



AGENDA ITEM MEMORADUM

Item No. 17a

Development Services

Kim Williams

Development Services Department

Code Compliance Officer *KW*

| | |
|--|-------------------------------|
| COMMISSION MEETING DATE (*) - 7:00 PM | Deadline to Town Clerk |
| <input checked="" type="checkbox"/> Nov 29, 2011 | Nov 10 th |

**Subject to Change*

- | | | | |
|---------------------------------------|---|---------------------------------------|---|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports | <input type="checkbox"/> Consent | <input type="checkbox"/> Ordinance |
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Quasi-Judicial | <input type="checkbox"/> Old Business | <input checked="" type="checkbox"/> New Business |

FY2011 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC

SUBJECT TITLE: Application for Relief of Code Enforcement Lien at 1961 Tropic Isle.

EXPLANATION: The owner of this residential property (Bank of America) seeks relief from code enforcement liens. The Town issued Notices of Violation for the failure to obtain permits for a garage conversion. The Special Magistrate heard the cases and ordered the then property owner to comply or daily fines would commence. The Bank secured title to the property on May 4, 2011 and corrected the violations. The Staff case history is attached (**Exhibit 1**). The owner's application is attached hereto as "**Exhibit 2**".

The requested relief must be approved by the Town Commission. The table below provides a summary of the case:

| Case # | Violation | Magistrate Ordered Compliance | Date of Compliance | Days in Violation | Lien Amount | Offered Settlement |
|------------------|--|-------------------------------|--------------------|-------------------|------------------|-----------------------|
| 09-KM-01272 | No structural permit - garage conversion | January 14, 2011 | September 14, 2011 | 242 | \$60,500 | |
| 09-KM- 01275 | No plumbing permit - garage conversion | January 14, 2011 | September 14, 2011 | 242 | \$60,500 | |
| 09-KM-01276 | No electric permit - garage conversion | January 14, 2011 | September 14, 2011 | 242 | \$60,500 | |
| Subtotal | | | | | \$181,500 | |
| Town Expense (1) | | | | | \$1,217 | |
| Total | | | | | \$182,717 | \$45,000 (25%) |

(1) Total cost to the Town to process these cases is \$1592.31 - \$375 paid = \$1217.31

| | |
|---|---|
| <i>Staff time and costs</i> | <i>= \$896.61</i> |
| <i>Fixed costs (postage and recording fees)</i> | <i>= \$320.70</i> |
| <i>Administrative fees</i> | <i>= \$375.00 (Applicant paid this fee)</i> |



Under the Town’s procedures for relief from code enforcement liens, the Commission shall consider all relevant factors to determine what relief, if any, is appropriate, including the following criteria:

A. The nature and gravity of the violation.

The gravity of the violations is considered moderate based on the possible danger to public health and safety that could result from the failure to obtain permits for the conversion to living space.

B. Any actions taken by the Respondent to correct the violation.

The Bank obtained title to the subject property on May 4, 2011 and thereafter, the Bank worked with staff to correct the violations.

C. The length of time between the previously ordered compliance date and the date the violation was brought into compliance.

After acquiring title to the property, the bank corrected the violations in 133 days.

D. Any other prior or current violations committed by the Respondent on the subject property or upon any other property owned by the Respondent within the Town.

None.

Summary:

The Bank efficiently and within a reasonable amount of time worked with staff to abate the violations and the previous owner paid the administrative fees (totaling \$375) imposed by the Special Magistrate in these cases. Additionally, based on the particular facts of this case, i.e., the subject property was vacant during the last 11 months and there were no known problems with the garage conversion, the violations did not pose a serious health or safety issue.

RECOMMENDATION: We recommend approval of the proposed mitigation of the three code enforcement liens to \$45,000 if paid within 30 days of Commission approval.

- EXHIBITS:** Exhibit 1 – Case history
 Exhibit 2 –Application for the three liens

Reviewed by Town Attorney
 Yes No

Town Manager Initials CJA

Summary of Case History

Exhibit 1

Address: 1960 Tropic Isle

Case #'s 09-KM-01272, 01275 and 01276

Folio # 9307-01-0460

Ordinance: FBC 105.1

Violations: Failure to obtain structural, electric and plumbing permits for the garage conversion to living space.

1) NOV.

- Issued on: 06/30/2009 Correction Date: 07/18/2009
- Notification was provided via: Personal Services / Certified Mailing and Posting on 07/01/2009
- Complied (prior to correction date/after correction date) / Non-compliance on 07/18/2009

2) Hearing: Before Magistrate.

- Hearing Date: 01/20/2010 Time: 1:30PM
- Notification was provided via: Personal Service/ Certified Mailing and Posting on 01/07/2010
- Magistrates Final Order: 90 days to comply or a fine of \$250.00 per day plus an administration fee of \$150.00 imposed.
- Complied with order / Non-compliance with order on: 04/20/2010

3) 1st Extension Hearing: Before Magistrate.

- Hearing Date: 05/18/2010 Time: 1:30PM
- Notification was provided via: Personal Service/ Certified Mailing and Posting on 05/16/2010
- Magistrates Final Order: 90 days to comply or a fine of \$250.00 per day plus an administration fee of \$150.00 imposed.
- Complied with order / Non-compliance with order on: 08/16/2010

4) 2nd Extension Hearing: Before Magistrate.

- Hearing Date: 09/15/2010 Time: 1:30PM
- Notification was provided via: Personal Service/ Certified Mailing and Posting on 09/17/2010

TOWN OF LAUDERDALE-BY-THE-SEA

4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Tel: (954) 776-0576
Fax: (954) 776-1857

APPLICATION FOR RELIEF FROM CODE ENFORCEMENT FINES OR LIENS

* No application will be accepted or processed unless all violations on the property have been placed in compliance by Code Enforcement

CASE # 09-KM-01272, 1275 + 1276

TOWN OF LAUDERDALE-BY-THE-SEA vs. Bank of America
(Name of Respondent(s) as listed)

NAME OF APPLICANT: (Print): Helen Masek (Property Agent)
(Person to attend Hearing)

ADDRESS OF APPLICANT: 601 S. Federal Hwy #100
(Full mailing address) Boca Raton, FL 33432

PHONE NUMBER: 561-271-4294

ADDRESS OF PROPERTY: Garage Illegal Unit 1910 SE 15th Court
(Where violation(s) existed)

NATURE OF VIOLATION: Garage Illegal Unit

TOTAL AMOUNT OF FINE: 60,500 -

AMOUNT REQUESTING FINE BE REDUCED TO: 15,000

THIS PROPERTY CURRENTLY IS IS NOT (check one) INVOLVED IN LITIGATION

All Applications for Relief (where applicable) MUST have the following documentation provided as part of the Application to be reviewed:

1. A copy of the Notice of Lis Pendens recorded with Broward County Records with the date, book and page shown;
2. A copy of the Foreclosure Complaint;
3. A copy of the Foreclosure Order, with the recording date, book and page shown;
4. A copy of the Final Summary Judgment of Foreclosure, with the recording date, book and page shown;
5. A copy of the Certification of Lien Order, with the recording date, book and page shown;
6. A copy of the new Certificate of Title, with the recording date, book and page shown;
7. A copy of the Town's Final Order of Imposition of Fine; and
8. A copy of the Claim of Lien(s) with the recording date, book and page shown.

Please provide a copy of these requirements with all Applications for Relief.

FACTORS RELEVANT TO APPLICATIONS FOR RELIEF:

- A. The nature and gravity of the violation(s);
- B. Any actions you have taken to correct the violation(s);
- C. The length of time between the previously ordered compliance date and the date the violation(s) was brought into compliance;
- D. Any actual costs you expended to cure the violation(s), if supported by documentation;
- E. Any other prior or current violations you committed on the subject property or upon any other property you own within the Town; and
- F. Equitable considerations.

WHY RELIEF SHOULD BE GRANTED (This section must be completed and, at a minimum, should address the above factors):

Previous owner built illegal garage unit with no permits which resulted in violations. She never brought the violations into compliance and we foreclosed on 2/1/11, daily fines began to accrue on 4/15/11. We were never aware of violations until the agent called the city on 8/1/11, due to a water issue, permits were pulled and work began on 8/25/11, property was brought into compliance 9/13/11.

(Attach additional pages if needed, along with any supporting documentation)

IF APPLICABLE:

Name Of Attorney/Representative:

Helen Masch, Realtor

Address:

601 S. Federal Hwy. Boca Raton, Fl.

Phone Number:

561-271-4294

I CERTIFY THAT I am the current owner of the subject property or an Attorney for said owner, or that I am the legal representative for the property or otherwise authorized to act on behalf of the property owner in this matter.

Signature of Applicant

Date

(NOTE: Proof of such lawful authority or written authorization from the property owner must be provided by the applicant prior to this matter proceeding.)

Helen Masek

From: "Kim William" <KimW@lauderdalebythesea-fl.gov>
To: <masek1@msn.com>
Sent: Wednesday, September 14, 2011 3:24 PM
Attach: Mitigation of recorded liens app and procedures.doc
Subject: 1961 Tropic Isle LBTS

Good afternoon Helen.

I wanted to let you know the final inspection was completed today and the permit has been closed. This brings the 3 code cases into compliance and stops the daily fines. I have attached the mitigation application for you, please get it completed and sent to us a.s.a.p. with the requested documents so it can be processed. At this point the person handling the mitigations is Jeff Bowman, he can be reached at 954-776-3611 ext.# 213. His email is jbowman@lbts-fl.gov.

FYI-

the fine began to accrue on 1/15/2011 and stopped on 9/13/2011. This is 242 days at \$250.00 per day times 3 (3 code cases that had fines running). This will give you the amount to be mitigated.

Thanks

Kimberly Williams
Code Compliance Officer
Lauderdale By The Sea, Florida
(954)776-3611

9/14/2011

Pg 4

2

TOWN OF LAUDERDALE BY THE SEA
MUNICIPAL CORPORATION OF FLORIDA
4501 N. OCEAN DRIVE
Lauderdale-By-The-Sea, Florida 33308

BEFORE THE SPECIAL MAGISTRATE
ORDER IMPOSING FINE/CERTIFICATE OF LIEN

TOWN OF LAUDERDALE-BY-THE-SEA,

Petitioner

v.

Case No. 09-KM-01272

Nancy Rowe & Judy Robbins
13547 Ventura Blvd. #136
Sherman Oaks, CA 91423

Respondent(s)

**THIS IS NOT AN
OFFICIAL COPY**

The above referenced case was heard on December 15, 2010 and Respondent did appear at the hearing. A Notice of Violation was issued on June 6, 2009 with a correction date of July 18, 2009. Compliance was not gained on July 18, 2009. The Special Magistrate ordered that the Respondent be given Thirty (30) days from the hearing date to bring the property into compliance or a daily fine of Two Hundred Fifty (\$250.00) Dollars would be assessed plus an Administrative Fee of Two Hundred Twenty-Five (\$225.00) Dollars was imposed.

The property located at 1961 S.E. 15th Court, Lauderdale-By-The-Sea, Florida, corresponding to Folio #9307-01-0460, legally described as:
BEL-AIR 32-10 B LOT 49,50 W 5 BLK 1

Has not been brought into compliance and a daily fine of Two Hundred Fifty (\$250.00) Dollars began to accrue on January 15 2011 and continues to accrue until compliance is gained. The Two Hundred Twenty-Five (\$225.00) Dollar Administrative Fee has been paid and is not due and owing. The Final Order was mailed via Certified Mail on December 21, 2010. On March 4, 2011 Notice of Certification of Lien Intent was sent via certified mail for the hearing date March 16, 2011. Respondent was not present.

Therefore, pursuant to Section 162.09, Florida Statutes, the Special Magistrate certifies as follows:

1. The Order of December 15, 2010 required the Respondent to bring the property into compliance Thirty (30) days from the hearing date or be assessed a daily fine of Two Hundred Fifty (\$250.00) Dollars. An Administrative Fee of Two Hundred Twenty-Five (\$225.00) Dollars was also imposed.

2. The Respondent has not brought the violation into compliance and the daily fine of Two Hundred Fifty (\$250.00) Dollars continues to accrue as of January 15, 2011. As of the March 16, 2011 Certification of Lien hearing, the daily fine has accrued

(4)

RESPONDENT: NANCY ROWE & JUDY ROBBINS - CASE # 09-KM-01272 -
PROPERTY ADDRESS: 1961 S.E. 15TH COURT

amount of Fifteen Thousand Two Hundred Fifty (\$15,250.00) Dollars. The Administrative Fee of Two Hundred Twenty-Five (\$225.00) Dollars was paid and is not due and owing. Therefore, Special Magistrate imposes and certifies fines for the daily fine of Two Hundred Fifty (\$250.00) Dollars that continues to accrue until compliance is gained.

3. That this Certification, together with the original Final Order, be recorded in the Public Records of the Office of the Clerk of the Circuit Court in and for Broward County, Florida. Pursuant to Section 162.09, Florida Statutes, these documents, once recorded, shall constitute a lien against the land on which the violation(s) exists, and upon any other real or personal property owned by Respondent.

4. If any person desires to appeal, pursuant to Section 162.11, Florida Statutes, such person will need a record of the proceedings which includes the testimony and evidence upon which the appeal is based.

Certification of Lien ordered at Lauderdale-By-The-Sea this 16th day of March, 2011.

THIS IS NOT AN OFFICIAL COPY

ATTEST:

BY: Celleen Tyrrell
Celleen Tyrrell, Secretary for the Special Magistrate

Special Magistrate of the
Town of Lauderdale-By-The-Sea

BY: Gordon B. Linn
Gordon B. Linn, Special Magistrate

() Personally known to me

Copies furnished to:

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSED by my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida

25th day of March, 20 11
Jane White CMC Town clerk

FILE
MAR 24 2011
BY: C-J

pg 6.

TOWN OF LAUDERDALE BY THE SEA
MUNICIPAL CORPORATION OF FLORIDA
CODE COMPLIANCE SPECIAL MAGISTRATE

CASE NUMBER: 09-KM-01272

TOWN OF LAUDERDALE BY THE SEA,
MUNICIPAL CORPORATION OF FLORIDA

PETITIONER

VS.

Nancy Rowe & Judy Robbins
13547 Ventura Blvd. #136
Sherman Oaks, CA 91423

RESPONDENT

FINAL ORDER

HEARING DATE: December 15, 2010

VIOLATION(S): No permits for alterations or remodel of property. CODE SECTION: F.B.C 105.1

An Administrative hearing was held before the Special Magistrate on December 15, 2010. Set below are the findings of fact, conclusions of law, and final order for the subject hearing.

OFFICIAL COPY

FINDINGS OF FACT

The record indicates that the Respondent(s) owns certain real property located at:
1961 S.E. 15th Court, Lauderdale-By-The-Sea, FL 33062 and more particularly described as follows:

Tax Folio Number (Property I.D.): 9307-01-0460

At the hearing held on this matter on December 15, 2010 the Petitioner Town presented testimony by Code Compliance Officer Kimberly Williams concerning her personal knowledge of the existence of the subject violation(s), and entered into the record evidence of notice required under Chapter 162 Florida Statutes. Officer Williams said that this case was heard on May 18, 2010 and September 15, 2010 and a final order was issued giving the property owner 90 days to bring the property into compliance. Officer Williams said that the property still was not in compliance. Property owner Nancy Rowe and Contractor Nick Coval were present at the hearing to explain that it took longer to get a plumber to sign off on the plumbing permit and requested an additional extension of time in order to final the plumbing permit.

CONCLUSIONS OF LAW

Accordingly, based on the testimony and evidence referenced above, the Petitioner Town has met its burden of providing by substantial competent evidence that alleged violation(s) does in fact exist on the subject property but was not in compliance at or prior to the subject hearing.

ORDER

THEREFORE, BASED UPON THE ABOVE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UNDERSIGNED SPECIAL MAGISTRATE FINDS THE RESPONDENT(S) GUILTY OF VIOLATING: CODE SECTION F.B.C. 105.1.

Respondent: Nancy Rowe & Judy Robbins
CASE NUMBER: 09-KM-01272

Page 2.

IN DETERMINING THE FINE AMOUNT TO BE IMPOSED, CONSIDERATION WAS GIVEN TO: (1) THE GRAVITY OF THE VIOLATION(S), (2) ANY ACTIONS TAKEN BY THE RESPONDENT(S) TO CORRECT THE VIOLATION(S); AND (3) ANY PREVIOUS VIOLATION(S) COMMITTED BY THE RESPONDENT(S).

FINALLY, THE PETITIONER, TOWN, VERIFIED THAT THE VIOLATION WAS NOT IN COMPLIANCE AT THE TIME OF THE HEARING.

DUE TO THE TESTIMONY PRESENTED AT THE HEARING, THE SPECIAL MAGISTRATE GRANTS THE RESPONDENT'S REQUEST FOR AN EXTENSION AND ORDERS THAT THE RESPONDENT BE GIVEN AN ADDITIONAL THIRTY (30) DAYS FROM THE HEARING DATE TO BRING THE VIOLATION INTO COMPLIANCE. FAILURE TO ABATE THE VIOLATION WITHIN THE THIRTY (30) DAY TIMEFRAME, A TWO HUNDRED FIFTY (\$250.00) DOLLAR FINE PER DAY WOULD COMMENCE. DUE TO THE TIME THE TOWN HAD INVOLVED IN THIS CASE, THE SPECIAL MAGISTRATE IMPOSED A TWO HUNDRED TWENTY-FIVE (\$225.00) ADMINISTRATIVE FEE.

THE TOWN MAY AVAIL ITSELF OF ALL LEGAL REMEDIES AVAILABLE TO IT, INCLUDING THE FORECLOSURE OF THE LIEN.

Done and Ordered this 15th day of December, 2010 Lauderdale By The Sea, Florida.

THIS IS NOT AN OFFICIAL COPY

Gordon B. Linn
Gordon B. Linn, Special Magistrate

ATTEST:
Colleen Tyrrell
Colleen Tyrrell, Secretary for the Special Magistrate

Cc to: N/A

CERTIFICATION
I certify this to be a true and correct copy of the record in my office.
WITNESSED by my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida
25th day of March, 2011
Juan White, CMC Town clerk

Note: Please make your check payable to:
Town of Lauderdale-By-The-Sea
Please send your check to:
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

FILE
DEC 21 2010
BY: *C.S.*

**In the Circuit Court of the Seventeenth Judicial Circuit
In and for Broward County, Florida**

BANK OF NEW YORK MELLON
Plaintiff

CACE-09-061006

VS.

Division: 05

ROWE, NANCY M ; ROBBINS, JUDY
Defendant

Certificate of Title

The undersigned, Howard C. Forman, Clerk of the Court, certifies that he executed and filed a certificate of sale in this action on February 01, 2011, for the property described herein and that no objections to the sale have been filed within the time allowed for filing objections.

The following property in Broward County, Florida:

**LOT 49 AND THE WEST 5 FEET OF LOT 50, BLOCK 1, BEL-AIR,
ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT
BOOK 32, PAGE 10, OF THE PUBLIC RECORDS OF BROWARD
COUNTY, FLORIDA.**

**Property Address: 1961 SE 15TH COURT, LAUDERDALE BY THE
SEA, FL 33062**

Was sold to: THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE, FOR
CWALT, INC., ALTERNATIVE LOAN TRUST 2007-25 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES
2007-25

C O MARSHALL C WATSON 1800 NW 49th ST STE 120 Fort Lauderdale, FL, 33309

Witness my hand and the seal of this court on May 04, 2011.



Howard C. Forman, Clerk of Circuit Courts
Broward County, Florida

Total consideration: \$610,100.00

Doc Stamps: \$4,270.70

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA
CIVIL DIVISION
CASE NO.:

09001006

THE BANK OF NEW YORK MELLON
FKA THE BANK OF NEW YORK, AS
TRUSTEE, FOR CWALT, INC.,
ALTERNATIVE LOAN TRUST 2007-25
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-25,

Plaintiff,

05

vs.

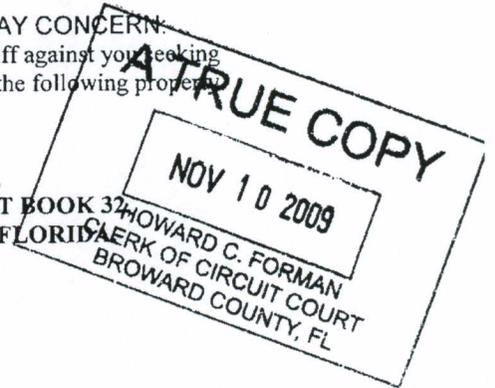
NANCY M. ROWE; JUDY ROBBINS;
UNKNOWN TENANT; IN POSSESSION
OF THE SUBJECT PROPERTY,
Defendants.

NOTICE OF LIS PENDENS

TO THE ABOVE STYLED DEFENDANTS AND ALL OTHERS WHOM IT MAY CONCERN:

YOU ARE HEREBY NOTIFIED of the institution of this action by Plaintiff against you seeking to foreclose a mortgage recorded in Official Records Book 44596 at Page 1383 on the following property in Broward County, Florida:

LOT 49 AND THE WEST 5 FEET OF LOT 50, BLOCK 1, BEL-AIR,
ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 37
PAGE 10, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA
PARCEL# 494307-01-0460



including the buildings, appurtenances, and fixtures located thereon.

DATED 11.4.09

Law Offices of Marshall C. Watson, P.A.
1800 N.W. 49TH Street, Suite 120
Fort Lauderdale, FL 33309
Telephone: (954) 453-0365
(800) 441-2438
Facsimile: (954) 771-6052

By: _____
Kerry Green, Esq.
Bar Number: 451975

Giselle Hugues
Bar #66821

22
\$

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA
CIVIL DIVISION
CASE NO.: CACE09061006 (DIV 05)

THE BANK OF NEW YORK MELLON
FKA THE BANK OF NEW YORK, AS
TRUSTEE, FOR CWALT, INC.,
ALTERNATIVE LOAN TRUST 2007-25
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-25,
Plaintiff,

vs.

NANCY M. ROWE; JUDY ROBBINS;
UNKNOWN TENANT; IN POSSESSION
OF THE SUBJECT PROPERTY,
Defendants.

2010 OCT -4 AM 11:45
OFFICIAL COPY
COURT CLERK'S OFFICE
BROWARD COUNTY, FLORIDA

THIS IS NOT AN OFFICIAL COPY
FINAL JUDGMENT OF MORTGAGE FORECLOSURE

THIS ACTION was heard before the Court. On the evidence presented, **IT IS ADJUDGED** that:

1. This is due and owing to Plaintiff from Defendant(s) obligated under the Note:

| | |
|---|---------------|
| a. As unpaid principal of the indebtedness agreed to be paid in the mortgage herein Foreclosed and the note secured thereby | \$ 870,120.75 |
| b. Interest Through 1 October 2010 | \$ 90,220.93 |
| c. Pre-Acceleration Late Charges | \$ 1,344.14 |
| d. Taxes | \$ 60,734.35 |
| e. Title Search & Examination | \$ 325.00 |
| f. Clerk's Filing Fee | \$ 1,936.00 |
| g. Service of Process | \$ 1,425.80 |
| h. Property Preservation | \$ 120.00 |
| i. Credits/Suspense | \$ (3,271.61) |

Subtotal \$ 1,022,955.36

Plaintiff Attorney's Fees: \$ 1,200.00

Total \$ 1,024,155.36

CASE NO.: CACE09061006 (DIV 05) (DIV.05) THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE, FOR CWALT, INC., ALTERNATIVE LOAN TRUST 2007-25 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-25 Vs. NANCY M. ROWE

That shall bear interest at the legal rate as prescribed by law. Plaintiff may also recover such further costs as may be incurred by the Plaintiff in this action, including, but not limited to, the sale fee and publication of the Notice of Sale, and any advances made by the Plaintiff subsequent to the date of the Affidavit of Indebtedness which cost or advances are proper under the terms of the note and mortgage foreclosed herein.

- 2. Plaintiff holds a lien for the total sum superior to any claim or estate of all the Defendants herein on the following property in Broward County, Florida:

LOT 49 AND THE WEST 5 FEET OF LOT 50, BLOCK 1, BEL-AIR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 32, PAGE 10, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

Property Address: 1961 SE 15TH COURT, LAUDERDALE BE THE SEA, FL 33062

THIS IS NOT AN OFFICIAL COPY

- 3. If the total sum with interest at the rate described in paragraph 1 and all costs accrued subsequent to this judgment are not paid, the Clerk of the Court shall sell the subject property at public sale on February 20, 2011 day of ~~February 20, 2010~~, to the highest bidder for cash, except as prescribed in Paragraph 5, in accordance with section 45.031, Florida Statutes, at:

www.broward.realforeclose.com, the Clerk's website for on-line auctions at 10:00 a.m.

- 4. IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THIS FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

*extended
Sale date
120 days
[Signature]*

CASE NO.: CACE09061006 (DIV 05) (DIV.05) THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE, FOR CWALT, INC., ALTERNATIVE LOAN TRUST 2007-25 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-25 Vs. NANCY M. ROWE

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, HOWARD C. FORMAN (954) 831-5745 WITHIN TEN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT:

LEGAL AID SERVICE OF BROWARD COUNTY, INC. 491 N. STATE ROAD 7 PLANTATION, FLORIDA 33317 PHONE: (954) 765-8950

TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT LEGAL AID SERVICE OF BROWARD COUNTY, INC. FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

5. If Plaintiff is the purchaser, the Clerk shall credit Plaintiff's bid with the total sum plus interest and costs accruing subsequent to this judgment or such part of it as is necessary to pay the bid in full. If prior to the sale, Plaintiff shall be required to advance any monies pursuant to the provisions hereof, then Plaintiff or its attorneys shall so certify to the Clerk of this Court, and the amount due to Plaintiff as set forth in paragraph 1 hereof shall be increased by the amount of such advances without further order of the Court. If prior to sale, Defendant tenders payments pursuant to bankruptcy plan or forbearance agreement, then Plaintiff or its Attorneys, shall so certify to the Clerk of this Court that the amount due to Plaintiff as set forth in paragraph 1 hereof shall be credited by amount of such tendered payments without further order of this Court. If Plaintiff is successful bidder at the sale, Plaintiff's right as such may be assigned to a third party and , in that event, the Clerk of this Court is hereby ordered and

CASE NO.: CACE99061006 (DIV 05) (DIV.05) THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE, FOR CWALT, INC., ALTERNATIVE LOAN TRUST 2007-25 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-25 Vs. NANCY M. ROWE

directed to issue the Certificate of Title to Plaintiff's assignee upon application of Plaintiff and without further Order of this Court.

6. On filing the Certificate of Title the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of Plaintiff's cost; second, documentary stamps affixed to the certificate unless Plaintiff is not successful bidder in which event the successful bidder shall pay the cost of said documentary stamps in addition to the amount bid; third, Plaintiff's attorney's fees; forth, the total sum due to Plaintiff less the items paid plus interest at the rate set forth from this date to the date of the sale, said sum to be paid to the attorney of record for the Plaintiff; and by retaining any amount remaining pending the further order of this Court.
7. On the filing of the Certificate of Sale by the Clerk of the Court, the Defendants and all persons claiming under or against them since the filing of the Notice of Lis Pendens are foreclosed of all estate or claim in the property and the purchaser at the sale shall be let into possession of the property, subject to the provision of the Protecting Tenant At Foreclosure Act of 2009. If the United States of America is a Defendant herein, it shall have the right of redemption provided by 28 U.S.C 2410 (c) for the period provided therein running from the date of Certificate of Sale.
8. If Plaintiff is the purchaser at the sale, Plaintiff, their heirs, representatives, successors or assigns, shall be placed in immediate possession of the afore described premises. In the event the Defendants fail to vacate said premises within 10 days of the date of the foreclosure sales as provided above, a Writ of Possession for subject premises shall issue upon further court order, subject to the provision of the Protecting Tenant At Foreclosure Act of 2009.
9. The Court finds, bases upon the affidavit presented and upon inquiry of counsel for the Plaintiff, that 8 hours were reasonably expended by Plaintiff's counsel and that an hourly rate of **\$150.00** per hour is appropriate. The Court finds that there are no reasons for either reduction or enhancement pursuant to Florida Patients' Compensation Funds v. Rowe, 472 So.2d 1145 (Fla. 1985), and the Court therefore has awarded reasonable attorney's fees of **\$1,200.00**.

CASE NO.: CACR09061005 (DIV 05) (DIV.05) THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE, FOR CWALT, INC., ALTERNATIVE LOAN TRUST 2007-25 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-25 Vs. NANCY M. ROWE

10. Jurisdiction of this action is retained to enter further orders as are proper including without limitation, deficiency judgments, except where a discharge is applicable or where service of process was not personally obtained.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this Dated this 1st day of October, 2010.



Presiding Judge
Circuit Judge

Copies sent to:
Law Office of Marshall C. Watson
1800 NW 49th Street, Suite 120
Fort Lauderdale, Florida 33309
Telephone: (954) 453-0365
Facsimile: (954) 771-6052
Toll Free: 1-800-441-2438

THIS IS NOT AN
OFFICIAL COPY

MAILING LIST

Case No.: CACE09061006 (DIV 05)

C. ANTHONY RUMORE, ESQ.
ATTORNEY FOR NANCY M. ROWE
517 SOUTHWEST 1ST AVE
FORT LAUDERDALE, FL 33301

JUDY ROBBINS
3870 SUNSWEPT DRIVE
STUDIO CITY, CA 91604

UNKNOWN TENANT
1961 SE 15TH COURT
LAUDERDALE BY THE SEA, FL 33062

THIS IS NOT AN
OFFICIAL COPY

09-60888



IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA
CIVIL DIVISION 05
CASE NO.: CACE09061006

~~THE BANK OF NEW YORK MELLON~~
~~FKA THE BANK OF NEW YORK, AS~~
~~TRUSTEE, FOR CWALT, INC.,~~
ALTERNATIVE LOAN TRUST 2007-25
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-25,

Plaintiff,

vs.

NANCY M. ROWE; JUDY ROBBINS;
UNKNOWN TENANT; IN POSSESSION
OF THE SUBJECT PROPERTY,
Defendants.

MOTION FOR SUMMARY FINAL JUDGMENT OF FORECLOSURE

Plaintiff, **THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE, FOR CWALT, INC., ALTERNATIVE LOAN TRUST 2007-25 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-25**, moves the Court for entry of a Summary Final Judgment of Foreclosure including an award of attorney's fees to Plaintiff on the grounds that Plaintiff is entitled to such a Final Judgment as a matter of law. The substantial matter of law to be argued is the priority of the lien of Plaintiff's mortgage over the interest of all other Defendants in the real property encumbered by said mortgage and Plaintiff's entitlement to an award of attorney's fees.

In support of this motion, Plaintiff shows the Court:

1. Plaintiff filed its Complaint to Foreclose a Mortgage on real property located in Broward County, Florida, the legal description of which is set forth in the Complaint.
2. The provisions of the note and mortgage being sued upon in this action confer upon Plaintiff the right to accelerate all sums due thereunder upon the default thereof, and the right to foreclose all interests in the encumbered property which are inferior to the lien of said mortgage. *Hubbard v. Highland Realty & Inv. Co.*, 156 So. 322 (Fla. 1934); *Campbell v. Werner*, 232 So. 2d 252 (Fla.3d D.C.A. 1970). The provisions of said note and mortgage also provide for an award of attorneys fees to Plaintiff in the event of the filing of an action for foreclosure.

09-60888

3. The pleadings and exhibits filed herein, as well as Plaintiff's affidavit in support hereof, establish that Plaintiff's mortgage is a purchase money mortgage or was recorded prior to the recording of the instruments creating the liens in favor of those Defendants who claim an interest in the real property encumbered by the mortgage. Therefore, any such interest, which may be vested in the aforesaid Defendants, is subordinate and inferior to the lien of Plaintiff's mortgage. Sarmiento v. Stockton, Whatley, Davin & Co., Inc., 399 So. 2d 1057 (Fla. 3d DCA 1981), United States v. First Federal Savings and Loan Association of St. Petersburg, 155 So. 2d 192 (Fla. 2d DCA 1963).

WHEREFORE, Plaintiff respectfully requests this Court grant its Motion for Summary Final Judgment of Mortgage Foreclosure including an award of attorney's fees and for such further relief as the Court deems just and proper.

I HEREBY CERTIFY that a true copy of the foregoing Motion for Summary Judgment, and the following supporting affidavits: Time & Effort, Attorney's Fees, Indebtedness, Cost, were delivered to the parties on the attached mailing list by mail this 23 day of July, 2010.

Law Offices of Marshall C. Watson, P.A.
1800 N.W. 49th Street, Suite 120
Fort Lauderdale, FL 33309
Telephone: (954) 453-0365/1-800-441-2438
Facsimile: (954) 771-6052

By: _____

Ryan Shipp, Esq.
Bar No.: 52883

Sean A. Marshall
Bar #0676071

09-60888

MAILING LIST

Case No.: CACE09061006

NANCY M ROWE
3870 SUNSWEEP DRIVE
STUDIO CITY, CA 91604

JUDY ROBBINS
3870 SUNSWEEP DRIVE
STUDIO CITY, CA 91604

UNKNOWN TENANT N/K/A BILL RODGER
1961 SE 15TH COURT
LAUDERDALE BY THE SEA, FL 33062

09-60888

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA
CIVIL DIVISION
CASE NO.:

09081006

THE BANK OF NEW YORK MELLON
FKA THE BANK OF NEW YORK, AS
TRUSTEE, FOR CWALT, INC.,
ALTERNATIVE LOAN TRUST 2007-25
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-25,

Plaintiff,

vs.

NANCY M. ROWE; JUDY ROBBINS;
UNKNOWN TENANT; IN POSSESSION
OF THE SUBJECT PROPERTY,
Defendants.

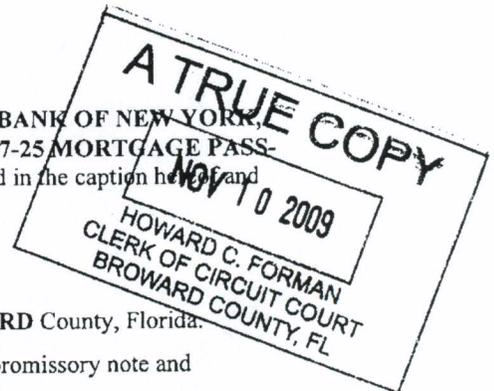
05

COMPLAINT

The Plaintiff, **THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE, FOR CWALT, INC., ALTERNATIVE LOAN TRUST 2007-25 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-25**, sues the Defendants named in the caption hereof and alleges:

COUNT I

1. This is an action to foreclose a mortgage on real property in **BROWARD** County, Florida.
2. On **August 27, 2007**, **NANCY M. ROWE** executed and delivered a promissory note and **NANCY M. ROWE AND JUDY ROBBINS** executed and delivered a Mortgage securing payment of the same to **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INCORPORATED, AS A NOMINEE FOR COUNTRYWIDE BANK, FSB**, which mortgage was recorded in the Official Records Book **44596**, Page **1383**, of the Public Records of **BROWARD** County, Florida and which mortgaged the property described therein, then owned by and in possession of said mortgagor. Said mortgage was subsequently assigned to, **THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE, FOR CWALT, INC., ALTERNATIVE LOAN TRUST 2007-25 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-25**. A copy of the note, assignment and mortgage are attached hereto and made a part hereof.
3. Plaintiff is the owner of said note.
4. Defendant(s), **NANCY M. ROWE AND JUDY ROBBINS**, own(s) the property.



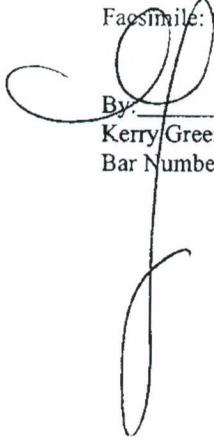
5. There has been a default under the note and mortgage held by Plaintiff in that the payment due **May 01, 2009** and all subsequent payments have not been made. Plaintiff declares the full amount due under the note and mortgage to be now due.
6. All conditions precedent to the filing of this action has been performed or has occurred.
7. There is now due, owing and unpaid to the Plaintiff as of the date of the filing of this complaint the following amounts on principal of said note and mortgage: unpaid principal balance: **\$ 870,120.75**, plus interest, escrow, title search expenses for ascertaining necessary parties to this suit, title search, title exam, filing fee, and attorneys fees and costs.
8. Plaintiff has obligated itself to pay the undersigned attorneys a reasonable fee for their services herein, Pursuant to the loan documents Plaintiff is entitled to an award of attorneys fees.
9. Defendants, as **UNKNOWN TENANT(S)**, in possession of the subject property, may claim some interest in or lien upon the subject property arising from being in actual possession of same, but interest, if any, is subject and inferior to the lien of Plaintiff's mortgage.

WHEREFORE, Plaintiff prays as follows:

- (a.) That this Court will take jurisdiction of this cause, the subject matter and the parties hereto.
- (b.) That this Court ascertain and determine the sums of money due and payable to the Plaintiff from the Defendant(s), including without limitation principal, interest, advances, attorney fees, and costs pursuant to the loan documents.
- (c.) That the sum of money found to be due as aforesaid be decreed by this Court to be a lien upon the lands described in Plaintiff's mortgage.
- (d.) That such lien be foreclosed in accordance with the rules and established practice of this Court, and upon failure of the Defendants to pay the amount of money found to be due by them to the Plaintiff, the said land be sold to satisfy said lien.
- (e.) That this Court decree that the lien of the Plaintiff is superior to any and all right, title or interest of the Defendants herein or any person or parties claiming by, through or under them since the institution of this suit.
- (f.) That all right, title or interest of the Defendants or any person claiming by, through or under them be forever barred and foreclosed.

- (g.) That this Court grants general relief in this cause as in its discretion might be just and proper including, but not limited to, a deficiency judgment, except where a discharge is applicable, if the proceeds of the sale are insufficient to pay Plaintiff's claim.

Law Offices of Marshall C. Watson, P.A.
1800 N.W. 49TH Street, Suite 120
Fort Lauderdale, FL 33309
Telephone: (954) 453-0365
(800) 441-2438
Facsimile: (954) 771-6052

By: 
Kerry Green, Esq.
Bar Number: 451975

Giselle Hugues
Bar #66821