

An aerial photograph of a densely populated residential area, likely a suburb or city edge. The houses are packed closely together, with various roof colors (brown, grey, white) visible. In the background, there are rolling hills and a clear blue sky. A prominent white building is visible on a hill in the distance. The word "Liens" is overlaid in large white text across the center of the image.

Liens

AS OF THE DATE OF THIS REPORT, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN THE POLICY FORM WOULD BE AS FOLLOWS:

GENERAL EXCEPTIONS:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien or right to a lien for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

SPECIFIC ITEMS AND EXCEPTIONS

6. Unpaid Property Taxes are as follows:

Fiscal Year: 2015-2016
Amount: \$2,755.57, plus interest, if any
Levy Code: 012-002
Account No.: 00013773
Map No.: 11E25DC03600

3. ANY UNPAID ASSESSMENTS OR CHARGES, AND LIABILITY FOR FURTHER ASSESSMENTS OR CHARGES BY CLARK REGIONAL WASTEWATER DISTRICT.
4. RIGHT OF WATER'S EDGE HOMEOWNER'S ASSOCIATION TO LEVY AND COLLECT ASSESSMENTS AS PROVIDED FOR IN ARTICLES OF INCORPORATION AND BY-LAWS.
5. LIEN OF ASSESSMENTS LEVIED PURSUANT TO THE DECLARATION OF CONDOMINIUM FOR WATER'S EDGE CONDOMINIUM, RECORDED UNDER AUDITOR'S FILE NO. 3220769, AND ANY AMENDMENTS THERETO, TO THE EXTENT PROVIDED FOR BY RCW 64.34.
6. DEED OF TRUST AND THE TERMS AND CONDITIONS THEREOF:
GRANTOR: GARY L BUTLER AS HIS SEPERATE ESTATE
TRUSTEE: ADELITA A. SHUBERT ON BEHALF OF FLAGSTAR BANK, FSB
BENEFICIARY: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS
NOMINEE FOR SUMMIT MORTGAGE CORPORATION, AN OREGON
CORPORATION

AMOUNT: \$119,562.00
DATED: January 11, 2013
RECORDED: January 18, 2013
AUDITOR'S FILE NO.: 4932968

ASSIGNMENT OF SAID DEED OF TRUST:
ASSIGNEE: MATRIX FINANCIAL SERVICES CORPORATION
RECORDED: January 19, 2016
AUDITOR'S FILE NO: 5249329
7. LIEN IN FAVOR OF WATER'S EDGE HOMEOWNER'S ASSOCIATION 1 AGAINST GARY L. BUTLER, RECORDED February 16, 2016, UNDER RECORDING NO. 5256706, FOR UNPAID HOMEOWNER'S ASSESSMENTS, IN THE AMOUNT OF \$20,150.72.
8. LIEN IN FAVOR OF WATER'S EDGE HOMEOWNERS ASSOCIATION 1 AGAINST GARY L. BUTLER OR ESTATE OF GARY L. BUTLER, RECORDED September 27, 2016, UNDER RECORDING NO. 5329526, FOR UNPAID HOMEOWNER'S ASSESSMENTS, IN THE AMOUNT OF \$6,994.00.

10. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$108,000.00

Dated: December 19, 2002

Trustor/Grantor: Kristi Rosebraugh

Trustee: Douglas R. Grim, Esq.

Beneficiary: Fred E. Rosebraugh and Marilyn J. Rosebraugh

Loan No.: None Shown

Recording Date: December 24, 2002

Recording No.: 2002-126849

11. A judgment, for the amount shown below, and any other amounts due:

Amount: \$569.58

Debtor: Kristi Lynne Rosebraugh

Creditor: Creditors Collection Service, Inc.

Date entered: September 2, 2011

County: Clackamas

Court: Circuit

Case No.: SC113000

12. Due probate and administration of the estate shown below. Personal representative appointed in said estate will be authorized to execute the forthcoming conveyance when the following requirement(s) has been met:

Requirement: Review of case file.

Estate of: Kristi L. Rosebraugh, deceased

Court: Circuit

Probate No.: P1507049

Personal Representative: Fred Rosebraugh

Attorney for Estate: Douglas R. Grim

6. PENDENCY OF CLARK COUNTY SUPERIOR COURT CAUSE NO. 16-2-01426-1:

FILED: July 22, 2016

PLAINTIFF: BANK OF AMERICA, N.A.

DEFENDANT: UNKNOWN HEIRS, SPOUSE, LEGATEES AND DEVISEES OF PAUL NOVACEK, DECEASED, GINA NOVACEK, HANA ADAMKO, WATER'S EDGE HOMEOWNER'S ASSOCIATION, DOES 1-10 INCLUSIVE; UNKNOWN OCCUPANTS OF THE SUBJECT REAL PROPERTY; PARTIES IN POSSESSION OF THE SUBJECT REAL PROPERTY; PARTIES CLAIMING A RIGHT TO POSSESSION OF THE SUBJECT PROPERTY, ALL OTHER UNKNOWN PERSONS OR PARTIES CLAIMING ANY RIGHT, TITLE, ESTATE, LIEN, OR INTEREST IN THE REAL ESTATE DESCRIBED IN THE COMPLAINT HEREIN

ACTION: FORECLOSING THE MORTGAGE DEED OF TRUST

ATTORNEY FOR MCCARTHY & HOLTHUS, L.P.

PLAINTIFF:

LIS PENDENS RECORDED July 22, 2016 UNDER AUDITOR'S FILE NO. 5306757.

se mechanics' **liens** exist only by virtue of statutes, one can claim a **lien** only if the work is that which is recognized by statute as e
o a **lien**. The **Oregon** Supreme Court stated in [Ward v. Town Tavern, et al., 191 Or 1, 14, 228 P2d 216, 42 ALR2d 662 \(1951\)](#):

HN1 "Mechanics' and materialmen's **liens** are purely statutory and are obtainable only by those who can meet the statutory
requisite. Like claimants for **Cinderella's slipper**, an exacting demand must be met by applicants for a **lien**, and all who cannot
conform are rejected. * * *"

F [ORS 87.010\(2\)](#) provides for a mechanic's **lien**:

"Any person who engages in or rents equipment **[*698]** for the preparation of a lot or parcel of land, or improves or rents



What is a lien?

To "Tie" or "Bind"

Attachment of Liens

Personal Property and Real Property



A photograph of a heavily rusted and abandoned tractor in a field. The tractor is the central focus, showing significant wear and tear. The background features a dramatic sky with dark, heavy clouds and a bright, low sun creating a golden glow. The overall mood is one of decay and abandonment.

Extent of Lien

Types of Liens

- Construction
- Excavation
- Tax
- Judgments
- Attorney
- Long Term Care
- HOA / Condo

Duration of Liens

- Federal Tax - 10 years
- HOA / Condo - 6 years
- Construction - 120 days
- Mining Lien - 6 months
- Child Support - 35 years

After Recording, Return to:
Community Association Law Group
915 NW 19th Ave, Ste H
Portland, OR 97209

NOTICE OF LIEN FOR ASSESSMENTS

KNOW ALL PERSONS: The undersigned, on behalf of THE DIAMOND MEADOWS TRACT #1384 HOMEOWNERS ASSOCIATION, INC., hereby claims a lien for unpaid assessments and charges (as noted below) against the individual lot or unit noted below:

Legal: Lot 7, Block 2, Tract 1074, Leisure Woods

Tax Parcel No.: R145293

Common Expenses, Assessments, Charges and Late Fees Due as of September 9, 2016:

Amount Owed to Association:	\$7,730.00
Attorney Fees and Costs:	\$1,402.00
Total Owed:	\$9,132.00

Property owner or reputed owner is: Shayne Cameron Propst

Property Where Common Expenses Arose: Lot 7 (No property address)

After Recording, Return to:
Community Association Law Group
915 NW 19th Ave, Ste H
Portland, OR 97209

NOTICE OF LIEN FOR ASSESSMENTS

KNOW ALL PERSONS: The undersigned, on behalf of THE DIAMOND MEADOWS TRACT #1384 HOMEOWNERS ASSOCIATION, INC., hereby claims a lien for unpaid assessments and charges (as noted below) against the individual lot or unit noted below:

Legal: Lot 7, Block 2, Tract 1074, Leisure Woods

Tax Parcel No.: R145293

EXHIBIT "A"

A part of the Hector Campbell Donation Land Claim in Section 25, Township 1 South, Range 1 East of the Willamette Meridian, in the City of Milwaukie, County of Clackamas and State of Oregon, described as:

Beginning at a point 9.38 chains South and 7.50 chains East of the Northwest corner of the Hector Campbell Donation Land Claim in Township 1 South, Range 1 East of the Willamette Meridian; thence West along the South line of Harvey Avenue 7.42 chains, more or less, to the East side of the county road and the true point of beginning of the tract herein described; thence South $0^{\circ}45'$ East 60 feet to a point; thence East 150.00 feet to a point; thence North 60 feet to a point in the Southerly line of Harvey Avenue; thence West along the Southerly line of Harvey Avenue 150 feet to the point of beginning.

Common Expenses, Assessments, Charges and Late Fees Due as of September 9, 2016:

Amount Owed to Association:	\$7,730.00
Attorney Fees and Costs:	\$1,402.00
Total Owed:	\$9,132.00

Property owner or reputed owner is: Shayne Cameron Propst

Property Where Common Expenses Arose: Lot 7 (No property address)

THIS IS A CONTINUING LIEN THE AMOUNT WILL INCREASE AS ADDITIONAL UNPAID ASSESSMENTS ACCRUE.

Kevin V. Harker

Community Association Law Group

Attorneys for Lien Claimant

STATE OF OREGON)
)
) ss
County of Multnomah)

Kevin V. Harker, personally appeared and acknowledged that he/she has knowledge of the facts set forth in the claim of lien and that he/she believes that all statements made in the claim of lien are true and correct.

Subscribed and sworn to before me this _____ day of _____, 2016.

Notary Public for Oregon

By commission expires:

Lien Priority

- First Mortgage
- Line of Credit (Second)
- Construction lien
- Judgment Lien



Construction Liens

Who can claim construction lien?

- Anyone providing labor
- Anyone renting equipment
- Architects
- Surveyors

A photograph of a wooden boardwalk leading through a swampy forest. The trees are covered in Spanish moss, and a small house is visible in the background. The text is overlaid on a dark horizontal band across the middle of the image.

Perfecting the Lien

Proper Notice & Timing



Condominium / HOA Liens





Condominium vs. Planned Community

ORS 100 & ORS 94



Notaire Imperial

*Ludwig Conrad Rauch, Ministerialrath des kaiserlichen
Landes- und forstverwaltenden Hofrathes
175 fe*

Perfection of HOA / Condo Lien Recording of the CC&Rs

*... 22. Januar 1838 ...
In ganzen also ... 176 fe 56
...
...
... 22. Januar 1838*



"Automatic" Lien

Liens - what gets foreclosed?

- 1. First Mortgage - 2003**
- 2. Line of Credit - 2005**
- 3. Condominium
Assessment Lien - 2006**
- 4. Contractor's Lien - 2007**





Condominium Notice to Mortgage Holder

A person is sitting on a wooden bench in a park, completely obscured by a large black umbrella. The person is wearing dark pants and dark shoes. The bench is on a paved path, and the background shows a green lawn with small white flowers, a black metal fence, and a modern building with large windows. The overall scene is somewhat somber and isolated.

Personal Obligation

A pink piggy bank is shown from a close-up perspective, wrapped in white medical bandages. The bandages cover its eyes, ears, and snout. To the right of the piggy bank, a pair of silver metal crutches is leaning against it. The background is a plain, light-colored surface.

Effect of Bankruptcy

The image shows the front facade of the United States Supreme Court Building at dusk. The building is illuminated with warm, golden light, highlighting its classical architecture. The pediment features a relief sculpture, and the inscription "EQUAL JUSTICE UNDER LAW" is visible above the columns. A wide set of steps leads up to the entrance, with several people walking or sitting on them. In the foreground, a row of black bollards is visible. The text "Extinguishing By Foreclosure" is overlaid in large, white, bold letters across the center of the image.

Extinguishing By Foreclosure

75 B.

This Mortgage Deed

is made

Twenty second

day of

May

Title Company Issues

xofx

a member of The Halifax Building Society (hereinafter called "the Mortgagor")

one

part

and the said THE HALIFAX BUILDING SOCIETY incorporated under the Building Societies Act 1874 as repealed and re-enacted by the Building Societies Act 1962 (hereinafter call





Foreclosing the Lien

Judicial Foreclosure

John Haynes Solicitor

P.S.

of County

Lis Pendens

Lis Pendens

Notice to Subsequent Parties - Bound by Outcome of Suit

July

One thousand nine hundred

W E E N

~~_____~~ now of 76 Goldsmith

of Sussex retired Railway Clerk (hereinafter ca



Foreclosure Lawsuit

- Parties
- Venue
- Legal Description



Foreclosure Process

- Determine equity
- Determine other lien holders
- File foreclosure suit
- Right of Redemption



Necessary Parties

What happens if not joined to lawsuit?

Parties

- Debtor
- All lien and mortgage holders
- Anyone with interest in property

Potential Defenses

- Fraud
- Laches
- Unclean Hands
- Failure to Credit Payments
- Statute of Limitations

Sheriff's Adverstisement

1x per week for 4 weeks

Confirmation of Sale

- At least 10 days after sale
- Court looks for fraud, abuse, and adequate price

Redemption

- Statutory redemption period is 180 days
- Must pay sale price plus any fees and taxes



made the *Third*
day of *October*

Sheriff's Deed Issued

One Thousand Nine Hundred and Fifty B E T W E E N ~~_____~~
of Number 57 Stoney Road in the City of Coventry Fitter (here
the Vendor") of the one part and ~~_____~~ of Num
Queensland Avenue Coventry aforesaid Press Setter (hereinafte
Purchaser") of the other part

A photograph of a makeshift outdoor living space, likely a homeless encampment. In the foreground, there are several brown leather sofas and armchairs, some of which are cluttered with blankets and pillows. A large, old CRT television sits on a wooden crate to the left. In the center, there are two wooden boxes, one of which has a blue top. The ground is covered with various pieces of trash, including plastic bottles, paper, and a pair of shoes. In the background, there are trees and multi-story buildings, suggesting an urban setting. The overall scene is one of poverty and displacement.

Eviction





Nonjudicial Foreclosure

Characteristics of DoT

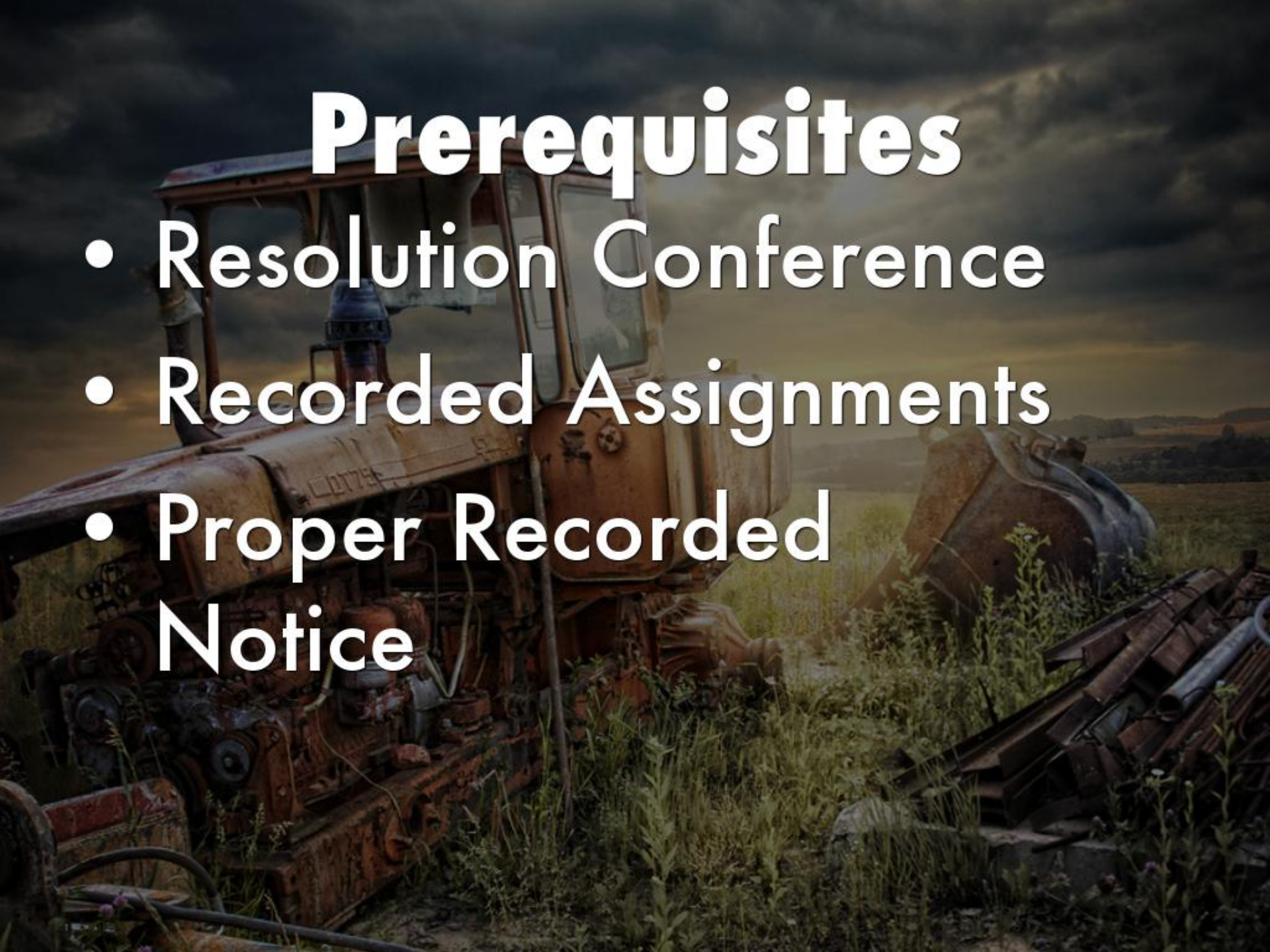
- Security instrument
- Parties: grantor, beneficiary, trustee
- No right of redemption

Trustee Requirements

- Licensed Oregon attorney
- Financial Institution
- Title Company
- Escrow Agent

Prerequisites

- Resolution Conference
- Recorded Assignments
- Proper Recorded Notice



Notice of Sale

- Notice must be provided at least 120 days before sale
- Personal service

Curing of Default

- At least 5 days prior to sale
- Pay entire amount due
- Pay costs incurred

DEFAULT



Application of Sale Proceeds

- **Expenses of Sale**
- **Amount of Trust Deed**
- **Other Lien Holders**
- **Any surplus to owner**



Short Sale

Lender approval, appraisal, release of claims



- (2)** “Foreclosure avoidance measure” means an agreement between a beneficiary and a grantor that uses one or more of the following methods to modify an obligation that is secured by a residential trust deed:
- (a)** The beneficiary defers or forbears from collecting one or more payments due on the obligation.
 - (b)** The beneficiary modifies, temporarily or permanently, the payment terms or other terms of the obligation.
 - (c)** The beneficiary accepts a deed in lieu of foreclosure from the grantor.
 - (d)** The grantor conducts a short sale.
 - (e)** The beneficiary provides the grantor with other assistance that enables the grantor to avoid a foreclosure.

Short Sales

- Usually contingent on getting each lender's agreement to release
- Lender may require borrower to remain personally liable for deficiency (can't collect if lender reports cancellation of debt to IRS)
- Lenders will consider:
 - Cost of foreclosure
 - Cost of maintaining
 - Cost of marketing and selling
- Usually need agreement by all other junior mortgage/lien holders

A close-up photograph of a person's hand holding a blue pen, writing on a white document. The person is wearing a dark blue long-sleeved shirt. A pair of glasses with tortoiseshell temples is resting on the document to the right. The background is blurred green foliage. A semi-transparent dark blue horizontal band is overlaid across the middle of the image, containing the text 'Deed in Lieu' in white.

Deed in Lieu



Kevin Harker
harkerlepore.com
503-922-1939