

202000096

NOTICE OF SUBSTITUTE TRUSTEE'S SALE

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

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

Date: February 11, 2020

Instrument To Be Foreclosed:

Deed of Trust ("Deed of Trust")

Dated:           September 18, 2014

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

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

Recorded:     Book 0096, Pages 0340-0374 in the Official Public Records of Floyd County, Texas.

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

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

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

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

Foreclosure Sale:

Date: Tuesday, March 3, 2020

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

Place of Sale: The outside steps of the West Entrance of the Floyd County Courthouse located at 101 N. Main Street, Floydada, Texas 79235 or any location subsequently designated by the Floyd County Commissioners's Office or as designated by the Floyd County Commissioners Court for sales such as the one described herein.

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

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

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

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

Dated February 11, 2020

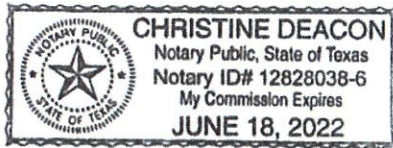
Lauren Hayes

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

**ACKNOWLEDGMENT**

THE STATE OF TEXAS       §  
  §  
COUNTY OF TRAVIS       §

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



[Seal]

Christine Deacon

Notary Public

Christine Deacon

Name (printed or typed)

My commission Expires:

June 18, 2022

EXHIBIT A

LEGAL DESCRIPTION

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

Being all of the following described blocks and parts of blocks in LIVESAY ADDITION to the Town of Lockney, in Floyd County, Texas as shown by plat of such addition of record in Volume 21, Page 567, Deed Records, Floyd County, Texas.

All of that part of Block Number One (1), in such addition which lies South of the right of way of the Fort Worth and Denver South Plains Railway company as such right of way is now held on the ground including the following lots and parts of lots in such Block Number One (1);

All of Lots Number Three (3), Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12) and Thirteen (13) and all that part of Lots Number One (1) and Two (2), Fourteen (14), Fifteen (15) and Sixteen (16) lying South of such right of way of the Fort Worth and Denver South Plains Railway Company as such right of way is now held on the ground including the following lots in such Block Number Two (2);

All of Lots Number Nine (9), Ten (10) and all that part of Lots Number Six (6), Seven (7), Eight (8), Eleven (11), Twelve (12) and Thirteen (13) lying South of such right of way which also includes all closed alleys and streets within such Blocks One (1) and Two (2) of said LIVESAY ADDITION.

EXHIBIT B

**PERMITTED ENCUMBRANCES**

1. Shortages in area.
2. Standby fees, taxes and assessments by any taxing authority for the year 2014, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year.
3. Rights of tenants in possession under unrecorded leases or agreements.
4. The following matters and all terms of the documents creating or offering evidence of the matters:
  - a. Any visible or apparent roadway or easement over or across the subject property, the existence of which does not appear of record.
  - b. Subject to additional roll back taxes and abuse of granted exemptions as defined in Section 11.43 of the Texas Property Tax Code paragraph (i).
  - c. All leases, grants, exceptions or reservations of coal, lignite, oil gas and other minerals, together with all rights, privileges and immunities relating thereto, appearing in the Public Records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.
  - d. Easement granted to the City of Lockney, Texas, as shown by instrument recorded in Volume 173, Page 168, Deed Records of Floyd County, Texas, as noted on survey prepared by Cliff R. Stout, Jr., RPLS No. 5735, Smith Roberts Baldischwiler, TIC Project No.2428-9624, dated April 27, 2011.
  - e. Apparent easement rights as evidenced by the overhead electric lines, power poles, guy wires, and overhead telephone lines, as shown on Survey.
  - f. Consequences, if any, due to the protrusion of parking into Main Street and Guest Street as evidenced by handicapped parking signs along the East property line, as shown on Survey (defined below).
  - g. Protrusion of the sign on steel posts into Main Street, as shown on Survey.
  - h. Title is subject to the rules, regulations, and rights of taxation of the High Plains Underground Water Conservation District No. 1, as evidenced by Order Upon Hearing and Granting Petition to create High Plains Underground Water District, filed in Volume 1, Page 13, Military Discharge Records of Floyd County, Texas.
  - i. Survey prepared by Smith Roberts, Inc., dated April 27, 2011, Project No. 2428 (the "Survey"), discloses the following: (i) building encroaches 25' building line (ii) concrete driveways, pavers and walkways vary along property lines, (iii) portable wood building lies within 20' alley.

FILED

at 3:50 o'clock P. M.

FEB 11 2020