

FILED

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

IN THE GENERAL COURT OF JUSTICE
BEFORE THE CLERK
08 SP 1118

2009 MAR 16 AM 9:18
BUNCOMBE COUNTY, C.S.C.

IN THE MATTER OF THE FORECLOSURE)
of the Deed of Trust of The Hammocks, LLC dba ✓)
Richmond Hill Inn, LLC and Gateway Park)
Properties, LLC)
)
)
dated October 10, 2005, recorded in)
Book 4124, Page 1858 of the)
Buncombe County Registry)
)
By: MARJORIE R. MANN, Substitute Trustee)
_____)

ORDER ALLOWING
FORECLOSURE SALE

THIS MATTER coming on to be heard and being heard on the 16th day of March, 2009, before the undersigned ___ Clerk of Buncombe County Superior Court, upon Petition and Notice for Hearing of Marjorie Rowe Mann, Substitute Trustee, for the foreclosure of real property described in that certain Deed of Trust executed by The Hammocks, LLC d/b/a Richmond Hill Inn, LLC and Gateway Park Properties, LLC and recorded in Book 4124 at Page 1858 of the Buncombe County Registry; and

From the testimony and documents offered IT APPEARS TO THE COURT AND THE COURT FINDS THE FOLLOWING FACTS:

1. That on or about October 10, 2005, The Hammocks, LLC d/b/a Richmond Hill Inn, LLC and Gateway Park Properties, LLC executed a Deed of Trust on real estate located in Buncombe County, North Carolina, and recorded in Deed of Trust Book 4124 at Page 1858 of the Buncombe County Registry in the original principal amount of Eight Million Eight Hundred Thousand and No/100 Dollars (\$8,800,000.00).
2. The current Owner and Holder of the above described Deed of Trust and the debt secured thereby is: Richmond Hill, Inc., 1113 Hammel Rd., Greensboro, NC 27408.
3. That the Obligor are in default for the failure to pay the monthly installments under the Note and Deed of Trust.
4. That the Owner and Holder of the Note and Deed of Trust has elected to declare the Note and Deed of Trust in default and the entire indebtedness due and payable in accordance with the provisions of the Note and Deed of Trust.
5. Under the terms of the aforementioned Note and Deed of Trust, the Trustee is authorized, upon default, to foreclose and sell the property described therein in accordance with the Power of Sale contained therein and the Owner and Holder of said indebtedness has instructed the Trustee to exercise said Power of Sale as authorized.

6. That the Obligors were given proper and adequate notice of the debt pursuant to the requirements of N.C.G.S. § 45-21.16 (c) (5a).

7. That Marjorie R. Mann was substituted as the Trustee under the subject Deed of Trust as recorded in Book 4610, Page 1426 of the Buncombe County Registry.

8. That an Order was executed by the Office of the Clerk of Superior Court setting the time of hearing on the Petition of the Substitute Trustee for December 1, 2008, at 10:00 a.m. in the Office of the Clerk of Superior Court, Buncombe County Courthouse, Asheville, North Carolina.

9. That the hearing has been continued three times from the original date of December 1, 2008 to and through a final hearing date of March 16, 2009 at 9:00 a.m.

10. That the Notice of Hearing and Order to Serve Notice of Hearing was served on The Hammocks, LLC d/b/a Richmond Hill Inn, LLC and Gateway Park Properties, LLC by certified mail, return receipt requested, on November 17, 2008, giving the Obligors adequate notice of hearing.

11. That the Notice of Hearing on Petition for Hearing on Foreclosure of Deed of Trust and Order was served on Obligor, Gateway Park Properties, LLC, on February 18, 2009, giving this Obligor adequate notice of hearing.

12. That after a due and diligent search by the Sheriff of Buncombe County for the Obligors, the Notice of Hearing was also served on the Obligors on November 5, 2008 by posting the Notice in a conspicuous place on the property by the Sheriff of Buncombe County.

13. That a hearing was held on March 16, 2009 before the undersigned ~~Asst~~ Clerk of Superior Court at which time Marjorie R. Mann, Substitute Trustee was represented by counsel; the Owner and Holder submitted an Affidavit as allowed by law; and the Obligors were represented by counsel.

14. No valid defense was presented to the Court by the Obligors as to why foreclosure should not be allowed to be held.

Based on the foregoing Findings of Fact, **THE COURT MAKES THE FOLLOWING CONCLUSIONS OF LAW:**

1. That Richmond Hill, Inc. is the current Owner and Holder of a valid indebtedness owed to it by the Obligor.

2. That the indebtedness is secured by a Deed of Trust recorded in Book 4124 at Page 1858 of the Buncombe County Registry and the indebtedness secured by said Deed of Trust is in default for the Obligors' failure to make the principal and interest payments on the Note.

3. That the Owner and Holder of the indebtedness has elected to declare the Note and Deed of Trust in default, has accelerated all sums due thereunder, and has directed the Substitute Trustee to foreclose under the terms of the Power of Sale contained in said Deed of Trust.

4. That the Obligors were given proper and adequate notice of the debt pursuant to the requirements of N.C.G.S. § 45-21.16(c)(5a).


5. That the Obligors were given adequate notice of the hearing.

6. That the Note and the Deed of Trust are not a subprime loan as defined in N.C.G.S. §45-101(4).

7. That no valid reason was presented at the hearing as to why the Substitute Trustee should not foreclose the aforementioned Deed of Trust under the Power of Sale contained therein and the Trustee has the right to foreclose under the terms and provisions thereof.

NOW, THEREFORE, IT IS ORDERED that Marjorie R. Mann, Substitute Trustee, is hereby authorized to proceed with the foreclosure sale of the real property described in that certain Deed of Trust recorded in Book 4124 at Page 1858 of the Buncombe County Registry in accordance with the General Statutes of North Carolina; and it is **FURTHER ORDERED** that Marjorie R. Mann, Substitute Trustee, is hereby authorized to publish and otherwise give Notice of Sale and to conduct a sale of said property pursuant to the terms and provisions of the aforementioned Deed of Trust and the General Statutes of North Carolina.

This the 16th day of March, 2009.


Clerk of Superior Court
Buncombe County, N.C.