

IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT IN AND
FOR DUVAL COUNTY, FLORIDA

CASE NO. 2006-CA-8129

DIVISION: CV-G

COCONUT GROVE BANK as CUSTODIAN
of the CHARLES R. GREMLER IRA, and a
Group of Lenders Assembled by and through
Berman Mortgage Corp., d/b/a BMC LOAN
SERVICING M.A.M.C., Inc., a Florida
corporation,

Plaintiffs,

vs.

BELLA VISTA DEL MAR BY OBAKE,
LLC, a Florida Limited Liability Company,
TIMOTHY CATALFO, an individual,
BEACH LANDING, INC., a Florida
Corporation and LIVE OAK C&D LANDFILL,
LLC, a North Carolina Limited Liability Company,

Defendants.

**MOTION FOR ENTRY OF EX-PARTE ORDER DIRECTING FORECLOSURE CLERK
TO ISSUE CERTIFICATE OF TITLE PURSUANT TO ASSIGNMENT OF SALE BID**

Plaintiffs COCONUT GROVE BANK as CUSTODIAN of the CHARLES R. GREMLER IRA, and a Group of Lenders Assembled by and through Berman Mortgage Corporation d/b/a BMC Loan Servicing n/k/a M.A.M.C. Incorporated, requests this Court by and through undersigned counsel, hereby file their *Motion for Entry of an Ex-Parte Order Directing Foreclosure Clerk to Issue Certificate of Title in favor of MAMC Bella Vista, LLC* pursuant to an Assignment of Sale Bid and Certificate of Sale, and states as follows:

1. This is an action to foreclose on a defaulted mortgage on real property located at 97 First Street South, Jacksonville, Florida 32250, in Duval County (the "Property").

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2. The Property was offered for public sale on July 23, 2008, to the highest bidder for cash.

3. Plaintiffs tendered the winning sale bid at the public sale of the underlying real property in the matter identified as CASE NO.: 2006-CA-8129 CV-G, in the amount of \$100.00 (hereinafter the "Sale Bid").

4. Plaintiff's Sale Bid was accepted by the Clerk and confirmed in accordance with all procedures set forth under Chapter 45 of the Florida Statutes.

5. Plaintiffs will properly and timely tender the balance of money for documentary stamps due to the Clerk. The Certificate of Sale was provided on July 23, 2008 to the Clerk and the same will be filed under separate cover upon receipt.

6. A limited liability company has been formed by the plaintiffs with each plaintiff have an interest in the LLC equal to their respective interest in the note and mortgage. The purpose of the assignment is to create a mechanism to simplify the management and transfer of the asset.

7. Plaintiffs have assigned its Sale Bid, and the corresponding Certificate of Sale, to **MAMC Bella Vista, LLC**.¹

8. Accordingly, Plaintiff now seeks the Court's assistance in directing the Foreclosure Clerk to issue Certificate of Title in favor of **MAMC Bella Vista, LLC**.

9. If no objection to the Public Sale on July 23, 2008, is filed within ten (10) days after filing of the Certificate of Sale, Certificate of Title shall be issued as a matter of law on or about August 4, 2008.

¹ Plaintiff is filing the Assignment of Sale Bid under separate cover.

10. Florida has a strong public policy favoring the free right of transfer of interests in real property. *See* Forgione v. Dennis Pritie Agency, Inc. 701 So.2d 557, 559 (Fla. 1997). There is a general right to assign common law and statutory rights, unless there is an express prohibition in a statute, or a showing that an assignment would clearly offend an identifiable public policy. *See* 22 Fla. Jur.2d, Estates Powers and Restraints §§70-75. Here, there is neither a statutory prohibition against assignments of a sale bid nor an offense to public policy. Rather, Florida law clearly recognizes the alienability of sale bids. Additionally, no other party is impacted or prejudiced by the Court entering the above-requested Order, as such Plaintiff respectfully requests entry of said Order on an *ex parte* basis to avoid duplication of efforts and additional costs related to issuing Certificate of Title.

WHEREFORE, Plaintiffs COCONUT GROVE BANK as CUSTODIAN of the CHARLES R. GREMLER IRA, and a Group of Lenders Assembled by and through Berman Mortgage Corporation d/b/a BMC Loan Servicing n/k/a M.A.M.C. Incorporated, respectfully request this Honorable Court enter an Order directing the Foreclosure Clerk to issue the Certificate of Title in favor of **MAMC Bella Vista, LLC**, pursuant to Plaintiff's Assignment of the July 23, 2008 Sale Bid.

Respectfully submitted,

BERGER SINGERMAN
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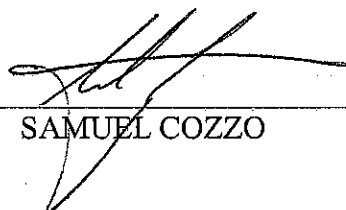
By: 

JAMES D. GASSENHEIMER
 Florida Bar No. 959987
 SAMUEL C. COZZO
 Florida Bar No.: 0012541

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this **25th day of July 2008**, to: **John S. Winkler, Esquire, Attorneys for Defendant Beach Landing, Inc.**, 2515 Oak Street, Jacksonville, Florida 32204; to **Defendant, Timothy L. Catalfo, as Registered Agent for Bells Vista Del Mar by Obake LLC and Defendant, Timothy L. Catalfo, Individually**, 1412 North 1st Street, #104, Jacksonville, Florida 32250; and to **Roger Davis, Vice President and General Manager of LIVE OAK C&D LANDFILL, LLC, LIVE OAK C&D LANDFILL, LLC**, 6897 County Road 795, Life Oak, Florida 32060.

Respectfully submitted,

BY: 

SAMUEL COZZO

cc: The Honorable Lance Day

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