#15544
38371

Davidson County DEEDTRS
Recvd: 03/01/10 10:14 11 pgs
Fees:58.00 Taxes:741.85
20100301-0015214

Prepared By and Returnable to:
Bone McAllester Norton PLLC (th)
511 Union Street, Suite 1600
Nashville City Center
Nashville, Tennessee 37219

Address New Owner(s):	Send Tax Bills To:	Map & Parcel No.:
Mark A. Capers **Chevelle A. Capers** **704 Keeton Court** **Old Hickory, TN 37138**	**New Owner**	**043-04-0-A-009.00CO**

TRUSTEE'S DEED

WHEREAS, default was made in the terms, conditions, and payments provided for and made in a Deed of Trust dated August 15, 2006, executed by T.F. Homes, LLC, to James M. McGrew, Jr. and Judith L. Hanson, Trustees, of record in Instrument No. 200608180102003, Register's Office for Davidson County; and

WHEREAS, First Tennessee Bank National Association, the owner and holder of the Indebtedness secured by said Deed of Trust replaced said Trustee by naming Sam J. McAllester III, C. Tucker Herndon, David M. Anthony, and Gregory G. Vick, as Substitute Trustees by an instrument of record in Instrument No. 20090812-0075901, Register's Office for Davidson County, Tennessee, and authorized any one of the Substitute Trustee's to act alone or by a Designated Agent with the powers, given the Trustee in said Deed of Trust; and

WHEREAS, Sam J. McAllester, III, in his capacity as Substitute Trustee, and not Individually ("Substitute Trustee") caused to be published a Foreclosure Sale Notice in accordance with the provisions of said Deed of Trust, providing notice and advertising that said property would be sold at 12:00 p.m., noon, prevailing time on Monday, December 28, 2009, at the entrance to the office of the Davidson County Register of Deeds, Sommet Center, 501 Broadway, Nashville, Davidson County, Tennessee, to be knocked off and sold to the highest, best, and last bidder for cash, pursuant to the terms and conditions of the Deed of Trust and the Foreclosure Sale Notice; and

WHEREAS, Sam J. McAllester, III, Substitute Trustee personally appeared (or appeared by Designated Agent) and offered said property for sale at public outcry and the highest, best, and last bid received was the sum Two Hundred Thousand Five Hundred and 00/100 Dollars ($200,500.00) by Mark A. Capers and wife, Chevelle A. Capers (hereinafter referred to as the "Buyer") and said property was knocked off and sold to the Buyer.

NOW, THEREFORE, in consideration of the premises and sum of Two Hundred Thousand Five Hundred and 00/100 Dollars ($200,500.00) cash in hand paid by the Buyer, Mark A. Capers and wife, Chevelle A. Capers, Substitute Trustee, has this day bargained and sold and, by the premises, does transfer and convey to Buyer, their heirs and representatives the title and

interest that Substitute Trustee has the right to sell and convey under the Deed of Trust in a certain tract or parcel of land situated in Davidson County, Tennessee, and described as follows:

> Land in Davidson County, Tennessee, being Lot No. 9 on Final Plat of River Landing, Section 1, Phase 1, of record in Instrument No. 20060728-0091763 (formerly known as Windstar Estates, Section 1, Phase 1), said Register's Office for said County, to which reference is made for a more complete description.
>
> Being part of the same property conveyed to T.F. Homes, LLC by deed of record in Instrument No. 200608180102002, Register's Office for Davidson County, Tennessee.

This is improved property known as 704 Keeton Court, Old Hickory, Davidson County, Tennessee, but such address is not part of the legal description of the property. In the event of any discrepancy, the legal description herein shall control. The Legal Description is drawn from recorded documents or provided by third parties, and the Substitute Trustee makes no warranty or representation regarding the accuracy of the Legal Description.

To have and to hold the said tract or parcel of land with the appurtenances, estate, title and interest thereto belonging to the Buyer, their heirs and assigns forever.

The Substitute Trustee covenants with the said Buyer that he is lawfully seized and possessed of said real property as Substitute Trustee only and, by the terms of the above-mentioned Deed of Trust, in his capacity as Substitute Trustee, has a good right to sell and convey the same subject to all matters shown on any applicable recorded Plat or Plan; any unpaid taxes which exist as a lien against said property; any restrictive covenants, easements, or setback lines that may be applicable; any statutory rights of redemption not otherwise waived in the Deed of Trust, including rights of redemption of any governmental agency, state or federal; and any Deeds of Trust, liens, claims, and encumbrances that may take priority over the Deed of Trust. This sale is also subject to any matter that inspection and/or an accurate survey of the premises might disclose.

The Substitute Trustee, and not Individually, further covenants and binds himself/his successors and assigns, to warrant and forever defend the title to said real estate to the Buyer, his heirs and representatives, against the lawful claims of any person claiming by or through him as Substitute Trustee, but no further or otherwise, it being the intention of the Substitute Trustee only to convey to Buyer no greater title in the subject real estate than he received as Substitute Trustee and that, as Substitute Trustee, he has the right to sell and convey.

THIS PROPERTY IS SOLD "AS IS," "WHERE IS" AND WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, WHETHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE FOREGOING, THE PROPERTY IS SOLD WITHOUT ANY IMPLIED WARRANTIES OR MERCHANTABILITY, CONDITION, OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

Substitute Trustee makes no covenant of seisin, marketability of title, or warranty of title, express or implied. Substitute Trustee sells and conveys the subject real property by this Trustee's Deed as Substitute Trustee only, and not individually.

A Notice of State Tax Lien has been filed by the Tennessee Department of Revenue, against T.F. Homes, LLC, of record at Instrument No. 200905180045196, Register's Office for Davidson County, Tennessee. Timely notice has been given by the Substitute Trustee to the Tennessee Department of Revenue by certified mail, a copy of which is attached hereto, as required by T.C.A § 35-5-104. A copy of the response from the Tennessee Department of Revenue is attached hereto as required by T.C.A § 35-5-104. The sale of this property will be subject to the right of the Tennessee Department of Revenue to redeem said property pursuant to T.C.A § 35-5-104, 26 U.S.C. §7425(d)(1) and T.C.A § 67-1-1433(c)(1).

WITNESS my hand this 25th day of February 2010.

Sam J. McAllester, III
Substitute Trustee, and not Individually

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, C. Tucker Herndon, a Notary Public of this county, Sam J. McAllester, III, Substitute Trustee and not Individually, the within named bargainor, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained.

WITNESS my hand, at office this 25th day of February 2010.

C. TUCKER HERNDON STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY My Commission Expires November 7, 2012

NOTARY PUBLIC

My Commission Expires: 11/7/2012

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

The actual consideration or value, whichever is greater, for this transfer is $200,500.00.

AFFIANT

Subscribed and sworn before me on this 25th day of February 2010.

Tiffany D. Klitzing
NOTARY PUBLIC

My Commission Expires: May 8, 2012

TIFFANY D. KLITZING STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY

BONE MCALLESTER NORTON PLLC

Sam J. McAllester
615.238.6320 Direct Dial
615.687.2207 Direct Fax

December 2, 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Commissioner Reagan Farr
State of Tennessee Department of Revenue
927 Andrew Jackson Building
Nashville, Tennessee 37242

Re: Notice of Non-judicial Foreclosure on Behalf of First Tennessee Bank National Association ("Lender")
Name of Borrower: T.F. Homes, LLC ("Borrower")
Address of Property: 704 Keeton Court, Old Hickory, TN ("Property")

Dear Mr. Farr:

This letter is notice to the State of Tennessee, Department of Revenue of the proposed non-judicial foreclosure sale at 12:00 o'clock Noon on the 28th day of December, 2009, by and on behalf of Lender, the owner and holder of a Deed of Trust executed by Borrower to James M. McGrew, Jr. and Judith L. Hanson, Trustees, and duly recorded at Instrument No. 20068180102003, Register's Office for Davidson County, Tennessee, on certain real property located at 704 Keeton Avenue, Old Hickory, Davidson County, Tennessee (the "Deed of Trust").

This letter is a request on behalf of Lender for the consent of the State of Tennessee Department of Revenue to the sale of the Property and for discharge of said Property from the lien of the State of Tennessee and/or the sale of said Property free and clear of such lien. This letter is also a request on behalf of Lender for the release of the right of redemption of the State of Tennessee against said Property. In support of the above requests, I hereby submit the following information:

1. I am attorney for Lender. Lender is the owner and holder of twelve (12) Promissory Notes ("Notes") executed by T.F. Homes, LLC ("Borrower"). Borrower has defaulted on said Notes and Lender has declared the default and accelerated the principal balances. As of December 2, 2009, the principal and accrued interest balances owing, past due and unpaid on said Notes totals $3,116,366.85. Pursuant to the terms of the Note and Deed of Trust, Lender is entitled to accrued interest, and Lender is also entitled to its attorney's fees and expenses, including foreclosure costs, as part of the indebtedness secured by said Deed of Trust.

2. A Notice of State Tax Lien was filed by the State of Tennessee Department of Revenue Tax Enforcement Division against T.F. Homes, LLC, dated May 14,

Nashville City Center, Suite 1600 - 511 Union Street - Nashville, Tennessee 37219
615.238.6300 (Phone) - 615.238.6301 (Fax)

2009, filed for record on May 18, 2009, at Instrument No. 20090518-0045196, Register's Office for Davidson, County, Tennessee. A copy of said tax lien is attached hereto for your information.

3. T.F. Homes, LLC purchased said Property from Lakewood R3, LLC by Warranty Deed dated August 15, 2006, of record at Instrument No. 200608180102002, Register's Office for Davidson County, Tennessee. According to the Affidavit of Value, the actual consideration paid or the value of the Property, whichever is greater, was stated to be $198,750.00.

4. To the best of my knowledge and in reliance upon the title search by Gregory Vick & Associates, the last of which is dated December 1, 2009, title to said Property as of 8:00 a.m., December 1, 2009, is as follows:

[a] Said Property is presently vested in T.F. Homes, LLC by Deed from Lakewood R3, LLC dated August 15, 2006, filed for record August 16, 2006 at Instrument No. 200608180102002, Register's Office for Davidson County, Tennessee.

[b] 2009 County real property taxes are a lien against said Property but are not yet due and payable.

[c] There is of record at Instrument No. 20068180102003, Register's Office for Davidson County, Tennessee, a Deed of Trust dated August 15, 2009 wherein said Property is conveyed to James M. McGrew, Jr. and Judith L. Hanson, Trustees, for the purpose of securing all indebtedness of T.F. Homes, LLC to First Tennessee Bank National Association.

[d] There is of record an Order of Default Judgment in the amount of $302,163.75 against T.F. Homes, LLC of record in Instrument 20090123-0006222, Register's Office for Davidson County, resulting from the case of Thomas & Associates, Inc., vs. T.F. Homes, LLC, Case No. 08-2259-II in the Chancery Court for Davidson County, Tennessee.

[e] There is of record an Order Awarding Prejudgment Interest in the amount of $37,294.85 against T.F. Homes, LLC of record in Instrument 20090225-0016696, Register's Office for Davidson County, resulting from the case of Thomas & Associates, Inc., vs. T.F. Homes, LLC, Case No. 08-2259-II in the Chancery Court for Davidson County, Tennessee

[h] A Notice of State Tax Lien filed by the State of Tennessee Department of Revenue Tax Enforcement Division in the name of T.F. Homes, LLC, filed for record May 18, 2009, at Instrument No. 20090518-0045196, Register's Office for Davidson County, Tennessee.

5. Lender has an informal appraisal which estimates the value of the Property to be $249,000.00. According to the records of the Tax Assessor of Davidson County, said Property has a value of $326,900.00.

6. For your information, I am enclosing a copy of the Foreclosure Sale Notice which I have prepared and issued on behalf of Lender in my capacity as Substitute Trustee, setting the foreclosure sale for the 28th day of December, 2009, at 12:00 o'clock Noon, prevailing time, at the entrance to the office of the Davidson County Register of Deeds, Sommet Center, 501 Broadway, Nashville, Davidson County, Tennessee.

7. Pursuant to T.C.A. §67-1-1401 et. seq., I am also enclosing a copy of the Deed of Trust under which said sale is being foreclosed.

This notice and application for consent to sale is submitted in duplicate, and it is requested that a copy of this notice be acknowledged and returned to my office, indicating the date and time of your receipt.

The facts stated in this letter are true to the best of my knowledge, information, and belief.

Sincerely,

Sam J. McAllester, III

Attorney for First Tennessee Bank
National Association

Enclosures

NO009601

703375B090514

TENNESSEE DEPARTMENT OF REVENUE

NOTICE OF STATE TAX LIEN

Pursuant to the provisions of T.C.A. 67-1-1401 et. seq. a lien exists in favor of the State of Tennessee. This lien exists on all property and all rights, title and interest in property acquired prior to or subsequent to the filing of this notice that belongs to the named taxpayer(s).

Notice is hereby given that there have been assessed taxes, penalty, and interest against the indicated taxpayer, which after demand for payment remain unpaid. The precise amount of the lien may be obtained from the State of Tennessee Tax Enforcement Division at (615) 741-7074.

FOR DEPARTMENT OF REVENUE USE ONLY

TAXPAYER:

T.F. HOMES, LLC

D/B/A: T.F. HOMES, LLC
2572 MURFREESBORO PIKE
NASHVILLE TN 37217-3504

ENTITY ID:

001 62-1828091/000

001 62-1828091

COUNTY: DAVIDSON

This instrument was prepared by the Tennessee Department of Revenue.

Witness my hand, at Nashville, Tennessee, on May 14, 2009.

COMMISSIONER OF REVENUE

By: _____
Delegate of Commissioner

FOR REGISTER USE ONLY .... PRINT OR STAMP

BOOK NO **PAGE NO.** **DATE** **TIME**

REGISTER

BILL GARRETT, Davidson County
Trans: T20090522899 LIENSTL
Recvd: 05/15/09 09:31 1 pgs
Fees:12.00 Taxes:0.00

20090518-0045196

BY: _____

RV-N0009601

STATE OF TENNESSEE
DEPARTMENT OF REVENUE
REVENUE ENFORCEMENT DIVISION
ANDREW JACKSON STATE OFFICE BUILDING
NASHVILLE, TENNESSEE 37242

December 8, 2009

Sam J. McAllester III
Bone McAllester Norton PLLC
Nashville City Center
511 Union St., Ste. 1600
Nashville, Tn 37219

Re: Foreclosure Sale of Property Owned by: **T.F. Homes LLC**
Entity Number: **001 621828091**

This is in reference to your letter dated December 2, 2009 concerning a foreclosure sale of property owned by the above-captioned taxpayer(s).

Your letter **does** comply with the provisions of T.C.A. § 67-1-1401 et. seq., but if the sale produces more than the amount needed to satisfy the cost of the sale, the indebtedness indicated in your letter, and any other superior liens, the amount of surplus proceeds up to the amount of taxes, penalties and interest due the Department of Revenue must be remitted to the State of Tennessee. Excess proceeds, if any, should be sent to the attention of the Special Procedures Unit at P.O. box 190665 Nashville, TN 37219-0665. The amount of taxes, penalties and interest that is due as of **December 28, 2009** is **$91,935.53**. *(Please be advised that if the scheduled sale is cancelled or postponed for any reason, notice must be submitted in writing if the sale is to be continued).*

After the sale, (and within 15 days), please furnish me with **an accounting of the sale** (form enclosed), and I will release the State's tax lien on the property sold. If the sale is canceled, please advise this office with a brief explanation. I trust that this has answered your letter, but if not, please let me know.

Tessa Stromatt, Accounting Technician 1
Special Procedures Section
Revenue Enforcement Division
Tennessee Department of Revenue

SP/bt
c: *file*

STATE OF TENNESSEE
DEPARTMENT OF REVENUE
REVENUE ENFORCEMENT DIVISION
ANDREW JACKSON STATE OFFICE BUILDING
NASHVILLE, TENNESSEE 37242

January 6, 2010

C. Tucker Herndon
Bone McAllester Norton PLLC
Nashville City Center
511 Union St., Ste. 1600
Nashville, Tn 37219

Re: Foreclosure Sale of Property Owned by: **T. F. Homes LLC**
Entity Number: **001 621828091**
Lot 9 River Landing

This is in reply to your letter dated January 6, 2010 indicating that the real property owned by the above referenced taxpayer was sold at public auction on December 28, 2009 for $ 198,700.00, which is equal to or less than the amount owed the mortgagees and the cost of the foreclosure.

After reviewing the information furnished by you, we are releasing the State's tax lien on the property sold. We trust this has answered your letter, but if not, please let us know.

Tessa Stromatt, Accounting Technician 1
Special Procedures Section
Revenue Enforcement Division
Tennessee Department of Revenue

SP/bt
c: *file*

I, Philip Ellis, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.

Signature

State of Tennessee

County of Rutherford

Personally appeared before me, Lori Holloway, a notary public for this county and state, Philip Ellis who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

Notary's Signature

MY COMMISSION EXPIRES: 1-16-2011

Notary's Seal (If on paper)

LORI HOLLOWAY
STATE OF TENNESSEE
NOTARY PUBLIC
RUTHERFORD COUNTY