

IN THE SUPERIOR COURT OF DEKALB COUNTY  
STATE OF GEORGIA

Wekesa O. Madzimoyo  
PLAINTIFF

CIVIL ACTION  
NUMBER 09CV9136-10

VS

GMAC Mortgage, LLC  
McEvrdy & Chandler, LLC.  
DEFENDANT

J.P. Morgan Chase Bank  
mortgage dept.  
The Bank of New York  
Mellon Trust company, N.A.  
scott poster.

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, or if service by publication within 60 days of judges order of publication, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 29 day of July, 2009

Linda Carter  
Clerk of Superior Court

By: J. Stephenson  
Deputy Clerk

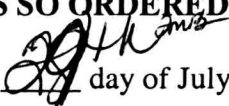
Instructions: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used

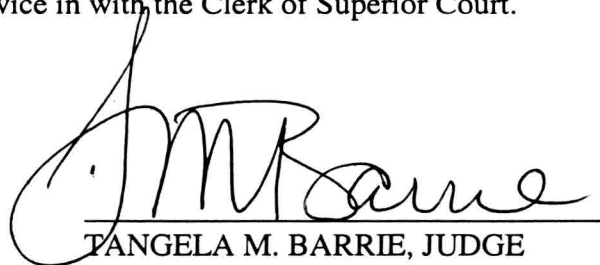


The parties are directed to appear for a hearing on the petition to stop foreclosure on **August 28, 2009 at 1:30 p.m.** in Courtroom 5-C of the Judicial Tower, DeKalb County Courthouse, 556 North McDonough Street, Decatur, Georgia 30030. The Defendants are directed to bring proper evidence of the chain of title on this property to the hearing.

The Petitioner shall serve the Defendants in this matter with both his petition and with this Order *instanter* and shall file proof of service in with the Clerk of Superior Court.

**IT IS SO ORDERED.**

This  day of July, 2009.



TANGELA M. BARRIE, JUDGE  
DEKALB COUNTY SUPERIOR COURT  
STONE MOUNTAIN JUDICIAL CIRCUIT

Copy to:      Petitioner

**FILED**  
1 2009 JUL 29 A 10: 13  
CLERK OF SUPERIOR CRT  
DEKALB COUNTY GEORGIA

IN THE SUPERIOR COURT FOR THE COUNTY OF DEKALB  
STATE OF GEORGIA

Wekesa O Madzimoyo )  
Plaintiff )  
vs. )  
THE BANK OF NEW YORK )  
MELLON TRUST COMPANY, N.A. )  
fka THE BANK OF NEW YORK )  
TRUST COMPANY, N.A. )  
JP MORGAN CHASE BANK, NA )  
GMAC MORTGAGE, LLC )  
MCCURDY & CANDLER, L.L.C. )  
ANTHONY DEMARLO, ATTORNEY )  
Defendants )

CIVIL ACTION FILE NO. 09CW9136-10

*Petition*  
**EMERGENCY ~~MOTION~~ FOR TEMPORARY RESTRAINING ORDER TO  
STOP FORECLOSURE**

**Plaintiff requests the emergency issuance of a Temporary Restraining Order, and as grounds for said request states:**

1. Above-named Defendants have unlawfully and wrongfully moved to foreclose on the property located at 852 Brafferton Place, Stone Mountain, Georgia 30083 owned by Wekesa O Madzimoyo (Plaintiff) scheduled to be auctioned on the courthouse steps on August 4, 2009.
2. Plaintiff signed a security deed with FT MORTGAGE COMPANIES dba EQUIBANC MORTGAGE CORPORATION on March 23, 1999 which was recorded in

the office of the clerk of the superior court of DEKALB COUNTY. To date there has not been one assignment, transfer or sale associated with the property located at 852 Brafferton Place, Stone Mountain, Georgia 30083 therefore precluding Defendants from any standing to foreclose on said property. Only the documented lender/holder of the note can foreclose on said property. **OCGA-44-14-162.2** requires that the current holder of the mortgage loan record the assignment of the security deed, which shows the present owner of the mortgage loan, in the public record in the office of the clerk of the superior court of the county in which the real property is located before conducting the foreclosure sale.

3. Not one of the Defendants has provided official verification of their standing as agent, attorney, debt collector, lender, note holder, servicer, investor, trustee, attorney in fact or otherwise in this matter, which would provide Plaintiff with evidence of the Defendants' lawful standing in this matter and determine who is the rightful lender/mortgage note holder. Defendant's refusal to provide the proper verification has denied Plaintiff his right to lawful discovery and caused Plaintiff to hold his payments pending verification. Plaintiff wants to pay the proper party(s).

4. Defendants are unlawfully foreclosing on the above-named property and Plaintiff is asking the court to stop the foreclosure proceedings before August 4, 2009.

## **CHRONOLOGY OF EVENTS:**

In late February 2009, Plaintiff was approved for a loan modification from HOMECOMINGS FINANCIAL, LLC which Plaintiff had been paying for some years under the impression that HOMECOMINGS FINANCIAL, LLC (HOMECOMINGS) was the new mortgage lender on the loan. Due to the recent news that fraudulent loans were being issued and homeowners were losing money and their homes to companies that had no authority to collect or foreclose on property, Plaintiff wrote a letter asking for verification of HOMECOMINGS' authority to do a modification and collect on the loan before Plaintiff made his first payment. HOMECOMINGS identified itself as the servicer; not the lender. The following is the chronology of events that pursued:

On April 13, 2009, WEKESA O MADZIMOYO, (Plaintiff), requested verification of lender documentation and servicing authority by certified mail from the servicer at the time, HOMECOMINGS FINANCIAL, LLC (HCF). This information was requested in accordance with the **Fair Debt Collection Practices Act, 15 USC §1692g**, which includes the cease of the collection of the alleged debt until validation is provided, as well as applicable portions of **Truth in Lending (Regulation Z), 12 CFR 226**.

On April 22, 2009, HCF responded with an unsigned letter from Customer Care Loan Servicing, by regular mail which stated that HCF was the servicer and JPMorgan Chase Bank, NA (JPMC) owned the loan. HCF also stated that HCF acquired the servicing

rights on the above noted account on November 2, 1999 from FIRST HORIZON dba EQUIBANC, yet failed to provide the requisite verification.

On May 6, 2009, Plaintiff sent a second request to HCF for verification of their servicing authority and also sent a first request for lender documentation from JPMC, both by certified mail. June 15, 2009 both HCF and JPMC were at fault by not providing the requested transaction documentation of assignment, sale or transfer.

On June 10, 2009 HCF sent several letters to Plaintiff. 1. Offering refinance and modification application. 2. A letter with both HCF and GMAC Mortgage (GMAC) at the top, this letter is to notify that the servicing of the mortgage loan, that is the right to collect payments from Plaintiff, is being assigned, sold, or transferred from Homecomings Financial, LLC to GMAC Mortgage, LLC effective July 1, 2009. The letter noted that nothing would change but the name of the loan servicer. 3. This third letter advised that GMAC MORTGAGE is servicing this account on behalf of RESIDENTIAL FUNDING CORP which currently owns the interest in Plaintiff's account. No transaction documentation was provided.

On June 22, 2009, HCF sent an unsigned letter from Customer Care Loan Servicing, by regular mail to Plaintiff in response to Plaintiff's request for verification directed to JPMC and received in HCF office on June 3, 2009. HCF states "The information requested is subject to business and trade practices which are proprietary and confidential and will not be provided. We feel the foregoing should be responsive to the request."

On June 30, 2009 HCF sent another letter offering loan modification as the servicer.

On July 3, 2009, ANTHONY DEMARLO of MCCURDY & CANDLER, L.L.C. (DEMARLO) sent Plaintiff an INITIAL COMMUNICATION LETTER pursuant to FAIR DEBT COLLECTION PRACTICES ACT 15 USC 1692 by regular mail. This letter stated “This law firm represents The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, NA as successor to JPMorgan Chase Bank NA as Trustee for RAMP 2006RP2 the creditor on the above referenced loan. This letter is to advise you that we have been retained to collect the debt secured by the above-referenced property, which may involve foreclosure proceedings against said property.”

Also on July 3, 2009, DEMARLO sent a NOTICE OF FORECLOSURE SALE. GMAC is noted as the Servicer, The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 as Creditor. These two letters are the first mention of this creditor or any alleged succession.

DEMARLO further states “A failure to comply with the terms of the above loan with The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 has created a default. As a result, the entire amount of the outstanding



balance of the loan has been, and is hereby, declared immediately due and payable. This letter is a formal demand for immediate payment of the total indebtedness. Any partial payment received by The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 on the subject debt after the date of this letter will be applied to the reduction of the aforesaid debt and will not result in a reinstatement or a deceleration of the loan.” According to **OCGA Section 44-14-162.2**, to enforce a default, the **Lender** must make a written demand upon the borrower setting forth a breach and accelerating the debt (declaring the entire debt due and payable immediately).

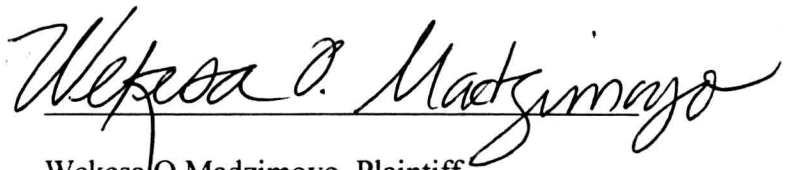
On July 17, 2009, Plaintiff sent by certified mail/return receipt, an AFFIDAVIT OF NOTICE OF DEMAND FOR CEASE AND DESIST OF FORECLOSURE PROCEDURES to Defendants. PLAINTIFF received the return receipt from each of the Defendants by July 21, 2009. To date Plaintiff has not received a reply from any of the Defendants and the public notice was not pulled from the newspaper as demanded. (See attachments)

**WHEREFORE, Plaintiff Requests:**

1. That all named Defendants Cease and Desist from any and all foreclosure proceedings pending each providing official verification of their standing as

lender/mortgage note holder, servicer, agent, attorney, debt collector, investor, trustee, attorney in fact or otherwise in this matter.

2. That once the lawful lender/mortgage note holder is determined, that the lender/mortgage note holder agree to sit down and negotiate a settlement of this matter that takes into consideration the damage done to Plaintiff during the process of pursuing his lawful right to know.
3. That all named Defendants Cease and Desist from all alleged debt collection pending each providing official verification of their standing as lender/mortgage note holder, servicer, agent, attorney, debt collector, investor, trustee, attorney in fact or otherwise in this matter.
4. That the court includes relief for the Plaintiff as the court may deem necessary and just.



Wekesa O Madzimoyo, Plaintiff

852 Brafferton Place

Stone Mountain, Georgia 30083

All Rights Reserved

CLERK OF SUPERIOR COURT  
DEKALB COUNTY GA

2009 JUL 29 A 7:09

FILED

Attachment (A) - Letter of Request

Attachment (B) – Second Letter of Request

Attachment (C) – **AFFIDAVIT OF NOTICE  
OF DEMAND FOR CEASE AND DESIST OF  
FORECLOSURE PROCEDURES**

Attachment (D) – Copies of Return Receipts

Attachment (E) – Copies of Defendants Letters

Attachment (F) – Copy of the original and only Security Deed

**GMAC MORTGAGE, LLC  
TWO RAVINIA DR. SUITE 500  
ATLANTA, GEORGIA 30346**

**ACCOUNT NUMBER: 7800527285**

**JP MORGAN CHASE BANK NA  
MORTGAGE DEPARTMENT  
ONE WALL STREET 29<sup>th</sup> Floor  
NEW YORK, NY 10286**

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.  
fka THE BANK OF NEW YORK TRUST COMPANY, N.A.  
SCOTT POSTER, CHIEF EXECUTIVE OFFICER  
700 SOUTH FLOWER STREET SUITE 200  
LOS ANGELES, CA 90017**

**MCCURDY & CANDLER, L.L.C.  
ANTHONY DEMARLO, ATTORNEY  
250 PONCE DE LEON AVENUE SUITE 600  
DECATUR, GEORGIA 30030**

**FILE NUMBER: 09-15522**

April 13<sup>th</sup>

- Letter of Request Attachment A -

Wekesa O Madzimoyo  
852 Brafferton Place  
Stone Mountain, GA 30083

**HOMECOMINGS FINANCIAL, LLC**  
Attn: Loan Modification Department  
3451 Hammond Avenue  
Waterloo, IA 50702

**Letter of Request**

Re: **WEKESA O MADZIMOYO**  
**852 BRAFFERTON PLACE**  
**STONE MOUNTAIN, GA 30083**  
**ACCOUNT NUMBER: 7800527285**

Dear **HOMECOMINGS FINANCIAL, LLC**

Although my request for a loan modification has been approved, after reviewing all of my loan documentation and in light of all of the mortgage loan fraud that is surfacing in the US, I request to have a few questions answered so that I can feel sure that I am not being taken advantage of before I make my first payment as is my right under the **Fair Debt Collection Practices Act, 15 USC §1692g**.

Therefore, please provide me, **Wekesa O Madzimoyo**, with the following information:

**1. Regarding this account, what is the name and address of the Original Mortgage Note Holder, if different from HOMECOMINGS FINANCIAL, LLC? Provide me with access to the Original Mortgage Note.**

.....  
.....

**2. If HOMECOMINGS FINANCIAL, LLC is not the Original Mortgage Note Holder, does HOMECOMINGS FINANCIAL, LLC have a bona fide Affidavit of Transfer to enter into original contract between Original Mortgage Note Holder and WEKESA O MADZIMOYO? YES NO**

**3. If so, provide access to the original Mortgage Note and the Affidavit of Transfer.**

**4. Did HOMECOMINGS FINANCIAL, LLC purchase this account from the Original Mortgage Note Holder? YES NO N/A (Not Applicable)**

**5. If the answer to # 4 is yes, provide the original documentation of the purchase showing the date of purchase of this account from Original Mortgage Note Holder and purchase amount:**

Date: ..... Amount: \$.....

6. If the answer to #4 is No, did HOMECOMINGS FINANCIAL, LLC purchase this account from a previous debt collector/servicer? YES NO N/A

7. If the answer to #6 is yes, provide the original documentation of the purchase showing the date of purchase of this account from previous debt collector/servicer and purchase amount:

Date: ..... Amount: \$.....

8. Regarding the above noted account number 7800527285, on February 25, 2009 HOMECOMINGS FINANCIAL, LLC was currently the:

(a) Mortgage Note Owner (b) Assignee (c) Transferee (d) Other – explain:

.....  
.....

9. If applicable, the transfer of rights regarding this account was executed by the following method: (a) Assignment; (b) Negotiation; (c) Novation; (d) Other – explain:

.....  
.....  
.....

10. Provide (attach) the terms of the transfer of rights regarding this account.

.....  
.....  
.....

11. If the transfer of rights regarding this account was by assignment, was there consideration? YES NO N/A

12. What is the nature and cause of the consideration cited in # 11 above?

.....  
.....  
.....  
.....

13. If the transfer of rights regarding this account was by negotiation, was the account taken for value? YES NO N/A

14. If it was taken for value, what is the nature and cause of any value cited in #12 above?



May 6, 2009

- Second Letter of Request Attachment B

Wekesa O Madzimoyo  
852 Brafferton Place  
Stone Mountain, GA 30083

**HOMECOMINGS FINANCIAL, LLC**  
Attn: Loan Modification Department  
3451 Hammond Avenue  
Waterloo, IA 50702

**Second Letter of Request**

Re: **WEKESA O MADZIMOYO**  
**852 BRAFFERTON PLACE**  
**STONE MOUNTAIN, GA 30083**  
**ACCOUNT NUMBER 7800527285**

Dear **HOMECOMINGS FINANCIAL, LLC**

Thank you for your response dated April 22, 2009 to my Letter of Request. In your response, you have identified JP MORGAN CHASE BANK NA as the loan owner, not HOMECOMINGS FINANCIAL, LLC. You also stated that HOMECOMINGS FINANCIAL, LLC acquired the servicing rights on the above noted account on November 2, 1999 from FIRST HORIZON dba EQUIBANC, yet failed to provide the requisite verification.

As you are claiming to be the current loan servicer, I request the following information be provided to me before I make my first payment as is my right under the **Fair Debt Collection Practices Act, 15 USC §1692g**.

Therefore, please provide me, **Wekesa O Madzimoyo**, with the following information:

1. Regarding this account, what is the name and address of the Original Creditor?  
.....  
.....
2. Does HOMECOMINGS FINANCIAL, LLC have a bona fide affidavit of assignment to enter into original contract between Original Creditor and Wekesa O Madzimoyo? YES NO If YES, provide a copy.
3. Did HOMECOMINGS FINANCIAL, LLC purchase the servicing rights from the Original Creditor? YES NO N/A (Not Applicable)
4. If YES, provide a copy of the purchase of the servicing rights from Original Creditor, including the purchase amount.

Date: .....

Amount: \$.....

- 5. Did HOMECOMINGS FINANCIAL, LLC purchase the servicing rights from a subsequent debt collector? YES NO N/A If YES, provide a copy of the purchase agreement.

Date: .....

Amount: \$.....

- 6. What are the terms of the transfer of rights regarding this account? Provide a copy.

- 7. Has HOMECOMINGS FINANCIAL, LLC provided Wekesa O Madzimoyo the requisite verification of the alleged debt as required by the **Fair Debt Collection Practices Act**? YES NO

- 8. If YES, provide a copy of the said verification cited above in # 7. If NO, provide verification of the alleged debt.

HOMECOMINGS FINANCIAL, LLC must timely complete and return this Second Letter of Request, along with all required documents referenced in this Second Letter of Request. HOMECOMINGS FINANCIAL, LLC claim will not be considered if any portion of this Second Letter of Request is not completed and timely returned with all required documents, which specifically includes the requisite verification, made in accordance with law and codified in the **Fair Debt Collection Practices Act, 15 USC §1692 et seq.**, and which states in relevant part: "A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt," which includes "the false representation of the character, or legal status of any debt," and "the threat to take any action that cannot legally be taken," all of which are violations of law. If Debt Collector does not respond as required by law, Debt Collector's claim will not be considered and Debt Collector may be liable for damages for any continued collection efforts, as well as any other injury sustained by Debtor.

HOMECOMINGS FINANCIAL, LLC failure, both intentional, by error and otherwise, to complete/answer points "1" through "9" above and return this Second Letter of Request, providing Wekesa O Madzimoyo with the requisite verification validating the hereinabove - referenced alleged debt, constitutes HOMECOMINGS FINANCIAL, LLC tacit agreement that HOMECOMINGS FINANCIAL, LLC has no verifiable, lawful, bona fide claim re the hereinabove-referenced alleged account, and that HOMECOMINGS FINANCIAL, LLC tacitly agrees that HOMECOMINGS FINANCIAL, LLC waives all claims against Wekesa O Madzimoyo and indemnifies and holds Wekesa O Madzimoyo harmless against any and all costs and fees heretofore and hereafter incurred and related regarding any and all collection attempts involving the hereinabove-referenced alleged account.

Please provide the requested information under an authorized signature for





~~April~~ May 6, 2009

Wekesa O Madzimoyo  
852 Brafferton Place  
Stone Mountain, GA 30083

**JP MORGAN CHASE BANK NA**  
**Mortgage Department**  
**One Wall Street 29<sup>th</sup> Floor**  
**New York, NY 10286**

**Letter of Request**

**Re: WEKESA O MADZIMOYO**  
**852 BRAFFERTON PLACE**  
**STONE MOUNTAIN, GA 30083**

**HOMECOMINGS FINANCIAL, LLC MORTGAGE ACCT # 7800527285**

Dear **JP MORGAN CHASE BANK NA**,

HOMECOMINGS FINANCIAL, LLC has referred me to you as the Mortgage Note Holder in the matter of 852 BRAFFERTON PLACE, STONE MOUNTAIN, GEORGIA. A loan modification with HOMECOMINGS FINANCIAL, LLC has been approved. After reviewing all of my loan documentation and in light of all of the mortgage loan fraud that is surfacing in the US, I am requesting to have a few questions answered before I make my first payment so that I can rest assured that I am not being taken advantage of as is my right under the **Fair Debt Collection Practices Act, 15 USC §1692g**.

Therefore, please provide me, **Wekesa O Madzimoyo**, with the following information:

1. Regarding the property located at 852 BRAFFERTON PLACE, STONE MOUNTAIN, GEORGIA 30083, is **JP MORGAN CHASE BANK NA** the Original Mortgage Note Holder?    YES        NO

2. If the Original Mortgage Note Holder is different from **JP MORGAN CHASE BANK NA**, provide me with the name, address and contact information of the Original Mortgage Note Holder.

.....  
.....

3. If **JP MORGAN CHASE BANK NA** was not the Original Mortgage Note Holder, does **JP MORGAN CHASE BANK NA** have a bona fide Affidavit of Transfer to enter into original contract between Original Mortgage Note Holder and **WEKESA O MADZIMOYO**?    YES        NO

4. If yes, provide a copy of the original Mortgage Note and the Affidavit of Transfer.

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15. If the transfer of rights regarding this account was by Novation, was consent given by WEKESA O MADZIMOYO? YES NO N/A

16. What is the nature and cause of any consent cited in #15 above?

.....  
.....  
.....

17. Has JP MORGAN CHASE BANK NA provided WEKESA O MADZIMOYO with the requisite verification of the alleged debt as required by the Fair Debt Collection Practices Act? YES NO

18. If the answer to #17 is YES, provide a copy of said verification cited above in #17 provided to WEKESA O MADZIMOYO showing date received. If the answer to #17 is NO, provide the requisite verification of the alleged debt.

Thank you for your cooperation in advance. I look forward to your response. I am requesting this information in accordance with the **Fair Debt Collection Practices Act, 15 USC §1692g** and applicable portions of **Truth in Lending (Regulation Z), 12 CFR 226**. I reserve all of my rights in this matter. Please provide the above information within thirty (30) days of your receipt of this **Letter of Request**.

\_\_\_\_\_  
**Wekesa O Madzimoyo**  
**852 Brafferton Place**  
**Stone Mountain, GA 30083**  
**All Rights Reserved**

\_\_\_\_\_  
**Date**

CERTIFIED MAIL # \_\_\_\_\_

Notary Public of GEORGIA )  
)  
County of DEKALB )

**Wekesa O Madzimoyo** did personally appear before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, with a **Letter of Request** in the matter of **JP MORGAN CHASE BANK NA**

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires On

19

5. Did **JP MORGAN CHASE BANK NA** purchase this account from the Original Mortgage Note Holder?    YES        NO        N/A (Not Applicable)

6. If the answer to # 5 is YES, provide the original documentation of the purchase showing the date of purchase of this account from Original Mortgage Note Holder and purchase amount:

Date: ..... Amount: \$.....

7. If the answer to #5 is NO, what Mortgage Note Holder did **JP MORGAN CHASE BANK NA** purchase this account from? Provide a copy of the Mortgage Note and Affidavit of Transfer.

8. Provide the original documentation of the purchase showing the date of purchase of this account from previous Mortgage Note Holder and purchase amount:

Date: .....Amount: \$.....

9. If applicable, the transfer of rights regarding this property was executed by the following method: (a) Assignment; (b) Negotiation; (c) Novation; (d) Other – explain:

.....  
.....  
.....

10. Provide (attach) the terms of the transfer of rights regarding this property.

.....  
.....  
.....

11. If the transfer of rights regarding this property was by assignment, was there consideration?        YES        NO        N/A

12. What is the nature and cause of the consideration cited in # 11 above?

.....  
.....  
.....

13. If the transfer of rights regarding this account was by negotiation, was the account taken for value?        YES        NO        N/A

14. If it was taken for value, what is the nature and cause of any value cited in #13 above?

\$.....  
.....  
.....

July 17, 2009

~~\_\_\_\_\_~~  
- Affidavit of Notice Attachment  
C

STATE OF GEORGIA )  
)  
)  
)  
)  
COUNTY OF DEKALB )

**AFFIDAVIT OF NOTICE  
OF DEMAND FOR CEASE AND DESIST OF  
FORECLOSURE PROCEDURES**

**GMAC MORTGAGE, LLC  
TWO RAVINIA DR. SUITE 500  
ATLANTA, GEORGIA 30346**

**ACCOUNT NUMBER: 7800527285**

**JP MORGAN CHASE BANK NA  
MORTGAGE DEPARTMENT  
ONE WALL STREET 29<sup>th</sup> Floor  
NEW YORK, NY 10286**

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.  
fka THE BANK OF NEW YORK TRUST COMPANY, N.A.  
SCOTT POSTER, CHIEF EXECUTIVE OFFICER  
700 SOUTH FLOWER STREET SUITE 200  
LOS ANGELES, CA 90017**

**MCCURDY & CANDLER, L.L.C.  
ANTHONY DEMARLO, ATTORNEY  
250 PONCE DE LEON AVENUE SUITE 600  
DECATUR, GEORGIA 30030**

**FILE NUMBER: 09-15522**

**Re Property: 852 BRAFFERTON PLACE  
STONE MOUNTAIN, GA 30083  
Owner: WEKESA O MADZIMOYO**

**TO ALL PARTIES AND ASSOCIATES NAMED AND UNNAMED:**

**THIS IS A DEMAND FOR CEASE AND DESIST OF ALL FORECLOSURE PROCEDURES set for the first Tuesday of August, August 4, 2009 against the above noted property located at 852 BRAFFERTON PLACE, STONE MOUNTAIN, GEORGIA 30083, including the immediate revocation of the public notice. OCGA-44-14-162.2 requires that the current holder of the mortgage loan record the assignment of the security deed, which shows the present owner of the mortgage loan, in the public record in the office of the clerk of the superior court of the county in which the real property is located before conducting the foreclosure sale.**

Failure of the moving parties to record any and all assignments, transfers or sales in the public record in the office of the clerk of the superior court of the county in which the real property is located precludes any and all parties from taking any foreclosure actions.

**ALL PARTIES AND ASSOCIATES NAMED AND UNNAMED** are hereby demanded to provide verification of their authority as agent, attorney, debt collector, lender, note holder, servicer, investor, trustee, attorney in fact, etc. as of July 1, 2009 to date. Failure to do so will be a denial of the legal and lawful rights of WEKESA O MADZIMOYO to know through verification who has legal and lawful authority in this matter of alleged debt, alleged debt collection and subsequent foreclosure proceedings. This information is requested in accordance with the **Fair Debt Collection Practices Act, 15 USC §1692g.**, which includes the cease of the collection of the alleged debt until validation is provided, as well as applicable portions of **Truth in Lending (Regulation Z), 12 CFR 226.** Complete the following Debt Collector Disclosure request and provide the required verification documents within thirty (30) days of your receipt of this DEMAND.

#### CHRONOLOGY OF EVENTS:

On April 13, 2009, WEKESA O MADZIMOYO, (Borrower), requested verification of lender documentation and servicing authority by certified mail from the servicer at the time, HOMECOMINGS FINANCIAL, LLC. (HCF)

On April 22, 2009, HCF responded with an unsigned letter from Customer Care Loan Servicing, by regular mail which stated that HCF was the servicer and JPMorgan Chase Bank, NA (JPMC) owned the loan. HCF also stated that HCF acquired the servicing rights on the above noted account on November 2, 1999 from FIRST HORIZON dba EQUIBANC, yet failed to provide the requisite verification.

On May 6, 2009, Borrower sent a second request to HCF for verification of their servicing authority and also sent a first request for lender documentation from JPMC, both by certified mail. June 15, 2009 both HCF and JPMC were at fault by not providing the requested transaction documentation of assignment, sale or transfer.

On June 10, 2009 HCF sent several letters to Borrower. 1. Offering refinance and modification application. 2. A double header with both HCF and GMAC Mortgage (GMAC) at the top, this letter is to notify that the servicing of the mortgage loan, that is the right to collect payments from borrower, is being assigned, sold, or transferred from Homecomings Financial, LLC to GMAC Mortgage, LLC effective July 1, 2009. The letter noted that nothing would change but the name of the loan servicer. 3. This third letter advised that GMAC MORTGAGE is servicing this account on behalf of RESIDENTIAL FUNDING CORP. which currently owns the interest in borrowers account. No transaction documentation was provided.

On June 22, 2009, HCF sent an unsigned letter from Customer Care Loan Servicing, by regular mail to Borrower in response to Borrowers request for verification directed to

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JPMC and received in HCF office on June 3, 2009. HCF states "The information requested is subject to business and trade practices which are proprietary and confidential and will not be provided. We feel the foregoing should be responsive to the request."

On June 30, 2009 HCF sent another letter offering loan modification as the servicer.

On July 3, 2009, ANTHONY DEMARLO of MCCURDY & CANDLER, L.L.C. (DEMARLO) sent Borrower an INITIAL COMMUNICATION LETTER pursuant to FAIR DEBT COLLECTION PRACTICES ACT 15 USC 1692 by regular mail. This letter stated "This law firm represents The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, NA as successor to JPMorgan Chase Bank NA as Trustee for RAMP 2006RP2 the creditor on the above referenced loan. This letter is to advise you that we have been retained to collect the debt secured by the above-referenced property, which may involve foreclosure proceedings against said property."

Also on July 3, 2009, DEMARLO sent a NOTICE OF FORECLOSURE SALE. GMAC is noted as the Servicer, The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 as Creditor. This is the first mention of this creditor or any alleged succession.

DEMARLO further states "A failure to comply with the terms of the above loan with The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 has created a default. As a result, the entire amount of the outstanding balance of the loan has been, and is hereby, declared immediately due and payable. This letter is a formal demand for immediate payment of the total indebtedness. Any partial payment received by The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 on the subject debt after the date of this letter will be applied to the reduction of the aforesaid debt and will not result in a reinstatement or a deceleration of the loan."

**Debt Collector Disclosure**

Provide the following information:

1. Regarding this account, what is the name and address of the Original Mortgage Note Holder?  
.....  
.....
2. Do you have a bona fide affidavit of assignment to enter into contract between Original Mortgage Note Holder and Wekesa O Madzimoyo? YES NO If YES, provide a copy.

3. Do you have a bona fide affidavit of assignment to enter into contract between any previous Mortgage Note Holder and Wekesa O Madzimoyo? YES NO  
If YES, provide a bona fide copy.
4. Did you purchase the servicing rights from the Original Mortgage Note Holder?  
YES NO N/A (Not Applicable)
5. If YES, provide a bona fide copy of the purchase of the servicing rights from Original Creditor, including the purchase amount.

Date: .....

Amount: \$.....

6. Did you purchase the servicing rights from a subsequent debt collector/servicer?  
YES NO N/A If YES, provide a copy of the purchase agreement.

Date: .....

Amount: \$.....

7. What are the terms of the transfer of rights regarding this account? Provide a copy.

8. Have you provided Wekesa O Madzimoyo the requisite verification of the alleged debt as required by the **Fair Debt Collection Practices Act**? YES NO

9. If YES, provide a bona fide copy of the said verification cited above in # 8. If NO, provide verification of the alleged debt. (This does not mean one of your bills.)

10. Provide a bona fide copy of the contract between you and the present Mortgage Note Holder giving you the rights to collect the alleged debt including the validation of the alleged debt received from the Mortgage Note Holder.

The **Fair Debt Collection Practices Act, 15 USC §1692 et seq.**, states in relevant part: "A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt," which includes "the false representation of the character, or legal status of any debt," and "the threat to take any action that cannot legally be taken," all of which are violations of law. If Debt Collector does not respond as required by law, Debt Collector's claim will not be considered and Debt Collector may be liable for damages for any continued collection efforts, as well as any other injury sustained by Debtor.

Failure, both intentional, by error and otherwise, to complete/answer this DEMAND, providing Wekesa O Madzimoyo with the requisite verification validating the hereinabove - referenced alleged debt, constitutes your tacit agreement that you have no

24





Copies of Return Receipts D-E

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**OFFICIAL USE**

Postage	\$ 00.42	0223
Certified Fee	\$ 2.70	26
Return Receipt Fee (Endorsement Required)	\$ 2.20	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
<b>Total Postage &amp; Fees</b>	<b>\$ 5.32</b>	



Sent To

Street, Apt. No., or PO Box No.

City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

7008 3230 0000 0927 9903

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NEW YORK, NY 10286

**OFFICIAL USE**

Postage	\$ 00.42	0223
Certified Fee	\$ 2.70	26
Return Receipt Fee (Endorsement Required)	\$ 2.20	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
<b>Total Postage &amp; Fees</b>	<b>\$ 5.32</b>	



Sent To

Street, Apt. No., or PO Box No.

City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

7008 3230 0000 0927 9897

Second Request to Homecomings  
First Request to GPMC  
5/6/09

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Homecomings Financial, LLC  
 Attn: Loan Modification Dept.  
 3451 Hammond Ave.  
 Waterloo, IA 50702

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 X **ROB SMEDLEY**  Addressee

B. Received by (Printed Name) C. Date of Delivery  
**MAY 15 2009**

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number **7008 3230 0000 0927 9903**  
 (Transfer from service label)

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

2nd  
 Request  
 Receipt  
 5/15/09

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

HOME COMINGS Financial  
 Attn: Loan modification Dept  
 345 HAMMOND AVE  
 WATERLOO, IA 50702

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 X **J. STEVENSON**  Addressee

B. Received by (Printed Name) C. Date of Delivery  
**4/14**

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number **EH900106880US**  
 (Transfer from service label)

1st  
 Request  
 Receipt  
 4/14/09

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

J.P. Morgan Chase Bank  
 Mortgage Dept.  
 One Wall St. 29th Floor  
 New York, NY 10286

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 X **M. OTTO BRUN**  Addressee

B. Received by (Printed Name) C. Date of Delivery  
**5/12/09**

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number **7008 3230 0000 0927 9897**  
 (Transfer from service label)

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

1 Request  
 Receipt  
 5/12/09

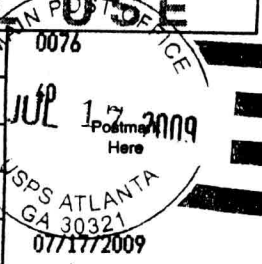
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Certified Fee	\$ 2.80	
Return Receipt Fee (Endorsement Required)	\$ 2.30	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
<b>Total Postage &amp; Fees</b>	<b>\$ 110.05</b>	



Sent To: Homecomings Financial, LLC (Loan Modification)  
 Street, Apt. No., or PO Box No.: 3451 Hammond Ave.  
 City, State, ZIP+4: Waterloo, IA 50702

PS Form 3800, August 2006 See Reverse for Instructions

7009 0080 0001 3905 6813

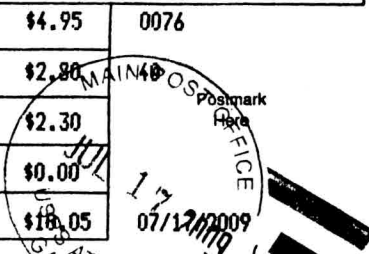
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NEW YORK, NY 10286

**OFFICIAL USE**

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Certified Fee	\$ 2.80	
Return Receipt Fee (Endorsement Required)	\$ 2.30	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
<b>Total Postage &amp; Fees</b>	<b>\$ 118.05</b>	



Sent To: J.P. Morgan Chase Bank, N.A.  
 Street, Apt. No., or PO Box No.: One Wall St., 29th Fl.  
 City, State, ZIP+4: New York, NY 10286

PS Form 3800, August 2006 See Reverse for Instructions

9099 5063 1000 0800 6007

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NEW YORK, NY 10286

**OFFICIAL USE**

Postage	\$ 44.95	0076
Certified Fee	\$ 2.80	
Return Receipt Fee (Endorsement Required)	\$ 2.30	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
<b>Total Postage &amp; Fees</b>	<b>\$ 110.05</b>	



Sent To: J.P. Morgan Chase Bank, N.A.  
 Street, Apt. No., or PO Box No.: Mortg. Dept., One Wall St., 29th Fl.  
 City, State, ZIP+4: New York, NY 10286

PS Form 3800, August 2006 See Reverse for Instructions

0221 5063 1000 0800 6007

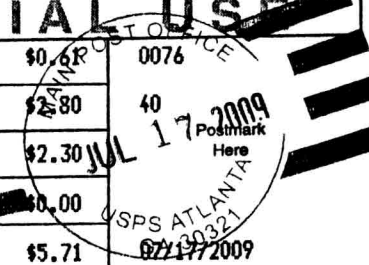
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ATLANTA, GA 30346

**OFFICIAL USE**

Postage	\$ 0.61	0076
Certified Fee	\$ 2.80	
Return Receipt Fee (Endorsement Required)	\$ 2.30	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
<b>Total Postage &amp; Fees</b>	<b>\$ 5.71</b>	



Sent To: GMAC Mortgage, LLC  
 Street, Apt. No., or PO Box No.: Two Pavnica Dr., Suite 50  
 City, State, ZIP+4: Atlanta, GA 30346

PS Form 3800, August 2006 See Reverse for Instructions

6726 5063 1000 0800 6007

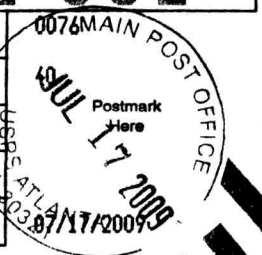
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LOS ANGELES, CA 90017

**OFFICIAL USE**

Postage	\$ 44.95	0076
Certified Fee	\$ 2.80	
Return Receipt Fee (Endorsement Required)	\$ 2.30	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
<b>Total Postage &amp; Fees</b>	<b>\$ 110.05</b>	



Sent To: The Bank of NY Mellon Trust Co.  
 Street, Apt. No., or PO Box No.: 700 South Flower St., Suite 200  
 City, State, ZIP+4: Los Angeles, CA 90017

PS Form 3800, August 2006 See Reverse for Instructions

0221 5063 1000 0800 6007

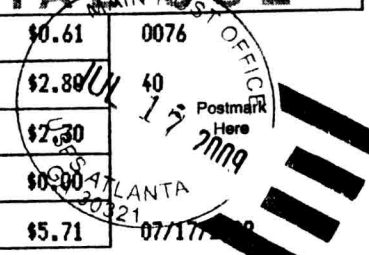
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DECATUR, GA 30030

**OFFICIAL USE**

Postage	\$ 40.61	0076
Certified Fee	\$ 2.80	
Return Receipt Fee (Endorsement Required)	\$ 2.30	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
<b>Total Postage &amp; Fees</b>	<b>\$ 45.71</b>	



Sent To: McLurdy & Candler, LLC  
 Street, Apt. No., or PO Box No.: 250 Ponce De Leon Ave., Suite 600  
 City, State, ZIP+4: Decatur, GA 30030

PS Form 3800, August 2006 See Reverse for Instructions

0629 5063 1000 0800 6007

lease to Robert Bernard 3/17/09

Case + Secret Receipts 7/20/7/20 and 7/21 respectively

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 GMAC Mortgage, LLC  
 Two Ravinia Dr., Suite 500  
 Atlanta, GA 30346

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
*[Signature]*

B. Received by (Printed Name) *[Signature]* C. Date of Delivery 7-20-09

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) 7009 0080 0001 3905 6776  
 PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 McCurdy Handler, LLC  
 250 Ponce de Leon Ave.  
 Suite 600  
 Decatur, GA 30030

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
*[Signature]*

B. Received by (Printed Name) *[Signature]* C. Date of Delivery 7/20/09

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) 7009 0080 0001 3905 6790  
 PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Homecomings Financial LLC  
 Attention Loan Modification Dept.  
 3451 Hammond Ave  
 Waterloo, IA 50702

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
 X **ROB SMENI EV**

B. Received by (Printed Name) *[Signature]* C. Date of Delivery JUL 21 2009

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) 7009 0080 0001 3905 6813  
 PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

April 22, 2009

Wekesa O Madzimoyo  
852 Brafferton Place  
Stone Mountain GA 30083

RE: Account Number 7800527285  
Property Address 852 Brafferton Place  
Stone Mount GA 30083

Dear Wekesa O Madzimoyo:

Please be advised this letter serves as our response to your request for information regarding the above-referenced Homecomings Financial account dated April 13, 2009.

The Loan is currently owned by:

JPMorgan Chase Bank NA  
One Wall Street 29th Floor  
New York NY 10286  
Phone Number: 212-635-1098

Homecomings Financial acquired the servicing rights on the account on November 2, 1999 from First Horizon dba Equibanc. As the current loan servicer, all legal inquires should be directed to Homecomings Financial

The other items requested are either subject to business and trade practices or do not related to the servicing of the account; therefore, they are not included.

Omissions or silence do not constitute Homecomings Financial's consent of or agreement with the statements contained in the document. Homecomings Financial has responded to the provisions it required to as provided by law. It views all other non-servicing related questions as extraneous and an abuse of the statute in an attempt to obtain information outside of formal discovery.

If after reviewing this information, you have any specific questions or concerns regarding the mortgage loan servicing of this account, please contact Customer Care at 1-800-206-2901 between the hours of 6:00 am to 10:00 pm CT Monday through Friday and 9:00 am to 1:00 pm CT on Saturday.

Customer Care  
Loan Servicing

LF

A GMAC Company  
P.O. Box 205  
Waterloo, IA 50704-0205

**GMAC Mortgage**  
P.O. Box 780  
Waterloo, IA 50704-0780

June 10, 2009

Homecomings and GMAC Mortgage  
Account Number: 7800527285

**Property Address**  
852 BRAFFERTON PLACE  
STONE MOUNT, GA 30083

WEKESA O MADZIMOYO



WEKESA O MADZIMOYO  
852 BRAFFERTON PLACE  
STONE MOUNTAIN GA 30083-4703



Dear Wekesa O Madzimoyo:

We are writing to notify you that the servicing of your mortgage loan, that is, the right to collect payments from you, is being assigned, sold, or transferred from Homecomings Financial, LLC ("Homecomings Financial") to GMAC Mortgage, LLC (GMAC Mortgage), effective July 1, 2009.

**Please note that GMAC Mortgage and Homecomings Financial are affiliated companies. The only change to your mortgage account will be the name of your loan servicer.** Your new loan payments will be made payable to GMAC Mortgage instead of Homecomings Financial. Your account number, place for payments, and all other information relating to your mortgage loan remains the same.

*The assignment, sale, or transfer of the servicing of the mortgage loan does not affect any term or condition of the mortgage instruments, other than terms directly related to the servicing of your loan.*

Except in limited circumstances, the law requires that your present servicer send you this notice at least 15 days before the effective date of the transfer. Your new servicer must also send you this notice no later than 15 days after this effective date. In this case, all necessary information is combined in this one notice.

As of June 4, 2009 your current principal balance is \$136,253.74, your current escrow balance is \$1,209.21, your current interest rate is 6.660%, your total monthly payment is \$1,396.94, and your next due date is 4/1/2009.

**Your present servicer is Homecomings Financial.**

Prior to July 1, 2009, if you have any questions regarding your account or the transfer of servicing, call Homecomings Financial's Customer Care Department toll free at 1-800-206-2901 between 6:00 am and 10:00 pm Central Time, Monday through Friday, and between 8:00 am and 2:00 pm Central Time, on Saturdays.

**Your new servicer will be GMAC Mortgage.**

Beginning July 1, 2009, if you have any questions regarding your account or the transfer of servicing, call GMAC Mortgage's Customer Care Department toll free at 1-800-766-4622 between 6:00 am and 10:00 pm Central Time, Monday through Friday, and between 8:00 am and 2:00 pm Central Time, on Saturdays.

**For GMAC Mortgage Customer Inquiries**

Beginning July 1, 2009, written inquiries regarding your account should be directed to GMAC Mortgage's Customer Care Correspondence Department at the following address:

**GMAC Mortgage  
PO Box 4622  
Waterloo, IA 50704-4622**

**For GMAC Mortgage Customer Payments**

The mailing address for payments will not change. Payments will be processed by Homecomings Financial if received prior to July 1, 2009 and will be processed by GMAC Mortgage if received after July 1, 2009. Please send all payments due on or after that date to GMAC Mortgage at the following address:

**GMAC Mortgage  
PO Box 780  
Waterloo IA 50704-0780**

**or the address provided on your GMAC Mortgage billing statement.**

**For Homecomings Financial Website Customer Payments**

If you have been utilizing the bill-pay service on Homecomings Financial's website, this service will be transitioned to the GMAC Mortgage Website, at [www.gmacmortgage.com](http://www.gmacmortgage.com), via secure transfer in the near future. **Your user-name and password will not change and you will not need to re-register or re-enroll in your current payment program.**

**Other Important Information**

Please see the back side of this letter for additional information about Automatic Payment Deductions, Government Allotment Bill Pay Services, Optional Insurances, Year-end Statements, Credit Reporting, and related information from the Real Estate Settlement Procedures

# GMAC Mortgage

PO Box 780  
Waterloo, IA 50704-078

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## DEBT VALIDATION LETTER

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June 10, 2009



WEKESA O MADZIMOYO  
852 BRAFFERTON PLACE  
STONE MOUNTAIN GA 30083-4703



RE: Account Number: 7800527285  
Property Address: 852 BRAFFERTON PLACE  
STONE MOUNT.GA 30083

Dear Wekesa O Madzimoyo:

You should have recently received a letter advising you that the servicing of your account has been transferred to GMAC Mortgage. As a result of this transfer, Federal law requires that we provide you with the following information.

GMAC Mortgage is servicing your account on behalf of RESIDENTIAL FUNDING CORP, which currently owns the interest in your account. As of June 4, 2009, the total amount of the debt is \$140,992.72. Interest, late charges, legal costs and fees and other charges may also be included in the total amount of the debt. Please note that because interest, late charges, and other charges may continue to accrue on this debt, the total amount you pay may be greater than the amount indicated above.

Federal law provides that you have thirty (30) days after you receive this letter to dispute the validity of this debt or any part of it. If you DO NOT wish to dispute this debt or any portion of it within this thirty-day period, we will assume the debt is valid. If you DO wish to dispute this debt, notify us in writing within the thirty-day period and verification of the debt or a copy of a judgment against you will be provided to you by mail. In addition, we will provide you with the name and address of your original creditor if you request it in writing within the same thirty-day period. Please send all written requests to:

GMAC Mortgage  
Attention: Customer Care  
P.O. Box 4622  
Waterloo, IA 50704-4622

This is an attempt to collect a debt and any information obtained will be used for that purpose.

**If you have been discharged of your personal liability for repayment of this debt, be advised that any action we may take, will be taken against the property only and not against you personally.**

**As required by law, you are hereby notified that: We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report.**



Homecomings Financial  
3451 Hammond Ave  
PO Box 780  
Waterloo, IA 50704-0780

**Homecomings Financial**  
A GMAC Company

June 10, 2009

WEKESA O MADZIMOYO  
852 BRAFFERTON PLACE  
STONE MOUNTAIN, GA 30083



RE:      Account Number      7800527285  
         Property Address      852 BRAFFERTON PLACE  
                                              STONE MOUNT, GA 30083

Dear WEKESA O MADZIMOYO

Thank you for contacting our offices to discuss your loan. In our current economy we understand and sympathize with families like yours where you are experiencing unfortunate financial difficulties. It is our commitment to you that we will work with you towards identifying possible options which may provide a solution to your situation.

Enclosed is our Financial Analysis Form. This document was designed to help us determine the best possible solution to meet your specific needs. Please complete and return these forms and the requested documentation to our office within 10 days. You may qualify for programs including the Obama administration's Making Home Affordable Refinance and Modification plan. To learn more about this program and eligibility requirements visit [www.financialstability.gov](http://www.financialstability.gov).

At times like these we feel it is important for you to seek financial advice from a trusted source experienced with situations like yours. We therefore, would recommend you call **1.800.CALL.FHA** to find a HUD-certified housing counseling agency to discuss your needs. If possible, we appreciate you continuing to make your monthly payment until you are notified of possible options. For many customers, a home is their biggest and most important investment. To help solidify your financial ability to protect this investment, we ask you to review other monthly expenses to determine if any costs can be reduced or eliminated. Reducing cost related to non-necessities can free additional funds, and may increase the available options for assistance.

If you have any questions completing these financial analysis forms please contact our office at 1-866-262-5363, Monday-Friday from 8:00AM-5:00PM, Central Time.

Customer Care  
Loan Servicing

Enclosures

# **Homecomings Financial**

A GMAC Company

June 22, 2009

Wekesa O Madzimoyo  
852 Brafferton Place  
Stone Mountain GA 30083

RE:   Account Number     7800527285  
      Property Address    852 Brafferton Place  
                              Stone Mountain GA 30083

Dear Wekesa O Madzimoyo:

This is in response to your recent inquiry directed to JP Morgan Chase Bank NA received in our office June 3, 2009 regarding the above-mentioned account. The inquiry has been sent to me for review and response.

The information requested is subject to business and trade practices which are proprietary and confidential and will not be provided.

We believe the foregoing should be responsive to the request. If you require further assistance, please contact Customer Care at 800-206-2901 between the hours of 6:00 am to 10:00 pm CT, Monday through Friday and 9:00 am to 1:00 pm CT on Saturday.

Customer Care  
Loan Servicing

June 30, 2009

*You may be able to  
make your payments  
more affordable.*

Wekesa O Madzimoyo  
852 Brafferton Pl  
Stone Mtn, GA 30083-4703

***Act now to get  
the help you need!***



Re: Loan Number

7800527285

Property Address

852 BRAFFERTON PLACE  
STONE MOUNT, GA 30083

Dear Wekesa O Madzimoyo:

Help may be available if you are having difficulty making your mortgage loan payments. You may be eligible for the new Home Affordable Modification program which is part of the initiative announced by President Obama to help homeowners. Even if you do not qualify for this specific program, we will evaluate your situation to determine if you might qualify for assistance through other programs we offer.

**As your mortgage loan servicer, we will work with you in an effort to make your mortgage payment affordable. You will not pay any fees to take advantage of this opportunity to modify your mortgage loan payment and keep your home. Now is the time to act. We are ready to help you.**

**Here's how it works:** We will first determine if you are eligible based on your situation. If you are eligible, we will look at your monthly income and housing costs, including any past due payments, and then determine an affordable mortgage payment.

At first, we will provide you with a new affordable monthly payment on your mortgage loan for a trial period. If you make all of those payments successfully and fulfill all trial period conditions, we will permanently modify your mortgage loan.

The modification may involve some or all of the following changes to your mortgage loan:

- 1) Bringing your account current;
- 2) Reducing the interest rate on your loan;
- 3) Extending the term of the loan, and/or delaying your repayment of a portion of the mortgage principal until the end of the loan term.

***In addition to the Making Home Affordable program, we may have other options available to assist you if you do not qualify under the government program.***

LAW OFFICES  
**McCURDY & CANDLER, L.L.C.**

SUITE 600  
250 EAST PONCE DE LEON AVENUE  
DECATUR, GEORGIA 30030

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\*ALSO ADMITTED IN TENNESSEE

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TELEPHONE: 404-373-1612  
MAIN TELECOPIER: 404-370-7232

WEBSITE: [WWW.MCCURDYCANDLER.COM](http://WWW.MCCURDYCANDLER.COM)

July 3, 2009

Certified Mail

Return Requested 7008 1830 0001 0661 3884

and Regular Mail

Wekesa O. Madzimoyo  
852 Brafferton Place  
Stone Mountain, GA 30083

RE: NOTICE OF FORECLOSURE SALE ENCLOSED

Our File No.: 09-15522  
Loan No.: 7800527285  
Borrower Name: Wekesa O. Madzimoyo  
Property Address: 852 Brafferton Place  
Stone Mountain, GA 30083

**\*\*\*Pursuant to O.C.G.A. Section 44-14-162.2, the following is the entity who has full authority to discuss, negotiate, or change all terms of the mortgage with you concerning the foreclosure alternatives described later in this letter.\*\*\***

**Servicer: GMAC Mortgage, LLC**  
**Address: Two Ravinia Dr. . Suite 500**  
**Atlanta, GA 30346**  
**Phone Number: Joyce Gregory-6788557067**

**Creditor: The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2**

Dear Sir or Madam:

By letter dated July 3, 2009, (the "Initial Communication Letter"), I notified you that the above-referenced creditor has referred the referenced loan to this law firm for handling. That letter also advised you of certain rights (the "Borrowers' Rights" which include your right to validate the debt) you could exercise within 30 days of your receipt of the Initial Communication Letter. Nothing in this letter will prevent you from exercising the Borrowers' Rights as explained in the Initial Communication Letter.

A failure to comply with the terms of the above loan with The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 has created a default. As a result, the entire amount of the outstanding balance of the loan has been, and is hereby, declared immediately due and payable. This letter is a formal demand for immediate payment of the total indebtedness. Any partial payment received by The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 on the subject debt after the date of this letter will be applied to the reduction of the aforesaid debt and will not result in a reinstatement or a deceleration of the loan.

Advertisement of foreclosure will be inserted, as provided by law, providing for public sale to be held on August 4, 2009, before the courthouse door of DeKalb County, Georgia.

Please be advised that the provisions in the loan documents relative to payment of attorney's fees, in addition to principal and interest, will be enforced. Unless the entire balance is paid within ten (10) days from the date you receive this notice, such attorney's fees as allowed by Official Code of Georgia, §13-1-11, as amended, will be owed.

If you are currently in the military service AND joined after signing the mortgage (Security Deed) now in foreclosure, please so notify this office immediately. You may be entitled to relief under the Soldiers and Sailors Relief Act. When contacting this office as to your military service you must provide us with positive proof as to your military status. The name, address and telephone number of your Base Commander is essential. If you do not provide this information we will assume that you are not entitled to protection under the above mentioned act.

If you have received a discharge in Bankruptcy proceeding, this notice is not intended to indicate that you are personally liable for this debt. In this instance the information concerning the associated debt owed is for informational purposes only and should be disregarded for any purposes other than that of conducting a non judicial foreclosure of the security pursuant to Georgia law.

The Servicer may allow you to reinstate the loan and stop the foreclosure. You may call to find out if reinstatement is allowed; and if allowed, to find out the amount of money you must pay in order to cure the default. If you are allowed to reinstate your loan, payment must be made through our office in the form of certified funds or cashier's check. Other alternatives the Servicer may consider are full payoffs, short payoffs, deeds in lieu of foreclosure, repay plan, loan modification or some other mutual agreement. The Servicer is willing to consider your individual circumstances and will be flexible in its consideration of various alternatives. This is not meant to indicate that the Servicer will definitely accept any of the above alternatives as your loan has been accelerated and foreclosure proceedings will continue. I urge you to contact the Servicer at Joyce Gregory-6788557067 immediately regarding your situation. You may also contact our office at our toll free number of 1-866-303-0517 to assist with your communications with the Servicer.

The enclosed "Notice of Sale Under Power" is a copy of the advertisement sent to The Champion Newspaper for publication.

BE GOVERNED ACCORDINGLY.

McCurdy & Candler, L.L.C.

*Anthony DeMarlo*

Anthony DeMarlo  
Attorney for The Bank of New York Mellon Trust  
Company, National Association fka The Bank of New York Trust  
Company, N.A. as successor to JPMorgan Chase Bank N.A. as  
Trustee for RAMP 2006RP2

THIS LAW FIRM IS ACTING AS A DEBT COLLECTOR AND IS ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

AD/awilby

## NOTICE OF SALE UNDER POWER

GEORGIA, DEKALB COUNTY

Because of default in the payment of the indebtedness, secured by a Security Deed executed by Wekesa O. Madzimoyo to FT Mortgage Companies d.b.a. EquiBanc Mortgage Corporation dated March 23, 1999 in the amount of \$140,600.00, and recorded in Deed Book 10618, Page 268, DeKalb County, Georgia Records; as last transferred to The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 by assignment; the undersigned, The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 pursuant to said deed and the note thereby secured, has declared the entire amount of said indebtedness due and payable and pursuant to the power of sale contained in said deed, will on the first Tuesday in August, 2009, during the legal hours of sale, at the Courthouse door in DeKalb County, sell at public outcry to the highest bidder for cash, the property described in said deed to-wit:

All that tract or parcel of land lying and being in Land Lot 227 of the 15th District, DeKalb County, Georgia, being Lot 26, Block A, Unit Five of Carlisle Subdivision, as per Plat recorded in Plat Book 64, Page 70, DeKalb County records, which Plat is incorporated herein and made a part of this description, being known as 852 Brafferton Place according to the present system of numbering residence in DeKalb County, Georgia.

which has the property address of 852 Brafferton Place, Stone Mountain, Georgia., together with all fixtures and other personal property conveyed by said deed.

The sale will be held subject to any unpaid taxes, assessments, rights-of-way, easements, protective covenants or restrictions, liens, and other superior matters of record which may affect said property.

The sale will be conducted subject (1) to confirmation that the sale is not prohibited under the U.S. Bankruptcy Code and (2) to final confirmation and audit of the status of the loan with the holder of the security deed.

Notice has been given of intention to collect attorneys' fees in accordance with the terms of the note secured by said deed.

Said property will be sold as the property of Wekesa O. Madzimoyo and the proceeds of said sale will be applied to the payment of said indebtedness, the expense of said sale, all as provided in said deed, and the undersigned will execute a deed to the purchaser as provided in the aforementioned Security Deed.

The Bank of New York Mellon Trust Company, National  
Association fka The Bank of New York Trust Company, N.A. as  
successor to JPMorgan Chase Bank N.A. as Trustee for RAMP  
2006RP2  
Attorney in Fact for  
Wekesa O. Madzimoyo

Anthony DeMarlo, Attorney/awilby  
McCurdy & Candler, L.L.C.  
(404) 373-1612  
www.mccurdycandler.com  
File No. 09-15522 /CONV

THIS LAW FIRM IS ACTING AS A DEBT COLLECTOR AND IS ATTEMPTING TO COLLECT A DEBT. ANY  
INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

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**McCURDY & CANDLER, L.L.C.**

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H. RAIFORD HODGES, JR. (RETIRED)

\*ALSO ADMITTED IN TENNESSEE

July 3, 2009

Wekesa O. Madzimoyo  
852 Brafferton Place  
Stone Mountain, GA 30083

Re: Our File No.: 09-15522  
Loan No.: 7800527285  
Payoff: \$141,348.84  
Borrower Name: Wekesa O. Madzimoyo  
Property Address: 852 Brafferton Place  
Stone Mountain, GA 30083

**Servicer: GMAC Mortgage, LLC**

**Creditor: The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2**

Dear Borrower:

**NOTICE PURSUANT TO FAIR DEBT COLLECTION PRACTICES ACT 15 USC 1692  
INITIAL COMMUNICATION LETTER**

This law firm represents The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 the creditor on the above referenced loan. This letter is to advise you that we have been retained to collect the debt secured by the above-referenced property, which may involve foreclosure proceedings against said property. As of the date of this letter, you owe \$141,348.84. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check, in which event we will inform you before depositing the check for collection. For further information, you may call our loss mitigation department at 1-866-303-0517.

This letter is an attempt to collect a debt and any information obtained by virtue of it will be used for that purpose. Unless you notify us within thirty (30) days after receipt of this letter that the validity of this debt, or any portion of it, is disputed, we will assume that the debt is valid. If you notify us in writing of a dispute, we will obtain verification of the debt and mail it to you. If the creditor named in this letter is not the original creditor, and you make a written request to this law firm within thirty (30) days after receipt of this notice, then the name and address of the original creditor will be mailed to you by this law firm. We may commence the foreclosure action without waiting thirty (30) days, if so requested by our client.

40



LAW OFFICES  
**McCURDY & CANDLER, L.L.C.**

SUITE 600  
250 EAST PONCE DE LEON AVENUE  
DECATUR, GEORGIA 30030

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OF COUNSEL:  
FRANK J. RHODES, JR.  
H. RAIFORD HODGES, JR. (RETIRED)

\*ALSO ADMITTED IN TENNESSEE

July 3, 2009

Certified Mail

Return Requested 7008 1830 0001 0661 3884  
and Regular Mail

Wekesa O. Madzimoyo  
852 Brafferton Place  
Stone Mountain, GA 30083

RE: NOTICE OF FORECLOSURE SALE ENCLOSED

Our File No.: 09-15522  
Loan No.: 7800527285  
Borrower Name: Wekesa O. Madzimoyo  
Property Address: 852 Brafferton Place  
Stone Mountain, GA 30083

**\*\*\*Pursuant to O.C.G.A. Section 44-14-162.2, the following is the entity who has full authority to discuss, negotiate, or change all terms of the mortgage with you concerning the foreclosure alternatives described later in this letter.\*\*\***

**Servicer: GMAC Mortgage, LLC**  
**Address: Two Ravinia Dr. . Suite 500**  
**Atlanta, GA 30346**  
**Phone Number: Joyce Gregory-6788557067**

**Creditor: The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2**

Dear Sir or Madam:

By letter dated July 3, 2009, (the "Initial Communication Letter"), I notified you that the above-referenced creditor has referred the referenced loan to this law firm for handling. That letter also advised you of certain rights (the "Borrowers' Rights" which include your right to validate the debt) you could exercise within 30 days of your receipt of the Initial Communication Letter. Nothing in this letter will prevent you from exercising the Borrowers' Rights as explained in the Initial Communication Letter.

If you have received a discharge in Bankruptcy proceeding, this notice is not intended to indicate that you are personally liable for this debt. In this instance the information concerning the associated debt owed is for informational purposes only and should be disregarded for any purposes other than that of conducting a non judicial foreclosure of the security pursuant to Georgia law.

The Servicer may allow you to reinstate the loan and stop the foreclosure. You may call to find out if reinstatement is allowed; and if allowed, to find out the amount of money you must pay in order to cure the default. If you are allowed to reinstate your loan, payment must be made through our office in the form of certified funds or cashier's check. Other alternatives the Servicer may consider are full payoffs, short payoffs, deeds in lieu of foreclosure, repay plan, loan modification or some other mutual agreement. The Servicer is willing to consider your individual circumstances and will be flexible in its consideration of various alternatives. This is not meant to indicate that the Servicer will definitely accept any of the above alternatives as your loan has been accelerated and foreclosure proceedings will continue. I urge you to contact the Servicer at Joyce Gregory-6788557067 immediately regarding your situation. You may also contact our office at our toll free number of 1-866-303-0517 to assist with your communications with the Servicer.

BE GOVERNED ACCORDINGLY.

Sincerely,

*Anthony DeMarlo*  
Anthony DeMarlo

AD/awilby

THIS LAW FIRM IS ACTING AS A DEBT COLLECTOR AND IS ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE

A failure to comply with the terms of the above loan with The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 has created a default. As a result, the entire amount of the outstanding balance of the loan has been, and is hereby, declared immediately due and payable. This letter is a formal demand for immediate payment of the total indebtedness. Any partial payment received by The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 on the subject debt after the date of this letter will be applied to the reduction of the aforesaid debt and will not result in a reinstatement or a deceleration of the loan.

Advertisement of foreclosure will be inserted, as provided by law, providing for public sale to be held on August 4, 2009, before the courthouse door of DeKalb County, Georgia.

Please be advised that the provisions in the loan documents relative to payment of attorney's fees, in addition to principal and interest, will be enforced. Unless the entire balance is paid within ten (10) days from the date you receive this notice, such attorney's fees as allowed by Official Code of Georgia, §13-1-11, as amended, will be owed.

If you are currently in the military service AND joined after signing the mortgage (Security Deed) now in foreclosure, please so notify this office immediately. You may be entitled to relief under the Soldiers and Sailors Relief Act. When contacting this office as to your military service you must provide us with positive proof as to your military status. The name, address and telephone number of your Base Commander is essential. If you do not provide this information we will assume that you are not entitled to protection under the above mentioned act.

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The enclosed "Notice of Sale Under Power" is a copy of the advertisement sent to The Champion Newspaper for publication.

BE GOVERNED ACCORDINGLY.

McCurdy & Candler, L.L.C.

*Anthony DeMarlo*

Anthony DeMarlo  
Attorney for The Bank of New York Mellon Trust  
Company, National Association fka The Bank of New York Trust  
Company, N.A. as successor to JPMorgan Chase Bank N.A. as  
Trustee for RAMP 2006RP2

## NOTICE OF SALE UNDER POWER

GEORGIA, DEKALB COUNTY

Because of default in the payment of the indebtedness, secured by a Security Deed executed by Wekesa O. Madzimoyo to FT Mortgage Companies d.b.a. EquiBanc Mortgage Corporation dated March 23, 1999 in the amount of \$140,600.00, and recorded in Deed Book 10618, Page 268, DeKalb County, Georgia Records; as last transferred to The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 by assignment; the undersigned, The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for RAMP 2006RP2 pursuant to said deed and the note thereby secured, has declared the entire amount of said indebtedness due and payable and pursuant to the power of sale contained in said deed, will on the first Tuesday in August, 2009, during the legal hours of sale, at the Courthouse door in DeKalb County, sell at public outcry to the highest bidder for cash, the property described in said deed to-wit:

All that tract or parcel of land lying and being in Land Lot 227 of the 15th District, DeKalb County, Georgia, being Lot 26, Block A, Unit Five of Carlisle Subdivision, as per Plat recorded in Plat Book 64, Page 70, DeKalb County records, which Plat is incorporated herein and made a part of this description, being known as 852 Brafferton Place according to the present system of numbering residence in DeKalb County, Georgia.

which has the property address of 852 Brafferton Place, Stone Mountain, Georgia., together with all fixtures and other personal property conveyed by said deed.

The sale will be held subject to any unpaid taxes, assessments, rights-of-way, easements, protective covenants or restrictions, liens, and other superior matters of record which may affect said property.

The sale will be conducted subject (1) to confirmation that the sale is not prohibited under the U.S. Bankruptcy Code and (2) to final confirmation and audit of the status of the loan with the holder of the security deed.

Notice has been given of intention to collect attorneys' fees in accordance with the terms of the note secured by said deed.

Said property will be sold as the property of Wekesa O. Madzimoyo and the proceeds of said sale will be applied to the payment of said indebtedness, the expense of said sale, all as provided in said deed, and the undersigned will execute a deed to the purchaser as provided in the aforementioned Security Deed.

The Bank of New York Mellon Trust Company, National  
Association fka The Bank of New York Trust Company, N.A. as  
successor to JPMorgan Chase Bank N.A. as Trustee for RAMP  
2006RP2  
Attorney in Fact for  
Wekesa O. Madzimoyo

Anthony DeMarlo, Attorney/awilby  
McCurdy & Candler, L.L.C.  
(404) 373-1612  
www.mccurdycandler.com  
File No. 09-15522 /CONV

THIS LAW FIRM IS ACTING AS A DEBT COLLECTOR AND IS ATTEMPTING TO COLLECT A DEBT. ANY  
INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

THIS LAW FIRM IS ACTING AS A DEBT COLLECTOR AND IS ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

AD/awilby

Deed Book 10618 Pg 268  
Filed and Recorded Apr-02-1999 03:47pm  
1999-0045166  
Jeanette Rozier  
Clerk of Superior Court  
DeKalb County, Georgia

RETURN TO:  
K BRENT WARREN  
McLAIN & MERRITT, PC.  
5775-C GLENRIDGE DRIVE, STE 100  
ATLANTA, GA 30328

GEORGIA INTANGIBLE TAX PAID  
\$ 425.00 99  
412 10  
Jeanette Rozier  
DeKalb County Clerk of Superior Court

After Recordation Return to: FT Mortgage Companies  
FTB Mortgage Services; ATTN: Final Documents  
10741 King William  
Dallas, TX 75220

LOAN # 0010150886

[Space Above This Line For Recording Data]

SECURITY DEED

THIS SECURITY DEED ("Security Instrument") is given on March 23 1999 . The grantor is  
WEKESA O. MADZIMOYO

("Borrower"). This Security Instrument is given to FT Mortgage Companies  
d.b.a. EquiBanc Mortgage Corporation

which is organized and existing under the laws of The State of Kansas , and whose  
address is 2974 LBJ Freeway Second Floor, Suite 200 Dallas, TX 75234

("Lender"). Borrower owes Lender the principal sum of  
One Hundred Forty Thousand Six Hundred and no/100-----  
Dollars (U.S. \$ 140,600.00 ).

This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for  
monthly payments, with the full debt, if not paid earlier, due and payable on April 1 2029 .  
This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals,  
extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to  
protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this  
GEORGIA-Single Family-FNMA/FHLMC UNIFORM INSTRUMENT

Form 8R(GA) (802)

Form 3034-9700  
Purpose Code 801  
Title: WPC

03/23/99  
16:24:33



Page 1 of 7

VMP MORTGAGE FORMS - (800) 511-7291

Security Instrument and the Note. For this purpose, Borrower does hereby grant and convey to Lender and Lender's successors and assigns, with power of sale, the following described property located in DeKalb County, Georgia:

SEE ATTACHED EXHIBIT "A"

which has the address of 852 Brafferton Place Stone Mountain [Street, City], Georgia 30083 [Zip Code] ("Property Address");

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal and Interest; Prepayment and Late Charges. Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. Funds for Taxes and Insurance. Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for: (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items." Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. Section 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender may agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify Borrower in writing, and, in such case Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If, under paragraph 21, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to any prepayment charges due under the Note; second, to amounts payable under paragraph 2; third, to interest due; fourth, to principal due; and last, to any late charges due under the Note.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. **Hazard or Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. **Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.



7. **Protection of Lender's Rights in the Property.** If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

8. **Mortgage Insurance.** If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Lender, if mortgage insurance coverage (in the amount and for the period that Lender requires) provided by an insurer approved by Lender again becomes available and is obtained. Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Borrower and Lender or applicable law.

9. **Inspection.** Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

10. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Borrower and Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

11. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

13. **Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

14. **Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

15. **Governing Law; Severability.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

16. **Borrower's Copy.** Borrower shall be given one conformed copy of the Note and of this Security Instrument.

17. **Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. **Borrower's Right to Reinstate.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 17.

19. **Sale of Note; Change of Loan Servicer.** The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with paragraph 14 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

20. **Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.