

## NOTICE OF FORECLOSURE SALE

**FILED**

NOV 25 2020

8:24 A.M.

*Brenda Fietsam*

BRENDA FIETSAM  
CO. CLERK, FAYETTE CO., TEXAS

### DEED OF TRUST ("Deed of Trust")

**Dated:** October 23, 2015

**Grantor:** S. Howard Wagner and wife, Mary E. Wagner

**Trustee:** Benjamin Wm. Schovajsa

**Lender/Beneficiary:** William E. Bucek Family Limited Partnership

**Recorded In:** Volume 1753 Pages 732-741 Official Records of Fayette County, Texas.

#### **Legal Description:**

##### **Tract One**

All that certain tract or parcel of land situated in Fayette County, Texas, a part of the William Nabors Survey, A-254, same being a part of that 111.782 acre tract of land described in a deed from William E. Bucek to William E. Bucek Family Limited Partnership, dated December 20, 2011 and recorded in Volume 1592, Page 77 of the Official Records of Fayette County, Texas, and being more particularly described by metes and bounds as follows, to-wit:

BEGINNING at an iron rod set for the Southwest corner, same lying within the said Bucek 111.78 acre tract or land, same being N 01 22'33" E 1550.1 feet from the Southwest corner of said 111.78 acre tract;

THENCE, N 13°56'58" W 179.0 feet to an iron rod set, N 02°47'53" W 70.0 feet to an iron rod set and N 46°02'45" E 197.52 feet to an iron rod set for the North corner;

THENCE, S 73 47'58" E 179.08 feet to an iron rod set and S 00 29'19"E 292.13 feet to an iron rod set for the Southeast corner;

THENCE, S 81°51'09" W 272.84 feet to the place of beginning, containing 2.21 acres of land.

##### **Tract Two**

All that certain tract or parcel of land situated in Fayette County, Texas, a part of the William Nabors Survey, A-254, same being a part of that 111.782 acre tract of land described in a deed from William E. Bucek to William E. Bucek Family Limited Partnership, dated December 20, 2011 and recorded in Volume 1592, Page 77 of the Official Records of Fayette County, Texas, and being more particularly described by metes and bounds as follows, to-wit:

BEGINNING at an iron rod found for the Northwest corner same being N 01 22'33" E 1550.1 feet from the Southwest corner of said 111.78 acre tract, same lying within the said Bucek 111.78 acre tract, same being the Southwest corner of a 2.21 acre tract of land surveyed out of said Bucek 111.782 acre tract of land;

THENCE, along the South boundary of said 2.21 acre tract of land, N 81°51'09" E 272.84 feet to an iron rod found for the Northeast corner, same being the Southeast corner of said 2.21 acre tract of land;

THENCE, S 16 53'15" W 213.2 feet to an iron rod set for the Southeast corner;

THENCE, S 88°49'48" W 203.48 feet to an iron rod set for the Southwest corner;

THENCE, N 01 35'37" W 169.55 feet to the place of beginning, containing 1.00 acre of land.

**EASEMENT TRACT**

All that certain tract or parcel of land situated in Fayette County, Texas, a part of the William Nabors Survey, A-254, same being a part of that 111.782 acre tract of land described in a deed from William E. Bucek to William. E. Bucek Family Limited Partnership, dated December 20, 2011 and recorded in Volume 1592, Page 77 of the Official Records of Fayette County, Texas, and being more particularly described by metes and bounds as follows, to-wit:

BEGINNING at an iron rod set for the Point of Beginning of the centerline of this 30 ft. wide road easement, same lying in the Northern Right-of-Way margin of U. S. Highway 90, same lying in the Southern boundary of the said Bucek 111.78 acre tract of land, same being N 78°14' E 662.8 feet from the Southwest corner of said 111.78 acre tract;

THENCE, along the center of this 30 ft. wide road easement, with the following courses and distances:

- N 23°05'41" W 71.76'
- N 32°26'45" W 132.78'
- N 24°34'53" W 82.45'
- N 10°29'53" W 105.9'
- N 03°46'54" W 171.8'
- N 18°03'48" W 108.21'
- N 33°48'39" W 106.35'
- N 49°17'09" W 87.0'
- N 66°17'51" W 87.2'
- N 76°37'53" W 131.63'
- N 35 49'22" W 58.83'
- N 05°14'33" E 241.04'
- N 05°09'15" W 100.12' and

N 13°20'53"W 192.3' to an iron rod set for the End Point of the centerline of this 30 ft. wide road easement same lying in the Southern boundary of a 2.21 acre tract this day surveyed out of said 111.78 acre tract.

SAID TRACT ONE, TRACT TWO, AND EASEMENT TRACT being those same two tracts and easement tract as described in Special Warranty Deed dated October 23<sup>rd</sup>, 2015 from William E. Bucek, individually and as General Partner of the William E. Bucek Family Limited Partnership to S. Howard Wagner and wife, Mary Wagner, and recorded in Volume 1753 Pages 725-731 Official Records of Fayette County, Texas.

**Secures:** Real Estate Lien Note ("Note") in the original principal amount of \$243,000.00, executed by S. Howard Wagner and wife, Mary E. Wagner ("Borrower"), and payable to the order of Lender.

**FORECLOSURE SALE:**

**Date:** January 5<sup>th</sup>, 2021

**Time:** The sale of the Property will be held 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.] and not later than three hours thereafter.

**Place:** Fayette County, Texas at the following location: ON THE FAYETTE COUNTY COURTHOUSE LAWN ON THE WEST SIDE AT THE POSTING BOARD LOCATED ON THE STONE WALL ENCLOSURE OF THE COURTHOUSE FACING WEST COLORADO STREET NEAR ITS INTERSECTION WITH NORTH MAIN STREET, OR THE PRECEDING AREA IS NO LONGER THE DESIGNATED AREA, AT THE ARE MOST RECENTLY DESIGNATED BY THE COUNTY COMMISSIONER'S COURT or as designated by the County Commissioners Court.

**Terms of Sale:** The Foreclosure Sale will be conducted as a public auction and the Property will be sold to the highest bidder for cash, except that Lender/Beneficiary's bid may be by credit against the indebtedness secured by the lien of 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, William E. Bucek Family Limited Partnership ("Lender/Beneficiary"), the owner and holder of the Note, has requested Trustee to sell the Property.

The Deed of Trust may encumber both real and personal property. Formal notice is hereby given of Lender/Beneficiary's election to proceed against and sell both the real property and any personal property described in the Deed of Trust in accordance with Lender/Beneficiary'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 for the Foreclosure Sale described above, Trustee will sell the Property in accordance with the Terms of Sale described above, the Deed of Trust, and applicable Texas law.

If Lender/Beneficiary passes the Foreclosure Sale, notice of the date of any rescheduled foreclosure sale will be reposted and refilled in accordance with the posting and filing requirements of the Deed of Trust and the Texas Property Code.

The Foreclosure Sale will be made expressly subject to any title matters set forth in the Deed of Trust, but prospective bidders are reminded that by law the Foreclosure Sale will necessarily be made subject to all prior matters of record affecting the Property, if any, to the extent that they remain in force and effect and have not been subordinated to the Deed of Trust. For the avoidance of doubt, the Foreclosure Sale will not cover any part of the Property that has been released of public record from the lien and/or security interest of the Deed of Trust by Lender/Beneficiary. Prospective bidders are strongly urged to examine the applicable property records to determine the nature and extent of such matters, if any.

Pursuant to section 51.009 of the Texas Property Code, the Property will be sold "**AS IS,**" without any expressed or implied warranties, except as to the warranties (if any) provided for under the Deed of Trust. Prospective bidders are advised to conduct an independent investigation of the nature and physical condition of the Property.

Pursuant to section 51.0075(a) of the Texas Property Code, Trustee reserves the right to set further reasonable conditions for conducting the Foreclosure Sale. Any such further conditions shall be announced before bidding is opened for the first sale of the day held by Trustee.

**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.

*B. Schovajsa*

Benjamin Wm. Schovajsa  
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Attorney at Law  
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THE STATE OF TEXAS  
COUNTY OF FAYETTE

This instrument was acknowledged before me on the 24<sup>th</sup> day of November, 2020, by Benjamin Wm. Schovajsa, as Trustee, in the capacity herein stated.



*Shannon M. Raabe*

Notary Public in and for The State of Texas  
Notary's Typed or Printed Name:  
*Shannon M. Raabe*  
Notary's Commission Expires: *7/5/2021*