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| District Court, Weld County, Colorado 901 9 th Avenue P.O. Box 2038 Greeley, CO 80631 970.475.2400 | ▲ COURT USE ONLY ▲ |
| Plaintiff: Fannie Mae, a federally chartered corporation, v. Defendant: Greeley Flats DST, a Delaware statutory trust | |
| <i>Attorneys for Plaintiff Fannie Mae:</i> Zane A. Gilmer, Atty. Reg. No. 41602 Hailey C. Perkins, Atty. Reg. No. 51491 STINSON LLP 1144 Fifteenth Street, Suite 2400 Denver, Colorado 80202 Phone: 303.376.8416 Fax: 303.578.7966 Email: zane.gilmer@stinson.com hailey.perkins@stinson.com | Case No.: 23CV31021 Division: 4 Response Deadline: 01/10/2024 |
| NOTICE OF RESPONSE DEADLINE SET FOR THURSDAY, JANUARY 10, 2024, FOR ORDER TO AUTHORIZE PUBLIC TRUSTEE SALE (Weld County Public Trustee Sale No. 23-0282) | |

**TAKE NOTICE THAT YOU MAY BE AFFECTED BY THE FORECLOSURE OF A
 DEED OF TRUST ON THE REAL PROPERTY DESCRIBED BELOW:**

Plaintiff Fannie Mae, has filed a Verified Motion for Order Authorizing a Foreclosure Sale Under C.R.C.P. 120 ("Motion") with this Court claiming to be the owner and beneficiary a Multifamily Note dated April 6, 2018 ("Promissory Note"), in the original principal amount of \$13,301,000.00, signed by Greeley Flats DST ("Greeley Flats"), a Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated April 6, 2018, executed by Greeley Flats, for the benefit of Arbor Commercial Funding I, LLC ("Deed of Trust"), recorded in Weld County, Colorado on April 9, 2018 at Reception Number 4389213, as assigned to Fannie Mae by an Assignment of Multifamily Deed of Trust dated April 6, 2018, and recorded April 9, 2018 at Reception No. 4389214.

The Motion claims that Fannie Mae is entitled to foreclose the Deed of Trust, as amended, and that the indebtedness secured thereby is in default because Greeley Flats (i) permitted the grant, creation, or existence of any lien or encumbrance on all or any portion of the Mortgage Property; (ii) failed to perform an obligation when required by written notice; and (iii) failed to pay or deposit when due any amount required by the Promissory Note, Loan Agreement, or any other Loan Documents, which includes late fees and other charges, rental payments, and the accelerated amounts. These defaults are both monetary and non-monetary defaults.

The Motion requests a Court Order authorizing the Public Trustee of Weld County, Colorado, to sell certain real property and personal property encumbered by the Deed of Trust, including, without limitation, real property commonly known as 1750 6TH Avenue, Greeley, Colorado 80631, and as more fully described in **Exhibit A**, to this Notice.

You have a right to file a response to the Motion. A copy of C.R.C.P. 120 is attached to this Notice as **Exhibit B**. If you dispute the default claimed by Fannie Mae to justify this foreclosure, or if you are entitled to protection against this foreclosure under the Servicemembers Civil Relief Act of 2003, as amended, you must file a response to the Motion, stating under oath the facts upon which you rely and attach copies of all documents that support your position. This response must be filed with the Clerk of the District Court of Weld County, 901 9th Avenue, P.O. Box 2038, Greeley, CO 80631 **on or before January 10, 2024**. A copy of the response must also be mailed or delivered by the same date to Zane A. Gilmer, Stinson LLP, 1144 Fifteenth Street, Suite 2400, Denver, Colorado 80202. Any interested person who disputes the grounds within the scope of the hearing provided in C.R.C.P. 120(d) may file a response, verified by the oath of such person, setting forth the facts upon which he or she relies and attaching copies of all documents which support his or her position.

To file a response, a non-refundable docket fee must be paid in the amount specified by law for a defendant or respondent in a civil action under C.R.S. § 13-32-101(1)(d) and C.R.C.P. 120(h).

A hearing on the Motion may be scheduled at a later date if a response is received by the deadline above. A hearing would be held at the Weld County District Courthouse located at 901 9th Avenue, Greeley, CO 80631.

IF NO RESPONSE IS FILED WITHIN THE TIME REQUIRED, THE COURT MAY, WITHOUT ANY HEARING, AUTHORIZE THE FORECLOSURE AND PUBLIC TRUSTEE'S SALE WITHOUT FURTHER NOTICE.

IF THIS CASE IS NOT FILED IN THE COUNTY WHERE YOUR PROPERTY OR A SUBSTANTIAL PART OF YOUR PROPERTY IS LOCATED, YOU HAVE THE RIGHT TO ASK THE COURT TO MOVE THE CASE TO THAT COUNTY. IF YOU FILE A RESPONSE AND THE COURT SETS A HEARING DATE, YOUR REQUEST TO MOVE THE CASE MUST BE FILED WITH THE COURT AT LEAST 7 DAYS BEFORE

THE DATE OF THE HEARING UNLESS THE REQUEST WAS INCLUDED IN YOUR RESPONSE.

Respectfully submitted, this 19th day of December, 2023.

By: /s/ Hailey C. Perkins
Zane A. Gilmer, #41602
Hailey C. Perkins, #51491
STINSON LLP
1144 Fifteenth Street, Suite 2400
Phone: 303.376.8416
Fax: 303.578.7966
Email: zane.gilmer@stinson.com
hailey.perkins@stinson.com

Attorneys for Plaintiff Fannie Mae

Fannie Mae's Address:
1100 15th Street, N.W., Washington, D.C. 20005

THIS COMMUNICATION CONCERNS A DEBT WHICH STINSON LLP, WHO MAY BE ACTING AS A DEBT COLLECTOR, IS ATTEMPTING TO COLLECT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

EXHIBIT A
LEGAL DESCRIPTION

The land referred to herein below is situation in the County of Weld, State of Colorado and is described as follows:

PARCEL I:

ALL THAT PART OF LOTS 12, 13 AND 14, IN THE NW 1/4 OF THE SE 1/4 OF SECTION 8, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M., CITY OF GREELEY, WELD COUNTY, COLORADO, ACCORDING TO THE SUBDIVISION OF LANDS BY THE UNION COLONY OF COLORADO, LYING AND BEING SOUTH AND WEST OF THE RIGHT OF WAY OF THE UNION COLONY NO. 3 CANAL:

AND ALSO ALL OF THAT VACATED PART OF EIGHTEENTH STREET IN THE CITY OF GREELEY, COLORADO, ABUTTING SAID LOTS 13 AND 14 ON THE SOUTH THEREOF AS FULLY DESCRIBED IN ORDINANCE NO. 570 OF THE CITY OF GREELEY, RECORDED AUGUST 14, 1931 IN BOOK 918 AT PAGE 169 AS RECEPTION NO. 627532, AND IN ORDINANCE NO. 792 OF THE CITY OF GREELEY, RECORDED NOVEMBER 12, 1958 IN BOOK 1517 AT PAGE 156 AS RECEPTION NO. 1290804. ALL BEING IN THE CITY OF GREELEY, COUNTY OF WELD, STATE OF COLORADO:

EXCEPTING THEREFROM

A STRIP OF LAND PREVIOUSLY CONVEYED TO THE CITY OF GREELEY, A MUNICIPAL CORPORATION, BY DEED RECORDED DECEMBER 29, 1928 IN BOOK 818 AT PAGE 575. DESCRIBED AS FOLLOWS:

A STRIP OF LAND APPROXIMATELY 30 FEET IN WIDTH ALONG THE WEST SIDE OF LOT 12 OF THE NW 1/4 OF THE SE 1/4 OF SECTION 8, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 70 FEET EAST AND 55.9 FEET NORTH OF THE NE CORNER OF BLOCK 6, ARLINGTON HEIGHTS, A SUBDIVISION OF THE CITY OF GREELEY: THENCE EAST PARALLEL WITH AND DISTANT 33 FEET SOUTH FROM THE CENTERLINE OF THE UNION COLONY ROADS ON THE NORTH SIDE OF SAID LOT 12, A DISTANCE OF 30 FEET:

THENCE SOUTH, PARALLEL WITH AND DISTANT 100 FEET EAST FROM THE EAST PROPERTY LINE OF SAID BLOCK 6, ARLINGTON HEIGHTS, A DISTANCE OF 298.95 FEET TO A POINT ON THE SOUTH BOUNDARY LINE OF SAID LOT 12: THENCE WEST. 29.55 FEET: THENCE NORTH 298.95 FEET TO THE POINT OF BEGINNING.

EXHIBIT B
Colorado Rules of Civil Procedure

Rule 120. Orders Authorizing Foreclosure Sale Under Power in a Deed of Trust to the Public Trustee

(a) Motion for Order Authorizing Sale. When an order of court is desired authorizing a foreclosure sale under a power of sale contained in a deed of trust to a public trustee, any person entitled to enforce the deed of trust may file a verified motion in a district court seeking such order. The motion shall be captioned: “Verified Motion for Order Authorizing a Foreclosure Sale under C.R.C.P. 120,” and shall be verified by a person with knowledge of the contents of the motion who is competent to testify regarding the facts stated in the motion.

(1) *Contents of Motion.* The motion shall include a copy of the evidence of debt, the deed of trust containing the power of sale, and any subsequent modifications of these documents. The motion shall describe the property to be sold, shall specify the facts giving rise to the default, and may include documents relevant to the claim of a default.

(A) When the property to be sold is personal property, the motion shall state the names and last known addresses, as shown by the records of the moving party, of all persons known or believed by the moving party to have an interest in such property which may be materially affected or extinguished by such sale.

(B) When the property to be sold is real property and the power of sale is contained in a deed of trust to a public trustee, the motion shall state the name and last known address, as shown by the real property records of the clerk and recorder of the county where the property or any portion thereof is located and the records of the moving party, of:

- (i) the grantor of the deed of trust;
- (ii) the current record owner of the property to be sold;
- (iii) all persons known or believed by the moving party to be personally liable for the debt secured by the deed of trust;
- (iv) those persons who appear to have an interest in such real property that is evidenced by a document recorded after the recording of the deed of trust and before the recording of the notice of election and demand for sale; and
- (v) those persons whose interest in the real property may otherwise be affected by the foreclosure.

(C) In describing and giving notice to persons who appear to have acquired a record interest in real property, the address of each such person shall be the address that is given in the recorded instrument evidencing such person's interest. If such recorded instrument does not give an address or if only the county and state are given as the address of such person, no address need be stated for such person in the motion.

(2) *Setting of Response Deadline; Hearing Date.* On receipt of the motion, the clerk shall set a deadline by which any response to the motion must be filed. The deadline shall be not less than 21 nor more than 35 days after the filing of the motion. For purposes of any statutory reference to the date of a hearing under C.R.C.P. 120, the response deadline set by the clerk shall be regarded as the scheduled hearing date unless a later hearing date is set by the court pursuant to section (c)(2) below.

(b) Notice of Response Deadline; Service of Notice. The moving party shall issue a notice stating:

(1) a description of the deed of trust containing the power of sale, the property sought to be sold at foreclosure, and the facts asserted in the motion to support the claim of a default;

(2) the right of any interested person to file and serve a response as provided in section (c), including the addresses at which such response must be filed and served and the deadline set by the clerk for filing a response;

(3) the following advisement: “If this case is not filed in the county where your property or a substantial part of your property is located, you have the right to ask the court to move the case to that county. If you file a response and the court sets a hearing date, your request to move the case must be filed with the court at least 7 days before the date of the hearing unless the request was included in your response.”; and

(4) the mailing address of the moving party and, if different, the name and address of any authorized servicer for the loan secured by the deed of trust. If the moving party or authorized servicer, if different, is not authorized to modify the evidence of the debt, the notice shall state in addition the name, mailing address, and telephone number of a representative authorized to address loss mitigation requests. A copy of C.R.C.P. 120 shall be included with or attached to the notice. The notice shall be served by the moving party not less than 14 days prior to the response deadline set by the clerk, by:

(A) mailing a true copy of the notice to each person named in the motion (other than any person for whom no address is stated) at that person's address or addresses stated in the motion;

(B) filing a copy with the clerk for posting by the clerk in the courthouse in which the motion is pending; and

(C) if the property to be sold is a residential property as defined by statute, by posting a true copy of the notice in a conspicuous place on the subject property as required by statute. Proof of mailing and delivery of the notice to the clerk for posting in the courthouse, and proof of posting of the notice on the residential property, shall be set forth in the certificate of the moving party or moving party's agent. For the purpose of this section, posting by the

clerk may be electronic on the court's public website so long as the electronic address for the posting is displayed conspicuously at the courthouse.

(c) Response Stating Objection to Motion for Order Authorizing Sale; Filing and Service.

(1) Any interested person who disputes, on grounds within the scope of the hearing provided for in section (d), the moving party's right to an order authorizing sale may file and serve a response to the motion. The response must describe the facts the respondent relies on in objecting to the issuance of an order authorizing sale, and may include copies of documents which support the respondent's position. The response shall be filed and served not later than the response deadline set by the clerk. The response shall include contact information for the respondent including name, mailing address, telephone number, and, if applicable, an e-mail address. Service of the response on the moving party shall be made in accordance with C.R.C.P. 5(b).

(2) If a response is filed stating grounds for opposition to the motion within the scope of this Rule as provided for in section (d), the court shall set the matter for hearing at a later date. The clerk shall clear available hearing dates with the parties and counsel, if practical, and shall give notice to counsel and any self-represented parties who have appeared in the matter, in accordance with the rules applicable to e-filing, no less than 14 days prior to the new hearing date.

(d) Scope of Issues at the Hearing; Order Authorizing Foreclosure Sale; Effect of Order. The court shall examine the motion and any responses.

(1) If the matter is set for hearing, the scope of inquiry at the hearing shall not extend beyond

(A) the existence of a default authorizing exercise of a power of sale under the terms of the deed of trust described in the motion;

(B) consideration by the court of the requirements of the Servicemembers Civil Relief Act, 50 U.S.C. § 3931, as amended;

(C) whether the moving party is the real party in interest; and

(D) whether the status of any request for a loan modification agreement bars a foreclosure sale as a matter of law.

The court shall determine whether there is a reasonable probability that a default justifying the sale has occurred, whether an order authorizing sale is otherwise proper under the Servicemembers Civil Relief Act, whether the moving party is the real party in interest, and, if each of those matters is determined in favor of the moving party, whether evidence presented in support of defenses raised by the respondent and within the scope of this Rule prevents the court from finding that there is a reasonable probability that the moving party is entitled to an order authorizing a foreclosure sale. The court shall grant or deny the

motion in accordance with such determination. For good cause shown, the court may continue a hearing.

(2) If no response has been filed by the response deadline set by the clerk, and if the court is satisfied that venue is proper and the moving party is entitled to an order authorizing sale, the court shall forthwith enter an order authorizing sale.

(3) Any order authorizing sale shall recite the date the hearing was completed, if a hearing was held, or, if no response was filed and no hearing was held, shall recite the response deadline set by the clerk as the date a hearing was scheduled, but that no hearing occurred.

(4) An order granting or denying a motion filed under this Rule shall not constitute an appealable order or final judgment. The granting of a motion authorizing a foreclosure shall be without prejudice to the right of any person aggrieved to seek injunctive or other relief in any court of competent jurisdiction, and the denial of any such motion shall be without prejudice to any other right or remedy of the moving party.

(e) The court shall not require the appointment of an attorney to represent any interested person as a condition of granting such motion, unless it appears from the motion or other papers filed with the court that there is a reasonable probability that the interested person is in the military service.

(f) Venue. For the purposes of this section, a consumer obligation is any obligation

(1) as to which the obligor is a natural person, and

(2) is incurred primarily for a personal, family, or household purpose.

Any proceeding under this Rule involving a consumer obligation shall be brought in and heard in the county in which such consumer signed the obligation or in which the property or a substantial part of the property is located. Any proceeding under this Rule that does not involve a consumer obligation or an instrument securing a consumer obligation may be brought and heard in any county. However, in any proceeding under this Rule, if a response is timely filed, and if in the response or in any other writing filed with the court, the responding party requests a change of venue to the county in which the encumbered property or a substantial part thereof is situated, the court shall order transfer of the proceeding to such county.

(g) Return of Sale. The court shall require a return of sale to be made to the court. If it appears from the return that the sale was conducted in conformity with the order authorizing the sale, the court shall enter an order approving the sale. This order is not appealable and shall not have preclusive effect in any other action or proceeding.

(h) Docket Fee. A docket fee in the amount specified by law shall be paid by the person filing the motion. Unless the court shall otherwise order, any person filing a response to the motion shall

pay, at the time of the filing of such response, a docket fee in the amount specified by law for a defendant or respondent in a civil action under section 13-32-101(1)(d), C.R.S.