BILL GARRETT, Davidson County
Trans:T20130102585 DEEDWARR
Recvd: 12/06/13 12:33 7 pgs
Fees:38.00 Taxes:3700.00
20131206-0124396

This instrument prepared by and after recording return to:

Thompson Burton PLLC
Corporate Centre Seven
840 Crescent Centre Drive, Suite 260
Franklin, Tennessee 37067
Attn: William W. Burton, Esq.

DEED IN LIEU OF FORECLOSURE

Address New Owner(s) as follows:	Send Tax Bills To:	Tax Parcel Numbers:
c/o Thompson Burton PLLC Seven Corporate Centre 840 Crescent Centre Drive, Suite 260 Franklin, Tennessee 37067 Attn: Walt Burton, Esq.	c/o Thompson Burton PLLC Seven Corporate Centre 840 Crescent Centre Drive, Suite 260 Franklin, Tennessee 37067 Attn: Walt Burton, Esq.	All of: 09305403200

THIS DEED IN LEIU OF FORECLOSURE (this "Deed") is made this 5th day of December, 2013, by and between **JOSHUA SMITH** and **BERGER BUILDING PARTNERS, LLC,** a Tennessee limited liability company (collectively, "Grantor") and **BERGER BUILDING, LLC**, a Tennessee limited liability company ("Grantee"). Throughout this Deed, the terms "Grantor" and "Grantee" shall include their respective heirs, executors, administrators, legal and personal representatives, successors and assigns where the context requires or permits.

BACKGROUND:

A. Grantor is validly and justly indebted to Value Properties Nashville, LLC, a Tennessee limited liability company ("Value"), as evidenced by Promissory Note dated October 3, 2006 in the original face amount of $1,300,000.00 (as such Promissory Note may have been otherwise amended, modified, or assigned, collectively, the "Note"), in favor of Turtle Realty, LLC, a Tennessee limited liability company ("Turtle"), which Note is secured by, inter alia, Wrap Deed of Trust and Fixture Filing, Assignment of Rents, and Security Agreement dated October 3, 2006, in favor of Dennis W. Powers, as Trustee, recorded as Instrument No. 20061005-0123862, Register of Deeds of Davidson County, Tennessee, as amended by Modification and Extension Agreement dated October 3, 2009, recorded as Instrument No. 20091112-0104549, aforesaid records (as such Deed of Trust may have been otherwise amended or modified, or assigned collectively, the "Deed of Trust"), as such Note, Deed of Trust and other loan documents were assigned by Turtle to Value, as evidenced by Assignment of Deed of Trust dated October 28, 2013, recorded as Instrument No. 20131030-0112879, aforesaid records (the "Assignment");

B. The Grantor is in default under the term terms of the Note by virtue of failure to pay the indebtedness evidenced by the Note at maturity; and

C. Grantor has agreed to convey the Property (as hereinafter defined) to Grantee, such designee being directed by Value, in lieu of foreclosure.

CONVEYANCE:

FOR AND IN CONSIDERATION of the sum of Ten Dollars and No/100 ($10.00), cash in hand paid by Grantee and other good and valuable consideration accepted as cash, the receipt and sufficiency of which are hereby acknowledged, Grantor herein this day has bargained and sold, and does hereby transfer and convey, unto Grantee, the following described real property, to wit:

> ALL THAT TRACT OR PARCEL of unimproved land lying and being in Davidson County, Tennessee, being more particularly described on **Exhibit "A"** attached hereto (the "Land"); TOGETHER WITH any and all improvements, appurtenances, rights, privileges and easements benefiting, belonging or pertaining to the Land, and any right, title and interest of Grantor in and to any land lying in the bed of any street, road or highway in front of or adjoining said Land, together with any strips or gores relating to the Land (the Land and the foregoing rights, easements and appurtenances being hereinafter collectively referred to as the "Property").

Grantee shall hereby HAVE AND HOLD the Property, together with all and singular the rights, members and appurtenances thereto, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of Grantee in FEE SIMPLE subject on to those matters set forth on **Exhibit "B"** hereto (the "Permitted Encumbrances").

This conveyance is made by Grantor to Grantee in lieu of the foreclosure of the Deed of Trust. In further consideration of the conveyance of the Property by Grantor to Grantee, Grantee hereby agrees to release Grantor of any further liability under the Note and waives its right to seek a deficiency judgment against Grantor pursuant to T.C.A. Section 35-5-118. Grantor acknowledges: (i) the validity of the lien evidenced by the Deed of Trust; and (ii) that the value of the release contained herein is adequate consideration for the conveyance contemplated hereby. It is the intention of the Grantor and Grantee that the conveyance pursuant to this Deed shall be subject to the Deed of Trust, and shall not merge, but be and remain at all times separate and distinct, notwithstanding any union of said interest in Grantee at any time by purchase, termination, or otherwise and that the lien of Grantee in the Deed of Trust shall be and remain at all times a valid and continuous lien.

It is the intent and express desire of the parties hereto that this instrument constitute a general warranty deed given in lieu of foreclosure of the Deed of Trust. Grantor hereby acknowledges that this is a voluntary conveyance without any duress or coercion, entered into with the advice of counsel.

Grantor further covenants and binds itself, its heirs and assigns, to warrant and forever defend the title to said Property to said Grantee, its heirs and assigns, against all persons claiming under Grantor.

[*Signatures Commence on Following Page*]

IN WITNESS WHEREOF, this Deed in Lieu of Foreclosure is executed on the date first written above.

GRANTOR:

JOSHUA SMITH,
an individual

Joshua Smith

BERGER BUILDING PARTNERS, LLC,
a Tennessee limited liability company,

By: _____ (SEAL)
Name: Joshua H. Smith
Its: Chief Manager

By: _____ (SEAL)
Name: Lawrence B. Mulloy
Its: Secretary

[*Acknowledgements Contained on Following Page*]

ACKNOWLEDGEMENT

STATE OF TENNESSEE)
) SS
COUNTY OF Davidson)

Before me, the undersigned, a Notary Public in and for said County and State, this 5th day of December, 2013, personally appeared Joshua Smith, individually, and as Chief Manager of Berger Building Partners, LLC, a Tennessee limited liability company, and acknowledged the execution of this Deed in Lieu of Foreclosure.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Rebecca J. Yielding
Notary Public

My Commission Expires: March 7, 2017

REBECCA J. YIELDING STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.

ACKNOWLEDGEMENT

STATE OF TENNESSEE)
) SS
COUNTY OF Davidson)

Before me, the undersigned, a Notary Public in and for said County and State, this 5th day of December, 2013, personally appeared Lawrence B. Mulloy, as Secretary of Berger Building Partners, LLC, a Tennessee limited liability company, and acknowledged the execution of this Deed in Lieu of Foreclosure.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Rebecca J. Yielding
Notary Public

My Commission Expires: March 7, 2017

REBECCA J. YIELDING STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.

AFFIDAVIT OF VALUE

I, J. Cole Dowsley, Jr., hereby swear or affirm that, to the best of my knowledge, information and belief, the actual consideration for this transfer or value of the property or interest in property transferred, whichever is greater, is $1,000,000.00.

Subscribed and sworn to before me this 6th day of December, 2013.

Name: J. Cole Dowsley, Jr.

W. W. M
Notary Public

My Commission Expires:

WILLIAM W. BURTON STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.
My Commission Expires MAY 3, 2016

EXHIBIT "A"

Legal Description of the Property

PARCEL NO. 1:

Land in Davidson County, Tennessee, being part of Lot No. 151 on the Original Plan of the Town of Nashville, not of record, described as follows:

Beginning on the easterly margin of 8th Avenue North, formerly Spruce Street, as widened, at a point 85 feet 8.2 inches, more or less, north of the northerly margin of Commerce Street, said point being the northwest corner of the property conveyed to M.S. and L. Lebeck by deed from Robert Vaughn, Clerk and Master of record in Book 452, page 404, Register's Office for said County; thence with the easterly margin of said Avenue, northwardly 71 feet, more or less, to the southwest corner of the Robert's property; thence with said Robert's southerly line eastwardly 160 feet, more or less, to the westerly margin of an alley; thence with said alley southwardly 71 feet, more or less, to the northeast corner of said Lebeck's property; thence with Lebeck's northerly line westwardly 160 feet, more or less, to the beginning.

INCLUDED IN THE ABOVE DESCRIPTION BUT EXCLUDED FROM THIS CONVEYANCE IS THE FOLLOWING PARCEL:

Being a tract of land in the First Civil District of Nashville, Davidson County, Tennessee, bounded on the north by the Homer Brown, Jr., et al property as of record in Deed Book 6922, page 290, Register's Office for Davidson County, Tennessee, bounded on the east by the westerly margin of alleyway #113, bounded on the south by the Ira Mendell property as of record in Deed Book 7897, page 545, Register's Office for Davidson County, Tennessee, and being more particularly described as follows:

Commencing at an existing P.K. nail in the westerly margin of the alleyway #113 and being the northeasterly corner of the tract herein described; Thence, with the westerly margin of alleyway #113, South 27 deg. 18 min. 28 sec. East 71 feet; Thence, a common line with the Ira Mendell property as of record in Deed Book 7897, page 545, Register's Office for Davidson County, Tennessee, South 62 deg. 31 min. 37 sec. West, 43.70 feet; Thence, a common line with the Homer Brown, Jr., et al property as of record in Deed Book 6922, page 290, Register's Office for Davidson County, Tennessee, North 62 deg. 31 min. 37 sec. East, 43.70 feet to the point of beginning.

PARCEL NO. 2:

Being a parcel of land in the First Civil District of Nashville, Davidson County, Tennessee, bounded on the north by the Ira Mendell property as of record in Deed Book 7897, page 545, Register's Office for Davidson County, Tennessee, bounded on the south by the northerly margin of Commerce Street, bounded on the west by the easterly margin of Eighth Avenue North, and being more particularly described as follows:

Commencing at a point, said point being the intersection of the easterly margin of Eighth Avenue North and the northerly margin of Commerce Street; Thence, with the easterly margin of Eighth Avenue North, North 27 deg. 18 min. 28 sec. West, 55.00 feet; Thence, a common line with the Ira Mendell property as of record in Deed Book 7897, page 545, Register's Office for Davidson County, Tennessee, North 62 deg. 31 min. 37 sec. East, 28.92 feet; Thence, with a new line, South 27 deg. 18 min. 28 sec. East, 55.00 feet; Thence, with the northerly margin of Commerce Street, South 62 deg. 31 min. 48 sec. West, 28.92

feet to the point of beginning.

PARCEL NO. 3:

Being a parcel of land in the First Civil District of Nashville, Davidson County, Tennessee, bounded on the north by the Turtle Realty, LLC, property as of record as Instrument No. 200012080121181, Register's Office for Davidson County, Tennessee, bounded on the south by Goodlett Realty Co. property as of record in Deed Book 1586, page 92, Register's Office for Davidson County, Tennessee, bounded on the west by the easterly margin of Eighth Avenue North and being more particularly described as follows:

Commencing at a point in the easterly margin of Eighth Avenue North, said point being 85.00 feet northerly of the northerly margin of Commerce Street and being the northwesterly corner of the tract herein described; Thence, a common line with the Turtle Realty, LLC, property as of record as Instrument No. 200012080121181, Register's Office for Davidson County, Tennessee, North 62 deg. 31 min. 37 sec. East, 107.39 feet; Thence, with a new line, South 27 deg. 18 min. 28 sec. East, 15.00 feet; Thence, with a new line, South 62 deg. 31 min. 37 sec. West, 78.47 feet; Thence, with a new line, South 27 deg. 18 min. 28 sec. East, 15.00 feet; Thence, a common line with the Goodlett Realty Co., property as of record in Deed Book 1586, page 92, Register's Office for Davidson County, Tennessee, South 62 deg. 31 min. 37 sec. West, 28.92 feet; Thence, with the easterly margin of Eighth Avenue North, North 27 deg. 18 min. 28 sec. West, 30.00 feet to the point of beginning (collectively, Parcel No. 1, Parcel No. 2, and Parcel No. 3 will be referred to herein as the "Land").

Being the same property conveyed to JOSHUA SMITH by deed from TURTLE REALTY, LLC, A TENNESSEE LIMITED LIABILITY COMPANY of record in Instrument No. 20061005-0123861, dated October 3, 2006, said Register's Office. JOSHUA SMITH has since conveyed his interest in said property to BERGER BUILDING PARTNERS, LLC, A TENNESSEE LIMITED LIABILITY COMPANY, by quitclaim deed of record in Instrument No. 20061005-0123863, dated October 4, 2006, said Register's Office.

EXHIBIT "B"

Permitted Exceptions

1. Ad valorem real property taxes for the year 2013 and beyond, a lien not yet due and payable.

2. Matters that would be shown on an updated Survey of the Property.

3. Quit Claim Deed of record in Instrument No. 20051006-0120441, Davidson County Register of Deeds.