

HOME EQUITY POSTING WITH ORDER ATTACHED

7662 NW COUNTY ROAD 1300  
BARRY, TX 75102

20080031402520

**NOTICE OF SUBSTITUTE TRUSTEE SALE**

(See TEX. CONST. art. XVI, § 50a(6) Order attached)

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.

1. **Date, Time, and Place of Sale.**

Date: April 02, 2013

Time: The sale will begin at 1:00PM or not later than three hours after that time.

Place: THE FRONT STEPS OF THE NAVARRO COUNTY COURTHOUSE OR AS DESIGNATED BY THE COUNTY COMMISSIONERS or as designated by the county commissioners.

2. **Terms of Sale.** Cash.

3. **Instrument to be Foreclosed.** The Instrument to be foreclosed is the Deed of Trust or Contract Lien dated August 19, 2004 and recorded in Document VOLUME 1713, PAGE 0191 real property records of NAVARRO County, Texas, with ROBERT HORVATH, grantor(s) and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") AS NOMINEE, mortgagee.

4. **Obligations Secured.** Deed of Trust or Contract Lien executed by ROBERT HORVATH, securing the payment of the indebtednesses in the original principal amount of \$80,250.00, and obligations therein described including but not limited to the promissory note and all modifications, renewals and extensions of the promissory note. THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2004-09 is the current mortgagee of the note and Deed of Trust or Contract Lien.

5. **Property to Be Sold.** The property to be sold is described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN FOR ALL PURPOSES.

6. **Mortgage Servicer Information.** The Mortgage Servicer is authorized to represent the Mortgagee by virtue of a servicing agreement with the Mortgagee. Pursuant to the Servicing Agreement and Texas Property Code § 51.0025, the Mortgage Servicer is authorized to collect the debt and to administer any resulting foreclosure of the lien securing the Property referenced above. BANK OF AMERICA, N.A., AS SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING, LP, as Mortgage Servicer, is representing the current mortgagee, whose address is:

c/o BANK OF AMERICA, N.A., AS SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING, LP  
PTX-C-32 7105 CORPORATE  
PLANO, TX 75074

  
J. HOWELL, OR B. HOWELL

Substitute Trustee

c/o

15000 Surveyor Boulevard, Suite 100  
Addison, Texas 75001

2013-42  
FILED FOR RECORD

FILED FOR RECORD  
AT 10:18 O'CLOCK A.M.

MAR 11 2013

SHERRY BOWD  
COUNTY CLERK NAVARRO COUNTY, TEXAS  
BY \_\_\_\_\_ DEPUTY



NOS20080031402520

**EXHIBIT "A"**

ALL THAT CERTAIN LOT, TRACT OR PARCEL OF LAND, BEING 9.995 ACRES SITUATED IN THE W.W. FRAZIER SURVEY, ABSTRACT NO. 291 IN NAVARRO COUNTY, TEXAS, AND BEING PART OF A 31.00 ACRE TRACT CONVEYED IN DEED FROM JOHN HORVATH AND JOHN DAVID HORVATH TO ROBERT HORVATH, DATED MARCH 10, 1986 AND RECORDED IN VOLUME 1072 PAGE 265 IN THE DEED RECORDS OF NAVARRO COUNTY, TEXAS, SAID 9.995 ACRES MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON ROD SET FOR CORNER AND IN THE SOUTHWEST LINE OF THE 31.00 ACRES TRACT, AND BRS. NORTH 30 DEGREES 51 MINUTES 23 SECONDS WEST A DISTANCE OF 265.37 FEET FROM ITS SOUTH CORNER AND SAID ROD IS IN THE NORTHEAST LINE OF A CALLED 85.3 ACRES, VOLUME 652 PAGE 541, AND IS IN THE SOUTHWEST LINE OF 30 FEET ROAD EASEMENT, VOLUME 832 PAGE 308;

THENCE NORTH 30 DEGREES 51 MINUTES 23 SECONDS WEST ALONG THE SOUTHWEST LINE OF THE 31.00 ACRES TRACT AND ROAD EASEMENT AND THE NORTHEAST LINE OF THE CALLED 83.5 ACRES TRACT A DISTANCE OF 300.23 FEET TO A 1/2 INCH ROD SET FOR THE WEST CORNER OF THIS TRACT;

THENCE NORTH 59 DEGREES 08 MINUTES 37 SECONDS EAST PASSING THE NORTHEAST LINE OF THE ROAD EASEMENT AT 30.00 FEET AND CONTINUING FOR A TOTAL DISTANCE OF 1,450.16 FEET TO A 1/2 INCH IRON ROD SET FOR THE NORTH CORNER OF THIS TRACT;

THENCE SOUTH 30 DEGREES 51 MINUTES 23 SECONDS EAST A DISTANCE OF 300.23 FEET TO 1/2 INCH IRON ROD SET FOR THE EAST CORNER OF THIS TRACT;

THENCE SOUTH 59 DEGREES 08 MINUTES 37 SECONDS WEST AND PASSING THE NORTHEAST LINE OF THE ROAD EASEMENT AT 1,420.16 FEET AND CONTINUING FOR A TOTAL DISTANCE OF 1,450.16 FEET TO THE PLACE OF BEGINNING AND CONTAINING 9.995 ACRES OF LAND, MORE OR LESS.

I

00008534

Cause Number 08-17421-CV

In re: Order for Foreclosure  
Concerning

Robert Horvath  
("Respondent(s)")

and

7662 Nw County Road 1300, Barry, TX 75102  
("Property Mailing Address")

and

Bank Of New York As Trustee  
("Applicant")

IN THE DISTRICT COURT OF

NAVARRO COUNTY, TEXAS

DISTRICT CLERK

ATTEST:

BY:

13th JUDICIAL DISTRICT

DEFAULT HOME EQUITY FORECLOSURE ORDER

On this date the court considered Bank Of New York As Trustee For The Certificate Holders Of CWABS 2004-09, or their successors or assigns (hereinafter "Applicant"), *Tex. R. Civ. P. 736* home equity foreclosure Application. Robert Horvath (hereinafter "Respondent(s)") has/have failed to file a Response. The court has determined that it has jurisdiction over the subject matter and the parties in this proceeding. The court finds that the mailing address of the property sought to be foreclosed is 7662 Nw County Road 1300, Barry, TX 75102 ("Property") and is more particularly described, to-wit:

ALL THAT CERTAIN LOT, TRACT OR PARCEL OF LAND, BEING 9.995 ACRES SITUATED IN THE W.W. FRAZIER SURVEY, ABSTRACT NO. 291 IN NAVARRO COUNTY, TEXAS, AND BEING PART OF A 31.00 ACRE TRACT CONVEYED IN DEED FROM JOHN HORVATH AND JOHN DAVID HORVATH TO ROBERT HORVA

The court further finds that this is an *in rem* proceeding; that the Application complies with *Tex. R. Civ. P. 735* and *736*; that in accordance with Rule 736(2)(A) and (B) a copy of the required Notice with Certificate of Service has been on file with the Clerk of the Court for at least ten (10) days, exclusive of the date of filing; that the Applicant has proved the elements of Rule 736(1)(E); that Applicant has appointed Lori Graef, David Carrillo Or K. McCarthy or their successor, as the substitute trustee to conduct the foreclosure contemplated by this proceeding; and that Applicant may proceed with foreclosure of the secured Property according to the terms of the security instrument, *Tex. Prop. Code § 51.002* and applicable law in accordance with Rule 736(5).

IT IS THEREFORE ORDERED that the Applicant may proceed with a foreclosure sale under the terms of the security instrument, *Tex. Prop. Code § 51.002* and applicable law with respect to the secured Property made the subject of this proceeding.

IT IS FURTHER ORDERED that a copy of this Order shall be sent to Respondent(s) with the notice of the date, time and place of the foreclosure sale; and

IT IS FURTHER ORDERED that Applicant may communicate with the Respondent(s) and all third parties reasonably necessary to conduct the foreclosure sale; and

IT IS FURTHER ORDERED that if Respondent(s) is/are represented by counsel, the notice of foreclosure sale shall also be mailed to counsel by certified mail.

IT IS FURTHER ORDERED that the Applicant file a certified copy of this Order in the real property records of the county where the Property is located within ten (10) business days after the entry of this Order; however, failure to timely record this Order shall not affect the validity of the foreclosure and defeat the presumption of *TEX. CONST. art. XVI, § 50(i)*.

This Order is not appealable pursuant to Rule 736(8)(A).

SIGNED this 9 day of Sept, 2008.

JUDGE PRESIDING

APPROVED AS TO FORM AND SUBSTANCE:

Kimberly Buteaud  
Kimberly Buteaud  
Texas Bar No. 24038796  
Michelle Lee Anderson  
Texas Bar No. 24040435  
Nathan Yates  
Texas Bar No. 24047289  
Hollie Vesla Greene  
Texas Bar No. 24006564  
Ryan Bourgeois  
State Bar No. 24050314  
15000 Surveyor Blvd., Suite 100  
Addison, Texas 75001  
1-800-795-5040 (Phone) 972-341-0673 (Fax)

Default Home Equity Foreclosure  
BDFTE NO.: 20080031402520

Sherry Dowd, COUNTY CLERK  
Havard County

Sep 19 2008

STATE OF TEXAS  
I hereby certify that this instrument was  
filed on the date and time stamped hereon by me and  
was duly recorded and stamped hereon by me.

Receipt Number - 24960  
By  
Gena Chandler

Document Number: 00008534  
Amount: 20.00

In: Sep 19 2008 at 11:20A

Filed for Record in:  
Havard County

As a  
Recording