

IN THE CIRCUIT COURT OF THE 14TH
JUDICIAL CIRCUIT IN AND FOR
BAY COUNTY, FLORIDA

BRANCH BANKING AND TRUST
COMPANY, a North Carolina banking
corporation,

CASE NO.: 12-000163-CA

Plaintiff,

v.

SURFSIDE DEVELOPMENT GROUP,
LLC, a Florida limited liability company,
DAVID N. STANLEY, individually,
UNKNOWN TENANT-LOT 6,
UNKNOWN TENANT-LOT 21 and
UNKNOWN TENANT-LOT 20,

Defendants.

FILED
2012 NOV -5 P 3:00

FINAL SUMMARY JUDGMENT OF FORECLOSURE

THIS CAUSE came before the Court on November 5, 2012 upon Plaintiff's Motion for Summary Judgment and Supporting Memorandum of Law (hereinafter "Motion"). The Court having heard argument of counsel, reviewed the Motion, the pleadings and the court file and being otherwise duly advised in the premises, makes the following findings:

- a. This Court has jurisdiction over the subject matter and parties; and
- b. There is no genuine issue as to any material fact and Plaintiff is entitled to a judgment as a matter of law, including entitlement to its reasonable attorney's fees and costs incurred in this action.

ACCORDINGLY, IT IS ORDERED AND ADJUDGED that:

1. Plaintiff's Motion is granted.
2. Defendants, SURFSIDE DEVELOPMENT GROUP, LLC and DAVID STANLEY, jointly and severally, are obligated to pay Plaintiff, BRANCH BANKING AND TRUST COMPANY (hereinafter "BB&T"), as follows:

Loan Number 9661045490-0002 (Lot 6)

Outstanding Principal Balance	\$ 150,544.35
Default interest from May 14, 2009 through November 5, 2012 (at default rate of \$34.50 per diem thereafter)	\$ 43,849.50
Unpaid 2010 Taxes	\$ 634.67
Unpaid 2011 Taxes	\$ 592.61
Unpaid 2012 Taxes	\$ 403.36
Late Charges	<u>\$ 693.62</u>
LOT 6 SUBTOTAL	\$ 196,718.11

Loan Number 9661045490-0004 (Lot 21)

Outstanding Principal Balance	\$ 136,422.88
Default interest from May 14, 2009 through November 5, 2012 at default rate of \$31.26 per diem thereafter)	\$ 39,731.46
Unpaid 2010 Taxes	\$ 763.61
Unpaid 2011 Taxes	\$ 717.79
Unpaid 2012 Taxes	\$ 416.04
Late Charges	<u>\$ 608.85</u>
LOT 21 SUBTOTAL	\$ 178,660.63

Loan Number 9661045490-0005 (Lot 20)

Outstanding Principal Balance	\$ 136,422.91
Default interest from May 14, 2009 through November 5, 2012 (at default rate of \$31.26 per diem thereafter)	\$ 39,731.46
Unpaid 2010 Taxes	\$ 735.48
Unpaid 2011 Taxes	\$ 691.39

Unpaid 2012 Taxes	\$ 406.71
Late Charges	\$ <u>608.85</u>
LOT 20 SUBTOTAL	\$ 178,596.80
Appraisal Costs	\$ 750.00
Attorney's Fees	\$ <u>38,216.²²</u>
Costs	\$ 2,390.00
TOTAL AMOUNT DUE	\$ <u>595,331.²²</u>

The total sum due above shall accrue interest at the statutory rate of 4.75% (the current effective rate) for the year 2012 and at the adjusted annual statutory rates in effect thereafter until paid in full; all in accordance with Florida Statutes §55.03.

3. Plaintiff is entitled to a reformation of the Mortgage to correct an error in the legal description for Lot 21. The Mortgage is hereby reformed to reflect the following legal description for Lot 21:

Lot 21, Block 11, Laguna Beach, a subdivision as per map or plat thereof recorded in Plat Book 2, Page 4A of the Public Records of Bay County, Florida.

4. Plaintiff is entitled to a reformation of the Mortgage to correct an error in the legal description for Lot 20. The Mortgage is hereby reformed to reflect the following legal description for Lot 20:

Lot 20, Block 11, Laguna Beach, a subdivision as per map or plat thereof recorded in Plat Book 2, Page 4A of the Public Records of Bay County, Florida.

5. Plaintiff holds a lien for the Total Amount Due superior to all claims or estates of Defendants secured by the real property located in Bay County, Florida as more fully described in Exhibit "A" attached hereto (hereinafter "Subject Property").

6. If the total sum with interest at the rate prescribed by law and all costs of this action accruing subsequent to this judgment are not paid, the Clerk of this Court shall sell the property at

public sale to the highest bidder for case, except as set forth hereinafter on January 7, 2013, at 11:00 a.m. (Central) at www.bay.realforeclose.com in accordance with Chapter 45, Florida Statutes.

7. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the Clerk if Plaintiff is not the purchaser of the Subject Property for sale, provided, however, that the purchaser of the Subject Property for sale shall be responsible for the documentary stamps payable on the certificate of title. If Plaintiff is the purchaser, the Clerk shall credit Plaintiff's bid for the Total Amount Due, including interest and costs accruing subsequent to this Judgment or such part of it as is necessary to pay the bid in full.

8. On filing the certificate of title, the Clerk shall distribute the proceeds of the sale, to the extent they are sufficient, by paying: first, all of Plaintiff's costs; second, documentary stamps affixed to the certificate; third, Plaintiff's attorney's fees; fourth, the total sum due to Plaintiff, less the items paid, plus interest at the rate prescribed in Paragraph 2 from this date to the date of the sale and by retaining any remaining amount pending further Order of this Court.

9. On filing the certificate of sale, Defendants and all persons claiming under or against Defendants since the filing of the Notice of Lis Pendens shall be foreclosed of all estate or claim in the property except as to claims or rights under Chapter 718 or Chapter 720, Florida Statutes, if any. Upon the filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property, subject to the provisions of the "Protecting Tenants at Foreclosure Act of 2009."

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 THE 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 TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.


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, WITHIN 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 SERVICES OF NORTH FLORIDA, INC. FOR BAY COUNTY AT 850-769-3581 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 SERVICES OF NORTH FLORIDA, INC. FOR BAY COUNTY AT 850-769-3581 FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

10. Jurisdiction of this action is retained to enter further Orders that are proper, including, but not limited to, a deficiency judgment.

11. Plaintiff's address is: Branch Banking and Trust Company, 2301 Lucien Way, Suite 395, Maitland, Florida 32751.

DONE AND ORDERED in Bay County, Florida on this 5th day of November, 2012.


HONORABLE THOMAS R. ELLINOR
CIRCUIT COURT JUDGE

Copies furnished to:

Lori L. Heyer-Bednar, Esq., Roetzel & Andress, 350 East Las Olas Blvd., Suite 1150, Ft. Lauderdale, Florida 33301
Kimberly Watson Sewell, Esq., Watson Sewell, PL, 5365 East Co. Hwy, 30A, Ste. 105, Seagrove Beach, FL 32549

EXHIBIT "A"

REAL PROPERTY

PARCEL ONE:

Lot 6, Block 11-A, Laguna Beach, a subdivision as per map or plat thereof recorded in Plat Book 2, Page 4A of the Public Records of Bay County, Florida.

PARCEL TWO:

Lot 21, Block 11, Laguna Beach, a subdivision as per map or plat thereof recorded in Plat Book 2, Page 4A of the Public Records of Bay County, Florida.

PARCEL THREE:

Lot 20, Block 11, Laguna Beach, a subdivision as per map or plat thereof recorded in Plat Book 2, Page 4A of the Public Records of Bay County, Florida.

PERSONAL PROPERTY

- a. Improvements. All buildings, structures, betterments, fruit trees, groves, all of the water, sanitary and storm sewer systems now or hereafter located by, over and upon Parcel One, Parcel Two and Parcel Three as defined above (hereinafter "Property") or any part and parcel thereof and which water system includes all water mains, service laterals, hydrants, valves and appurtenances and which sewer system includes all sanitary sewer liners, including mains, laterals, manholes and appurtenances. All paving for streets, roads, walkways or entranceways now or hereafter and which are now or hereafter located on the Property or any part of parcel thereof and other improvements of any nature now or hereafter situated in whole or in part upon the Property regardless of whether physically affixed thereto or severed or capable of severance therefrom (hereinafter "Improvements").
- b. Appurtenances. The benefit of all easements and other rights of any nature whatsoever appurtenant to the Property or the Improvements or both and all rights of way, streets, alleys, passages, drainage rights, sewer rights, development rights and rights of ingress and egress to the Property and all adjoining property, whether now existing or hereafter arising, together with the reversion or reversions, remainder or remainders, rents, issues, incomes and profits of any of the foregoing.
- c. Tangible Property. All of interest in all fixtures, equipment, crops now sown and/or growing in the future and tangible personal property of any nature whatsoever now or hereafter i) attached or affixed to the Property or the Improvements or both, regardless of whether physically affixed thereto or severed or capable of severance therefrom or ii) regardless of where situated, used, usable or intended to be used in connection with any present or future use or operation of or upon the Property. The foregoing includes, but is not limited to: all machinery, apparatus, equipment, fittings, fixtures, whether actually or constructively attached to the Property and including all trade, domestic and ornamental fixtures and articles of personal property of every

kind and nature whatsoever now or hereafter located in, upon or under the Property or any part thereof and used or usable in connection with any present or future operation of the Property and now owned or hereafter; together with all building materials and equipment now or hereafter delivered to the Property and intended to be installed therein; together with all proceeds, additions and accessions thereto and replacement thereof; all heating, air conditioning, lighting, incinerating and power equipment, all engines, compressors, pipes, pumps, tanks, motors, conduits, wiring and switchboards; all plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating and communications apparatus; all boilers, furnaces, oil burners, vacuum cleaning systems, elevators and escalators; all stoves, ovens, ranges, disposal units, dishwashers, water heaters, exhaust systems, refrigerators, cabinets and partitions; all rugs and carpets; all laundry equipment; all building materials; all furniture, furnishings, office equipment, all utility security deposits or bonds on the Property or any part or parcel thereof and office supplies (including stationary, letterheads, billheads and items of a similar nature); and all additions, accessions, renewals, replacements and substitutions of any or all of the foregoing (hereinafter "Tangible Property").

d. Income. All rents, issues, incomes and profits in any manner arising from the Property, Improvements or Tangible Property or any combination, including interest in and to all leases, licenses, franchises and concessions of or relating to, all or any portion of the Property, Improvements or Tangible Property, whether now existing or hereafter made, including all amendments, modifications, replacements, substitutions, extensions, renewals, together with any and all guarantees of such leases or deposits and advance rental or consolidations. The foregoing items are jointly and severally called the "Rents" in this instrument.

e. Proceeds. All proceeds of the conversion, voluntary or involuntary, of any of the property described herein into cash or other liquidated claims or that are otherwise payable for injury to or the taking or requisitioning of, any such property, including all insurance and condemnation proceeds. Any and all awards or payments, including interest thereon and the right to receive the same, as a result of: a) the exercise of the right of eminent domain, b) the alteration of the grade of any street or c) any other injury to, taking of or decrease in the value of the Property described herein.

f. Contract Rights. All right, title and interest in and to any and all contracts, written or oral, expressed or implied, now existing or hereafter entered into or arising, in any manner related to the improvements, use, operation, sale, conversion or other disposition of any interest in the Property, Improvements, Tangible Property or the Rents or any combination, including any and all deposits, prepaid items and payments due and to become due thereunder and including construction contracts, service contracts, advertising contracts, purchase orders and equipment leases.

g. Name. All right, title and interest in and to any trade name now or hereafter used and all related marks, logos and insignia.

h. Other Intangibles. All contract rights, accounts, accounts receivables, instruments and general intangibles, now or hereafter owned or entered into in connection with development, construction upon or operation of the Property. as such terms from time to time are defined in the Florida Uniform Commercial Code, in any manner related to the use, operation, sale, conversion

or other disposition (voluntary or involuntary) of the Property, Improvements, Tangible Property or Rents, including all permits, licenses, insurance policies, rights of action, trade names, names of businesses or fictitious names of any kind used in conjunction with the operation of any business or endeavor located and other chooses in action. All of the right, title and interests in and to all unearned premiums accrued, accruing or to accrue under any and all insurance policies now or hereafter provided pursuant to the terms of security agreements and all proceeds or sums payable for the loss of or damage to: a) the Property described herein or b) rents, revenues, income, profits or proceeds from leases, franchises, concessions or licenses of or on any part of the Property.