date: 09-14-2010

Document Type: ASSIGNMENT, MORTGAGE

Document Page Count: 1

PRESENTER:

HOLD FOR PICK-UP-SUZANNE MANGO
PRIME TITLE-PT 91133
410 NEW YORK AVENUE
HUNTINGTON, NY 11743
631-870-1100
mbrenner@primetitlellc.com

RETURN TO:

HOLD FOR SUZANNE MANGO PICK UP
PILAR PROCESSING LLC
220 NORTHPOINTE PARKWAY, SUITE G
AMHERST, NY 14228
716-204-2400

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BROOKLYN	7749	12	Entire Lot	4589 KINGS HIGHWAY

Property Type: DWELLING ONLY - 1 FAMILY

CROSS REFERENCE DATA

CRFN: 2007000285304

x Additional Cross References on Continuation Page

PARTIES

ASSIGNOR/OLD LENDER:

PNC BANK NATIONAL ASSOCIATION
1 PNC PLAZA
PITTSBURGH, PA 15267

ASSIGNEE/NEW LENDER:

CITIBANK NA
399 PARK AVENUE
NEW YORK, NY 10022

x Additional Parties Listed on Continuation Page

FEES AND TAXES

Mortgage			Filing Fee:	\$	0.00
Mortgage Amount:	\$	0.00			
Taxable Mortgage Amount:	\$	0.00	NYC Real Property Transfer Tax:	\$	0.00
Exemption:					
TAXES: County (Basic):	\$	0.00	NYS Real Estate Transfer Tax:	\$	0.00
City (Additional):	\$	0.00			
Spec (Additional):	\$	0.00			
TASF:	\$	0.00			
MTA:	\$	0.00			
NYCTA:	\$	0.00			
Additional MRT:	\$	0.00			
TOTAL:	\$	0.00			
Recording Fee:	\$	42.00			
Affidavit Fee:	\$	0.00			

RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE
CITY OF NEW YORK

Recorded/Filed 09-28-2010 15:28

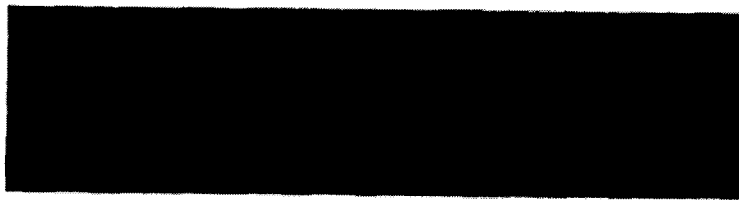
City Register File No. (CRFN):

2010000326169



City Register Official Signature

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2010091400690001001CD1DA

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION)

PAGE 2 OF 3

Document ID: 2010091400690001

Document Date: 08-20-2010

Preparation Date: 09-14-2010

Document Type: ASSIGNMENT, MORTGAGE

CROSS REFERENCE DATA

CRFN: 2007000455574

PARTIES

ASSIGNOR/OLD LENDER:

NATIONAL CITY BANK

1 PNC PLAZA

PITTSBURGH, PA 15267

ASSIGNOR/OLD LENDER:

NATIONAL CITY MORTGAGE CO

1 PNC PLAZA

PITTSBURGH, PA 15267

PARTIES

ASSIGNEE/NEW LENDER:

BSAAT 2007-1

399 PARK AVENUE

NEW YORK, NY 10022

ASSIGNMENT OF MORTGAGE

Original Lender: National City Mortgage, a Division of National City Bank

Know that,

PNC Bank, National Association successor by merger to National City Bank successor by merger to National City Mortgage Co., 1 PNC Plaza, Pittsburgh, PA 15267, assignor,

in consideration of the sum of One and No/100th Dollars and other good valuable consideration dollars, paid by

Citibank, N.A. as Trustee for BSAAT 2007-1, 399 Park Ave, New York, NY 10022, assignee

hereby assigns unto the assignee, a certain mortgage made by MARIE CHAVANNES, given to secure payment of the sum of Four hundred and fifty three thousand dollars (\$453,000.00) and interest, dated the 20th day of March, 2007, recorded on the 1st day of June, 2007, in the office of the Clerk of the County of Kings, at Instrument No. 2007000285304,

covering premises 4589 KINGS HIGHWAY, BROOKLYN, NY 11234, SBL #Block 7749 Lot 12 part of Lots 10 & 11,

together with the bond or obligation described in said mortgage, and the moneys due and to grow due thereon with the interest,

Which mortgage was previously assigned by National City Mortgage, a Division of National City Bank to National City Mortgage Co., a subsidiary of National City Bank by assignment dated the 15th day of August, 2007 and recorded on the 5th day of September, 2007 at Instrument No. 2007000455574.

This said mortgage has not been otherwise assigned of record.

TO HAVE AND TO HOLD the said Mortgage and Note, and also the said property unto the said Assignee forever, subject to the terms contained in said Mortgage and Note.

THIS Assignment is not subject to the requirement of Section 275 of the Real Property Law because it is within the secondary mortgage market.

IN WITNESS WHEREOF, the Assignor has caused these presents to be signed by its duly authorized officer this 20 day of August, 2010.

IN PRESENCE OF

PNC Bank, National Association successor by merger to National City Bank successor by merger to National City Mortgage Co.

BY: Teresa S. Clopp
Name: Teresa S. Clopp
Title: Authorized Officer

Steven J. Baum, PC
220 Northpointe Lane, Suite B
Amherst, NY 14228
K.R.

State of Ohio

County of Montgomery

On the 20 day of August, in the year 2010 before me, the undersigned, a notary public in and for said state, personally appeared Teresa S. Clopp, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument and that such individual made such appearance before the undersigned in the Montgomery (insert city or political subdivision and state or other place where acknowledgment is taken outside of New York State)

Steven J. Baum
Notary Public



LORI ANN WYSONG, Notary Public
In and for the State of Ohio
My Commission Expires Feb. 2, 2014

SEAL

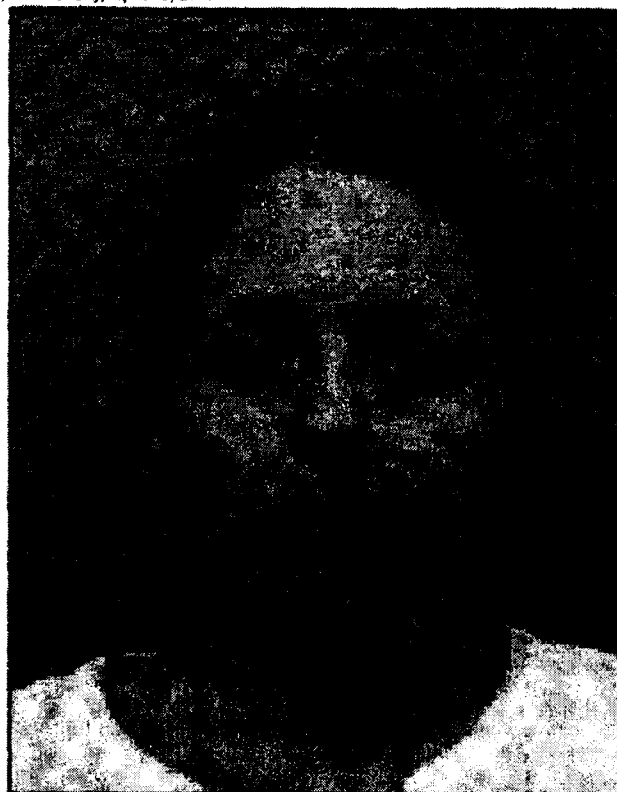
91133

Exhibit “D”

THE HOUR <https://www.thehour.com/wilton/article/Police-South-Salem-woman-caught-huffing-nitrous-11083918.php>

Police: South Salem woman caught huffing nitrous oxide

By Pat Tomlinson Updated 1:45 pm, Wednesday, April 19, 2017



WILTON — A South Salem woman is facing numerous drug charges after an officer allegedly caught her huffing nitrous oxide in a Dunkin Donuts parking lot, police said.

Police received a report of a woman allegedly "smoking something" from a concerned citizen around 5:30 p.m. on Sunday, Wilton police spokesman Lt. Rob Kluk said.

Upon arrival, police found Margarita Rubin, 42, using a whip cream charger to inhale nitrous oxide in a black Lexus with temporary registration plates, Kluk said.

A search of Rubin's pockets and her vehicle also revealed LSD and MDMA, a psychoactive drug more commonly known as ecstasy.

Rubin was charged with possession of a restricted substance, possession of a hallucinogenic substance, illegal possession of MDMA and possession of drug paraphernalia and operating a vehicle under a suspended license. She was held on a \$5,000 bond, and is expected in court on April 19.

ptomlinson@hearstmediact.com; 203-354-1046; Twitter: @Tomlinson_PE

Recommended For You

Former Wilton businessman accused of not paying back his mom

Police nab fugitive from justice at Wilton Post Office

<https://www.thehour.com/wilton/article/Police-South-Salem-woman-caught-huffing-nitrous-11083918.php>

1/4

Exhibit “E”

22550 /2010

Plaintiff : CITIBANK NA ETC.

Plaintiff Attorney : BAUM

Defendant : CHAVANNES, MARIE ETAL

Defendant Attorney :

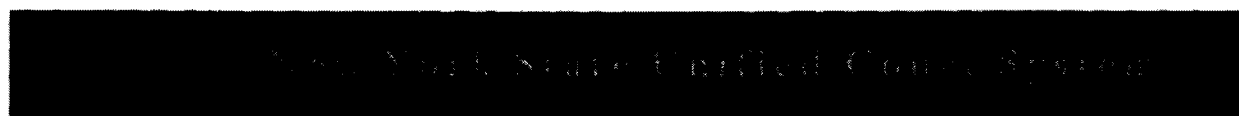
Remarks :

Opened : 09/13/2010

Type : Mortgage Foreclosure

Filed	Actions	Rec. Room
09/13/2010	Notice of pendency	09/20/2010
09/13/2010	Summ. & compl.	09/16/2010
09/22/2010	Affidavit of serv. 4	09/22/2010
09/23/2010	Affidavit of serv. 2	09/24/2010
09/23/2010	Affidavit of serv.	09/27/2010
09/27/2010	Affidavit of serv. 2	09/30/2010
09/29/2010	Affidavit of serv. 2	10/04/2010
02/06/2012	Consent to change attorney	02/24/2012
07/26/2013	Req. judicial interven. p	07/26/2013
09/03/2013	Affirm. , afft of service	09/23/2013
05/23/2014	Notice of pendency	05/27/2014
07/19/2016	Order discount. action, cancelling not. of pendency nsp	07/19/2016

Total Row Count in Report- 12



WebCivil Supreme - Appearance Detail

Court: **Kings Supreme Court**
 Index Number: **0022550/2010**
 Case Name: **CITIBANK vs. CHAVANNES, MARIE**
 Case Type: **RES FORECLOSURE FSC ELIGIBLE**
 Track: **Standard**

Appearance Information:

Appearance Date	Court Date Time Purpose	Outcome Type	Justice Part	Remarks	Motion Seq
07/13/2016	Supreme Initial (first time on)	OTHER FINAL DISP. PRE-NOTE	DEAR-FOR.RESOLUTION PT 1 FORECLOSURE RESOLUTION PT 1	DISM; SEE COMM 002	
07/07/2016	Supreme Initial (first time on)	STATUS CONFERENCE HELD	DEAR-FOR.RESOLUTION PT 1 FORECLOSURE RESOLUTION PT 1	RELEASD	
11/13/2013	Supreme Trial	FSC - NOT SETTLED (U)	LOREN BAILY-SCHIFFMAN FORECLOSURE PRE-SETT 2:30		
10/21/2013	Supreme Initial (first time on)	FSC - CONTINUED (U)	LOREN BAILY-SCHIFFMAN FORECLOSURE PRE-SETT 2:30		

Close

STATE OF NEW YORK
SUPREME COURT: COUNTY OF KINGS

-----X
CITIBANK, N.A. AS TRUSTEE FOR BSAAT 2007-1
3232 Newmark Drive
Miamisburg, OH 45342

Plaintiff,

vs.

MARIE CHAVANNES, BORO FUEL OIL COMPANY
INC., FF CREDIT CORP., MADISON HOME
EQUITIES, INC., NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD, NEW YORK
CITY PARKING VIOLATIONS BUREAU, NEW
YORK CITY TRANSIT ADJUDICATION BUREAU,

JOHN DOE (Said name being fictitious,
it being the intention of Plaintiff to
designate any and all occupants of
premises being foreclosed herein, and
any parties, corporations or entities,
if any, having or claiming an interest
or lien upon the mortgaged premises.)

Defendant(s).

-----X
TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in the above captioned action and to serve a copy of your Answer on the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after completion of service where service is made in any other manner than by personal delivery within the State. The United States of America, if designated as a Defendant in this action, may answer or appear within sixty (60) days of service hereof. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

SUMMONS

ORIGINAL FILED WITH THE
CLERK ON _____

INDEX NO.: 12550/10

MORTGAGED PREMISES:
4589 KINGS HIGHWAY
BROOKLYN, NY 11234

SBL #:
BLOCK 7749 LOT 12

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME

If you do not respond to this summons and complaint by serving a copy of the answer on the attorney for the mortgage company who filed this foreclosure proceeding against you and filing the answer with the court, a default judgment may be entered and you can lose your home.

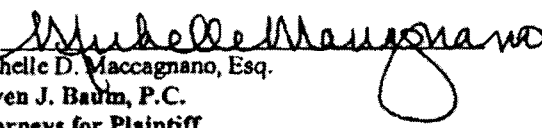
Speak to an attorney or go to the court where your case is pending for further information on how to answer the summons and protect your property.

Sending a payment to your mortgage company will not stop this foreclosure action.

YOU MUST RESPOND BY SERVING A COPY OF THE ANSWER ON THE ATTORNEY FOR THE PLAINTIFF (MORTGAGE COMPANY) AND FILING THE ANSWER WITH THE COURT.

Kings County is designated as the place of trial. The basis of venue is the location of the mortgaged premises foreclosed herein.

DATED: September 10, 2010

By: 
Michelle D. Maccagnano, Esq.
Steven J. Baum, P.C.
Attorneys for Plaintiff
220 Northpointe Parkway Suite G
Amherst, NY 14228
Tel.: 716-204-2400

The law firm of Steven J. Baum, P.C. and the attorneys whom it employs are debt collectors who are attempting to collect a debt. Any information obtained by them will be used for that purpose.

STATE OF NEW YORK
SUPREME COURT: COUNTY OF KINGS

-----X
CITIBANK, N.A. AS TRUSTEE FOR BSAAT 2007-I
3232 Newmark Drive
Miamisburg, OH 45342

Plaintiff,

vs.

COMPLAINT

MARIE CHAVANNES, BORO FUEL OIL COMPANY
INC., FF CREDIT CORP., MADISON HOME
EQUITIES, INC., NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD, NEW YORK
CITY PARKING VIOLATIONS BUREAU, NEW
YORK CITY TRANSIT ADJUDICATION BUREAU,

INDEX NO.:

MORTGAGED PREMISES:
4589 KINGS HIGHWAY
BROOKLYN, NY 11234

JOHN DOE (Said name being fictitious,
it being the intention of Plaintiff to
designate any and all occupants of
premises being foreclosed herein, and
any parties, corporations or entities,
if any, having or claiming an interest
or lien upon the mortgaged premises.)

SBL #:
BLOCK 7749 LOT 12

Defendant(s).

-----X
The Plaintiff by its attorneys, Steven J. Baum, P.C., for its complaint against the Defendant(s) alleges
upon information and belief as follows:

AS AND FOR A FIRST CAUSE OF ACTION:

FIRST: Plaintiff is a national banking association duly organized and existing under and by virtue of the
laws of the United States of America and having its principal place of business in Las Vegas, NV and the owner
and holder of a note and mortgage being foreclosed.

SECOND: On or about the 20th day of March, 2007, MARIE CHAVANNES duly executed and
delivered an adjustable rate note whereby MARIE CHAVANNES promised to pay the sum of \$453,000.00 with
interest on the unpaid balance of the debt.

THIRD: That as security for the payment of said note MARIE CHAVANNES duly executed and
delivered a mortgage in the amount of \$453,000.00 which mortgage was recorded as follows and mortgage tax
paid thereon:

Recording Date: June 1, 2007
Instrument Number: 2007000285304
County (or City Register of): Kings

The mortgage was subsequently assigned to NATIONAL CITY MORTGAGE CO., A SUBSIDIARY OF
NATIONAL CITY BANK by assignment.

And further assigned to CITIBANK, N.A. AS TRUSTEE FOR BSAAT 2007-1 by assignment dated the 20th day of August, 2010 and sent for recording in the Office of the City Register of the City of New York.

FOURTH: The mortgaged premises are commonly known as 4589 KINGS HIGHWAY, BROOKLYN, NY 11234 and more fully described in "Schedule A" attached to this complaint. The tax map designation is known as all or part of SBL: Block 7749 Lot 12.

FIFTH: That the Defendant(s) MARIE CHAVANNES so named, has/have failed to comply with the conditions of the mortgage and note by failing to pay principal and interest and/or taxes, assessments, water rates, insurance premiums, escrow and/or other charges that came due and payable on the 1st day of May, 2010 as more fully set forth below. Accordingly, Plaintiff elects to call due the entire amount secured by the mortgage.

SIXTH: There is now due and owing on said mortgage the following amounts:

Principal balance: \$453,000.00
Interest Rate: 7.5%
Date interest accrues from: April 1, 2010
Escrow advances: \$2,560.60
Late charges: \$169.89
Inspection fees: \$36.00

Together with monies advanced for taxes, insurance, maintenance of premises and the costs, allowances and reasonable attorney's fees if permitted by the mortgage. The interest rate stated above may change in accordance with the adjustable rate feature of the note or loan agreement.

SEVENTH: In order to protect its security interest the Plaintiff or its agent has paid or may be compelled to pay during the pendency of this action, taxes, assessments, water rates, insurance premiums and other charges affecting the mortgaged premises. Plaintiff requests that any sums it or its agent has paid, together with interest, be included in the sum otherwise due as provided for and secured by the mortgage.

EIGHTH: Upon information and belief all the defendants herein have or claim to have some interest in or lien upon said mortgaged premises or some part thereof which interest or lien, if any, has accrued subsequent to the lien of Plaintiff's mortgage, or has been paid or equitably subordinated to Plaintiff's mortgage, or has been duly subordinated thereto, or is adverse to that of Plaintiff. The reason for naming said defendants is set forth in "Schedule B" that is attached to this complaint.

NINTH: The reason for naming any governmental agency or instrumentalities of the Federal, State or local government (however designated), is set forth in "Schedule C" that is attached to this complaint.

TENTH: Upon information and belief the defendant(s) "John Doe" are occupants of the premises being foreclosed, or may be any persons, corporations or entities who claim, or may claim, a lien or other interest against the premises.

ELEVENTH: If applicable, the mortgage originated in compliance with Banking Law Sections 595-a and 6-l or 6-m and at the time of commencement of this action, the Plaintiff has complied with all of the provisions of Section 595-a of the Banking law and any rules and regulations promulgated thereunder, Section 6-l and 6-m of the Banking Law, and Sections 1304 and 1306 of the Real Property Actions and Proceedings Law.

TWELFTH: Plaintiff requests that in the event this action proceeds to judgment of foreclosure and sale, said premises be sold subject to: any state of facts an inspection of the premises would disclose or an accurate survey of the premises would show; covenants, restrictions, easements and public utility agreements of record, if any; building and zoning ordinances and possible violations of the same; any rights of tenants or persons in possession of the premises; any equity of redemption of the United States of America to redeem the premises within 120 days; prior mortgages and liens, if any. If the mortgage secures more than one parcel, Plaintiff requests the judgment of foreclosure provide for the sale of the parcels in a particular order to the extent necessary to satisfy the indebtedness.

THIRTEENTH: There are no other actions or pending proceedings at law to collect or enforce the note and mortgage.

AS AND FOR A SECOND CAUSE OF ACTION,
PLAINTIFF HEREIN ALLEGES:

FOURTEENTH: Plaintiff repeats and re-alleges the allegations contained in Paragraphs "FIRST" through "THIRTEENTH", as though fully set forth herein.

FIFTEENTH: Upon information and belief, all the defendants herein have or claim to have some interest in or lien upon said mortgaged premises or some part thereof which interest or lien, if any, has accrued subsequent to the lien of Plaintiff's mortgage, or has been paid or equitably subrogated to Plaintiff's mortgage, or has been duly subordinated thereto, or is adverse to that of Plaintiff. The reason for naming said defendants is set forth in Schedule "B and/or C" that is attached to this complaint.

SIXTEENTH: It appears from the public records that Defendant MADISON HOME EQUITIES, INC. holds a lien which is adverse to the Plaintiff's interest and which remains open of record as follows:

Recording date: October 26, 1995
Book/Page: 3599/2468
(County of)(City Register of): Kings

SEVENTEENTH: The interest of Plaintiff in the property is set forth in paragraph "FIRST", above.

EIGHTEENTH: Upon information and belief, all of the defendants are known, and none of them are infants, mentally retarded, mentally ill or alcohol abusers.

NINETEENTH: Upon information and belief, there are no persons not in being or ascertained at the commencement of this action who by any contingency contained in a devise or otherwise, could afterward become entitled to a beneficial estate or interest in the property involved in this action, and any judgment rendered herein will not and may not affect any such person not in being or not ascertained at the time of the commencement of this action.

TWENTIETH: The lien(s) of Defendant MADISON HOME EQUITIES, INC. appears to be prior and adverse to the mortgage being foreclosed and is subject to be declared invalid and extinguished pursuant to Article 15 of the Real Property Actions and Proceedings Law.

TWENTY-FIRST: Plaintiff hereby requests that the Judgment of Foreclosure state the following:

ORDERED, ADJUDGED AND DECREED, that the lien(s) which appear(s) to be prior and adverse to the mortgage being foreclosed, namely the lien of Defendant(s) MADISON HOME EQUITIES, INC., is/are hereby declared invalid and extinguished pursuant to RPAPL Article 15; and it is further

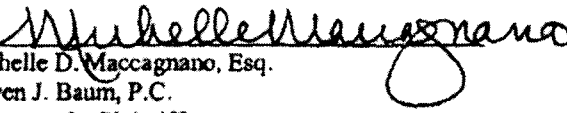
ORDERED, ADJUDGED AND DECREED, that Defendant MADISON HOME EQUITIES, INC. and all persons or entities claiming by, through or under them, be and are hereby forever barred and foreclosed of and from all right, claim, lien, interest or equity of redemption in and to said mortgaged premises; and it is further

ORDERED, ADJUDGED AND DECREED, that the record be reformed to reflect that the lien of Defendant MADISON HOME EQUITIES, INC. is invalid and extinguished;

WHEREFORE, PLAINTIFF DEMANDS JUDGMENT:

1. Adjudging and decreeing the amounts due the Plaintiff for principal, interest, costs, late charges, expenses of sale, allowances and disbursements, reasonable attorney's fees if provided for in the mortgage and any monies advanced and paid which are secured by the mortgage.
2. That the defendants and all persons claiming by, through or under them and every other person or entity whose right, title, conveyance or encumbrance is subsequent to or subsequently recorded, or whose lien is being challenged by being a defendant in this action, be barred and foreclosed of and from all right, claim, lien, interest or equity of redemption in and to said mortgaged premises.
3. That the said mortgaged premises, or such part thereof as may be necessary to raise the amounts due as aforesaid, be decreed to be sold according to law subject to the provisions of paragraph "TWELFTH" of this complaint.
4. That out of the monies arising from the sale thereof, the Plaintiff may be paid the amounts due on said note and mortgage, plus those items referenced in paragraph 1, above, together with any sums expended as aforesaid, with interest as allowed by law upon any advances from the dates of the respective payments, so far as the amount of such money properly applicable thereto will pay the same.
5. That either or any of the parties to this action may become a purchaser upon such sale.
6. That this court, if requested, forthwith appoint a receiver of the rents and profits of said premises with the usual powers and duties.
7. That the defendants referred to in paragraph "FIFTH" of this complaint and any original or subsequent obligors so named in this action, may be adjudged to pay any deficiency that may remain after applying all of said monies so applicable thereto, unless the debt has been listed and discharged in a bankruptcy petition, or unless the Plaintiff is unable to produce a copy of the note, in which case no deficiency judgment will be sought.
8. In the event Plaintiff possesses any other liens against the premises, they shall not be merged with the same. Plaintiff specifically reserves its right to share in any surplus monies arising from the sale of the subject premises by virtue of its position as a judgment or other lien creditor, excluding the mortgage being foreclosed herein.
9. That Defendant MADISON HOME EQUITIES, INC.'s interest in the mortgaged premises, and all persons or entities claiming by, through or under them, be declared invalid and extinguished, and that Defendant MADISON HOME EQUITIES, INC. and all persons or entities claiming by, through or under them, be barred and foreclosed of and from all right, claim, lien, interest or equity or redemption in and to said mortgaged premises and that the plaintiff be granted reformation of the record to reflect said lien being extinguished.
10. Awarding the relief requested in the SECOND cause of action stated in this complaint.

11. That the Plaintiff may have such other and further relief as may be just, equitable and proper.

By: 
Michelle D. Maccagnano, Esq.
Steven J. Baum, P.C.
Attorneys for Plaintiff
220 Northpointe Parkway Suite G
Amherst, NY 14228
Tel.: 716-204-2400

The law firm of Steven J. Baum, P.C. and the attorneys whom it employs are debt collectors who are attempting to collect a debt. Any information obtained by them will be used for that purpose.

LEGAL DESCRIPTION

All that certain parcel of land situated in the Borough of Brooklyn, County of Kings and State of New York, being known and designated as follows:

Beginning at a point on the Northwestern side of Kings Highway distant 81 feet 11 inches Northeastly from the corner formed by the intersection of the Northwestern side of Kings Highway with the Northerly side of Avenue I;

Running thence Northwesternly on a line forming an exterior angle of 82° 36' with the Northwestern side of Kings Highway, 58 feet 11 inches;

Thence Northeastly at right angles to the last mentioned course, 0 feet 9 inches;

Thence Northwesternly on a line forming an exterior angle of 52° 24' 10" with the Easterly side of East 45th Street, 69 feet 9 3/4 inches to the Easterly side of East 45th Street;

Thence Northerly along the Easterly side of East 45th Street, 11 feet 1 7/8 inches;

Thence Easterly at right angles to the Easterly side of East 45th Street 18 feet 10 inches to a point;

Thence Southerly on a line forming an interior angle of 82° 36' with the Northwestern side of Kings Highway 121 feet 4 1/4 inches to the Northwestern side of Kings Highway;

Thence Southwesterly along the Northwestern side of Kings Highway 21 feet 3 1/8 inches to the point or place of beginning.

The above described property is being and intended to be ALL THAT TRACT OR PARCEL OF LAND, situate in the Borough of Brooklyn, County of Kings and State of New York, designated as Block 7749 Lot 12, as shown on the official Tax map of the Borough of Brooklyn, County of Kings.

Premises: 4589 Kings Highway, Brooklyn, New York

SCHEDULE A

Schedule B - Defendants

MARIE CHAVANNES

Record owner and original mortgagor.

MADISON HOME EQUITIES, INC.

Holder of a mortgage.

Named as a party Defendant herein to extinguish said Defendant's lien, as Plaintiff believes Defendant has been paid in full, and that the lien of the Plaintiff is superior.

BORO FUEL OIL COMPANY INC.

Secured party in UCC-1 Financing
Statement filed 8/19/2008 CRFN #2008000331753.

FF CREDIT CORP.

Holder of judgment(s).

JOHN DOE

Said name being fictitious, it being the intention of Plaintiff to designate any and all occupants of premises being foreclosed herein, and any parties, corporations or entities, if any, having or claiming an interest or lien upon the mortgaged premises.

Schedule C - Defendants

NEW YORK CITY TRANSIT
ADJUDICATION BUREAU

Holder of possible judgments against Marie
Chavannes, judgments cannot be certified since
docket books are missing.

NEW YORK CITY PARKING
VIOLATIONS BUREAU

Holder of possible judgments against Marie
Chavannes, see attached.

NEW YORK CITY ENVIRONMENTAL
CONTROL BOARD

Holder of possible judgments against Marie
Chavannes, see attached.

PT-91133-10AB

PT-91133-10AB

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Block: 01305 Lot: 00028
Book Type -- Lis Pendens - Docket No:
Judgment Type: FORECLOSE MORTGAGE
Court: Supreme Court
Disposition: yes-07/11/2008

Control No. 002476349-02
Index # 13579/08
Effective Date: 05/06/2008

Docket Date: 05/06/2008
Date Received: 05/06/2008

Debtor Info:
CHAVANNES, MARIE E

Creditor Info:
WASHINGTON MUTUAL BANK C/O
ONE OLD COUNTRY RD.
CARLE PL NY

Amount: \$0.00

Block: 01305 Lot: 00028
Book Type -- Lis Pendens - Docket No:
Judgment Type: FORECLOSE MORTGAGE
Court: Supreme Court

Control No. 002570832-03
Index # 165/09
Effective Date: 01/27/2009

Docket Date: 01/27/2009
Date Received: 01/27/2009

Debtor Info:
CHAVANNES, MARIE E

Creditor Info:
JPMORGAN CHASE BANK C/O
152 ISLIP AVE.
ISLIP NY

Amount: \$0.00

END RETURNS

PVB - (Parking Violations Bureau - Ending Date 07/26/10)

Search Parameters- Last:CHAVANNES First:MAR

CHAVANNES MARIE J
732 E 21ST ST # 1A
BROOKLYN NY 11210
No. of Judgments - 12 Plate No. - EGA7069

Amt: \$1870.00 Interest: \$269.80

END RETURNS

(Environmental Control Board (Fire and Building) - Ending Date 05/31/10)

Search Parameters- Last:CHAVANNES First:MAR

MARIE, CHAVANNES
382 MONTGOMERY STREET
BROOKLYN, NY 11225

2/10

Friday July 30, 2010

PT-91133-10AB

PT-91133-10AB		Page 3/10
ECB Violation No.: 172616346 Date-01/10		
Amt: \$300.00		

END RETURNS		

Uniform Commercial Code from (10/01/1988 - 07/29/10)		
Kings County		
Search Parameters- Last:CHAVANNES First:MAR		
Document ID- 2008081700018001 CRFN- 2008000331753		
Instrument- INITIAL UCC1		
Filed- 08/19/2008 Collateral- Fixture Filing		
File No-		
DEBTOR Info:		
CHAVANNES, MARIE		
4589 KINGS HIGHWAY		
BROOKLYN	NY 11234-	<i>✓</i> <i>Herein</i>
SECURED PARTY Info:		
BORO FUEL OIL COMPANY, INC.		
2 CHURCH AVENUE		
BROOKLYN	NY 11218-	

Document ID- 2007032001282001 CRFN- 2007000153019		
Instrument- INITIAL UCC1		
Filed- 03/23/2007 Collateral- Fixture Filing		
File No-		
DEBTOR Info:		
CHAVANNES, MARIE E		
73 TRAFALGAR SQUARE		
LYNDBROOK	NY 11563-	
SECURED PARTY Info:		
BORO FUEL OIL CO.,		
2 CHURCH AVENUE		
BROOKLYN	NY 11218-	

END RETURNS		

Federal Tax Liens from (01/94 - 07/29/10)		
Manhattan, Bronx, Queens, Kings County		
Search Parameters- Last:CHAVANNES First:MAR		
END RETURNS		

Friday July 30, 2010

3/10

STATE OF NEW YORK
SUPREME COURT: COUNTY OF KINGS

-----X
CITIBANK, N.A. AS TRUSTEE FOR BSAAT 2007-I
3232 Newmark Drive
Miamisburg, OH 45342

Plaintiff,

vs.

MARIE CHAVANNES, et al.

Defendants.

-----X

SUMMONS AND COMPLAINT

-----X

STEVEN J. BAUM, P.C.
Attorneys for Plaintiff
220 Northpointe Parkway Suite G
Amherst, NY 14228
Tel.: 716-204-2400

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
WILMINGTON TRUST NATIONAL ASSOCIATION,
AS SUCCESSOR TRUSTEE TO CITIBANK, NA, etc.,

Index No. 504024/2017

Plaintiff,

ANSWER

-against-

MARIE CHAVANES, BLUE OAK HOLDING GROUP, LLC,
et., al.

Defendants.

-----X
Defendant BLUE OAK HOLDING GROUP, LLC ("Blue Oak"), by Irwin Popkin, Esq.,

its attorney, as and for its Answer to the Complaint of the Plaintiff, alleges as follows:

1. Denies knowledge or information sufficient to form a belief with respect to each and every allegation contained in paragraph 1 through 4 and 6 through 16.

2. Admits the allegations contained in paragraph 5 of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

3. This action was commenced on February 28, 2017. It is barred by the Six year Statute of Limitations specified in CPLR 213 (4). The payment of the entire amount alleged to be due and payable pursuant to the subject Note and Mortgage was accelerated on September 13, 2010 by the institution of a foreclosure action entitled *Citibank, NA, as Trustee v. Chavannes* Index No. 2250/2015.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

4. Upon information and belief,¹ the endorsements contained on the subject Note, a copy of which is annexed to the Complaint herein, are ineffective to transfer ownership or holder

¹Pursuant to UCC § 3-307.

status of the subject Note.

5. Upon information and belief, A "Delivery Shipper" is not an officer or agent of the party on whose behalf the endorsement is purportedly made.

6. Accordingly, the purported endorsements of the subject Note, by Angela Tegtmeier on behalf of both National City Mortgage and National City Mortgage Co, was ineffective to transfer title, ownership or holder status of the Note.

7. Moreover, Paragraph 3 of the Complaint alleges that Citibank, N.A., as Trustee is the last assignee of the subject mortgage. Yet the Complaint neglects to reference the document which conferred authority upon Wilmington Trust National Association to institute this action.

8. By virtue of the foregoing, Wilmington Trust National Association does not have standing to maintain this action.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

9. Plaintiff failed to comply with RPL § 254 (8)² Where the Mortgage Requires Issuance of a Notice to Cure as a Condition Precedent to the Institution of a Foreclosure Action Such Notice must Be Given to the then Owner of the Property. RPL § 254 (8).

10. " Paragraph 15 of the subject mortgage requires that "[a]ll notices given by me or Lender in connection with this Security Agreement will be in writing. Any notice to me in

² Notice and demand. A covenant "that notice and demand or request may be made in writing and may be served in person or by mail" **must be construed as meaning that every provision for notice and demand or request shall be deemed fulfilled by written notice and demand or request personally served on one or more of the persons who shall at the time hold the record title to the premises**, or on their heirs or successors, or mailed by depositing it in any post-office station or letter-box, enclosed in a post-paid envelope addressed to such person or persons, or their heirs or successors, at his, their or its address to the mortgagee last known. (Emphasis added).

connection with this Security Instrument is considered given to me when mailed by first class..."

11. RPL § 254 (8) mandates that notice be given to the party most affected in such instance where a Notice to Cure is a condition precedent to the institution of a foreclosure action, or regarding any other notice concerning a mortgage.

12. The party affected would be the mortgagor if he or she was the current owner, otherwise the party currently in title would be the most concerned.

WHEREFORE, Defendant BLUE OAK HOLDING GROUP, LLC, demands judgment dismissing the Complaint, together with such other and further relief as to the Court seems just and proper, including the costs and disbursements of this action.

Dated: Melville, New York
April 23, 2018

IRWIN POPKIN, ESQ.
445 Broad Hollow Road, Suite 25
Melville, New York 11747
(631) 281-0030



NYSCEF - Kings County Supreme Court Confirmation Notice

This is an automated response for Supreme Court cases. The NYSCEF site has received your electronically filed documents for the following case.

504024/2017

**WILMINGTON TRUST, NATIONAL ASSOCIATION AS SUCCESSOR TRUSTEE TO CITIBANK, N.A. AS
TRUSTEE FOR BEAR STEARNS ALT-A TRUST II 2007-1 - v. - MARIE CHAVANNES et al**

Assigned Judge: DEAR-FOR.RESOLUTION PT 1

Documents Received on 05/09/2018 02:12 PM

Doc #	Document Type	Motion #
66	ORDER TO SHOW CAUSE-SIGNED	2

Court User

E-mail Notifications

An e-mail notification regarding this filing has been sent to the following address(es) on 05/09/2018 02:12 PM:

CASTER, AUSTIN ROBERT - e-filing2@grosspolowy.com

HYMAN, SARAH KRISTIN - e-filing2@grosspolowy.com

MUCILLI, ANTOINETTA DONNA - e-filing2@grosspolowy.com

POLOWY, AMY E. - e-filing2@grosspolowy.com

POPKIN, IRWIN - ipopkin@yahoo.com

**NOTE: If submitting a working copy of this filing to the court, you must include
as a notification page firmly affixed thereto a copy of this Confirmation Notice.**

Hon. Nancy T. Sunshine, Kings County Clerk and Clerk of the Supreme Court - kcco-efile@nycourts.gov

Phone: Phone: 347-404-9766 or 347-404-9762 Website: <https://www.nycourts.gov/courts/2jd/kingsclerk/index.shtml>

NYSCEF Resource Center - EFile@nycourts.gov

Phone: (646) 386-3033 Fax: (212) 401-9146 Website: www.nycourts.gov/efile