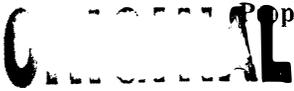


**NOTICE OF ACCELERATION AND NOTICE OF TRUSTEE'S SALE**

**DEED OF TRUST INFORMATION:**

Date: 08/12/2004  
Grantor(s): ANTHONY L KIRBY AND KATHERINE B. KIRBY, HUSBAND AND WIFE  
Original Mortgagee: OPTION ONE MORTGAGE CORPORATION, A CALIFORNIA CORPORATION  
Original Principal: \$50,000.00  
Recording Information: Book 0281 Page 111 Instrument 041000  
Property County: Castro



DATE FILED 10-16-17  
TIME FILED 11:33AM  
JoAnna Blanco  
Castro County District Clerk  
By: \_\_\_\_\_

THE SOUTH 1.575 ACRES OF A TRACT KNOWN AS 2.77 ACRES AS DESCRIBED IN A WARRANTY DEED WITH VENDOR'S LIEN CONVEYED TO ANTHONY L. KIRBY AND WIFE, KATHERINE B. KIRBY, RECORDED IN VOLUME 205, PAGE 128 OF THE DEED RECORDS OF CASTRO COUNTY, TEXAS, SITUATED IN THE SOUTHEAST PART OF SURVEY 2, LEAGUE 4 OF THE J. E. TUCKER SUBDIVISION OF THE DELTA COUNTY SCHOOL LANDS, BLOCK M-10-A IN CASTRO COUNTY, TEXAS, AS SHOWN BY THE PLAT THEREOF OF RECORD IN VOLUME 12, PAGE 432, DEED RECORDS OF CASTRO COUNTY, TEXAS, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 3/8 INCH IRON ROD FOUND IN THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY 385 AS CONVEYED TO THE STATE OF TEXAS BY DEED OF RECORD IN VOLUME 55, PAGE 223 AND VOLUME 125, PAGE 133 DEED RECORDS OF CASTRO COUNTY, TEXAS, FROM WHICH A CABLE FOUND FOR THE SOUTHEAST CORNER OF SURVEY 2, LEAGUE 4 OF SAID J. E. TUCKER SUBDIVISION OF THE DELTA COUNTY SCHOOL LANDS BEARS EAST, 68.07 FEET AND SOUTH, 2698.21 FEET (2699.31 FEET - RECORD), SAID 3/8 INCH IRON ROD BEING THE SOUTHEAST CORNER OF SAID KIRBY TRACT AND THIS TRACT; THENCE NORTH 89 DEGREES 59 MINUTES 49 SECONDS WEST 361.42 FEET TO A 1/2 INCH IRON PIPE, FOUND FOR THE SOUTHWEST CORNER OF SAID KIRBY TRACT AND THIS TRACT; THENCE NORTH 00 DEGREES 00 MINUTES 07 SECONDS WEST 189.46 FEET TO A 1/2 INCH IRON ROD WITH A CAP STAMPED "RPLS 4664", SET FOR THE NORTHWEST CORNER OF THIS TRACT; THENCE SOUTH 89 DEGREES 59 MINUTES 46 SECONDS EAST 362.68 FEET TO A 1/2 INCH IRON ROD WITH A CAP STAMPED "RPLS 1848" SET IN THE WEST RIGHT OF WAY LINE OF SAID U.S. HIGHWAY 385, BEING THE NORTHEAST CORNER OF SAID KIRBY TRACT AND THIS TRACT; THENCE SOUTH 00 DEGREES 22 MINUTES 51 SECONDS WEST (BASE BEARING) ALONG THE WEST RIGHT OF WAY LINE OF SAID U.S. HIGHWAY 385, 189.46 FEET TO THE POINT OF BEGINNING;

TOGETHER WITH AN EASEMENT AND AGREEMENT FOR JOINT USE OF THE DOMESTIC WELL LOCATED IMMEDIATELY NORTH OF AND ADJACENT TO THE ABOVE DESCRIBED PROPERTY MORE SPECIFICALLY SET OUT IN THAT EASEMENT AGREEMENT RECORDED IN VOLUME 281, PAGE 745, OFFICIAL PUBLIC RECORDS, CASTRO COUNTY, TEXAS.

SUBJECT TO AN EASEMENT FOR PEDESTRIAN AND VEHICULAR TRAFFIC ALONG AND ACROSS THE NORTH TWENTY FEET (N 20') OF THE EAST ONE HUNDRED FIFTY FEET (E 150') OF THE ABOVE DESCRIBED PROPERTY AS SPECIFICALLY DESCRIBED IN A WARRANTY DEED EXECUTED BY ANTHONY L. KIRBY AND KATHERINE B. KIRBY RECORDED IN VOLUME 281, PAGE 750, OFFICIAL PUBLIC RECORDS OF CASTRO COUNTY, TEXAS.

Reported Address: 970 US HWY 385, DIMMITT, TX 79027

**MORTGAGE SERVICING INFORMATION:**

The Mortgage Servicer, if not the Current Mortgagee, is representing the Current Mortgagee pursuant to a Mortgage Servicing Agreement.

Current Mortgagee: Wells Fargo Bank, National Association as Trustee for Morgan Stanley ABS Capital I Inc. Trust 2004-OP1, Mortgage Pass-Through Certificates, Series 2004-OP1

Mortgage Servicer: Ocwen Loan Servicing, LLC

Current Beneficiary: Wells Fargo Bank, National Association as Trustee for Morgan Stanley ABS Capital I Inc. Trust 2004-OP1, Mortgage Pass-Through Certificates, Series 2004-OP1

Mortgage Servicer Address: 1661 Worthington Rd, Suite 100, West Palm Beach, FL 33409

**SALE INFORMATION:**

Date of Sale: Tuesday, the 7th day of November, 2017

Time of Sale: 10:00AM or within three hours thereafter.

Place of Sale: AT THE NORTH (FRONT) ENTRANCE OF THE COURTHOUSE, JUST INSIDE, IN FRONT OF THE COMMISSIONER'S COURT BULLETIN BOARD in Castro County, Texas, or, if the preceding area is no longer the designated area, at the area most recently designated by the Castro County Commissioner's Court.

Substitute Trustee(s): Ronald Byrd, Antonio Bazaldua, Jose A. Bazaldua, Braden Barnes, Michael Burns, Thuy Frazier, Alexander Wolfe, or Suzanne Suarez, any to act

Substitute Trustee Address: 14841 Dallas Parkway, Suite 425, Dallas, TX 75254

WHEREAS, the above-named Grantor previously conveyed the above described property in trust to secure payment of the Note set forth in the above-described Deed of Trust; and

WHEREAS, a default under the Note and Deed of Trust was declared; such default was reported to not have been cured; and all sums secured by such Deed of Trust were declared to be immediately due and payable; and

WHEREAS, the original Trustee and any previously appointed Substitute Trustee has been removed and Ronald Byrd, Antonio Bazaldua, Jose A. Bazaldua, Braden Barnes, Michael Burns, Thuy Frazier, Alexander Wolfe, or Suzanne Suarez, any to act, have been appointed as Substitute Trustees and requested to sell the Property to satisfy the indebtedness; and

WHEREAS, the undersigned law firm has been requested to provide these notices on behalf of the Current Mortgagee, Mortgage Servicer and Substitute Trustees;

NOW, THEREFORE, NOTICE IS HEREBY GIVEN of the foregoing matters and that:

1. The maturity of the Note has been accelerated and all sums secured by the Deed of Trust have been declared to be immediately due and payable.
2. Ronald Byrd, Antonio Bazaldua, Jose A. Bazaldua, Braden Barnes, Michael Burns, Thuy Frazier, Alexander Wolfe, or Suzanne Suarez, any to act, as Substitute Trustee will sell the Property to the highest bidder for cash on the date, at the place, and no earlier than the time set forth above in the Sale Information section of this notice. The sale will begin within three hours after that time.
3. This sale shall be subject to any legal impediments to the sale of the Property and to any exceptions referenced in the Deed of Trust or appearing of record to the extent the same are still in effect and shall not cover any property that has been released from the lien of the Deed of Trust.
4. No warranties, express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose shall be conveyed at the sale, save and except the Grantor's warranties specifically authorized by the Grantor in the Deed of Trust. The property shall be offered "AS-IS", purchasers will buy the property "at the purchaser's own risk" and "at his peril", and no representation is made concerning the quality or nature of title to be acquired. Purchasers will receive whatever interest Grantor and Grantor's assigns have in the property, subject to any liens or interests of any kind that may survive the sale. Interested persons are encouraged to consult counsel of their choice prior to participating in the sale of the property.

Very truly yours,

Buckley Madole, P.C.

*Ronald Byrd Trustee*

DATE FILED 8-24-2017  
TIME FILED 4:10p  
JoAnna Blanco  
Castro County/District Clerk  
By: Carlene Long

CAUSE NO. B10243-1707

IN RE: ORDER FOR FORECLOSURE  
CONCERNING 970 US HWY 385,  
DIMMITT, TX 79027 UNDER TEX. R.  
CIV. PROC. 736

IN THE DISTRICT COURT

PETITIONER:

OCWEN LOAN SERVICING, LLC AS  
SERVICING AGENT FOR WELLS  
FARGO BANK, NATIONAL  
ASSOCIATION AS TRUSTEE FOR  
MORGAN STANLEY ABS CAPITAL I  
INC. TRUST 2004-OP1, MORTGAGE  
PASS-THROUGH CERTIFICATES,  
SERIES 2004-OP1

CASTRO COUNTY, TEXAS

RESPONDENT(S):

ANTHONY L KIRBY, KATHERINE B  
KIRBY

242ND DISTRICT COURT

**DEFAULT ORDER ALLOWING FORECLOSURE**

1. On this day, the Court considered Petitioner's motion for a default order granting its application for an expedited order under Rule 736. Petitioner's application complies with the requirements of Texas Rule of Civil Procedure 736.1.
2. The name and last known address of each Respondent subject to this order is Anthony L Kirby and Katherine B Kirby, whose last known address is 970 US Hwy 385, Dimmitt, TX 79027. Each Respondent was properly served with the citation, but none filed a response within the time required by law. The return of service for each Respondent has been on file with the court for at least ten days.
3. The property that is the subject of this foreclosure proceeding is commonly known as 970 US Hwy 385, Dimmitt, TX 79027 with the following legal description:

THE SOUTH 1.575 ACRES OF A TRACT KNOWN AS 2.77 ACRES AS DESCRIBED IN A WARRANTY DEED WITH VENDOR'S LIEN CONVEYED TO ANTHONY L. KIRBY AND WIFE, KATHERINE B. KIRBY, RECORDED IN VOLUME 205, PAGE 128 OF THE DEED RECORDS OF CASTRO COUNTY, TEXAS, SITUATED IN THE SOUTHEAST PART OF SURVEY 2, LEAGUE 4 OF THE J. E. TUCKER SUBDIVISION OF THE DELTA COUNTY SCHOOL LANDS, BLOCK M-10-A IN CASTRO COUNTY, TEXAS, AS SHOWN BY THE PLAT THEREOF OF RECORD IN VOLUME 12, PAGE 432, DEED RECORDS OF CASTRO COUNTY, TEXAS, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 3/8 INCH IRON ROD FOUND IN THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY 385 AS CONVEYED TO THE STATE OF TEXAS BY DEED OF RECORD IN VOLUME 55, PAGE 223 AND VOLUME 125, PAGE 133 DEED RECORDS OF CASTRO COUNTY, TEXAS, FROM WHICH A CABLE FOUND FOR THE SOUTHEAST CORNER OF SURVEY 2, LEAGUE 4 OF SAID J. E. TUCKER SUBDIVISION OF THE DELTA COUNTY SCHOOL LANDS BEARS EAST, 68.07 FEET AND SOUTH, 2698.21 FEET (2699.31 FEET - RECORD), SAID 3/8 INCH IRON ROD BEING THE SOUTHEAST CORNER OF SAID KIRBY TRACT AND THIS TRACT; THENCE NORTH 89 DEGREES 59 MINUTES 49 SECONDS WEST 361.4 2 FEET TO A 1/2 INCH IRON PIPE, FOUND FOR THE SOUTHWEST CORNER OF SAID KIRBY TRACT AND THIS TRACT;

THENCE NORTH 00 DEGREES 00 MINUTES 07 SECONDS WEST 189.46 FEET TO A 1/2 INCH IRON ROD WITH A CAP STAMPED "RPLS 4664", SET FOR THE NORTHWEST CORNER OF THIS TRACT;

THENCE SOUTH 89 DEGREES 59 MINUTES 46 SECONDS EAST 362.68 FEET TO A 1/2 INCH IRON ROD WITH A CAP STAMPED "RPLS 1848" SET IN THE WEST RIGHT OF WAY LINE OF SAID U.S. HIGHWAY 385, BEING THE NORTHEAST CORNER OF SAID KIRBY TRACT AND THIS TRACT;

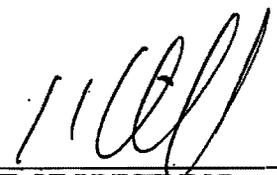
THENCE SOUTH 00 DEGREES 22 MINUTES 51 SECONDS WEST (BASE BEARING) ALONG THE WEST RIGHT OF WAY LINE OF SAID U.S. HIGHWAY 385, 189.46 FEET TO THE POINT OF BEGINNING;

TOGETHER WITH AN EASEMENT AND AGREEMENT FOR JOINT USE OF THE DOMESTIC WELL LOCATED IMMEDIATELY NORTH OF AND ADJACENT TO THE ABOVE DESCRIBED PROPERTY MORE SPECIFICALLY SET OUT IN THAT EASEMENT AGREEMENT RECORDED IN VOLUME 281, PAGE 745, OFFICIAL PUBLIC RECORDS, CASTRO COUNTY, TEXAS.

SUBJECT TO AN EASEMENT FOR PEDESTRIAN AND VEHICULAR TRAFFIC ALONG AND ACROSS THE NORTH TWENTY FEET (N 20') OF THE EAST ONE HUNDRED FIFTY FEET (E 150') OF THE ABOVE DESCRIBED PROPERTY AS SPECIFICALLY DESCRIBED IN A WARRANTY DEED EXECUTED BY ANTHONY L. KIRBY AND KATHERINE B. KIRBY RECORDED IN VOLUME 281, PAGE 750, OFFICIAL PUBLIC RECORDS OF CASTRO COUNTY, TEXAS.

4. The lien to be foreclosed is indexed or recorded at Volume: 0281, Page: 111, Instrument Number: 041000 and recorded in the real property records of Castro County, Texas.
5. The material facts establishing Respondent's default are alleged in Petitioner's application and the supporting affidavit. Those facts are adopted by the court and incorporated by reference in this order.
6. Based on the affidavit of Petitioner, no Respondent subject to this order is protected from foreclosure by the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501 et seq.
7. Therefore, the Court grants Petitioner's motion for a default order under Texas Rules of Civil Procedure 736.7 and 736.8. Petitioner may proceed with foreclosure of the property described above in accordance with applicable law and the loan agreement, contract, or lien sought to be foreclosed.
8. This order is not subject to a motion for rehearing, a new trial, a bill of review, or an appeal. Any challenge to this order must be made in a separate, original proceeding filed in accordance with Texas Rule of Civil Procedure 736.11.

SIGNED this 24<sup>th</sup> day of August, 2017.

  
\_\_\_\_\_  
JUDGE PRESIDING

VOL. 0162 PAGE 0101