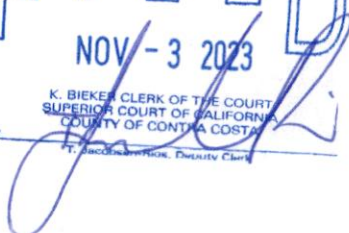


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FILED
NOV - 3 2023
K. BIEKER, CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA
COUNTY OF CONTRA COSTA
By: 

6 Attorneys for Intervenors JEFF MINI, CHRISTINE
MINI, DEE GEISLER, ANTHONY GEISLER, PETER
7 SCHMIDT, CATHERINE SCHMIDT, BERT BARSTAD,
BARBARA BARSTAD, JOSEPH SLAVONIA,
8 MARGUERITE SLAVONIA, ROBERT FIELD, MARCIA
FIELD, CHRISTOPHER HARNEY, CHRISTINA HARNEY,
9 RICHARD STEFFENS, CAREN STEFFENS, RUSSELL
VRANKOVICH, JUDITH VRANKOVICH, GEORGE
10 BIRDSONG, ROBERT CANEPA, ERIC GRIFFIN,
CATHERINE GRIFFIN, BLAKE FIELD, LISA FIELD,
11 ROBERT BERATTA, BARBARA BERATTA, MANUEL
DEL ARROZ, JUANITA DEL ARROZ, REBECCA FRICK,
12 PATRICIA MILLER and MARY FAIRMAN

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF CONTRA COSTA

15 ROBERT TIERNAN, et al;
16 Intervenors,
17 vs.
18 DIABLO COMMUNITY SERVICES
DISTRICT; et al.
19 Defendants.
20

Case No. MSC17-02529

STIPULATED JUDGMENT;
~~PROPOSED~~ JUDGMENT

21 AND RELATED CROSS-ACTIONS

22 IT IS HEREBY STIPULATED by, between and among Intervenors JEFF MINI,
23 CHRISTINE MINI, DEE GEISLER, ANTHONY GEISLER, PETER SCHMIDT, CATHERINE
24 SCHMIDT, BERT BARSTAD, BARBARA BARSTAD, JOSEPH SLAVONIA, MARGUERITE
25 SLAVONIA, ROBERT FIELD, MARCIA FIELD, CHRISTOPHER HARNEY, CHRISTINA
26 HARNEY, RICHARD STEFFENS, CAREN STEFFENS, RUSSELL VRANKOVICH, JUDITH
27 VRANKOVICH, GEORGE BIRDSONG, ROBERT CANEPA, ERIC GRIFFIN, CATHERINE
28

1 GRIFFIN, BLAKE FIELD, LISA FIELD, ROBERT BERATTA, BARBARA BERATTA,
2 MANUEL DEL ARROZ, JUANITA DEL ARROZ, REBECCA FRICK, PATRICIA MILLER and
3 MARY FAIRMAN (the “Intervenors”), by and through their counsel of record, and Defendant U.S.
4 BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MASTER ADJUSTABLE RATE
5 MORTGAGES TRUST 2007-2 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES
6 2007-2 (“Defendant”), by and through its counsel of record, to entry of judgment as follows:

7 1. WHEREAS, Intervenors are all homeowners in Diablo, California, a private
8 community with private roads. Defendant is the current owner of the real property commonly
9 known as 2354 Alameda Diablo, Diablo, California (the “Property”), the legal description of which
10 is attached as **Exhibit A**. Defendant acquired the Property via Trustee’s Deed from the former
11 owner.

12 2. WHEREAS, on August 6, 2020, Intervenors filed a Verified Complaint in
13 Intervention asserting causes of action for quiet title, declaratory relief and private nuisance relating
14 to a portion of the Property abutting Mt. Diablo Scenic Blvd. commonly known as the “Cut-
15 Through.” The quiet title claim was ultimately dismissed and Intervenors filed a First Amended
16 Verified Complaint in Intervention asserting causes of action for declaratory relief and private
17 nuisance (the “FAXC”).

18 3. WHEREAS, Defendant took title to the Property following the November 16, 2022
19 foreclosure of a lien secured by the Property which had been executed by the former owners of the
20 Property and former defendants in the above-captioned action, Omid Bahrami and Mojdeh Saleh.

21 4. Intervenors took the default of Defendant on August 18, 2023.

22 5. On or about August 17, 2023, vandalism occurred to an existing concrete fence
23 (“Concrete Fence”) on the Property at the Cut-Through, which resulted in the removal of a portion
24 of the Concrete Fence measuring approximately five feet in length (“Vandalized Segment”).

25 6. On or about September 25, 2023, the Intervenors built a metal fence (“Metal Fence”)
26 across the Cut-Through, which crosses the real property adjacent to the Property located at 2328
27 Alameda Diablo, Diablo, California, and adjoins the Concrete Fence on the Property. The Metal
28 Fence thus crosses over, into, and across the Property by approximately the length of the

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Vandalized Segment.

7. On or about October 3, 2023, Defendant obtained possession of the Property.

8. By stipulation of the Intervenor and Defendant, relief from default was granted on October 4, 2023.

9. WHEREAS, as it pertains to Defendant, the FAXC asserts a cause of action for private nuisance against Defendant and/or the former owners of the Property for allowing members of the general public to traverse across a portion of the Property abutting Mt. Diablo Scenic Blvd. commonly known as the "Cut-Through." Intervenor alleged that by allowing the Cut-Through to remain open, Defendant and/or the former owners of the Property were creating a private nuisance that allowed tens of thousands of members of the general public, on an annual basis, to use the private roads in Diablo in order to access Mt. Diablo. Intervenor asserted that this constituted a private nuisance and caused significant harm to them, and homeowners in Diablo, which has resulted in multiple injuries and property damage.

10. WHEREAS, Intervenor alleged in their declaratory relief cause of action that a portion of the Cut-Through is situated on a portion of property subject to a recorded "25' Riding and Hiking Easement" dedication to the Department of Parks and Recreation of the State of California on Parcel Map 263-78 that was never accepted by the Department of Parks and Recreation of the State of California. Intervenor further allege because the dedication was never accepted, it expired pursuant to Code of Civil Procedure § 771.010.

11. WHEREAS, Defendant and Intervenor agree to the dismissal of the private nuisance cause of action set forth in the FAXC and to entry of judgment in favor of Intervenor and against Defendant on the declaratory relief cause of action set forth in the FAXC.

STIPULATION FOR ENTRY OF JUDGMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED by and between Intervenor, by and through their counsel of record, and Defendant, by and through its counsel of record, as follows:

1. The Parties incorporate the recitals above herein.
2. The private nuisance cause of action against Defendant in the FAXC will be dismissed with prejudice.

1 3. Judgment will be entered in favor of Intervenor on the FAXC and against
2 Defendant on the cause of action for declaratory relief.

3 4. Defendant and/or any successor owner of the Property shall maintain a barrier, such
4 as a secure fence at least six feet in height or a substantially similar means of security (such as the
5 Concrete Fence and/or the Metal Fence) (collectively, “a Barrier”) to prevent members of the
6 general public from travelling over any portion of the Property. Such Barrier shall be maintained
7 on the Property in a manner to prevent such Property from being used by the general public to travel
8 between Mt. Diablo Scenic Blvd. and Alameda Diablo Road..

9 5. It is understood that changes in ownership and development to the Property will
10 occur. It is further understood that these changes are acceptable as long as the purpose of this
11 Stipulation is met.

12 6. This judgment shall be recorded against the Property in the Official Records of
13 Contra Costa County, California, to memorialize and give notice of the obligation of Defendant
14 and any successor owners or other owners of the Property to maintain a Barrier as discussed herein.
15 Defendant and Intervenor agree that this obligation will run with the land on the Property.

16 7. Intervenor and Defendant agree to bear their own costs and attorneys’ fees incurred
17 in and relating to the claims asserted in the FAXC. Intervenor and Defendant further agree that
18 the Contra Costa County Superior Court shall retain jurisdiction under Code of Civil Procedure §
19 664.6 to enforce the terms of this Stipulated Judgment until such time as performance in full of the
20 parties occurs, and that Intervenor, including their successors and assigns, and Defendant,
21 including its successors and assigns, may enforce this Stipulated Judgment.

22 **IT IS SO STIPULATED.**

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24 **[SIGNATURES APPEAR ON NEXT PAGE]**
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Dated: October 19, 2023

MCKENNA | BRINK | SIGNOROTTI LLP



By: _____

Dominic V. Signorotti
Attorneys for Intervenor JEFF MINI, CHRISTNE
MINI, DEE GEISLER, ANTHONY GEISLER, PETER
SCHMIDT, CATHERINE SCHMIDT, BERT BARSTAD,
BARBARA BARSTAD, JOSEPH SLAVONIA,
MARGUERITE SLAVONIA, ROBERT FIELD, MARCIA
FIELD, CHRISTOPHER HARNEY, CHRISTINA
HARNEY, RICHARD STEFFENS, CAREN STEFFENS,
RUSSELL VRANKOVICH, JUDITH VRANKOVICH,
GEORGE BIRDSONG, ROBERT CANEPA, ERIC
GRIFFIN, CATHERINE GRIFFIN, BLAKE FIELD, LISA
FIELD, ROBERT BERATTA, BARBARA BERATTA,
MANUEL DEL ARROZ, JUANITA DEL ARROZ,
REBECCA FRICK, PATRICIA MILLER and MARY
FAIRMAN

Dated: October 19, 2023

MCCARTHY & HOLTHUS, LLP



By: _____

Crystal R. Davieau
Attorneys for Defendant U.S. BANK NATIONAL
ASSOCIATION, AS TRUSTEE FOR MASTER
ADJUSTABLE RATE MORTGAGES TRUST
2007-2 MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-2

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JUDGMENT

FOR GOOD CAUSE APPEARING, and pursuant to the Stipulation for Entry of Judgment entered into by Intervenorors JEFF MINI, CHRISTINE MINI, DEE GEISLER, ANTHONY GEISLER, PETER SCHMIDT, CATHERINE SCHMIDT, BERT BARSTAD, BARBARA BARSTAD, JOSEPH SLAVONIA, MARGUERITE SLAVONIA, ROBERT FIELD, MARCIA FIELD, CHRISTOPHER HARNEY, CHRISTINA HARNEY, RICHARD STEFFENS, CAREN STEFFENS, RUSSELL VRANKOVICH, JUDITH VRANKOVICH, GEORGE BIRDSONG, ROBERT CANEPA, ERIC GRIFFIN, CATHERINE GRIFFIN, BLAKE FIELD, LISA FIELD, ROBERT BERATTA, BARBARA BERATTA, MANUEL DEL ARROZ, JUANITA DEL ARROZ, REBECCA FRICK, PATRICIA MILLER and MARY FAIRMAN (the "Intervenorors"), by and through their counsel of record, and Defendant U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MASTER ADJUSTABLE RATE MORTGAGES TRUST 2007-2 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-2 ("Defendant"), by and through its counsel of record, judgment shall be entered as follows:

1. The private nuisance cause of action against Defendant in the FAXC will be dismissed with prejudice

2. Judgment will be entered in favor of Intervenorors on the FAXC and against Defendant on the cause of action for declaratory relief.

3. Defendant and/or any successor or other owner of 2354 Alameda Diablo, Diablo, California (the "Property"), the legal description of which is attached as **Exhibit A**, shall maintain a barrier, such as a secure fence at least six feet in height or a substantially similar means of security (such as the Concrete Fence and/or the Metal Fence) (collectively, "a Barrier") to prevent members of the general public from travelling over any portion of the Property. Such Barrier shall be maintained on the Property in a manner to prevent such Property from being used to travel between Mt. Diablo Scenic Blvd. and Alameda Diablo Road.

4. This judgment shall be recorded against the Property in the Official Records of Contra Costa County, California, to memorialize and give notice of the obligation of Defendant

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ATTORNEYS AT LAW
WALNUT CREEK, CA

1 and any successor owners or other owners of the Property to maintain a Barrier as discussed herein.
2 Defendant and Intervenor agree that this obligation will run with the land on the Property.

3 5. Intervenor and Defendant agree to bear their own costs and attorneys' fees incurred
4 in and relating to the claims asserted in the FAXC.

5 6. Intervenor and Defendant further agree that the Contra Costa County Superior
6 Court shall retain jurisdiction under Code of Civil Procedure § 664.6 to enforce the terms of this
7 Stipulated Judgment until such time as performance in full of the parties occurs, and that
8 Intervenor, including their successors and assigns, and Defendant, including its successors and
9 assigns, may enforce this Stipulated Judgment.

10 7. A copy of this Judgment shall be recorded in the Official Records of Contra Costa
11 County, California, against the Property, commonly known as 2354 Alameda Diablo, Diablo,
12 California.

13 **IT IS SO ADJUDICATED.**

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15 Dated: 11/1/2023

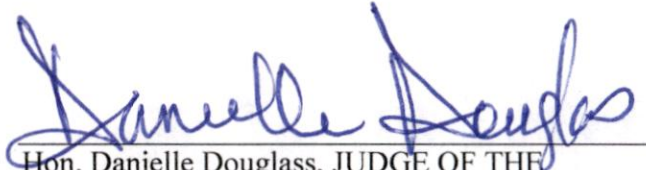
16 
17 Hon. Danielle Douglass, JUDGE OF THE
18 SUPERIOR COURT
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EXHIBIT A

Parcel A of Parcel Map, in the County of Contra Costa, State of California, as shown on map filed September 19, 1979, in Book 81, Page 1 of Parcel Maps, in the office of the County Recorder of said County.

Assessor's Parcel No: 194-080-024

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