

NOTICE OF SUBSTITUTE TRUSTEE'S SALE

Assert and protect your rights as a member of the armed forces of the United States. If you are or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active duty military service to the sender of this notice immediately.

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Date: February 11, 2020

2020 FEB 11 PM 3:55
FILED
C. J. CHASCO
COUNTY & DISTRICT CLERK
SWISHER COUNTY TEXAS
C. J. Chasco
ON ACTIVE DUTY

Instrument To Be Foreclosed:

Deed of Trust ("Deed of Trust")

Dated: September 18, 2014

Grantor: Tulia TX Realty, LLC, together with its successors and assigns

Mortgagee: Capital Funding, LLC, 1422 Clarkview Road, Baltimore, Maryland 21209.

Recorded: Volume 0412, Pages 0598-0632 in the Official Public Records of Swisher County, Texas.

Secures: Promissory Note Dated September 18, 2014, in the original principal amount of \$3,351,652.00, executed by Elie Deitsch as Authorized Manager of TLTX Holdings, LLC, Lockney TX Realty, LLC, Tulia TX Realty, LLC, Lockney Management, LLC, and Tulia Management, LLC and payable to the order of Capital Funding, LLC ("Note")

Property: All of the property encumbered or secured by the Deed of Trust, real, personal, mixed or otherwise including, without limitation, the real property described on Exhibit "A" attached hereto and incorporated herein as if set out in full, subject to the permitted encumbrances described on Exhibit "B" attached hereto and incorporated herein as if set out in full.

Substitute Trustees: Erica Anderson
Johnathan Hinders
MULLIN HOARD & BROWN LLP
500 S. Taylor Street, Ste. 800
Amarillo, Texas 79101

Lauren Hayes
Samuel Rajaratnam
HUSCH BLACKWELL LLP
111 Congress Ave., Suite 1400
Austin, Texas 78701

Foreclosure Sale:

Date: Tuesday, March 3, 2020

Time: The sale of the Property ("Foreclosure Sale") will take place between the hours of 10:00 a.m. and 4:00 p.m. local time; the earliest time at which the Foreclosure Sale will begin is 10:00 a.m.

Place of Sale: The outside steps of the West Entrance of the Swisher County Courthouse located at 119 S. Maxwell Ave., Tulia, Texas 79088 or any location subsequently designated by the Swisher County Commissioners's Office or as designated by the Swisher County Commissioners Court for sales such as the one described herein.

Terms of the Sale: The Foreclosure Sale will be conducted as a public auction with the Property to be sold to the highest bidder for cash, except that Capital Funding's bid may be by credit against the indebtedness secured by the lien of the Deed of Trust. Pursuant to Texas Property Code § 51.009, the property will be sold in AS IS, WHERE IS condition, without any express or implied warranties, except as to warranties of title, if any provided for under the deed of trust.

Default has occurred in the payment of the Note and in the performance of the obligations of the Deed of Trust. Because of that default, Capital Funding, the owner and holder of the Note, has requested Substitute Trustees to sell the Property.

The Deed of Trust may encumber both real and personal property. Formal notice is hereby given of Capital Funding's election to proceed against and sell both the real property and any personal property described in the Deed of Trust in accordance with Capital Funding's rights and remedies under the Deed of Trust and Section 9.604(a) of the Texas Business and Commerce Code.

Therefore, notice is given that on and at the Date, Time and Place of Sale described above, one of the Substitute Trustees will sell the Property by public sale to the highest bidder for cash in accordance with the Deed of Trust.

Dated February 11, 2020

Lauren Hayes
Erica Anderson, Johnathan Hinders, Lauren Hayes, or Samuel Rajaratnam, Substitute Trustees

ACKNOWLEDGMENT

THE STATE OF TEXAS §
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COUNTY OF TRAVIS §

This instrument was acknowledged before me by February on this 11th day of February, 2020.



[Seal]

Christine Deacon
Notary Public

Christine Deacon
Name (printed or typed)

My commission Expires:
June 18, 2022

EXHIBIT A

LEGAL DESCRIPTION

All that lot or parcel of ground situate in Swisher County, State of Texas and being more particularly described as follows:

Lots 7, 8, 9, and the north 20.00 feet of Lot 10 together with a part of north-south alley as closed by Ordinance No. 65-11, all in Block 11, MACKENZIE ADDITION, UNIT NO. 2, and all of MACKENZIE ADDITION, UNIT NO. 2A to the Town of Tulia, Swisher County, Texas being more particularly described as follows: Beginning at a 1/2 inch iron pin found at the northeast corner of Lot 7, Block 11 in MACKENZIE ADDITION, UNIT NO. 2; Thence South 00 degrees 03 minutes 50 seconds West, along the east line of said Block 11, a distance of 200.00 feet to a mag nail with RPLS 5735 tag, said point being 20.00 feet South 00 degrees 03 minutes 50 seconds West of the northeast corner of Lot 10, Block 11 in MACKENZIE ADDITION, UNIT NO. 2; Thence North 89 degrees 56 minutes 10 seconds West, passing at a distance of 163.79 feet the southeast corner of MACKENZIE ADDITION, UNIT NO. 2A and a point on the west line of said closed alley and continuing for a total distance of 350.00 feet to a 1/2 inch iron pin found with RPLS 5735 cap at the southwest corner of said MACKENZIE ADDITION, UNIT NO. 2A;

Thence North 00 degrees 03 minutes 50 seconds East, along the west line of said MACKENZIE ADDITION, UNIT NO. 2A, a distance of 218.80 feet to a 1/2 inch iron pin with RPLS 5735 cap at the northwest corner of said MACKENZIE ADDITION, UNIT NO. 2A;

Thence South 89 degrees 56 minutes 0 seconds East, passing at a distance of 186.66 feet the northeast corner of said MACKENZIE ADDITION, UNIT NO. 2A and continuing for a total distance of 206.66 feet to a 1/2 inch iron pin found with RPLS 5735 cap, said point being on the west line of Lot 6, Block 11 in MACKENZIE ADDITION, UNIT NO. 2;

Thence South 00 degrees 12 minutes 00 seconds West, along the west line of said Lot 6, a distance of 18.80 feet to a 'V' found cut in the concrete at the southwest corner of said Lot 6, said point being also the northwest corner of Lot 7, Block 11 in MACKENZIE ADDITION, UNIT NO. 2;

Thence South 89 degrees 56 minutes 10 seconds East, along the north line of said Lot 7, a distance of 143.39 feet to the Point of Beginning.

Said described tract of land contains an area of 73,885 square feet or 1.6962 acres, more or less.

EXHIBIT B

PERMITTED ENCUMBRANCES

1. Volume 176, Page 136, amended in Volume 177, page 306, Volume 181, page 434 and Volume 181, page 439, of the Deed Records of Swisher County, Texas but omitting any covenants or restriction based on race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is except under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.
2. Shortages in area.
3. Standby fees, taxes and assessments by any taxing authority for the year 2014, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year.
4. Rights of tenants in possession under unrecorded leases or agreements.
5. The following matters and all terms of the documents creating or offering evidence of the matters:
 - a. Right of Way easement for gas line to Pioneer Natural Gas Company, recorded in Volume 185, Page 145, Deed Records, Swisher County, Texas.
 - b. Subject to the terms, conditions and stipulations of the certain retaining wall agreement recorded in Volume 228, Page 386, of the Deed Records of Swisher County, Texas, as shown on survey.
 - c. Easement or lessor rights relating to and evidenced by the electric overhead utility lines and poles as shown on Survey (defined below).
 - d. Any visible or apparent roadway or easement over or across the subject property, the existence of which does not appear of record.
 - e. Subject to additional roll back taxes and abuse of granted exemptions as defined in Section 11.43 of the Texas Property Tax Code paragraph (i).
 - f. Survey prepared by Smith Roberts, Inc. dated April 27, 2011, last revised May 23, 2011, project No. 2428-9625 (the "Survey"), discloses the following: (i) variations between fences and property lines of record (ii) concrete drive and walkways vary along property lines.