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OCTOBER
2023

PARTITION ACTIONS 101



12:00PM -
1:00PM

An Introduction to Statutes, Remedies, and
Resolution of Partition Actions



HON. ELIZABETH
FEFFER (RET)



CURTIS
HOLDSWORTH, ESQ.



MATTHEW
TAYLOR, ESQ.

COMPLIMENTARY MCLE WEBINAR PROGRAM | 1 HOUR GENERAL CREDIT

Handout Materials

- I. Exemplar Complaint for Partition by Sale
- II. Exemplar Notice of Pendency of Action (Lis Pendens)
- III. Exemplar Interlocutory Judgment for (1) Partition by Sale of Real Property; and (2) Appointment of Referee
- IV. Sample: [PROPOSED] Interlocutory Judgment For Partition By Sale [code of civ. proc., §872.720]
- V. Introduction To The Partition Referee Remedy For Real Property Disputes by Matthew L. Taylor
- VI. Recent Changes To The Law Of Real Property Partition In California by Matthew L. Taylor
- VII. Recovery Of Costs, Fees, And Reimbursements In A Real Property Partition Case by Matthew L. Taylor
- VIII. Recovery Of Real Property Expenses In A Property Partition Case by Matthew L. Taylor

Speakers



Hon. Elizabeth Feffer (Ret)

Over her 13 years of judicial service, Judge Feffer presided over more than 75 civil jury trials, more than 500 civil bench trials, hundreds of evidentiary hearings, and numerous settlement conferences. In addition to her civil court assignments, Judge Feffer served four years in the Family Law Division, where she presided over and issued rulings on thousands of cases involving all types of complex family law matters. Lauded for her eloquence and exceptional legal knowledge, Judge Feffer is known for her thorough preparation and ability to connect with litigants. Her patience, compassion, and dedication have helped establish her reputation as an even-handed and esteemed jurist. Now a full time neutral with ADR Services, Inc., Judge Feffer specializes in employment litigation, professional liability, personal injury, elder abuse, products liability, business litigation and partnership disputes, real estate litigation, land use litigation, eminent domain, insurance coverage, insurance bad faith, and entertainment cases.

Judgefeffer@adrservices.com

Case Manager: Ella Fishman
ellateam@adrservices.com



Curtis Holdsworth, Esq.

Curtis Holdsworth began his legal career at the preeminent full-service law firm of Greenberg Glusker, where he handled a variety of complex business, real-estate, and employment disputes. During the span of his 25-year professional career, Mr. Holdsworth has:

- Served as lead-counsel on partition cases involving both residential property and commercial realty, including the successful partition sale of a private golf course.
- Managed many high-profile cases for publicly traded clients in federal courts and the complex panel of state courts, including the litigation of complex choice of law and jurisdictional issues.
- Prosecuted and defended cases involving unfair business practices, fraud, breach of contract, alter-ego claims, business torts, insurance coverage disputes, and bad faith claims on behalf of a variety of Fortune 500 companies.

In addition to serving as counsel at Bartko, Zankel, Bunzel & Miller (aka "Bartko"), Mr. Holdsworth operates litigation funding companies that offer financing to claimants on a wide array of commercial, employment, and personal injury matters.

choldsworth@BZBM.com



Matthew L. Taylor, Esq.

Matthew L. Taylor is an attorney with a real estate broker's license in California. A graduate of UCLA Law School, Mr. Taylor has focused on civil litigation in California since 1995 with an emphasis on receiverships and partition cases. Mr. Taylor has acted as a Receiver or Partition Referee on more than one hundred cases throughout California and handles approximately 30 partition cases per year. His notable cases included being involved with the OJ Simpson judgment collection receivership, operation of businesses in receivership, and managing partition sales of dozens of real properties per year including apartment complexes, commercial properties, single family homes, and vacant land.

matthew.taylor34@verizon.net

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Elizabeth Feffer

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2 KELLY A. COLEMAN (SBN 144052)
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9 Attorneys for Plaintiffs

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

11 BEAD GOLF COURSE PROPERTIES,)
12 LLC; ADRIENNE M. LARSEN and)
13 RALPH J. LARSEN, as Co-Trustees of the)
14 Larsen Family Trust, dated January 22,)
15 1992; MATTHEW AIREY and REGINA)
16 AIREY, as Co-Trustees of Edmund and)
17 Marguerite Airey Trust; MATTHEW)
18 EDMUND AIREY and CHRISTY A.)
19 AIREY, as Trustees of the Airey Revocable)
20 Living Trust, dated March 13, 2017;)
21 REGINA MARIE AIREY, as Trustee of)
22 Regina Marie Airey Trust, dated)
23 February 15, 2018)

Case No.

**COMPLAINT FOR PARTITION OF REAL
PROPERTY**

Plaintiffs,

v.

21 JEAN BAPTISTE AIREY, an individual;)
22 MARY K. AIREY, an individual; and all)
23 persons unknown claiming any interest in)
24 the property, named as DOES 1 through 20,)
25 inclusive)

Defendants.

26 Plaintiffs BEAD GOLF COURSE PROPERTIES, LLC; ADRIENNE M. LARSEN and
27 RALPH J. LARSEN, as Co-Trustees of the Larsen Family Trust, dated January 22, 1992;
28 MATTHEW AIREY and REGINA AIREY, as Co-Trustees of Edmund and Marguerite Airey

1 Trust; MATTHEW EDMUND AIREY and CHRISTY A. AIREY, as Trustees of the Airey
2 Revocable Living Trust, dated March 13, 2017; and REGINA MARIE AIREY, as Trustee of
3 Regina Marie Airey Trust, dated February 15, 2018 (collectively, "Plaintiffs") allege this
4 "Complaint for Partition of Real Property, [etc.]" (the "Complaint") as against defendants
5 JEAN BAPTISTE AIREY, an individual; MARY K. AIREY, an individual; and all persons
6 unknown claiming any interest in the subject property, and DOES 1 through 20, inclusive
7 (Defendants and Does 1-20 shall sometimes be referred to herein collectively as the
8 "defendants") as follows:

9 **THE PARTIES**

10 1. Plaintiff BEAD GOLF COURSE PROPERTIES, LLC ("BEAD") now is, and
11 at all times mentioned herein was, a duly organized Limited Liability Company, with its
12 principal place of business in San Diego County, State of California.

13 2. Plaintiffs ADRIENNE M. LARSEN and RALPH J. LARSEN, co-trustees of
14 the LARSEN FAMILY TRUST, DATED January 22, 1992 (the "Larsen Trust"), are, and at all
15 times mentioned herein were, residents of the County of San Luis Obispo, State of California.

16 3. Plaintiffs MATTHEW AIREY and REGINA AIREY, co-trustees of the
17 EDMUND and MARGUERITE AIREY TRUST (the "E&M Trust"), respectfully are, and at all
18 times mentioned herein were, residents of the Counties of San Bernardino and Los Angeles,
19 State of California.

20 4. Plaintiffs MATTHEW EDMUND AIREY and CHRISTY A. AIREY, co-
21 trustees of the AIREY REVOCABLE LIVING TRUST, dated March 13, 2007 ("M&C Trust"),
22 are, and at all times mentioned herein were, residents of the County of San Bernardino, State of
23 California.

24 5. Plaintiff REGINA MARIE AIREY, Trustee of the REGINA MARIE AIREY
25 TRUST, dated February 15, 2018 ("RMA Trust"), is, and at all times mentioned herein was, a
26 resident of the County of Los Angeles, State of California.

1 **FIRST CAUSE OF ACTION**

2 ***(For Partition Of The Airey Property Within The Royal Vista Golf Club***
3 ***Against All Defendants)***

4 13. The subject of this action is certain real property situated in Los Angeles
5 County, California, and is comprised of four (4) non-contiguous parcels of land within the
6 Royal Vista Golf Club, located in Walnut, California, namely Assessor Parcel Nos. 8762-022-
7 008, 8762-022-005, 8764-002-017 and 8764-002-004 (collectively, “the Airey Property”), the
8 legal description for which is set forth in the Litigation Guarantee attached hereto as
9 Exhibit “A” and incorporated herein by reference.

10 14. As shown in the Litigation Guarantee, Plaintiffs are tenants in common as to
11 the Airey Property. Collectively, Plaintiffs own an undivided majority interest in the
12 Airey Property, which is co-owned concurrently by Jean Baptiste Airey and Mary K. Airey
13 (collectively, the “JB Airey Defendants”). Plaintiffs reasonably believe that the JB Airey
14 Defendants’ interest in the Airey Property will be materially affected by this action.

15 15. Plaintiffs’ respective, indivisible interest in the Airey Property are as follows:

- 16 a. BEAD: an undivided 16/28 interest.
- 17 b. Larsen Trust: an undivided 4/28 interest.
- 18 c. E&M Trust: an undivided 2/28 interest.
- 19 d. M&C Trust: an undivided 1/28 interest.
- 20 e. RMA Trust: an undivided 1/28 interest.

21 16. Plaintiffs are informed and believe and based thereon allege that the JB Airey
22 Defendants claim an undivided 4/28 interest in the Airey Property, which Plaintiffs reasonably
23 believe will be materially affected by this action.

24 17. The liens and encumbrances on the Airey Property appearing of record or
25 otherwise known to the Plaintiffs or apparent from an inspection of the Airey Property and that
26 Plaintiffs reasonably believe will be materially affected by this action are depicted in the
27 Litigation Guarantee.

1 18. Prior to the commencement of this action, it was necessary for Plaintiffs to
2 procure the Litigation Guarantee. Plaintiffs incurred the expense of \$7,430 in procuring the
3 Litigation Guarantee, and that amount is the reasonable expense thereof. The Litigation
4 Guarantee is in the custody of counsel for Plaintiffs, Lerman & Pointer LLP, 12100 Wilshire
5 Blvd., Suite 600, Los Angeles, CA 90025. During the course of this action, the Litigation
6 Guarantee will be available for inspection, copying, and use by the parties and the Court.

7 19. The parties to this action are at an impasse insofar as Plaintiffs desire to sell
8 the Airey Property and have received multiple offers from various developers, but they have
9 been unable to consummate a transaction due to the JB Airey Defendants' refusal to cooperate
10 in the sale of the Airey Property even on commercially reasonable terms and at fair market
11 value.

12 20. Partition by sale and the division of proceeds of the Airey Property is more
13 equitable than division in kind because the Airey Property is comprised of approximately 64-
14 acres of non-contiguous land within an active golf course, and which cannot be physically
15 divided among the owners or severed and sold separately without impairing the respective
16 rights and interests of the owners of the Airey Property.

17 21. This action is brought and partition is sought herein, for the common benefit
18 of the parties, to preserve and secure to each of them their respective interest and rights in the
19 Property, and Plaintiffs have incurred, and will incur, costs of partition herein, including
20 reasonable attorneys' fees, for the common benefit of the parties hereto, in an amount that will
21 be subject to proof.

22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, Plaintiffs pray for judgment as follows:

24 1. For an interlocutory judgment for partition by sale of the Airey Property
25 according to the respective rights of the parties hereto;

26 2. For appointment of a referee to determine the respective interests of the
27 owners and lienholders, if any, approve and reject claims for payment, and to conduct a sale of
28

1 the Airey Property, pursuant to an interlocutory judgment and in accordance with C.C.P.
2 Sections 872.630(b), 872.820(b) and 873.020;

3 3. For the payment of all legitimate encumbrances on the Airey Property which
4 remain unpaid, if any;

5 4. That the costs of partition and of this action, including reasonable attorneys'
6 fees expended by Plaintiffs for the common benefit, fees and expenses of referees, other
7 disbursements, and interest thereon, be ordered paid by the parties respectively entitled to share
8 in the proceeds from the sale of the Airey Property, in proportion to their respective interest
9 therein and more particularly that Plaintiffs be reimbursed for sums advanced in this regard
10 beyond their just proportion thereof, including, but not limited to, the cost of the
11 Litigation Guarantee, and that such cost be included and specified in the judgment and become
12 a lien on the several shares of the defendants;

13 5. For an allowance, accounting, contribution, or other compensatory adjustment
14 among the parties according to the principles of equity;

15 6. For costs of partition, including attorneys' fees, necessarily incurred by
16 Plaintiffs for the common benefit in prosecuting or defending other actions or other
17 proceedings for the protection, confirmation, or perfection of title in the Airey Property, with
18 interest thereon;

19 7. For all costs of suit incurred herein;

20 8. For attorneys' fees to the extent provided by law;

21 9. For pre-judgment interest to the extent provided by law; and

22 10. For such other and further relief as the Court may deem just and proper.

23

24 DATED: April 4, 2019

LERMAN & POINTER LLP

25

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By: 

Curtis P. Holdsworth
Attorneys for Plaintiffs

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EXHIBIT "A"



First American Title

First American Title Company

**1855 W Redlands Blvd, Suite 100
Redlands, CA 92373**

March 29, 2019

Curtis P. Holdsworth
Lerman & Pointer LLP
12100 Wilshire Boulevard, Suite 600
Los Angeles, CA 90025

Phone: (310)229-9800
Fax: (310)229-9804
Customer Reference:

Song Honghai / Li Jia

Title Officer: Kerr / Campbell / Ivanoff
Phone: (909)889-0311
Email: FAHQ-RA-SBTitle@firstam.com
Order Number: 0623-5881538

Guarantee Number: 5881538
Guarantee Number: 0623-5881538

Owner: Song
Property: 20055 E COLIMA RD, WALNUT, CA 91789-3502, AS TO PARCEL 2;
20102 E COLIMA RD, WALNUT, CA 91789-3571, AS TO PARCEL 4;
19816 S WALNUT DR, WALNUT, CA 91789, AS TO PARCEL 5; AND
NONE SHOWN, AS TO PARCELS 1, 3 AND 6

Attached please find the following item(s):

Guarantee

Thank You for your confidence and support. We at First American Title Company maintain the fundamental principle:

Customer First!



First American Title

Guarantee

Litigation Guarantee

ISSUED BY
First American Title Insurance Company

GUARANTEE NUMBER
5015815-0623-5881538

SUBJECT TO THE LIMITATIONS CONTAINED HEREIN, THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE,

FIRST AMERICAN TITLE INSURANCE COMPANY

a Nebraska corporation, herein called the Company

GUARANTEES

the Assured named in Schedule A against loss not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurance which the Company hereby gives that, according to the public records, as of Date of Guarantee shown in Schedule A:

1. The title to the herein described estate or interest is vested in the vestee named in Schedule A.
2. Except for the matters shown in Schedule B, there are no defects, liens, encumbrances or other matters affecting title to the estate or interest in the land shown in Schedule A, which matters are not necessarily shown in the order of their priority.
3. a) The current interest holders claiming some right, title or interest by reason of the matters shown in Part II of Schedule B are as shown therein. The vestee named in Schedule A and parties claiming to have some right, title or interest by reason of the matters shown in Part II of Schedule B may be necessary parties defendant in an action, the nature of which is referred to in Schedule A.

 (b) The current interest holders claiming some right, title or interest by reason of the matters shown in Part I of Schedule B may also be necessary parties defendant in an action, the nature of which is referred to in Schedule A. However, no assurance is given hereby as to those current interest holders.
4. The return address for mailing after recording, if any, as shown on each and every document referred to in Part II of Schedule B by specific recording information, and as shown on the document(s) vesting title as shown in Schedule A are as shown in Schedule C.

THIS LITIGATION GUARANTEE IS FURNISHED SOLELY FOR THE PURPOSE OF FACILITATING THE FILING OF THE ACTION REFERRED TO IN SCHEDULE A. IT SHALL NOT BE USED OR RELIED UPON FOR ANY OTHER PURPOSE.

First American Title Insurance Company

Dennis J. Gilmore
President

Jeffrey S. Robinson
Secretary

SCHEDULE OF EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE

1. Except to the extent that specific assurances are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:
 - (a) Defects, liens, encumbrances, adverse claims or other matters against the title, whether or not shown by the public records.
 - (b) (1) Taxes or assessments of any taxing authority that levies taxes or assessments on real property; or, (2) Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not the matters excluded under (1) or (2) are shown by the records of the taxing authority or by the public records.
 - (c) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excluded under (1), (2) or (3) are shown by the public records.
2. Notwithstanding any specific assurances which are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:
 - (a) Defects, liens, encumbrances, adverse claims or other matters affecting the title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A), (C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways to which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any structure or improvements; or any rights or easements therein, unless such property, rights or easements are expressly and specifically set forth in said description.
 - (b) Defects, liens, encumbrances, adverse claims or other matters, whether or not shown by the public records; (1) which are created, suffered, assumed or agreed to by one or more of the Assureds; (2) which result in no loss to the Assured; or (3) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of the assurances provided.
 - (c) The identity of any party shown or referred to in Schedule A.
 - (d) The validity, legal effect or priority of any matter shown or referred to in this Guarantee.

GUARANTEE CONDITIONS AND STIPULATIONS

The following terms when used in the Guarantee mean:

1. DEFINITION OF TERMS.

- (a) the "Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.
- (b) "land": the land described or referred to in Schedule (A)(C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A)(C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
- (c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
- (e) "date": the effective date.

2. NOTICE OF CLAIM TO BE GIVEN BY ASSURED CLAIMANT.

An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

3. NO DUTY TO DEFEND OR PROSECUTE.

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

4. COMPANY'S OPTION TO DEFEND OR PROSECUTE ACTIONS; DUTY OF ASSURED CLAIMANT TO COOPERATE.

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:

- (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
- (b) If the Company elects to exercise its options as stated in Paragraph 4(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
- (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.
- (d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all

GUARANTEE CONDITIONS AND STIPULATIONS(Continued)

appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 2 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such Assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS: TERMINATION OF LIABILITY.

In case of a claim under this Guarantee, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.
The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is

issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price.

Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4, and the Guarantee shall be surrendered to the Company for cancellation.

- (b) To Pay or Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.
To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4.

7. DETERMINATION AND EXTENT OF LIABILITY.

This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the Exclusions From Coverage of This Guarantee.

The liability of the Company under this Guarantee to the Assured shall not exceed the least of:

- (a) the amount of liability stated in Schedule A or in Part 2;
- (b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 6 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage assured against by this Guarantee occurs, together with interest thereon; or
- (c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or

GUARANTEE CONDITIONS AND STIPULATIONS(Continued)

encumbrance assured against by this Guarantee.

8. LIMITATION OF LIABILITY.

- (a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.
- (b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.
- (c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

9. REDUCTION OF LIABILITY OR TERMINATION OF LIABILITY.

All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the amount of liability pro tanto.

10. PAYMENT OF LOSS.

- (a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
- (b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

11. SUBROGATION UPON PAYMENT OR SETTLEMENT.

Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation.

The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated

to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

12. ARBITRATION.

Provided that this does not supersede Hawaii's Uniform Arbitration Act, Hawaii Revised Statutes, Chapter 658A, either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Subject to the provisions of Hawaii Revised Statutes, Chapter 658A, arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) shall be entered in any court having jurisdiction thereof.

13. LIABILITY LIMITED TO THIS GUARANTEE; GUARANTEE ENTIRE CONTRACT.

- (a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.
- (b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.
- (c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

14. NOTICES, WHERE SENT.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at **First American Title Insurance Company, Attn: Claims National Intake Center, 1 First American Way, Santa Ana, California 92707.**



First American Title

Schedule A

Litigation Guarantee

ISSUED BY
First American Title Insurance Company

GUARANTEE NUMBER
0623-5881538

File No.: 0623-5881538

Liability: \$10,000,000.00

Date of Guarantee: March 19, 2019 at 7:30 A.M.

Fee: \$7,430.00

1. Name of Assured:

BEAD GOLF COURSE PROPERTIES, LLC; ADRIENNE M. LARSEN AND RALPH J. LARSEN, AS CO-TRUSTEES OF THE LARSEN FAMILY TRUST, DATED JANUARY 22, 1992; MATTHEW AIREY AND REGINA AIREY, AS CO-TRUSTEES OF EDMUND AND MARGUERITE AIREY TRUST; MATTHEW EDMUND AIREY AND CHRISTY A. AIREY, AS TRUSTEES OF THE AIREY REVOCABLE LIVING TRUST, DATED MARCH 13, 2017; REGINA MARIE AIREY, AS TRUSTEE OF REGINA MARIE AIREY TRUST, DATED FEBRUARY 15, 2018

2. This Litigation Guarantee is furnished solely for the purpose of facilitating the filing of an action to OBTAIN A LITIGATION GUARANTEE IN CONNECTION WITH A PARTITION ACTION.

3. The estate or interest in the Land which is covered by this Guarantee is: A FEE AS TO PARCEL 1,2,3,4,5,6, AN EASEMENT AS TO PARCEL 4A

4. Title to the estate or interest in the Land is vested in: BEAD GOLF COURSE PROPERTIES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AS TO AN UNDIVIDED 16/28 INTEREST BY DEED TO IT DATED DECEMBER 26, 2003 FROM HELENE MARIE THERESE ENGH, A MARRIED WOMAN, AS HER SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 1/7 INTEREST AS A TENANT IN COMMON; PATRICIA JANE BALLEW, A MARRIED WOMAN, AS HER SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 1/7 INTEREST AS A TENANT IN COMMON; MARY LOUISE DE LA HOZ, A MARRIED WOMAN, AS HER SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 1/7 INTEREST AS A TENANT IN COMMON; JOSEPH STEPHEN AIREY, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 1/7 INTEREST AS A TENANT IN COMMON RECORDED JANUARY 6, 2004 AS INSTRUMENT NO. 04 0025642 OF OFFICIAL RECORDS. STAMPS: \$NONE, AS TO PARCELS 1, 2, 3 AND 4

JEAN BAPTISTE AIREY AND MARY K. AIREY, HUSBAND AND WIFE AS COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP, AS TO AN UNDIVIDED 4/28 INTEREST BY DEED TO THEM DATED JUNE 28, 2017 FROM JEAN BAPTISTE AIREY, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY RECORDED JULY 6, 2017 AS INSTRUMENT NO. 20170753508 OF OFFICIAL RECORDS. STAMPS: \$NONE, AS TO PARCELS 1, 2, 3 AND 4

ADRIENNE M. LARSEN AND RALPH J. LARSEN, AS TRUTEES OF THE LARSEN FAMILY TRUST DATED JANUARY 22, 1992, AS TO AN UNDIVIDED 4/28 INTEREST BY DEED TO IT DATED JANUARY 12, 2004 FROM ADRIENNE MAUREEN LARSEN, A MARRIED WOMAN, AS HER SOLE AND SEPARATE PROPERTY RECORDED FEBRUARY 11, 2004 AS INSTRUMENT NOS. 04 0316524, 04 0316525, 04 0316530 AND RE-RECORDED MARCH 25, 2005 AS INSTRUMENT NO. 05 0694947 AND RECORDED OCTOBER 19, 2016 AS INSTRUMENT NO. 20161281452, ALL OF OFFICIAL RECORDS. STAMPS:

\$NONE, AS TO PARCELS 1, 2, 3 AND 4, SUBJECT TO SCHEDULE B, PART I, ITEM NO. 35, AS TO PARCELS 2, 3 AND 4

MARGUERITE J. AIREY, TRUSTEE OF THE EDMUND AND MARGUERITE AIREY TRUST, AS UNDIVIDED 2/28 INTEREST BY DEED TO IT DATED APRIL 30, 2007 FROM MARGUERITE J. AIREY, A WIDOW RECORDED AUGUST 27, 2007 AS INSTRUMENT NOS. 20071993470, 20071993471 AND 20071993479, ALL OF OFFICIAL RECORDS. STAMPS: \$NONE, AS TO PARCELS 2, 3 AND 4

MATTHEW E. AIREY AND CHRISTY A. AIREY AS TRUSTEES OF THE AIREY REVOCABLE LIVING TRUST DATED MARCH 13, 2017, AS TO AN UNDIVIDED 1/28 INTEREST BY DEED TO IT DATED AUGUST 31, 2017 FROM MATTHEW AIREY, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY RECORDED SEPTEMBER 1, 2017 AS INSTRUMENT NO. 20171002388 OF OFFICIAL RECORDS. STAMPS: NONE, AS TO PARCELS ,1, 2, 3 AND 4

REGINA MARIE AIREY AS TRUSTEE OF THE REGINA MARIE AIREY TRUST DATED FEBRUARY 15, 2018, AS TO AN UNDIVIDED 1/28 INTEREST BY DEED TO HER DATED FEBRUARY 15, 2018 FROM REGINA M. AIREY, AN UNMARRIED WOMAN, AS HER SOLE AND SEPARATE PROPERTY RECORDED MAY 01, 2018 AS INSTRUMENT NO. 20180420240 OF OFFICIAL RECORDS. STAMPS: \$NONE, AS TO PARCELS 1, 2, 3 AND 4

MOYNIER GOLF COURSE PROPERTY, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AS TO AN UNDIVIDED 1/2 INTEREST BY DEED TO IT DATED FEBRUARY 27, 2004 FROM THE FELICIAN SISTERS OF THE SOUTHWEST, INC. FOR THE BENEFIT OF THE CONGREGATTON OF SISTERS OF ST. FELIX RECORDED MARCH 23, 2004 AS INSTRUMENT NO. 04 0681967 OF OFFICIAL RECORDS. STAMPS: \$30.80, AS TO PARCELS 5 AND 6

BEAD GOLF COURSE PROPERTIES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY AS TO AN UNDIVIDED 4/14 INTEREST BY DEED TO IT DATED DECEMBER 26, 2003 FROM HELENE MARIE THERESE ENGH, A MARRIED WOMAN, AS HER SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 1/14 INTEREST AS A TENANT IN COMMON; PATRICIA JANE BALLEW, A MARRIED WOMAN, AS HER SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 1/14 INTEREST AS A TENANT IN COMMON; MARY LOUISE DE LA HOZ, A MARRIED WOMAN, AS HER SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 1/14 INTEREST AS A TENANT IN COMMON; JOSEPH STEPHEN AIREY, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 1/14 INTEREST AS A TENANT IN COMMON RECORDED JANUARY 06, 2004 AS INSTRUMENT NO. 04 0025641 OF OFFICIAL RECORDS. STAMPS: \$NONE, AS TO PARCELS 5 AND 6

ADRIENNE M. LARSEN AND RALPH J. LARSEN, AS TRUSTEES OF THE LARSEN FAMILY TRUST DATED JANUARY 22, 1992, ALL HER RIGHT, TITLE AND AN UNDIVIDED 1/14 INTEREST BY DEED TO IT DATED JANUARY 12, 2004 FROM ADRIENNE MAUREEN LARSEN, A MARRIED WOMAN, AS HER SOLE AND SEPARATE PROPERTY RECORDED FEBRUARY 11, 2004 AS INSTRUMENT NOS. 04 0316522 AND 04 0316526 OF OFFICIAL RECORDS. STAMPS: \$NONE, AS TO PARCELS 5 AND 6

MARGUERITE J. AIREY, TRUSTEE OF THE EDMUND AND MARGUERITE AIREY TRUST, AS AN ASSET TO TRUST, AS TO AN UNDIVIDED 1/28 INTEREST BY DEED TO IT DATED APRIL 30, 2007 FROM MARGUERITE J. AIREY, A WIDOW RECORDED AUGUST 27, 2007 AS INSTRUMENT NO. 20071993472 OF OFFICIAL RECORDS. STAMPS: \$NONE, AS TO PARCEL 5

JEAN BAPTISTE AIREY AND MARY K. AIREY, HUSBAND AND WIFE, AS COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP, AS TO AN UNDIVIDED 1/14 INTEREST BY DEED TO THEM DATED NOVEMBER 2, 2017 FROM JEAN BAPTISTE AIREY, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY RECORDED NOVEMBER 22, 2017 AS INSTRUMENT NO. 20171344645 OF OFFICIAL RECORDS. STAMPS: \$NONE, AS TO PARCELS 5 AND 6

MATTHEW E. AIREY AND CHRISTY A. AIREY AS TRUSTEES OF THE AIREY REVOCABLE LIVING TRUST DATED MARCH 13, 2017, AS TO AN UNDIVIDED 1/56 INTEREST BY DEED TO IT DATED OCTOBER 23, 2017 FROM MATTHEW AIREY, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY RECORDED NOVEMBER 22, 2017 AS INSTRUMENT NO. 20171344646 OF OFFICIAL RECORDS. STAMPS: \$NONE, AS TO PARCELS 5 AND 6

REGINA M. AIREY, AN UNMARRIED WOMAN, AS HER SOLE AND SEPARTE PROPERTY, AS TO AN UNDIVIDED 1/56 INTEREST AS A TENANT IN COMMON BY DEED TO HER DATED MAY 30, 2002 FROM JEAN BAPTISTE AIREY, SUCCESSOR TRUSTEE OF THE AIREY FAMILY TRUST, OWNER OF AN UNDIVIDED 1/2 INTEREST AS A TENANT IN COMMON RECORDED AUGUST 13, 2002 AS INSTRUMENT NO. 02-1896518 OF OFFICIAL RECORDS. STAMPS: \$NONE, AS TO PARCEL 6

5. The Land referred to in this Guarantee is described as follows:

PARCEL 1: (APN: 8762-022-008)

THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK 138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID TRACT 9494, WITHIN THE NORTHWESTERLY LINE OF FIFTH AVENUE, 100 FEET WIDE, AS DESCRIBED IN THE DEED TO THE COUNTY OF LOS ANGELES, RECORDED IN BOOK 11599 PAGE 391, OFFICIAL RECORDS; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 33° 15' 20" WEST, 1011.47 FEET, MORE OR LESS, TO AN ANGLE POINT IN THE BOUNDARY LINES OF SAID TRACT 9494; THENCE ALONG THE WESTERLY LINE OF SAID TRACT, NORTH 0° 15' 25" WEST, 949.07 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID TRACT; THENCE ALONG SAID NORTHERLY LINE, SOUTH 79° 33' 08" EAST 8.19 FEET TO AN ANGLE POINT IN THE BOUNDARY LINES OF SAID TRACT; THENCE CONTINUING ALONG THE BOUNDARY LINES OF SAID TRACT, NORTH 57° 52' 17" EAST, 274.48 FEET TO THE EASTERLY LINE OF THE LAND DESCRIBED AS PARCEL 1 IN THE LEASE RECORDED ON DECEMBER 18, 1963 AS INSTRUMENT NO. 4661, IN BOOK M1413 PAGE 223, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND DESCRIBED IN SAID LEASE, SOUTH 40° 03' 53" EAST, 130.62 FEET, SOUTH 14° 54' 34" EAST 102.96 FEET, SOUTH 0° 29' 27" EAST, 176.26 FEET, SOUTH 15° 00' 40" WEST, 222.92 FEET, SOUTH 10° 18' 50" EAST, 203.61 FEET, SOUTH 25° 58' 50" EAST 61.94 FEET, NORTH 88° 28' 51" EAST, 112.28 FEET, SOUTH 53° 22' 09" EAST, 54.63 FEET AND SOUTH 61° 31' 19" EAST, 31.66 FEET TO THE NORTHERLY LINE OF THE LAND DESCRIBED AS PARCEL 5 IN THE DEED TO HUNTINGTON PARK FIRST SAVINGS AND LOAN ASSOCIATION, RECORDED JANUARY 2, 1962 AS INSTRUMENT NO. 827 IN BOOK D1465 PAGE 632, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF SAID PARCEL 5 AND OF PARCEL 4 OF SAID LAST MENTIONED DEED, SOUTH 69° 40' 36" WEST, 51.48 FEET, SOUTH 19° 00' 30" EAST, 629.32 FEET, SOUTH 68° 11' 54" EAST, 53.85 FEET, NORTH 64° 40' 38" EAST 350.70 FEET, NORTH 78° 38' 48" EAST, 446.79 FEET AND SOUTH 30° 38' 15" EAST, 79.92 FEET TO NORTHWESTERLY LINE OF SAID FIFTH AVENUE; THENCE ALONG SAID NORTHWESTERLY LINE, SOUTH 59° 21' 45" WEST, 1145.85 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, TOGETHER WITH THAT PORTION OF FIFTH AVENUE, THE TITLE TO WHICH WOULD PASS BY A CONVEYANCE OF THE ABOVE DESCRIBED LAND.

EXCEPT THEREFROM THAT PORTION THEREOF DESCRIBED AS PARCEL 1-9 IN THE FINAL ORDER OF CONDEMNATION ENTERED IN LOS ANGELES COUNTY SUPERIOR COURT, CASE NO. C 344,840, A CERTIFIED COPY BEING RECORDED JANUARY 8, 1981 AS INSTRUMENT NO. 81-18500, FOR FAIRWAY DRIVE AND WALNUT DRIVE.

PARCEL 2: (APN: 8762-022-005)

THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK 138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHEASTERLY LINE OF SAID TRACT, WITH THE NORTHWESTERLY LINE OF FIFTH AVENUE, 100 FEET WIDE, AS DESCRIBED IN THE DEED TO THE COUNTY OF LOS ANGELES, RECORDED IN BOOK 11599 PAGE 391, OFFICIAL RECORDS; THENCE ALONG SAID NORTHWESTERLY LINE, SOUTH 59° 21' 45" WEST, 864.14 FEET TO THE MOST EASTERLY CORNER OF THE LAND DESCRIBED AS PARCEL 2 IN THE DEED TO HUNTINGTON PARK FIRST SAVINGS AND LOAN ASSOCIATION, RECORDED JANUARY 2, 1962 AS INSTRUMENT NO. 830 IN BOOK D1465 PAGE 636, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINE OF THE

LAND DESCRIBED IN PARCEL 2 OF SAID DEED, NORTH 37° 14' 13" WEST, 240.00 FEET, SOUTH 59° 21' 45" WEST, 110.00 FEET, NORTH 37° 14' 13" WEST, 92.26 FEET, NORTH 5° 42' 38" EAST, 77.64 FEET AND NORTH 87° 57' 17" WEST 68.34 FEET TO A POINT IN THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED AS EXHIBIT "A" IN THE LEASE RECORDED DECEMBER 18, 1963 AS INSTRUMENT NO. 4660 IN BOOK M1413 PAGE 200, OFFICIAL RECORDS, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID SOUTHWESTERLY LINE, NORTH 37° 14' 13" WEST, 564.20 FEET, MORE OR LESS, TO AN ANGLE POINT IN SAID LINE; THENCE CONTINUING ALONG THE BOUNDARIES DESCRIBED IN SAID LEASE, SOUTH 52° 45' 47" WEST, 135.22 FEET AND NORTH 46° 06' 13" WEST, 41.74 FEET TO THE BOUNDARY LINE OF THE LAND DESCRIBED IN THE LEASE RECORDED DECEMBER 18, 1963 AS INSTRUMENT NO. 4661 IN BOOK M1413 PAGE 223, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND DESCRIBED IN SAID LAST MENTIONED LEASE, SOUTH 3° 17' 44" WEST, 49.70 FEET, SOUTH 24° 31' 44" WEST, 85.94 FEET, SOUTH 61° 39' 59" WEST, 115.61 FEET AND SOUTH 6° 58' 44" WEST, 71.26 FEET TO THE NORTHWESTERLY LINE OF THE LAND DESCRIBED AS PARCEL 5 IN THE DEED TO HUNTINGTON PARK FIRST SAVINGS AND LOAN ASSOCIATION, RECORDED JANUARY 2, 1962 AS INSTRUMENT NO. 827 IN BOOK M1465 PAGE 632, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND DESCRIBED IN SAID LAST MENTIONED DEED, NORTH 69° 40' 36" EAST, 28.00 FEET AND SOUTH 7° 42' 43" WEST, 137.27 FEET TO THE MOST NORTHERLY CORNER OF THE LAND DESCRIBED AS PARCEL 2 IN THE DEED TO HELENE M. AIREY, A MARRIED WOMAN, RECORDED MARCH 15, 1962 AS INSTRUMENT NO. 4920 IN BOOK D1545 PAGE 755, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND DESCRIBED AS SAID PARCEL 2 OF SAID LAST MENTIONED DEED, SOUTH 68° 05' 48" WEST, 80.18 FEET, SOUTH 21° 31' 49" EAST, 81.27 FEET AND NORTH 68° 05' 48" EAST, 34.51 FEET TO THE BOUNDARY LINE OF THE LAND DESCRIBED AS SAID PARCEL 5 IN SAID DEED RECORDED IN BOOK D1465 PAGE 632, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND DESCRIBED AS SAID PARCEL 5 AND IN PARCEL 4 OF SAID LAST MENTIONED DEED, SOUTH 7° 42' 43" WEST, 253.63 FEET, SOUTH 68° 11' 54" WEST, 30.07 FEET, SOUTH 19° 00' 39" EAST, 183.50 FEET, SOUTH 68° 11' 54" WEST, 18.10 FEET, NORTH 64° 40' 38" EAST, 73.47 FEET, NORTH 21° 54' 58" EAST, 436.31 FEET, NORTH 74° 59' 24" EAST, 328.20 FEET AND SOUTH 87° 57' 17" EAST, 71.75 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 3: (APN: 8764-002-017)

THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK 138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID LOT 1 WITH THE SOUTHEASTERLY LINE OF FIFTH AVENUE, 100 FEET WIDE, AS DESCRIBED IN DEED RECORDED IN BOOK 11599 PAGE 391, OFFICIAL RECORDS; THENCE ALONG SAID SOUTHEASTERLY LINE, NORTH 59° 21' 45" EAST, 1260.10 FEET TO THE MOST WESTERLY CORNER OF LAKE CANYON DRIVE, AS SHOWN ON THE MAP OF TRACT 28140, RECORDED IN BOOK 709 PAGES 86 TO 91 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT BEING THE WESTERLY TERMINUS OF A TANGENT CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE ALONG THE BOUNDARY LINES OF SAID TRACT 28140, THE FOLLOWING COURSES AND DISTANCES, EASTERLY ALONG SAID TANGENT CURVE THROUGH AN ANGLE OF 86° 09' 22" AN ARC LENGTH OF 37.59 FEET, TANGENT TO SAID CURVE, SOUTH 34° 28' 53" EAST, 86.87 FEET, SOUTH 16° 41' 57" WEST, 146.16 FEET, SOUTH 37° 41' 38" WEST, 55.61 FEET, SOUTH 58° 59' 41" WEST, 473.68 FEET, SOUTH 70° 59' 39" WEST, 285.57 FEET, SOUTH 11° 33' 37" WEST, 89.82 FEET, SOUTH 35° 45' 42" EAST 475.69 FEET, NORTH 52° 12' 14" EAST, 445.46 FEET, NORTH 61° 35' 26" EAST, 720.06 FEET, SOUTH 7° 47' 05" EAST 93.44 FEET, SOUTH 45° 34' 52" WEST, 697.24 FEET, SOUTH 54° 46' 06" WEST, 391.76 FEET, SOUTH 28° 29' 10" WEST, 146.77 FEET, SOUTH 32° 57' 39" EAST 152.56 FEET, SOUTH 37° 23' 55" EAST, 390.22 FEET AND SOUTH 69° 19' 57" EAST, 107.14 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT 1; THENCE ALONG SAID SOUTHEASTERLY LINE, SOUTH 52° 42' 29" WEST, 335.00 FEET TO THE MOST SOUTHERLY CORNER OF SAID LOT; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID LOT, NORTH 33° 15' 57" WEST 1711.03 FEET TO THE POINT OF BEGINNING TOGETHER WITH THAT PORTION OF FIFTH AVENUE, THE TITLE TO WHICH WOULD PASS WITH A CONVEYANCE OF THE ABOVE DESCRIBED LAND.

PARCEL 4: (APN: 8764-002-004)

THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK 138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 1 OF TRACT 28140, AS PER MAP RECORDED IN BOOK 709 PAGES 86 TO 91 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE BOUNDARY LINE OF SAID TRACT 28140, SOUTH 60° 15' 36" EAST, 69.02 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE BOUNDARIES OF SAID TRACT 28140, THE FOLLOWING COURSES AND DISTANCES: SOUTH 60° 15' 36" EAST, 109.18 FEET, SOUTH 23° 34' 32" EAST, 60.01 FEET, SOUTH 60° 03' 37" EAST, 182.33 FEET, SOUTH 40° 36' 05" EAST, 202.83 FEET, SOUTH 61° 59' 26" WEST, 106.47 FEET, SOUTH 6° 08' 28" EAST, 158.91 FEET, SOUTH 52° 31' 38" EAST, 437.22 FEET AND SOUTH 58° 22' 16" EAST, 556.74 FEET ALONG SAID BOUNDARY LINES AND PROLONGATION THEREOF TO THE SOUTHEASTERLY LINE OF SAID TRACT 9494; THENCE ALONG THE SOUTHEASTERLY AND NORTHEASTERLY LINES OF SAID TRACT 9494, NORTH 53° 30' 52" EAST, 427.00 FEET AND NORTH 37° 54' 50" WEST 235.00 TO AN ANGLE POINT IN THE SOUTHERLY LINE OF LOT 195 OF TRACT 27141, AS PER MAP RECORDED IN BOOK 765 PAGES 72 TO 86 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE BOUNDARY LINES OF SAID TRACT 27141, SOUTH 34° 29' 02" WEST, 88.82 FEET, NORTH 48° 11' 01" WEST, 572.93 FEET, NORTH 17° 55' 40" EAST 71.47 FEET AND NORTH 86° 44' 48" EAST, 155.21 FEET TO THE NORTHEASTERLY LINE OF SAID TRACT 9494; THENCE ALONG SAID NORTHEASTERLY LINE, NORTH 37° 54' 50" WEST, 325.00 FEET; THENCE NORTH 74° 12' 28" WEST, 200.59 FEET; THENCE NORTH 65° 47' 07" WEST, 393.93 FEET; THENCE SOUTH 59° 21' 45" WEST, 348.12 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 4A:

AN EASEMENT FOR INGRESS, EGRESS AND INCIDENTAL PURPOSES OVER THOSE PORTIONS OF LOTS 48 AND 131 OF TRACT NO. 28140, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 709 PAGES 86 TO 91 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 48, BEING ALSO THE MOST NORTHERLY CORNER OF LOT 49 OF SAID TRACT; THENCE SOUTH 25° 23' 45" WEST 109.59 FEET TO THE MOST NORTHERLY CORNER OF LOT 129 OF SAID TRACT, BEING A POINT IN THE WESTERLY LINE OF SAID LOT 131; THENCE ALONG SAID WESTERLY LINE NORTH 7° 47' 05" WEST, 93.44 FEET TO THE MOST EASTERLY CORNER OF LOT 34 OF SAID TRACT; THENCE NORTH 25° 23' 45" EAST, 107.10 FEET TO A POINT IN THE EASTERLY LINE OF SAID LOT 131, SAID EASTERLY LINE BEING A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 330.00 FEET, THE RADIAL LINE TO SAID POINT BEARS NORTH 76° 59' 57" EAST; THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 10° 48' 27" AN ARC DISTANCE OF 62.25 FEET TO THE SOUTHWESTERLY PROLONGATION OF THAT CERTAIN LINE IN THE BOUNDARY OF SAID LOT 48 HAVING A BEARING LENGTH OF NORTH 61° 59' 26" EAST 106.47 FEET; THENCE ALONG SAID PROLONGED LINE NORTH 61° 59' 26" EAST 18.52 FEET TO AN ANGLE POINT IN THE BOUNDARY LINES OF SAID LOT 48; THENCE ALONG THE EASTERLY LINE OF SAID LOT 48, SOUTH 6° 08' 28" EAST 158.91 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 5: (APN: 8762-022-001)

THAT PORTION OF LOT 1 OF TRACT NO. 9494, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 138, PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT SAID INTERSECTION OF THE CENTERLINE OF SAID WALNUT DRIVE AND THE SOUTHERLY PROLONGATION OF SAID CENTERLINE OF WATER STREET;

THENCE NORTH 57 DEGREES 41 MINUTES 30 SECONDS EAST, ALONG SAID CENTERLINE OF WALNUT DRIVE, 101.70 FEET;

THENCE SOUTH 26 DEGREES 01 MINUTES 15 SECONDS EAST 20.12 FEET TO A POINT IN THE NORTHWESTERLY LINE OF SAID LOT NO. 1, SAID LAST MENTIONED POINT BEING THE TRUE

POINT OF BEGINNING;

THENCE SOUTH 26 DEGREES 01 MINUTES 15 SECONDS EAST 57.73 FEET;

THENCE SOUTH 64 DEGREES 18 MINUTES 45 SECONDS WEST 26.30 FEET;

THENCE NORTH 26 DEGREES 01 MINUTES 15 SECONDS WEST 18.20 FEET;

THENCE NORTH 64 DEGREES 18 MINUTES 45 SECONDS EAST 16.30 FEET;

THENCE NORTH 26 DEGREES 01 MINUTES 15 SECONDS WEST 38.43 FEET, MORE OR LESS, TO SAID NORTHWESTERLY LINE OF SAID LOT NO. 1;

THENCE NORTH 57 DEGREES 41 MINUTES 30 SECONDS EAST 10.06 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT THEREFROM ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES AND ALL PRECIOUS MINERALS AND METALS BELOW THE DEPTH OF 500 FEET BELOW THE SURFACE OF THE DEMISED PREMISES, PROVIDED FURTHER, HOWEVER, THAT THERE SHALL BE NO RIGHT OF SURFACE ENTRY FOR THE PURPOSE OF TAKING ANY OF SAID RESERVED SUBSTANCES, AS RESERVED IN DEED DECEMBER 23, 1976 AS INSTRUMENT NO. 1973, OF OFFICIAL RECORDS.

PARCEL 6: (APN: 8760-029-048)

PARCEL 2, AS SHOWN ON CERTIFICATE OF COMPLIANCE NO. 101,391 AS EVIDENCED BY DOCUMENT RECORDED DECEMBER 21, 1995 AS INSTRUMENT NO. 1995-2028455 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING THAT PORTION OF LOT 5, PARCEL "A", IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON PARTITION MAP IN CASE NO. 72721, NEW PROBATE OF THE SUPERIOR COURT OF SAID COUNTY, SAID LOT BEING IN THAT PORTION OF THE 33.05 ACRE ALLOTMENT TO JESUS YBARRA, IN THE RANCHO DE LA BREA, AS SHOWN ON THE PARTITION MAP FILED WITH THE REPORT OF THE REFEREES IN CASE NO. 2168, OF THE DISTRICT COURT OF THE 17TH JUDICIAL DISTRICT OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF PARCEL 6 OF PARCEL MAP NO. 268, AS SHOWN ON THE MAP FILED IN BOOK 231, PAGES 31 THROUGH 34, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, SAID CORNER ALSO BEING THE NORTHEASTERLY CORNER OF SAID LOT 5, PARCEL "A"; THENCE SOUTH 74°58' 55" WEST 85.21 FEET ALONG THE SOUTHERLY LINE OF SAID PARCEL 6, THENCE LEAVING SAID SOUTHERLY LINE SOUTH 35° 10' 05" EAST 422.41 FEET, SAID COURSE BEING PARALLEL WITH THE EASTERLY LINE OF SAID LOT 5, PARCEL "A", TO A POINT ON THE NORTHERLY LINE OF THE SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY RIGHT-OF-WAY, 100 FEET WIDE, AS DESCRIBED IN THE DEED AS RECORDED IN BOOK 1505, PAGE 84 OF DEEDS OF SAID COUNTY, SAID POINT BEING ON A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 2814.90 FEET, A RADIAL LINE THROUGH SAID POINT BEARS SOUTH 04° 09' 45" EAST; THENCE EASTERLY 92.44 FEET ALONG SAID CURVE AND SAID RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 01° 52' 54" TO THE SOUTHEASTERLY CORNER OF SAID LOT 5, PARCEL "A"; THENCE NORTH 35° 10' 05" WEST 439.37 FEET ALONG THE EASTERLY LINE OF SAID LOT 5, PARCEL A, TO THE POINT OF BEGINNING.

By:

Authorized Countersignature



First American Title

Litigation Guarantee

ISSUED BY
First American Title Insurance Company

GUARANTEE NUMBER
0623-5881538

Schedule B

File No.: 0623-5881538

Defects, liens, encumbrances or other matters affecting title:

Part I

1. General and special taxes for the fiscal year **2019-2020** a lien not yet due or payable.
2. GENERAL AND SPECIAL TAXES FOR THE FISCAL YEAR 2018-2019,

FIRST INSTALLMENT: \$8,036.63, PAID
PENALTY: \$803.66
SECOND INSTALLMENT: \$8,036.61, OPEN
PENALTY: \$813.66
CODE AREA: 08366
A.P. NO.: 8762-022-008
EXEMPTION: \$0.00
LAND: \$913,493.00
IMPROVEMENT: \$101,534.00
TOTAL AMOUNT: \$1,015,027.00

Said matter affects: **PARCEL 1.**

3. GENERAL AND SPECIAL TAXES FOR THE FISCAL YEAR 2018-2019,

FIRST INSTALLMENT: \$3,510.02, PAID
PENALTY: \$351.00
SECOND INSTALLMENT: \$3,510.01, OPEN
PENALTY: \$361.00
CODE AREA: 08366
A.P. NO.: 8762-022-005
EXEMPTION: \$0.00
LAND: \$326,123.00
IMPROVEMENT: \$36,227.00
TOTAL AMOUNT: \$362,350.00

Said matter affects: **PARCEL 2.**

4. GENERAL AND SPECIAL TAXES FOR THE FISCAL YEAR 2018-2019,

FIRST INSTALLMENT: \$8,757.61, PAID
PENALTY: \$875.76
SECOND INSTALLMENT: \$8,757.61, OPEN
PENALTY: \$885.76

CODE AREA: 08273
A.P. NO.: 8764-002-017
EXEMPTION: \$0.00
LAND: \$1,090,264.00
IMPROVEMENT: \$121,104.00
TOTAL AMOUNT: \$1,211,368.00

Said matter affects: **PARCEL 3.**

5. GENERAL AND SPECIAL TAXES FOR THE FISCAL YEAR 2018-2019,

FIRST INSTALLMENT: \$7,247.59, PAID
PENALTY: \$724.75
SECOND INSTALLMENT: \$7,247.59, OPEN
PENALTY: \$734.75
CODE AREA: 08273
A.P. NO.: 8764-002-004
EXEMPTION: \$0.00
LAND: \$892,825.00
IMPROVEMENT: \$99,193.00
TOTAL AMOUNT: \$992,018.00

Said matter affects: **PARCEL 4.**

6. GENERAL AND SPECIAL TAXES FOR THE FISCAL YEAR 2018-2019,

FIRST INSTALLMENT: \$176.74, PAID
PENALTY: \$17.67
SECOND INSTALLMENT: \$176.72, OPEN
PENALTY: \$27.67
CODE AREA: 08366
A.P. NO.: 8762-022-001
EXEMPTION: \$0.00
LAND: \$955.00
IMPROVEMENT: \$130.00
TOTAL AMOUNT: \$1,085.00

Said matter affects: **PARCEL 5.**

7. GENERAL AND SPECIAL TAXES FOR THE FISCAL YEAR 2018-2019,

FIRST INSTALLMENT: \$508.64, PAID
PENALTY: \$50.86
SECOND INSTALLMENT: \$508.64, OPEN
PENALTY: \$60.86
CODE AREA: 08281
A.P. NO.: 8760-029-048
EXEMPTION: \$0.00
LAND: \$74,797.00
IMPROVEMENT: \$0.00
TOTAL AMOUNT: \$74,797.00

Said matter affects: **PARCEL 6.**

8. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
9. The property covered herein lies within the boundaries of various assessment districts and any amendments thereto.
10. The lack of a right of access to and from the land.

Said matter affects: **PARCEL 2.**

11. The effect of a map purporting to show the land and other property, recorded in book **176** page **58** of record of surveys.

Said matter affects: **PARCELS 1, 2, 3 AND 4.**

12. RIGHT OF THE SEVERAL ALLOTEES IN THE RANCHO RINCON DE LA BREA OF ENTRY AND RIGHT-OF-WAY OVER SAID LAND, AND OTHER PROPERTY, INCLUDES IN SAID RANCHO FOR USE, CLEANING AND REPAIRING OF THE ZANJA, AND DITCHES MENTIONED IN THE DECREE OF PARTITION OF SAID RANCHO HAD IN CASE NO. 2168, OF THE DISTRICT COURT, AS PROVIDED BY SAID DECREE.

Said matter affects: **PARCEL 6.**

13. An easement shown on the filed map recorded in BOOK 8762, PAGE 22 of assessor map.

For: DRAINAGE and incidental purposes.
Affects: PARCEL 1

14. An easement for PUBLIC ROAD, HIGHWAY and incidental purposes, recorded as BOOK 11599, PAGE 391 OF OFFICIAL RECORDS.

In Favor of: COUNTY OF LOS ANGELES
Affects: PARCEL 1

15. AN EASEMENT FOR WATER PIPE LINES AND INCIDENTAL PURPOSES, RECORDED January 27, 1949 AS INSTRUMENT NO. 895 AND FEBRUARY 3, 1949 AS INSTRUMENT NO. 632, BOTH OF OFFICIAL RECORDS.
AFFECTS: PARCELS 1 AND 2.

16. AN EASEMENT FOR WATER PIPE LINES AND INCIDENTAL PURPOSES, RECORDED January 27, 1949 AS INSTRUMENT NO. 896 AND FEBRUARY 3, 1949 AS INSTRUMENT NO. 631, BOTH OF OFFICIAL RECORDS.
AFFECTS: PARCELS 3 AND 4.

17. AN EASEMENT FOR PIPE LINES, CONDUITS AND INCIDENTAL PURPOSES, RECORDED January 27, 1949 AS INSTRUMENT NO. 897, IN BOOK 29261, PAGE 255 OF OFFICIAL RECORDS.
AFFECTS: PARCELS 5 AND 6.

18. An easement for MAINTAINING, CONSTRUCTING, CLEANING, RENEWING AND REPAIRING PIPE LINES, CONDUITS AND SIMILAR APPLIANCES FOR CONVEYING WATER FOR IRRIGATION AND DOMESTIC USES and incidental purposes, recorded January 27, 1949 as BOOK 29261, PAGE 258 OF OFFICIAL RECORDS.

In Favor of: HELEN M. AIREY
Affects: PARCEL 6

19. An easement as shown on the map filed or recorded September 19, 1963 as Tract 28140 of Maps.

For: **SANITARY SEWER** and incidental purposes.
Affects: **PARCEL 3**

20. A lease dated March 21, 1961, executed by ANDRE MOYNIER as lessor and EL RANCHO ESTATES, INCORPORATED as lessee, recorded December 18, 1963 as INSTRUMENT NO. 4660 of Official Records.

DEFECTS, LIENS, ENCUMBRANCES OR OTHER MATTERS AFFECTING THE LEASEHOLD ESTATE, WHETHER OR NOT SHOWN BY THE PUBLIC RECORDS.

Said matter affects: **PARCEL 6.**

21. A lease dated March 21, 1961, executed by HELENE M. AIREY as lessor and EL RANCHO ESTATES, INCORPORATED as lessee, recorded DECEMBER 18, 1963 as INSTRUMENT NO. 4661 of Official Records.

DEFECTS, LIENS, ENCUMBRANCES OR OTHER MATTERS AFFECTING THE LEASEHOLD ESTATE, WHETHER OR NOT SHOWN BY THE PUBLIC RECORDS.

Said matter affects: **PARCELS 1, 2, 3 AND 4.**

22. AN EASEMENT FOR VARIABLE SLOPE AND INCIDENTAL PURPOSES, RECORDED DECEMBER 30, 1966 AS INSTRUMENT NO. 2921 OF OFFICIAL RECORDS.

AFFECTS: PARCEL 4.

23. A waiver of any claims for damages by reason of the location, construction, landscaping or maintenance of a contiguous freeway, highway or roadway, as contained in the document recorded **June 27, 1967** in **INSTRUMENT NO. 3848 IN BOOK M2590, PAGE 717** of Official Records.

Said matter affects: **PARCELS 1, 2, 3 AND 4.**

24. A lease dated March 21, 1961, executed by HELENE M. AIREY & ANDRE MOYNIER as lessor and EL RANCHO ESTATES, INCORPORATED, A CALIFORNIA CORPORATION as lessee, recorded December 04, 1967 as INSTRUMENT NO. 412, IN BOOK M-2791, PAGE 934 of Official Records.

DEFECTS, LIENS, ENCUMBRANCES OR OTHER MATTERS AFFECTING THE LEASEHOLD ESTATE, WHETHER OR NOT SHOWN BY THE PUBLIC RECORDS.

Said matter affects: **PARCEL 6.**

25. AN EASEMENT FOR INGRESS AND EGRESS AND WATER LINE PURPOSES AND INCIDENTAL PURPOSES, RECORDED December 04, 1967 AS INSTRUMENT NO. 412, IN BOOK M-2791, PAGE 934 OF OFFICIAL RECORDS.

AFFECTS: PARCEL 6.

26. The fact that the land lies within the boundaries of the **TRANSPORTATION-DISTRIBUTION-INDUSTRIAL REDEVELOPMENT PROJECT NO. 2** redevelopment project area, as disclosed by the document recorded **June 17, 1974** as **INSTRUMENT NO. 2793 IN BOOK M-4712, PAGE 297** of official records.

Said matter affects: **PARCEL 6.**

27. AN EASEMENT FOR DRAINAGE AND INCIDENTAL PURPOSES, RECORDED JANUARY 8, 1981 AS INSTRUMENT NO. 81-18500 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 1.

28. AN EASEMENT FOR ELECTRIC LINES AND INCIDENTAL PURPOSES, RECORDED October 6, 1988 AS INSTRUMENT NO. 88-1613675 OF OFFICIAL RECORDS.
AFFECTS: PARCELS 1, 2, 3 AND 4.

29. THE TERMS, PROVISIONS AND EASEMENT(S) CONTAINED IN THE DOCUMENT ENTITLED "WATER RIGHTS AGREEMENT, DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, AND GRANT OF EASEMENTS " RECORDED FEBRUARY 05, 1996 AS INSTRUMENT NO. 96-201209 OF OFFICIAL RECORDS.

Said matter affects: **PARCEL 6.**

30. AN EASEMENT FOR RETAINING WALL, AND FOR LANDSCAPING AND INCIDENTAL PURPOSES, RECORDED February 17, 1999 AS INSTRUMENT NO. 99-252202 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 2.

31. An easement for INGRESS AND EGRESS FOR THE LIMITED PURPOSE OF GRADING, THE CONSTRUCTION AND MAINTENANCE OF A RETAINING WALL, AND FOR LANDSCAPING and incidental purposes, recorded FEBRUARY 17, 1999 as INSTRUMENT NO. 99-0252203 AND CORRECTED IN DOCUMENT RECORDED DECEMBER 21, 2000 AS INSTRUMENT NO. 00-1993922, BOTH OF OFFICIAL RECORDS.

In Favor of: PACIFIC COMMUNITIES BUILDER, INCORPORATED
Affects: as described therein

32. An easement for TEMPORARY CONSTRUCTION and incidental purposes, recorded January 20, 2015 as INSTRUMENT NO. 20150065534 OF OFFICIAL RECORDS.

In Favor of: ALAMEDA CORRIDOR-EAST CONSTRUCTION AUTHORITY
Affects: PARCEL 6

33. Rights of parties in possession of the land by reason of unrecorded leases, if any.

34. Notice of pendency of action recorded November 7, 2013 as INSTRUMENT NO. 20131588010 OF OFFICIAL RECORDS.

Court: SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES
Case No.: BC526915
Plaintiff: ALAMEDA CORRIDOR-EAST CONSTRUCTION AUTHORITY
Defendant: MOYNIER GOLF COURSE PROPERTY, LLC, AS TO AN UNDIVIDED 1/2 INTEREST; BEAD GOLF COURSE PROPERTIES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY AS TO AN UNDIVIDED 4/14 INTEREST; ADRIENNE M. LARSEN AND RALPH J. LARSEN AS TRUSTEES OF THE LARSEN FAMILY TRUST DATED JANUARY 22, 1992, ALL HER RIGHT TITLE, AND UNDIVIDED 1/14 INTEREST; MARGUERITE J. AIREY, TRUSTEE OF THE EDMUND AND MARGUERITE AIREY TRUST, AS AN ASSET TO TRUST, AS TO AN UNDIVIDED 1/28 INTEREST; JEAN BAPTISTE AIREY, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 1/14 INTEREST; MATTHEW AIREY, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 1/56 INTEREST AS A TENANT IN COMMON; REGINA M. AIREY, AN UNMARRIED WOMAN, AS HER SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 1/56 INTEREST AS A TENANT IN COMMON; HELEN M. AIREY; COUNTY OF LOS ANGELES; SOUTHERN CALIFORNIA GAS COMPANY, A CORPORATION AND SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA; DOE 1 THROUGH DOE 100; AND ALL PERSONS UNKNOWN CLAIMING AN INTEREST IN THE PROPERTY TO BE CONDEMNED HEREIN
Purpose: AN ACTION IN EMINENT DOMAIN

Said matter affects: **PARCEL 6.**

35. THE EFFECT OF A QUITCLAIM DEED DATED OCTOBER 11, 2016, EXECUTED BY ADRIENNE MAUREEN LARSEN, WHICH PURPORTEDLY CONVEYS THE LAND TO ADRIENNE M. LARSEN AND RALPH J. LARSEN, AS TRUTEES OF THE LARSEN FAMILY TRUST DATED JANUARY 22, 1992 RECORDED OCTOBER 19, 2016 AS INSTRUMENT NO. 20161281452 OF OFFICIAL RECORDS.

Said matter affects: **PARCELS 2, 3 AND 4.**

36. The terms and provisions contained in the document entitled "**MEMORANDUM OF AGREEMENT BETWEEN CO-OWNERS**", recorded **JANUARY 10, 2017**, as **INSTRUMENT NO. 20170032379** of Official Records.

Said matter affects: **PARCELS 1, 2, 3 AND 4.**

Part II

NONE



First American Title

Schedule C

Litigation Guarantee

ISSUED BY
First American Title Insurance Company

GUARANTEE NUMBER
0623-5881538

File No.: 0623-5881538

ADDRESSES

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20102 E COLIMA RD
WALNUT CA 91789-3571
(SCHEDULE A, VESTEE)

MATTHEW E. AIREY, TRUSTEE

20102 E COLIMA RD
WALNUT CA 91789-3571
(SCHEDULE A, VESTEE)

CHRISTY A. AIREY, TRUSTEE

20102 E COLIMA RD
WALNUT CA 91789-3571
(SCHEDULE A, VESTEE)

MARGUERITE J. AIREY, TRUSTEE

20102 E COLIMA RD
WALNUT CA 91789-3571
(SCHEDULE A, VESTEE)

ADRIENNE M. LARSEN, AS TRUSTEE

20102 E COLIMA RD
WALNUT CA 91789-3571
(SCHEDULE A, VESTEE & SCHEDULE B, PART I, ITEM #35)

RALPH J. LARSEN, AS TRUSTEE

20102 E COLIMA RD
WALNUT CA 91789-3571
(SCHEDULE A, VESTEE & SCHEDULE B, PART I, ITEM #35)

JEAN BAPTISTE AIREY

20102 E COLIMA RD
WALNUT CA 91789-3571
(SCHEDULE A, VESTEE)

MARY K. AIREY

20102 E COLIMA RD
WALNUT CA 91789-3571
(SCHEDULE A, VESTEE)

BEAD GOLF COURSE PROPERTIES, LLC

20102 E COLIMA RD
WALNUT CA 91789-3571

(SCHEDULE A, VESTEE)

1 CURTIS P. HOLDSWORTH (SBN 174080)
KELLY ANN COLEMAN (SBN 144052)
2 LERMAN & POINTER LLP
12100 Wilshire Blvd., Suite 600
3 Los Angeles, CA 90025
Telephone: (310) 229-9800
4 Facsimile: (310) 229-9804
E-mail: choldsworth@lermanpointerlaw.com

5 Attorneys for Plaintiffs
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES
10

11 BEAD GOLF COURSE PROPERTIES,)
12 LLC; ADRIENNE M. LARSEN and)
RALPH J. LARSEN, as Co-Trustees of the)
13 Larsen Family Trust, dated January 22,)
1992; MATTHEW AIREY and REGINA)
14 AIREY, as Co-Trustees of Edmund and)
Marguerite Airey Trust; MATTHEW)
15 EDMUND AIREY and CHRISTY A.)
AIREY, as Trustees of the Airey Revocable)
16 Living Trust, dated March 13, 2017;)
REGINA MARIE AIREY, as Trustee of)
17 Regina Marie Airey Trust, dated)
February 15, 2018)

Case No. 19STCV11861

**NOTICE OF PENDENCY OF ACTION
(LIS PENDENS)**

18
19 Plaintiffs,

20 v.

21 JEAN BAPTISTE AIREY, an individual;)
22 MARY K. AIREY, an individual; and all)
persons unknown claiming any interest in)
23 the property, named as DOES 1 through 20,)
inclusive)
24 Defendants.

25
26 PLEASE TAKE NOTICE THAT the above-entitled action stating a real property
27 claim as described in this notice was commenced on April 5, 2019 by Plaintiffs BEAD GOLF
28 COURSE PROPERTIES, LLC; ADRIENNE M. LARSEN and RALPH J. LARSEN, as Co-

1 Trustees of the Larsen Family Trust, dated January 22, 1992; MATTHEW AIREY and
2 REGINA AIREY, as Co-Trustees of Edmund and Marguerite Airey Trust; MATTHEW
3 EDMUND AIREY and CHRISTY A. AIREY, as Trustees of the Airey Revocable Living
4 Trust, dated March 13, 2017; and REGINA MARIE AIREY, as Trustee of Regina Marie Airey
5 Trust, dated February 15, 2018 (collectively, "Plaintiffs"), against Defendants JEAN
6 BAPTISTE AIREY, an individual; MARY K. AIREY, an individual; and all persons unknown
7 claiming any interest in the subject property, named as DOES 1 through 20, inclusive.

8 The action affects title to and/or possession of real property in that Plaintiffs seek
9 partition of real property located in Los Angeles County, California, the legal description of
10 which is attached hereto as Exhibit "A" and is incorporated herein by reference.

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DATED: April 8, 2019

LERMAN & POINTER LLP

By: 
Curtis P. Holdsworth
Attorneys for Plaintiffs

EXHIBIT "A"

PARCEL 1: (APN: 8762-022-008)

THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK 138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID TRACT 9494, WITHIN THE NORTHWESTERLY LINE OF FIFTH AVENUE, 100 FEET WIDE, AS DESCRIBED IN THE DEED TO THE COUNTY OF LOS ANGELES, RECORDED IN BOOK 11599 PAGE 391, OFFICIAL RECORDS; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 33° 15' 20" WEST, 1011.47 FEET, MORE OR LESS, TO AN ANGLE POINT IN THE BOUNDARY LINES OF SAID TRACT 9494; THENCE ALONG THE WESTERLY LINE OF SAID TRACT, NORTH 0° 15' 25" WEST, 949.07 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SAID TRACT; THENCE ALONG SAID NORTHERLY LINE, SOUTH 79° 33' 08" EAST 8.19 FEET TO AN ANGLE POINT IN THE BOUNDARY LINES OF SAID TRACT; THENCE CONTINUING ALONG THE BOUNDARY LINES OF SAID TRACT, NORTH 57° 52' 17" EAST, 274.48 FEET TO THE EASTERLY LINE OF THE LAND DESCRIBED AS PARCEL 1 IN THE LEASE RECORDED ON DECEMBER 18, 1963 AS INSTRUMENT NO. 4661, IN BOOK M1413 PAGE 223, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND DESCRIBED IN SAID LEASE, SOUTH 40° 03' 53" EAST, 130.62 FEET, SOUTH 14° 54' 34" EAST 102.96 FEET, SOUTH 0° 29' 27" EAST, 176.26 FEET, SOUTH 15° 00' 40" WEST, 222.92 FEET, SOUTH 10° 18' 50" EAST, 203.61 FEET, SOUTH 25° 58' 50" EAST 61.94 FEET, NORTH 88° 28' 51" EAST, 112.28 FEET, SOUTH 53° 22' 09" EAST, 54.63 FEET AND SOUTH 61° 31' 19" EAST, 31.66 FEET TO THE NORTHERLY LINE OF THE LAND DESCRIBED AS PARCEL 5 IN THE DEED TO HUNTINGTON PARK FIRST SAVINGS AND LOAN ASSOCIATION, RECORDED JANUARY 2, 1962 AS INSTRUMENT NO. 827 IN BOOK D1465 PAGE 632, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF SAID PARCEL 5 AND OF PARCEL 4 OF SAID LAST MENTIONED DEED, SOUTH 69° 40' 36" WEST, 51.48 FEET, SOUTH 19° 00' 30" EAST, 629.32 FEET, SOUTH 68° 11' 54" EAST, 53.85 FEET, NORTH 64° 40' 38" EAST 350.70 FEET, NORTH 78° 38' 48" EAST, 446.79 FEET AND SOUTH 30° 38' 15" EAST, 79.92 FEET TO NORTHWESTERLY LINE OF SAID FIFTH AVENUE; THENCE ALONG SAID NORTHWESTERLY LINE, SOUTH 59° 21' 45" WEST, 1145.85 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, TOGETHER WITH THAT PORTION OF FIFTH AVENUE, THE TITLE TO WHICH WOULD PASS BY A CONVEYANCE OF THE ABOVE DESCRIBED LAND.

EXCEPT THEREFROM THAT PORTION THEREOF DESCRIBED AS PARCEL 1-9 IN THE FINAL ORDER OF CONDEMNATION ENTERED IN LOS ANGELES COUNTY SUPERIOR COURT, CASE NO. C 344,840, A CERTIFIED COPY BEING RECORDED JANUARY 8, 1981 AS INSTRUMENT NO. 81-18500, FOR FAIRWAY DRIVE AND WALNUT DRIVE.

PARCEL 2: (APN: 8762-022-005)

THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK 138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHEASTERLY LINE OF SAID TRACT, WITH THE NORTHWESTERLY LINE OF FIFTH AVENUE, 100 FEET WIDE, AS DESCRIBED IN THE DEED TO THE COUNTY OF LOS ANGELES, RECORDED IN BOOK 11599 PAGE 391, OFFICIAL RECORDS; THENCE ALONG SAID NORTHWESTERLY LINE, SOUTH 59° 21' 45" WEST, 864.14 FEET TO THE MOST EASTERLY CORNER OF THE LAND DESCRIBED AS PARCEL 2 IN THE DEED TO HUNTINGTON PARK FIRST SAVINGS AND LOAN ASSOCIATION, RECORDED JANUARY 2, 1962 AS INSTRUMENT NO. 830 IN BOOK D1465 PAGE 636, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINE OF THE

LAND DESCRIBED IN PARCEL 2 OF SAID DEED, NORTH 37° 14' 13" WEST, 240.00 FEET, SOUTH 59° 21' 45" WEST, 110.00 FEET, NORTH 37° 14' 13" WEST, 92.26 FEET, NORTH 5° 42' 38" EAST, 77.64 FEET AND NORTH 87° 57' 17" WEST 68.34 FEET TO A POINT IN THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED AS EXHIBIT "A" IN THE LEASE RECORDED DECEMBER 18, 1963 AS INSTRUMENT NO. 4660 IN BOOK M1413 PAGE 200, OFFICIAL RECORDS, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID SOUTHWESTERLY LINE, NORTH 37° 14' 13" WEST, 564.20 FEET, MORE OR LESS, TO AN ANGLE POINT IN SAID LINE; THENCE CONTINUING ALONG THE BOUNDARIES DESCRIBED IN SAID LEASE, SOUTH 52° 45' 47" WEST, 135.22 FEET AND NORTH 46° 06' 13" WEST, 41.74 FEET TO THE BOUNDARY LINE OF THE LAND DESCRIBED IN THE LEASE RECORDED DECEMBER 18, 1963 AS INSTRUMENT NO. 4661 IN BOOK M1413 PAGE 223, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND DESCRIBED IN SAID LAST MENTIONED LEASE, SOUTH 3° 17' 44" WEST, 49.70 FEET, SOUTH 24° 31' 44" WEST, 85.94 FEET, SOUTH 61° 39' 59" WEST, 115.61 FEET AND SOUTH 6° 58' 44" WEST, 71.26 FEET TO THE NORTHWESTERLY LINE OF THE LAND DESCRIBED AS PARCEL 5 IN THE DEED TO HUNTINGTON PARK FIRST SAVINGS AND LOAN ASSOCIATION, RECORDED JANUARY 2, 1962 AS INSTRUMENT NO. 827 IN BOOK M1465 PAGE 632, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND DESCRIBED IN SAID LAST MENTIONED DEED, NORTH 69° 40' 36" EAST, 28.00 FEET AND SOUTH 7° 42' 43" WEST, 137.27 FEET TO THE MOST NORTHERLY CORNER OF THE LAND DESCRIBED AS PARCEL 2 IN THE DEED TO HELENE M. AIREY, A MARRIED WOMAN, RECORDED MARCH 15, 1962 AS INSTRUMENT NO. 4920 IN BOOK D1545 PAGE 755, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND DESCRIBED AS SAID PARCEL 2 OF SAID LAST MENTIONED DEED, SOUTH 68° 05' 48" WEST, 80.18 FEET, SOUTH 21° 31' 49" EAST, 81.27 FEET AND NORTH 68° 05' 48" EAST, 34.51 FEET TO THE BOUNDARY LINE OF THE LAND DESCRIBED AS SAID PARCEL 5 IN SAID DEED RECORDED IN BOOK D1465 PAGE 632, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND DESCRIBED AS SAID PARCEL 5 AND IN PARCEL 4 OF SAID LAST MENTIONED DEED, SOUTH 7° 42' 43" WEST, 253.63 FEET, SOUTH 68° 11' 54" WEST, 30.07 FEET, SOUTH 19° 00' 39" EAST, 183.50 FEET, SOUTH 68° 11' 54" WEST, 18.10 FEET, NORTH 64° 40' 38" EAST, 73.47 FEET, NORTH 21° 54' 58" EAST, 436.31 FEET, NORTH 74° 59' 24" EAST, 328.20 FEET AND SOUTH 87° 57' 17" EAST, 71.75 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 3: (APN: 8764-002-017)

THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK 138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID LOT 1 WITH THE SOUTHEASTERLY LINE OF FIFTH AVENUE, 100 FEET WIDE, AS DESCRIBED IN DEED RECORDED IN BOOK 11599 PAGE 391, OFFICIAL RECORDS; THENCE ALONG SAID SOUTHEASTERLY LINE, NORTH 59° 21' 45" EAST, 1260.10 FEET TO THE MOST WESTERLY CORNER OF LAKE CANYON DRIVE, AS SHOWN ON THE MAP OF TRACT 28140, RECORDED IN BOOK 709 PAGES 86 TO 91 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT BEING THE WESTERLY TERMINUS OF A TANGENT CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE ALONG THE BOUNDARY LINES OF SAID TRACT 28140, THE FOLLOWING COURSES AND DISTANCES, EASTERLY ALONG SAID TANGENT CURVE THROUGH AN ANGLE OF 86° 09' 22" AN ARC LENGTH OF 37.59 FEET, TANGENT TO SAID CURVE, SOUTH 34° 28' 53" EAST, 86.87 FEET, SOUTH 16° 41' 57" WEST, 146.16 FEET, SOUTH 37° 41' 38" WEST, 55.61 FEET, SOUTH 58° 59' 41" WEST, 473.68 FEET, SOUTH 70° 59' 39" WEST, 285.57 FEET, SOUTH 11° 33' 37" WEST, 89.82 FEET, SOUTH 35° 45' 42" EAST 475.69 FEET, NORTH 52° 12' 14" EAST, 445.46 FEET, NORTH 61° 35' 26" EAST, 720.06 FEET, SOUTH 7° 47' 05" EAST 93.44 FEET, SOUTH 45° 34' 52" WEST, 697.24 FEET, SOUTH 54° 46' 06" WEST, 391.76 FEET, SOUTH 28° 29' 10" WEST, 146.77 FEET, SOUTH 32° 57' 39" EAST 152.56 FEET, SOUTH 37° 23' 55" EAST, 390.22 FEET AND SOUTH 69° 19' 57" EAST, 107.14 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT 1; THENCE ALONG SAID SOUTHEASTERLY LINE, SOUTH 52° 42' 29" WEST, 335.00 FEET TO THE MOST SOUTHERLY CORNER OF SAID LOT; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID LOT, NORTH 33° 15' 57" WEST 1711.03 FEET TO THE POINT OF BEGINNING TOGETHER WITH THAT PORTION OF FIFTH AVENUE, THE TITLE TO WHICH WOULD PASS WITH A CONVEYANCE OF THE ABOVE DESCRIBED LAND.

PARCEL 4: (APN: 8764-002-004)

THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK 138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 1 OF TRACT 28140, AS PER MAP RECORDED IN BOOK 709 PAGES 86 TO 91 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE BOUNDARY LINE OF SAID TRACT 28140, SOUTH 60° 15' 36" EAST, 69.02 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE BOUNDARIES OF SAID TRACT 28140, THE FOLLOWING COURSES AND DISTANCES: SOUTH 60° 15' 36" EAST, 109.18 FEET, SOUTH 23° 34' 32" EAST, 60.01 FEET, SOUTH 60° 03' 37" EAST, 182.33 FEET, SOUTH 40° 36' 05" EAST, 202.83 FEET, SOUTH 61° 59' 26" WEST, 106.47 FEET, SOUTH 6° 08' 28" EAST, 158.91 FEET, SOUTH 52° 31' 38" EAST, 437.22 FEET AND SOUTH 58° 22' 16" EAST, 556.74 FEET ALONG SAID BOUNDARY LINES AND PROLONGATION THEREOF TO THE SOUTHEASTERLY LINE OF SAID TRACT 9494; THENCE ALONG THE SOUTHEASTERLY AND NORTHEASTERLY LINES OF SAID TRACT 9494, NORTH 53° 30' 52" EAST, 427.00 FEET AND NORTH 37° 54' 50" WEST 235.00 TO AN ANGLE POINT IN THE SOUTHERLY LINE OF LOT 195 OF TRACT 27141, AS PER MAP RECORDED IN BOOK 765 PAGES 72 TO 86 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE BOUNDARY LINES OF SAID TRACT 27141, SOUTH 34° 29' 02" WEST, 88.82 FEET, NORTH 48° 11' 01" WEST, 572.93 FEET, NORTH 17° 55' 40" EAST 71.47 FEET AND NORTH 86° 44' 48" EAST, 155.21 FEET TO THE NORTHEASTERLY LINE OF SAID TRACT 9494; THENCE ALONG SAID NORTHEASTERLY LINE, NORTH 37° 54' 50" WEST, 325.00 FEET; THENCE NORTH 74° 12' 28" WEST, 200.59 FEET; THENCE NORTH 65° 47' 07" WEST, 393.93 FEET; THENCE SOUTH 59° 21' 45" WEST, 348.12 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 4A:

AN EASEMENT FOR INGRESS, EGRESS AND INCIDENTAL PURPOSES OVER THOSE PORTIONS OF LOTS 48 AND 131 OF TRACT NO. 28140, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 709 PAGES 86 TO 91 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:
BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 48, BEING ALSO THE MOST NORTHERLY CORNER OF LOT 49 OF SAID TRACT; THENCE SOUTH 25° 23' 45" WEST 109.59 FEET TO THE MOST NORTHERLY CORNER OF LOT 129 OF SAID TRACT, BEING A POINT IN THE WESTERLY LINE OF SAID LOT 131; THENCE ALONG SAID WESTERLY LINE NORTH 7° 47' 05" WEST, 93.44 FEET TO THE MOST EASTERLY CORNER OF LOT 34 OF SAID TRACT; THENCE NORTH 25° 23' 45" EAST, 107.10 FEET TO A POINT IN THE EASTERLY LINE OF SAID LOT 131, SAID EASTERLY LINE BEING A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 330.00 FEET, THE RADIAL LINE TO SAID POINT BEARS NORTH 76° 59' 57" EAST; THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 10° 48' 27" AN ARC DISTANCE OF 62.25 FEET TO THE SOUTHWESTERLY PROLONGATION OF THAT CERTAIN LINE IN THE BOUNDARY OF SAID LOT 48 HAVING A BEARING LENGTH OF NORTH 61° 59' 26" EAST 106.47 FEET; THENCE ALONG SAID PROLONGED LINE NORTH 61° 59' 26" EAST 18.52 FEET TO AN ANGLE POINT IN THE BOUNDARY LINES OF SAID LOT 48; THENCE ALONG THE EASTERLY LINE OF SAID LOT 48, SOUTH 6° 08' 28" EAST 158.91 FEET TO THE TRUE POINT OF BEGINNING.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of ORANGE

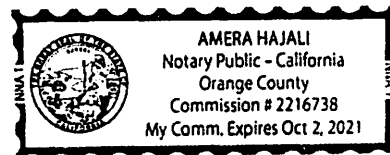
On April 8, 2019 before me, AMERA HAJALI, NOTARY PUBLIC
(insert name and title of the officer)

personally appeared CURTIS P. HOLDSWORTH
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: *Amera Hajali* (Seal)



STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California and am over the age of eighteen years and not a party to the within action. My business address is 12100 Wilshire Boulevard, Suite 600, Los Angeles, California 90025.

On May 2, 2019, I served the foregoing document described as **NOTICE OF PENDENCY OF ACTION (LIS PENDENS)** on all interested parties, through their respective attorneys of record in this action by placing a true copy thereof enclosed in a sealed envelope addressed as indicated on the attached service list and in the method described below.

Defendants,

Mary K. Airey
40799 Calle Santa Cruz
Indio, CA 92203

Jean Baptiste Airey
40799 Calle Santa Cruz
Indio, CA 92203

METHOD OF SERVICE

- (BY UNITED STATES MAIL)** I enclosed the documents in a sealed envelope or package address to the parties indicated on the attached service list and: placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with our firm's practice for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
- (BY PERSONAL SERVICE)** I served the documents by placing them in an envelope or package addressed to the parties indicated on the attached service list and providing them to a professional messenger service for service. (*Declaration of Messenger Attached hereto*).
- (BY FACSIMILE)** Based on an agreement of the parties to accept service by fax transmission, I caused the documents to be transmitted from (310) 229-9804 to the parties at the fax numbers listed on the attached service list. There were no errors reported by the fax machine used, and a copy of the record of the fax transmission, which I printed out, is attached.
- (BY ELECTRONIC SERVICE) (STATE)** Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses as indicated on the attached service list.
- (BY OVERNIGHT DELIVERY)** I enclosed the documents in an envelope or package addressed to the persons indicated on the attached service list. I then placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop-box of the overnight delivery carrier.
- I declare under penalty of perjury that the above is true and correct.

Executed on May 2, 2019, at Los Angeles, California.



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FILED
Superior Court of California
County of Los Angeles

02/22/2021

Sherri R. Carter, Executive Officer / Clerk of Court

By: R. Mendoza Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

BEAD GOLF COURSE PROPERTIES, LLC;)
ADRIENNE M. LARSEN and RALPH J.)
LARSEN, as Co-Trustees of the Larsen)
Family Trust, dated January 22, 1992;)
MATTHEW AIREY and REGINA AIREY, as)
Co-Trustees of Edmund and Marguerite Airey)
Trust; MATTHEW EDMUND AIREY and)
CHRISTY A. AIREY, as Trustees of the)
Airey Revocable Living Trust, dated March)
13, 2017; REGINA MARIE AIREY, as)
Trustee of Regina Marie Airey Trust, dated)
February 15, 2018)

Plaintiffs,

v.

JEAN BAPTISTE AIREY, an individual;)
MARY K. AIREY, an individual; and all)
persons unknown claiming any interest in the)
property, named as DOES 1 through 20,)
inclusive)

Defendants.

Case No. 19STCV11861

*(Assigned For All Purposes to the
Hon. Stephen I. Goorvitch, Dept. 39)*

~~PROPOSED~~ INTERLOCUTORY
JUDGMENT FOR (1) PARTITION BY SALE
OF REAL PROPERTY; AND
(2) APPOINTMENT OF REFEREE

[C.C.P. §§872.720, 872.280, 873.010]

Action Filed: April 5, 2019
Trial Date: December 6, 2021

WHEREAS, on January 28, 2021, the Court, the Honorable Stephen I. Goorvitch, Judge
Presiding, conducted a hearing on the Motion for Summary Judgment filed by Plaintiffs BEAD GOLF
COURSE PROPERTIES, LLC; ADRIENNE M. LARSEN and RALPH J. LARSEN, as Co-Trustees of

1 the Larsen Family Trust, dated January 22, 1992; MATTHEW AIREY and REGINA AIREY, as Co-
2 Trustees of Edmund and Marguerite Airey Trust; MATTHEW EDMUND AIREY and CHRISTY A.
3 AIREY, as Trustees of the Airey Revocable Living Trust, dated March 13, 2017; and REGINA MARIE
4 AIREY, as Trustee of Regina Marie Airey Trust, dated February 15, 2018 (hereinafter referred to
5 collectively as "Plaintiffs"), against Defendant JUAN CARLOS LOPEZ, AS SUCCESSOR TRUSTEE
6 OF THE MARY K. AIREY 2019 REVOCABLE TRUST, DATED SEPTEMBER 27, 2019
7 (hereinafter, "Defendant");

8 **WHEREAS**, Curtis P. Holdsworth of Lerman Pointer LLP appeared on behalf of Plaintiffs;
9 Sheila J. Barton of the Barton Law Firm appeared on behalf of Defendant; and

10 **WHEREAS**, after considering all of the evidence duly submitted by the parties; oral argument by
11 counsel for Plaintiffs and Defendant.

12 **FOR GOOD CAUSE SHOWN, IT IS HEREBY ORDERED, ADJUDGED, AND**
13 **DECREED AS FOLLOWS:**

14 1. The parcels of land which are the subject of this action (hereinafter "the Property")
15 shall be partitioned by sale. Pursuant to Code of Civil Procedure Section 872.220(a), prior to filing this
16 action, Plaintiffs obtained Litigation Guarantee Number 5015815-0623-5881538 issued by First
17 American Title Insurance Company. The Property, along with an easement, which is the only lien or
18 encumbrance appearing of record or apparent from an inspection of the Property, are described with
19 their Assessor's Parcel Numbers as follows:

20 PARCEL 1: (APN: 8762-022-008)

21 **THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK**
22 **138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID**
23 **COUNTY (LOS ANGELES COUNTY), DESCRIBED AS FOLLOWS:**

24 **BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID**
25 **TRACT 9494, WITHIN THE NORTHWESTERLY LINE OF FIFTH AVENUE, 100 FEET WIDE,**
26 **AS DESCRIBED IN THE DEED TO THE COUNTY OF LOS ANGELES, RECORDED IN BOOK**
27 **11599 PAGE 391, OFFICIAL RECORDS; THENCE ALONG SAID SOUTHWESTERLY LINE**
28 **NORTH 33° 15' 20" WEST, 1011.47 FEET, MORE OR LESS, TO AN ANGLE POINT IN THE**

1 BOUNDARY LINES OF SAID TRACT 9494; THENCE ALONG THE WESTERLY LINE OF SAID
2 TRACT, NORTH 0° 15' 25" WEST, 949.07 FEET, MORE OR LESS, TO THE NORTHERLY LINE
3 OF SAID TRACT; THENCE ALONG SAID NORTHERLY LINE, SOUTH 79° 33' 08" EAST 8.19
4 FEET TO AN ANGLE POINT IN THE BOUNDARY LINES OF SAID TRACT; THENCE
5 CONTINUING ALONG THE BOUNDARY LINES OF SAID TRACT, NORTH 57° 52' 17" EAST,
6 274.48 FEET TO THE EASTERLY LINE OF THE LAND DESCRIBED AS PARCEL 1 IN THE
7 LEASE RECORDED ON DECEMBER 18, 1963 AS INSTRUMENT NO. 4661, IN BOOK M1413
8 PAGE 223, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND
9 DESCRIBED IN SAID LEASE, SOUTH 40° 03' 53" EAST, 130.62 FEET, SOUTH 14° 54' 34" EAST
10 102.96 FEET, SOUTH 0° 29' 27" EAST, 176.26 FEET, SOUTH 15° 00' 40" WEST, 222.92 FEET,
11 SOUTH 10° 18' 50" EAST, 203.61 FEET, SOUTH 25° 58' 50" EAST 61.94 FEET, NORTH 88° 28'
12 51" EAST, 112.28 FEET, SOUTH 53° 22' 09" EAST, 54.63 FEET AND SOUTH 61° 31' 19" EAST,
13 31.66 FEET TO THE NORTHERLY LINE OF THE LAND DESCRIBED AS PARCEL 5 IN THE
14 DEED TO HUNTINGTON PARK FIRST SAVINGS AND LOAN ASSOCIATION, RECORDED
15 JANUARY 2, 1962 AS INSTRUMENT NO. 827 IN BOOK D1465 PAGE 632, OFFICIAL
16 RECORDS; THENCE ALONG THE BOUNDARY LINES OF SAID PARCEL 5 AND OF PARCEL
17 4 OF SAID LAST MENTIONED DEED, SOUTH 69° 40' 36" WEST, 51.48 FEET, SOUTH 19° 00'
18 30" EAST, 629.32 FEET, SOUTH 68° 11' 54" EAST, 53.85 FEET, NORTH 64° 40' 38" EAST 350.70
19 FEET, NORTH 78° 38' 48" EAST, 446.79 FEET AND SOUTH 30° 38' 15" EAST, 79.92 FEET TO
20 NORTHWESTERLY LINE OF SAID FIFTH AVENUE; THENCE ALONG SAID
21 NORTHWESTERLY LINE, SOUTH 59° 21' 45" WEST, 1145.85 FEET, MORE OR LESS, TO THE
22 POINT OF BEGINNING, TOGETHER WITH THAT PORTION OF FIFTH AVENUE, THE TITLE
23 TO WHICH WOULD PASS BY A CONVEYANCE OF THE ABOVE DESCRIBED LAND.

24 EXCEPT THEREFROM THAT PORTION THEREOF DESCRIBED AS PARCEL 1-9 IN
25 THE FINAL ORDER OF CONDEMNATION ENTERED IN LOS ANGELES COUNTY SUPERIOR
26 COURT, CASE NO. C 344,840, A CERTIFIED COPY BEING RECORDED JANUARY 8, 1981 AS
27 INSTRUMENT NO. 81-18500, FOR FAIRWAY DRIVE AND WALNUT DRIVE.

28 ///

1 PARCEL 2: (APN: 8762-022-005)

2 THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK
3 138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID
4 COUNTY (LOS ANGELES COUNTY), DESCRIBED AS FOLLOWS:

5 BEGINNING AT THE INTERSECTION OF THE NORTHEASTERLY LINE OF SAID
6 TRACT, WITH THE NORTHWESTERLY LINE OF FIFTH AVENUE, 100 FEET WIDE, AS
7 DESCRIBED IN THE DEED TO THE COUNTY OF LOS ANGELES, RECORDED IN BOOK
8 11599 PAGE 391, OFFICIAL RECORDS; THENCE ALONG SAID NORTHWESTERLY LINE,
9 SOUTH 59° 21' 45" WEST, 864.14 FEET TO THE MOST EASTERLY CORNER OF THE LAND
10 DESCRIBED AS PARCEL 2 IN THE DEED TO HUNTINGTON PARK FIRST SAVINGS AND
11 LOAN ASSOCIATION, RECORDED JANUARY 2, 1962 AS INSTRUMENT NO. 830 IN BOOK
12 D1465 PAGE 636, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINE OF THE
13 LAND DESCRIBED IN PARCEL 2 OF SAID DEED, NORTH 37° 14' 13" WEST, 240.00 FEET,
14 SOUTH 59° 21' 45" WEST, 110.00 FEET, NORTH 37° 14' 13" WEST, 92.26 FEET, NORTH 5° 42'
15 38" EAST, 77.64 FEET AND NORTH 87° 57' 17" WEST 68.34 FEET TO A POINT IN THE
16 SOUTHWESTERLY LINE OF THE LAND DESCRIBED AS EXHIBIT "A" IN THE LEASE
17 RECORDED DECEMBER 18, 1963 AS INSTRUMENT NO. 4660 IN BOOK M1413 PAGE 200,
18 OFFICIAL RECORDS, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE
19 ALONG SAID SOUTHWESTERLY LINE, NORTH 37° 14' 13" WEST, 564.20 FEET, MORE OR
20 LESS, TO AN ANGLE POINT IN SAID LINE; THENCE CONTINUING ALONG THE
21 BOUNDARIES DESCRIBED IN SAID LEASE, SOUTH 52° 45' 47" WEST, 135.22 FEET AND
22 NORTH 46° 06' 13" WEST, 41.74 FEET TO THE BOUNDARY LINE OF THE LAND DESCRIBED
23 IN THE LEASE RECORDED DECEMBER 18, 1963 AS INSTRUMENT NO. 4661 IN BOOK
24 M1413 PAGE 223, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE
25 LAND DESCRIBED IN SAID LAST MENTIONED LEASE, SOUTH 3° 17' 44" WEST, 49.70 FEET,
26 SOUTH 24° 31' 44" WEST, 85.94 FEET, SOUTH 61° 39' 59" WEST, 115.61 FEET AND SOUTH 6°
27 58' 44" WEST, 71.26 FEET TO THE NORTHWESTERLY LINE OF THE LAND DESCRIBED AS
28 PARCEL 5 IN THE DEED TO HUNTINGTON PARK FIRST SAVINGS AND LOAN

1 ASSOCIATION, RECORDED JANUARY 2, 1962 AS INSTRUMENT NO. 827 IN BOOK M1465
2 PAGE 632, OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND
3 DESCRIBED IN SAID LAST MENTIONED DEED, NORTH 69° 40' 36" EAST, 28.00 FEET AND
4 SOUTH 7° 42' 43" WEST, 137.27 FEET TO THE MOST NORTHERLY CORNER OF THE LAND
5 DESCRIBED AS PARCEL 2 IN THE DEED TO HELENE M. AIREY, A MARRIED WOMAN,
6 RECORDED MARCH 15, 1962 AS INSTRUMENT NO. 4920 IN BOOK D1545 PAGE 755,
7 OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY LINES OF THE LAND DESCRIBED
8 AS SAID PARCEL 2 OF SAID LAST MENTIONED DEED, SOUTH 68° 05' 48" WEST, 80.18
9 FEET, SOUTH 21° 31' 49" EAST, 81.27 FEET AND NORTH 68° 05' 48" EAST, 34.51 FEET TO
10 THE BOUNDARY LINE OF THE LAND DESCRIBED AS SAID PARCEL 5 IN SAID DEED
11 RECORDED IN BOOK D1465 PAGE 632, OFFICIAL RECORDS; THENCE ALONG THE
12 BOUNDARY LINES OF THE LAND DESCRIBED AS SAID PARCEL 5 AND IN PARCEL 4 OF
13 SAID LAST MENTIONED DEED, SOUTH 7° 42' 43" WEST, 253.63 FEET, SOUTH 68° 11' 54"
14 WEST, 30.07 FEET, SOUTH 19° 00' 39" EAST, 183.50 FEET, SOUTH 68° 11' 54" WEST, 18.10
15 FEET, NORTH 64° 40' 38" EAST, 73.47 FEET, NORTH 21° 54' 58" EAST, 436.31 FEET, NORTH
16 74° 59' 24" EAST, 328.20 FEET AND SOUTH 87° 57' 17" EAST, 71.75 FEET TO THE TRUE
17 POINT OF BEGINNING.

18 PARCEL 3: (APN: 8764-002-017)

19 THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK
20 138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID
21 COUNTY (LOS ANGELES COUNTY), DESCRIBED AS FOLLOWS:

22 BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID
23 LOT 1 WITH THE SOUTHEASTERLY LINE OF FIFTH AVENUE, 100 FEET WIDE, AS
24 DESCRIBED IN DEED RECORDED IN BOOK 11599 PAGE 391, OFFICIAL RECORDS; THENCE
25 ALONG SAID SOUTHEASTERLY LINE, NORTH 59° 21' 45" EAST, 1260.10 FEET TO THE
26 MOST WESTERLY CORNER OF LAKE CANYON DRIVE, AS SHOWN ON THE MAP OF
27 TRACT 28140, RECORDED IN BOOK 709 PAGES 86 TO 91 INCLUSIVE OF MAPS, IN THE
28 OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT BEING THE

1 WESTERLY TERMINUS OF A TANGENT CURVE, CONCAVE SOUTHERLY AND HAVING A
2 RADIUS OF 25.00 FEET; THENCE ALONG THE BOUNDARY LINES OF SAID TRACT 28140,
3 THE FOLLOWING COURSES AND DISTANCES, EASTERLY ALONG SAID TANGENT CURVE
4 THROUGH AN ANGLE OF 86° 09' 22" AN ARC LENGTH OF 37.59 FEET, TANGENT TO SAID
5 CURVE, SOUTH 34° 28' 53" EAST, 86.87 FEET, SOUTH 16° 41' 57" WEST, 146.16 FEET, SOUTH
6 37° 41' 38" WEST, 55.61 FEET, SOUTH 58° 59' 41" WEST, 473.68 FEET, SOUTH 70° 59' 39"
7 WEST, 285.57 FEET, SOUTH 11° 33' 37" WEST, 89.82 FEET, SOUTH 35° 45' 42" EAST 475.69
8 FEET, NORTH 52° 12' 14" EAST, 445.46 FEET, NORTH 61° 35' 26" EAST, 720.06 FEET, SOUTH
9 7° 47' 05" EAST 93.44 FEET, SOUTH 45° 34' 52" WEST, 697.24 FEET, SOUTH 54° 46' 06" WEST,
10 391.76 FEET, SOUTH 28° 29' 10" WEST, 146.77 FEET, SOUTH 32° 57' 39" EAST 152.56 FEET,
11 SOUTH 37° 23' 55" EAST, 390.22 FEET AND SOUTH 69° 19' 57" EAST, 107.14 FEET TO THE
12 SOUTHEASTERLY LINE OF SAID LOT 1; THENCE ALONG SAID SOUTHEASTERLY LINE,
13 SOUTH 52° 42' 29" WEST, 335.00 FEET TO THE MOST SOUTHERLY CORNER OF SAID LOT;
14 THENCE ALONG THE SOUTHWESTERLY LINE OF SAID LOT, NORTH 33° 15' 57" WEST
15 1711.03 FEET TO THE POINT OF BEGINNING TOGETHER WITH THAT PORTION OF FIFTH
16 AVENUE, THE TITLE TO WHICH WOULD PASS WITH A CONVEYANCE OF THE ABOVE
17 DESCRIBED LAND.

18 PARCEL 4: (APN: 8764-002-004)

19 THAT PORTION OF LOT 1 OF TRACT 9494, AS PER MAP RECORDED IN BOOK
20 138 PAGES 41 AND 42 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID
21 COUNTY (LOS ANGELES COUNTY), DESCRIBED AS FOLLOWS:

22 BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 1 OF TRACT 28140,
23 AS PER MAP RECORDED IN BOOK 709 PAGES 86 TO 91 INCLUSIVE OF MAPS, IN THE
24 OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE
25 BOUNDARY LINE OF SAID TRACT 28140, SOUTH 60° 15' 36" EAST, 69.02 FEET TO THE
26 TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE BOUNDARIES OF SAID
27 TRACT 28140, THE FOLLOWING COURSES AND DISTANCES: SOUTH 60° 15' 36" EAST,
28 109.18 FEET, SOUTH 23° 34' 32" EAST, 60.01 FEET, SOUTH 60° 03' 37" EAST, 182.33 FEET,

1 SOUTH 40° 36' 05" EAST, 202.83 FEET, SOUTH 61° 59' 26" WEST, 106.47 FEET, SOUTH 6° 08'
2 28" EAST, 158.91 FEET, SOUTH 52° 31' 38" EAST, 437.22 FEET AND SOUTH 58° 22' 16" EAST,
3 556.74 FEET ALONG SAID BOUNDARY LINES AND PROLONGATION THEREOF TO THE
4 SOUTHEASTERLY LINE OF SAID TRACT 9494; THENCE ALONG THE SOUTHEASTERLY
5 AND NORTHEASTERLY LINES OF SAID TRACT 9494, NORTH 53° 30' 52" EAST, 427.00 FEET
6 AND NORTH 37° 54' 50" WEST 235.00 TO AN ANGLE POINT IN THE SOUTHERLY LINE OF
7 LOT 195 OF TRACT 27141, AS PER MAP RECORDED IN BOOK 765 PAGES 72 TO 86
8 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;
9 THENCE ALONG THE BOUNDARY LINES OF SAID TRACT 27141, SOUTH 34° 29' 02" WEST,
10 88.82 FEET, NORTH 48° 11' 01" WEST, 572.93 FEET, NORTH 17° 55' 40" EAST 71.47 FEET AND
11 NORTH 86° 44' 48" EAST, 155.21 FEET TO THE NORTHEASTERLY LINE OF SAID TRACT
12 9494; THENCE ALONG SAID NORTHEASTERLY LINE, NORTH 37° 54' 50" WEST, 325.00
13 FEET; THENCE NORTH 74° 12' 28" WEST, 200.59 FEET; THENCE NORTH 65° 47' 07" WEST,
14 393.93 FEET; THENCE SOUTH 59° 21' 45" WEST, 348.12 FEET TO THE TRUE POINT OF
15 BEGINNING.

16 PARCEL 4A:

17 AN EASEMENT FOR INGRESS, EGRESS AND INCIDENTAL PURPOSES OVER
18 THOSE PORTIONS OF LOTS 48 AND 131 OF TRACT NO. 28140, IN THE COUNTY OF LOS
19 ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 709 PAGES 86 TO 91
20 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY,
21 DESCRIBED AS FOLLOWS: BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID
22 LOT 48, BEING ALSO THE MOST NORTHERLY CORNER OF LOT 49 OF SAID TRACT;
23 THENCE SOUTH 25° 23' 45" WEST 109.59 FEET TO THE MOST NORTHERLY CORNER OF
24 LOT 129 OF SAID TRACT, BEING A POINT IN THE WESTERLY LINE OF SAID LOT 131;
25 THENCE ALONG SAID WESTERLY LINE NORTH 7° 47' 05" WEST, 93.44 FEET TO THE MOST
26 EASTERLY CORNER OF LOT 34 OF SAID TRACT; THENCE NORTH 25° 23' 45" EAST, 107.10
27 FEET TO A POINT IN THE EASTERLY LINE OF SAID LOT 131, SAID EASTERLY LINE BEING
28 A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 330.00 FEET, THE

1 RADIAL LINE TO SAID POINT BEARS NORTH 76° 59' 57" EAST; THENCE NORTHERLY
2 ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 10° 48' 27" AN ARC DISTANCE OF
3 62.25 FEET TO THE SOUTHWESTERLY PROLONGATION OF THAT CERTAIN LINE IN THE
4 BOUNDARY OF SAID LOT 48 HAVING A BEARING LENGTH OF NORTH 61° 59' 26" EAST
5 106.47 FEET; THENCE ALONG SAID PROLONGED LINE NORTH 61° 59' 26" EAST 18.52 FEET
6 TO AN ANGLE POINT IN THE BOUNDARY LINES OF SAID LOT 48; THENCE ALONG THE
7 EASTERLY LINE OF SAID LOT 48, SOUTH 6° 08' 28" EAST 158.91 FEET TO THE TRUE POINT
8 OF BEGINNING.

9 2. The following persons or entities own the following percentage interests in each of
10 the Property, which title holdings are confirmed by the vesting Deeds for each owner and Litigation
11 Guarantee's statement of the persons holding title, as corrected on January 10, 2020, at Schedule A,
12 item 4:

13 (i) BEAD GOLF COURSE PROPERTIES, LLC: an undivided 16/28 interest;

14 (ii) ADRIENNE M. LARSEN and RALPH J. LARSEN, as Co-Trustees of the Larsen
15 Family Trust, dated January 22, 1992: an undivided 4/28 interest;

16 (iii) MATTHEW AIREY and REGINA AIREY, as Co-Trustees of Edmund and
17 Marguerite Airey Trust: an undivided 2/28 interest;

18 (iv). MATTHEW EDMUND AIREY and CHRISTY A. AIREY, as Trustees of the Airey
19 Revocable Living Trust, dated March 13, 2017: an undivided 1/28 interest.

20 (v) REGINA MARIE AIREY, as Trustee of Regina Marie Airey Trust, dated
21 February 15, 2018: an undivided 1/28 interest, and

22 (vi) JUAN CARLOS LOPEZ, as successor trustee of the Mary K. Airey 2019 Revocable
23 Trust, dated September 27, 2019, an undivided 4/28 interest.

24 Appointment of Referee

25 3. The Court hereby appoints Matthew Taylor, Esq. as Referee with authority to sell the
26 Property in accordance with sections 873.510 through 874.140 of the Code of Civil Procedure, or as
27 otherwise directed by further Order of the Court. The proposed fee schedule of the Referee and his
28 staff, which is subject to the Court's approval, is as follows:

1	Matthew Taylor, Esq. (Partition Referee)	\$300/hr
2	Associate Counsel of Referee:	\$225/hr
3	Accounting:	\$150/hr
4	Paralegal/Clerical/Bookkeeping:	\$50-\$125/hr
5	Licensed Private Investigator:	\$110/hr

6
7 4. The Referee shall not be required to post a bond. The Referee may engage in
8 negotiations to the extent reasonable and practicable for the benefit of all parties. The Referee shall
9 reasonably apprise the Parties of the progress of any sales negotiations through their undersigned
10 counsel.

11 5. Unless otherwise approved by the Court, the Referee shall sell the Property at a
12 private sale, subject to the following terms and conditions ("Minimum Sale Terms"): (a) in a single
13 transaction; (b) on an "all cash" basis without any carryback financing; (c) with a total escrow period
14 not to exceed three (3) months, which the Parties agree may be extended to the extent necessary for the
15 Court to confirm the sale; (d) on an as-is basis, with a release of Owners, and (e) on other customary
16 terms as determined by the Referee. In addition to other factors the Referee deems appropriate, the
17 Referee may consider the desire expressed by the majority ownership on all matters which pertain to
18 the sale of the Property, including the terms of any sale. If the Referee determines he/she is unable to
19 sell the Property on the Minimum Sale Terms, or otherwise receives an offer which the Referee
20 recommends should be accepted, the Referee may submit such offer(s) to the Parties for their
21 consideration and seek Court approval of a sale on the terms set forth in such offer(s).

22 6. The Referee is authorized to perform any acts necessary to exercise his authority,
23 including, but not limited to: (1) placing the Property for sale on the market, (2) retaining marketing
24 analysis or advertisers, (3) providing prospective buyers with existing leases for the subject property,
25 (4) participating in any court hearings, either at the Court's request or to the extent the proceedings
26 concern the Referee's efforts to consummate a sale of the subject property, and (5) executing
27 documents necessary for consummation of a sale. The authority to execute all documents necessary for
28 consummation of the sale shall include, but not be limited to: (1) executing all documents required by

1 an escrow officer and/or title insurance company, such as a Statement of Information (or such similar
2 document providing biographical information about the owners of the Property), (2) executing tax
3 reporting documents for any party who does not provide information required by the document within
4 ten (10) days of being provided with the document, (3) signing any affidavits, on behalf of any of the
5 parties, for the benefit of a title insurance company to establish transferability of Property. The Referee
6 is authorized to open one or more bank accounts for this partition action at any federally-insured bank
7 or S&L, and all financial transactions pertaining to this action shall be conducted exclusively by and
8 through such accounts.

9 7. The Referee has authority to hire consulting professionals (appraisers, surveyors,
10 engineers, real-estate attorney, etc.) as required and allowed by CCP 873.110 and 873.130, but only to
11 the extent the terms of such engagement(s) are agreed upon by all parties. Absent unanimous
12 agreement among all parties, the Referee make seek instructions or an Order from the Court on terms
13 for hiring such consulting professionals.

14 8. Based on the Referee's evaluation of the market data and other information he/she
15 deems pertinent, the Referee may set an initial listing price. The Referee has authority to hire one or
16 more real-estate agents and brokers on terms agreed upon by all parties. Absent unanimous agreement
17 among all parties, the Referee may seek instructions or an Order from the Court regarding terms for
18 hiring such real-estate agent(s)/broker(s). The Referee, in consultation with the broker(s) enlisted by
19 Referee to sell the Property, shall be authorized to reduce the asking price for the Property as he
20 determines if it is advisable in order to generate interest in the Property. The Property shall be sold on
21 the best terms, subject to the Minimum Terms, set forth above. Any sale entered into by the Referee
22 shall be subject to Court confirmation before it is finalized.

23 9. The Referee shall publish notice required by CCP section 873.650 including a
24 description of the property, the time and place of sale or deadline for submission of bids, and a
25 statement of the principal terms of the sale. Notwithstanding the foregoing, the parties may agree in
26 writing to waive this notice.

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1 10. The Parties shall assist and cooperate with the Referee to make peaceable entry
2 onto/upon the Property. The Parties, their employees and representatives shall permit and assist the
3 same forthwith, without excuse or limitation. The Parties, their employees and agents are ordered to
4 cooperate with the Referee and his employees and agents. No Party or their employees or
5 representatives shall take any action that shall interfere with or impede the Referee from marketing and
6 selling the Property, including enlisting a commercial real estate broker designated by the majority of
7 the total ownership in the Property.

8 11. The Referee or any party may, on noticed motion, petition the court for instructions
9 concerning the referee's duties under this title, as provided in CCP 873.070.

10 12. No Party shall engage any person, licensed or unlicensed, to list for sale, sell or
11 otherwise to convey, transfer or assign the assets of the Property, in any manner, without prior Order of
12 Court. Any such agreement is deemed unenforceable against the Referee, the Property, and the
13 partition estate.

14 13. The Referee, after making the sale of the Property, is hereby directed to report to this
15 Court his/her proceedings thereon, and on confirmation of the sale of the Property by this Court and the
16 payment of the purchase price thereof, the Referee is hereby authorized and directed to execute and
17 deliver a deed of the Property sold to the purchaser thereof.

18 14. Unless modified by further order of the Court or any order confirming sales hereafter
19 entered into, the gross proceeds of the sale of the Property shall be applied (a) to pay expenses
20 connected with the sale and the cost of Referee, and (b) to pay legitimate encumbrances identified by
21 the Referee and/or referenced in the Litigation Guarantee, if any. Once the Property has been sold, the
22 Court will adjudicate any claims for costs, fees, and expense reimbursement, in accordance with CCP
23 §§874.010 and 872.140, including any reasonable attorney's fees incurred in this action for the
24 common benefit. Finally, the net proceeds from the sale of the Property shall be divided among

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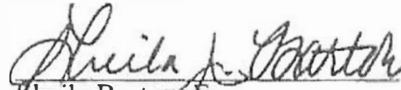
1 Plaintiffs and Defendant in proportion to their respective interests as set forth in Paragraph 2 of this
2 Interlocutory Judgment, and in accordance with CCP §873.820.

3
4 Respectfully Submitted By:

5 **LERMAN & POINTER LLP**

6
7 
8 Curtis P. Holdsworth, Esq.
9 Counsel for Plaintiffs

THE BARTON LAW FIRM


Sheila Barton, Esq.
Counsel for Defendant Juan Carlos Lopez,
as Successor Trustee of the Mary K. Airey
2019 Revocable Trust, Dated
September 27, 2019

10
11 **IT IS SO ORDERED.**

12 Dated: February GG, 2021





13 By: Stephen I. Goorvitch / Judge
14 The Hon. Stephen I. Goorvitch
15 Judge of the Los Angeles County Superior Court

1 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

2 I am employed in the County of Los Angeles, State of California and am over the age of
3 eighteen years and not a party to the within action. My business address is 11845 W. Olympic
Blvd., Suite 845W, Los Angeles, California 90064.

4 On February 19, 2021, I served the foregoing document described as [PROPOSED]
5 **INTERLOCUTORY JUDGMENT FOR (1) PARTITION BY SALE OF REAL**
6 **PROPERTY; AND (2) APPOINTMENT OF REFEREE** on all interested parties, through
7 their respective attorneys of record in this action by placing a true copy thereof enclosed in a
8 sealed envelope addressed as indicated on the attached service list and in the method described
9 below.

10 Sheila J. Barton, Esq.
11 Barton Law Firm
12 43-576 Washington St., Suite 110
13 La Quinta, CA 92253
14 Tel: (760) 834-0444
15 Fax: (760) 834-0333
16 E-mail: sbarton@barton-lawfirm.net

17 *Attorneys for Defendant*

18 **METHOD OF SERVICE**

- 19 (BY UNITED STATES MAIL) I enclosed the documents in a sealed envelope or
20 package address to the parties indicated on the attached service list and: placed the
21 envelope for collection and mailing, following our ordinary business practices. I am
22 readily familiar with our firm's practice for collection and processing correspondence for
23 mailing. On the same day that correspondence is placed for collection and mailing, it is
24 deposited in the ordinary course of business with the United States Postal Service, in a
25 sealed envelope with postage fully prepaid.
- 26 (BY FACSIMILE) Based on an agreement of the parties to accept service by fax
27 transmission, I caused the documents to be transmitted from (310) 229-9804 to the parties
28 at the fax numbers listed on the attached service list. There were no errors reported by the
fax machine used, and a copy of the record of the fax transmission, which I printed out, is
attached.
- (BY ELECTRONIC SERVICE) (STATE) Based on a court order or an agreement of
the parties to accept service by electronic transmission. I caused the documents to be sent
to the persons at the electronic addresses as indicated on the attached service list.
- (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package
addressed to the persons indicated on the attached service list. I then placed the envelope
or package for collection and overnight delivery at an office or a regularly utilized drop-
box of the overnight delivery carrier.
- I declare under penalty of perjury that the above is true and correct.

Executed on February 19, 2021, at Los Angeles, California.



Yesenia Mejia

1 Name

2 Address, etc.

3

4 Attorney for

5

6

SUPERIOR COURT OF CALIFORNIA

7

COUNTY OF _____

8

9

_____,

CASE NO. _____

10

Plaintiff,

**[PROPOSED] INTERLOCUTORY
JUDGMENT FOR PARTITION BY
SALE**

11

v.

[CODE OF CIV. PROC., §872.720]

12

_____,

13

Defendants.

**Assigned for all purposes to the
Hon. _____**

14

15

Complaint Filed _____

16

17

WHEREAS Plaintiff _____ (hereinafter referred to as

18

“Plaintiff” or “_____”) and Defendant _____

19

(hereinafter “Defendant” or “_____”) are the co-owners of the real property located at

20

_____, California, _____, Assessor’s

21

Parcel Number _____ (the “Property”) and more particularly described as

22

follows:

23

INSERT LEGAL DESCRIPTION. Usage note: The legal description of the property is mandatory because it is required in order for the order to be properly recorded.

24

25

26

WHEREAS on _____, Plaintiff filed this action seeking partition of the Property;

27

[INSERT OTHER INFORMATION AS APPROPRIATE]

28

1 **IT IS HEREBY ORDERED, ADJUDGED and DECREED that:**

2 **PARTITION SALE OF THE PROPERTY**

3 1. **Ownership Interest:** Plaintiff and Defendant own the Property as [insert legal form of
4 ownership, for example tenants in common] with the following percentages of record title
5 ownership in the Property:

6 Plaintiff [INSERT NAME] _____%

7 Defendant [INSERT NAME] _____%

8 Total: 100%

9 2. **Encumbrances:** If either party has encumbered their interest in the Property (either by
10 way of voluntary encumbrances such as a Deed of Trust or involuntary encumbrances such as a
11 judgment or tax lien), the removal of the encumbrance shall be paid from the sale proceeds
12 through escrow and shall be deducted from the share of the net proceeds belonging to the party
13 who is responsible for the encumbrance.

14 3. **Partition by Private Sale:** Partition of the Property by private sale is ordered with the
15 net proceeds of the sale divided following reimbursement of any costs or expenses under the
16 provision of this Order. The Court finds that division of the Property in kind would not be
17 possible or practical and that partition by sale is appropriate and proper.

18 4. **Property Shall Be Sold as Whole:** The Property shall be sold as a whole and no party
19 shall separately, sell, lease, or otherwise encumber his/their fractional interest in the Property.

20 5. **Private Sale by Referee:** Matthew L. Taylor, 8301 Utica Avenue, Suite 201, Rancho
21 Cucamonga, California, Telephone 909-989-7774 shall be appointed as Partition Referee with
22 authority to sell the Property at private sale. A report of the sale shall be made to the Court as
23 provided by Code of Civil Procedure section 873.710 for confirmation by the Court. No bond
24 shall be required of the Referee until such time as the Court confirms the sale of the Property, and
25 the amount of such bond, if any, shall be determined by the Court.

26 6. **Listing Agreement:** The Partition Referee may hire one or more licensed real estate
27 brokers/agents of his choosing to list and sell the Property. The Property shall be listed for sale
28 pursuant to the terms of a written listing agreement (“Listing Agreement”) as follows:

- a. The Listing Agreement shall contain a provision that the broker’s commission shall not exceed 6%.

1 b. The Listing Agreement shall be for a period of no longer than one hundred and
2 twenty (120) days. If the Property is not under contract for sale within the
3 initial listing period set forth above, upon the expiration of the Listing
4 Agreement, the Referee shall have the authority to either renew the listing
5 agreement with the same real estate brokers/agents or select another real estate
6 broker/agent to handle the sale by entering into a new listing agreement and
7 continue to do so until the Property is sold.

8 7. **Referee's Authority.** Referee Matthew L. Taylor shall have full authority to
9 partition by sale the Property. The Referee is authorized to place the Property for sale on the
10 market, retain any marketing analysis or advertisers, and undertake any and all other duties
11 associated with selling the Property, including executing documents necessary for consummation
12 of a sale. The authority to execute all documents necessary for consummation of the sale shall
13 include but not be limited to execution of all documents required by an escrow officer and/or title
14 insurance company, such as a Statement of Information (or such similar document providing
15 biographical information about the owners of the Property) and tax reporting documents for any
16 party hereto who does not provide said information required by said document within ten (10)
17 days of being provided said document. Furthermore, the Referee shall be authorized to sign any
18 affidavits, on behalf of any of the parties hereto, for the benefit of a title insurance company in
19 order to provide title insurance to establish that the property is able to be transferred to a buyer.
20 Based on the Referee's evaluation of the market data, the Referee shall set an initial listing price.
21 The Referee shall be authorized to reduce the asking price for the Property as he determines if it is
22 advisable in order to generate interest in the Property. The Property shall be sold on the best terms
23 and price with no carry-back financing. Any sale entered into by the Referee shall be subject to
24 Court confirmation before it is finalized.

25 8. **Notice of Sale.** The Referee shall provide notice of the sale of the Property in the
26 manner provided by Code of Civil Procedure section 873.640. The content of the notice shall
27 specify the case name and number of this action, the name of the Referee, the legal description of
28 the Property, the assessor's parcel number of the Property, the street address of the Property, that
29 offers must be submitted in writing, and the deadline for receipt of offers to be established by the
30 Referee. The Referee may, in his discretion, may add additional information to the sale notice.

1 Notice in that manner may be waived by agreement of all parties in writing without further order
2 of this Court.

3 9. [INSERT IF APPROPRIATE. Usage note: Include only if there are existing tenants
4 in the property.] **Termination of Tenancies.** To receive the highest bid for the sale of the
5 Property, the Referee is authorized to offer the Property for sale with or without occupants at
6 closing, by having the authority to take all actions necessary to deliver the Property clear of
7 occupants currently occupying the Property, within the limitations of this paragraph. To this end,
8 the Referee is authorized to issue notices to any tenants to terminate their tenancy following
9 legally-required notice periods and following the end of the existing lease term. The Referee is
10 also authorized to institute one or more actions in unlawful detainer either in the name of the
11 Referee or in the name of the owners of the property. To this end, the Referee is authorized to hire
12 private counsel with a specialty in unlawful detainer actions without further order of this Court
13 and to pay reasonable market rates for that attorney. Nothing in this order shall be deemed to
14 authorize termination of an otherwise-valid lease with a tenant in the Property prior to the end of
15 the lease term. The Referee is also authorized to continue and renew existing tenancies and enter
16 into new tenancies if, in the discretion of the Referee, that will generate the highest sale value for
the Property.

17 10. [INSERT IF APPROPRIATE. Usage note: Use only if there is an existing
18 management company for the Property.] **Retention of Existing Management Company.** The
19 Property has in place a management company, _____, which
20 _____ [the management company] shall continue to handle
21 management of the Property. Based upon the foregoing, the Referee shall not be responsible for
22 the day-to-day management of the Property. The Property owners and the existing management
23 company shall immediately provide to the Referee, upon written or oral request, a copy of the
24 tenant rent rolls, tenant leases, rent collection history, rental status, and other related tenant
25 documentation as may be requested by the Referee for whatever period of time requested by the
26 Referee.

27 11. [INSERT IF APPROPRIATE. Usage note: Use only if the Referee (rather than an
28 owner) will be required to manage the property.] **Referee to Manage Property.** The Referee is

1 empowered to manage the Property. To this end, the Referee is authorized to demand and collect
2 rents from any tenants, to enter into and terminate leases, and to repair and maintain the Property
3 and any of its buildings, to enter into contracts for the repair and preservation of the Property, and
4 to take such other actions as are reasonably required for the management of the Property. The
5 Referee is authorized to hire a management company for the purpose of day-to-day management
6 of the Property and to enter into a contract for that purpose and to pay industry-standard rates to
7 the management company. Any tenants in the Property are directed to pay rental payments to the
8 Referee, and the owners of the Property are ordered to immediately transfer to the Referee any
9 rental payments received after the date of entry of this Order.

10 12. [INSERT IF APPROPRIATE. Usage note: Use only if necessary and appropriate
11 based on the facts of the case.] **Possession of the Property by Referee.** The Referee shall have
12 authority to take sole and complete possession of the Property, including all keys and access
13 codes. The Referee is authorized to control access onto the Property including access to any and
14 all structures and building at the Property. The Referee may engage the services of a locksmith for
15 the purpose of entering the Property and changing any locks to a lock that is controlled by the
16 Referee. The parties to this action are ordered within 48 hours to provide to the Referee any and
17 all keys, alarm codes, or other means necessary to enter onto the property or any of the buildings
18 or structures on the Property. The parties are ordered to remove all animals from the Property that
19 would interfere with the Referee’s possessory rights. The Referee is authorized to engage the
20 services of the local animal control department to remove from the Property any and all animals
21 that interfere with the Referee’s right to access and possess the Property.

22 13. [INSERT IF APPROPRIATE. Usage note: Use only if necessary and appropriate
23 based on the facts of the case.]. **Enforcement of Possession by Referee as to Parties.** The
24 Referee may, at his discretion, require that parties to this action including but not limited to
25 _____ vacate the Property along with their personal property. If said party does not
26 vacate the Property upon request by the Referee, the Clerk of this Court is authorized and directed
27 upon request by the Referee to issue a Writ of Possession authorizing the Sheriff to deliver
28 possession of the Property to the Referee and to remove _____ or anyone claiming
possession through _____. For the purposes of Judicial Council form EJ-130, the Referee
Matthew L. Taylor shall be shown as “assignee of record” in paragraph 3. The Writ of Possession

1 shall be issued against _____ and all other occupants of the Property, known or
2 unknown. The real property described in the Writ of Possession shall be the Property. The date of
3 judgment on the Writ of Possession shall be the date this order is filed.

4 14. **Procedure for Sale Confirmation.** The referee shall sell the Property in the form
5 and manner approved by the this Order, in accordance with Code of Civil Procedure section
6 873.510 *et seq.*, and shall seek Court confirmation of the sale following the procedures set forth in
7 Code of Civil Procedure section 873.710 through 873.790. The parties may make written motion
8 to object to the sale. The Referee may seek court confirmation by (1) stipulation of the parties or
9 (2) motion. If the time demands of the sale escrow so require, the Referee may seek approval by
ex parte motion to this court.

10 15. **Parties as Purchasers of the Property.** The parties, as existing partial owners of
11 the Property, may seek to purchase the Property from the Referee by either (1) submitting a
12 written purchase offer during the time period that the Referee is accepting purchase offers for the
13 Property or (2) by submitting an over bid at the time of court confirmation following the
14 procedures and rules set forth in Code of Civil Procedure section 873.740. The Referee shall
15 evaluate the offers from the parties and from any non-parties to determine which offer is the
16 highest and best considering all terms.

17 16. **Procedure for Consummation of Sale Following Court Approval.** Upon
18 approval and confirmation of the sale of the Property by the Court and the payment of the
19 purchase price, the referee is authorized and directed to execute and deliver a deed of the Property
20 transferring title to the buyers either in the name of the Referee or the name of the owners of the
21 Property. The parties shall fully cooperate with the referee in all aspects in order to timely
22 consummate the sale. As part of any escrow for a sale approved by the Court, the parties shall
23 cooperate with the Referee by completing and signing any state or federal tax-related forms
24 requested by the escrow officer handling the sale, including without limitation the California 593-
25 C form and federal tax forms certifying the citizenship of the sellers. Failure of any party to this
26 action to cooperate with the Referee within ten (10) days of receiving the aforementioned tax
27 documents, shall authorize the Referee to execute said documents on behalf of any party refusing
28 to timely provide the required tax forms.

1 17. **Contracts of the Referee with Professionals.** The Referee is authorized to hire,
2 employ, retain, and terminate consultants, contractors, architects, locksmiths, brokers,
3 professionals, accountants, property managers, engineers, surveyors, appraisers, security guards,
4 investigators, auctioneers, property managers, and any other similar professionals or employees
5 which the Referee deems necessary to assist him in the discharge of his duties. The Referee is
6 authorized to enter into and execute contracts with companies and/or individuals authorized by
7 this paragraph. All reasonable expenses incurred in connection with the hiring and retention of
8 authorized personnel shall be expenses of the Property and shall be paid by one or more of the
9 following methods: (1) from the proceeds of the sale of the Property; (2) by loans made or
10 obtained by the Referee for this purpose; or (3) by direct payment by the parties to the person or
11 company providing services to the Referee. No matter which method of payment is made, all
12 such reasonable expenses shall be paid or reimbursed by the Referee from the sale proceeds of the
13 sale of the Property prior to any other distributions to the owners of the Property. The Referee
14 shall have no obligation to expend funds to bring the Property into good and marketable condition,
15 unless the owners provide sufficient funds for this purpose. In the event any funds are expended
16 by the Referee toward the repairs, cleaning or maintenance of the Subject Property, the Referee
shall be reimbursed from the proceeds of the sale.

17 18. **Application of Proceeds to Pay for Expenses.** From the proceeds that shall come
18 into the Referee's possession, whatever the source, the Referee shall apply and disburse said fund,
19 from time to time, in the following general order of priority, subject to change in the Referee's
20 discretion:

- 21 i. To pay the expenses and charges of the Referee in the conduct of his
22 office.
- 23 ii. To pay all expenses reasonably necessary or incidental to the care,
24 preservation and maintenance of the Property;
- 25
- 26

27 19. **Professional Fees of the Referee.** Pursuant to Code of Civil Procedure section
28 873.010, the Court has authority to fix the reasonable compensation for services of the Referee.

1 The Court acknowledges and approves of the following hourly fees to be charged by the Referee
2 and his staff members: Referee's hourly fees of \$300.00 per hour; accounting/bookkeeping fees
3 of \$75-\$150 per hour depending on experience level; property management \$110 per hour; other
4 office or field personnel \$30-\$75 per hour; associate attorneys working for the Referee \$225 per
5 hour. In addition, the Referee shall be reimbursed for all expenses incurred by the referee on
6 behalf of the Property upon the completion of the sale of the Property. The Referee must file a
7 final statement of account and report with the Court for the time and expense incurred in
8 connection with the discharge of his services and provide notice to the parties for any hearing set
9 for the approval of the report. The parties, as may be permitted by law, will have an opportunity to
10 object to the report and any billing of the Referee and his staff members and agents. Pursuant to
11 Code of Civil Procedure section 873.010(4), the professional fees and costs of the Referee shall be
a lien upon the Property commencing on the date of entry of this Order.

12 20. **Financial Accounts.** The Referee is authorized to open one or more accounts at
13 any federally-insured bank, savings and loan, credit union, or similar financial institution for the
14 purpose of holding funds associated with this case.

15 21. **Further Instructions.** As allowed by Code of Civil Procedure section 873.070,
16 the Referee or any party may seek further instructions from this Court concerning the duties of the
17 Referee.

18 22. **Liability of the Referee.** Pursuant to Code of Civil Procedure section 873.160, the
19 Referee is not personally liable on contracts made or for expenses incurred, except as such liability
20 is expressly assumed by the Referee in writing.

21 23. **Insurance.** The parties are hereby ordered to provide to the referee information
22 about any policies of insurance that cover the Property within 10 days of the date this order is
23 filed. The Referee may procure insurance on the Property if there is insufficient insurance
24 coverage thereon, provided the Referee has funds for that purpose. The Referee has no obligation
25 or duty to purchase a policy of insurance for the Property nor to expend his own funds for the
26 purchase of insurance for the Property.
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28

1 **FINAL DISTRIBUTION ORDER**

2
3 **Usage Note: The next three paragraphs are for optional use if the case involves claims for**
4 **accounting or compensatory adjustments between the parties.**

5
6 24. **Instructions Relating to Sale Proceeds.** After the Court has approved the sale of the
7 Property and the Referee has completed the sale of the Property, the Referee shall submit a written
8 request to the Court with proposed instructions regarding how to disburse the proceeds from the
9 sale of the Property (collectively, the “Sale Proceeds”).

10 25. The written request for final distribution order shall cover the following subjects:

- 11 a. Any liens and other encumbrances on the Subject Property shall be deducted
12 from the Sale Proceeds and paid from the sale escrow and apportioned to the
13 party responsible for placing a lien or encumbrance on the Subject Property.
- 14 b. Any appraisal, escrow, title fees, closing costs, and other costs of partition shall
15 be deducted from the Sale Proceeds and paid through the sale escrow.
- 16 c. Any broker’s fees or commissions shall be deducted from the Sale Proceeds
17 and paid through the sale escrow.
- 18 d. Any costs of the Referee shall be paid by the Referee from the Sale Proceeds or
19 from other proceeds obtained by the Referee for that purpose.
- 20 e. Any professional fees of the Referee shall be paid by the Referee from the Sale
21 Proceeds subject to court confirmation.
- 22 f. Any attorney’s fees/costs of the parties approved by the Court shall be paid
23 from the Sale Proceeds pursuant to the manner provided in the future by any
24 Court order regarding any party’s motion for attorneys’ fees, if any, and the
25 Memorandum of Costs.
- 26 g. Any claim for allowance, accounting, contribution, or other compensatory
27 adjustment among the parties relating to the Property authorized by Code of
28 Civil Procedure section 872.140 or otherwise allowable under California law,
including but not limited to claims relating to periods of ouster, repair costs,
mortgage payments, taxes, insurance, and other similar items.

- 1 h. Any costs of partition allowed by Code of Civil Procedure section 874.010
- 2 i. Any claims for attorney's fees and costs for any party.
- 3 j. Distribution of net proceeds to the parties as allowed by Code of Civil
- 4 Procedure section 873.820.

5

6 26. **Claims Period and Investigation by Referee.** In connection with the Referee's

7 request for final distribution order, the Court authorizes and directs the Partition Referee

8 following the close of sale of the Property to investigate and report to the Court regarding any

9 claims for compensatory adjustment between the parties, including those allowed by *Code of*

10 *Civil Procedure* section 872.140, and including those claims relating to reimbursement, credit, or

11 offsets arising from the prior period of joint ownership of the Subject Property. The Partition

12 Referee is granted authority under *Code of Civil Procedure* sections 872.630(b) and 873.850 and

13 shall be authorized to request from the parties verified claims, interview witnesses, inspect the

14 Subject Property and otherwise take such other actions as may reasonably assist the Referee in

15 discharging these duties. The Partition Referee may establish a claims procedure and may

16 establish a claims submission deadline for the submission of any claims relating to accounting

17 and compensatory adjustments between the parties. The Partition Referee shall create a report of

18 his findings and recommendations to be submitted to the Court for review. Notwithstanding

19 anything in the Partition Referee's report and recommendations, the Court retains the authority to

20 accept, deny, or modify any recommendations made by the Partition Referee.

21

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24 27. **Retention of Proceeds Until Court Order.** Until the Court issues the final

25 distribution order, the Referee shall hold all net proceeds in a segregated account. The net

26 proceeds of the sale of the Property shall be distributed by the Referee in accordance with the

27 terms of the final disbursement order to be entered by this Court.

28

1 28. **Retention of Jurisdiction.** The Court shall retain jurisdiction pursuant to
2 California Code of Civil Procedure §873.850 following confirmation of the sale of the Property to
3 review the reports of the referee, if any, to order the manner in which the sale proceeds are to be
4 disbursed, and to order equitable adjustments that the Court considers just and appropriate.

5 29. **Participation by Referee.** The Referee shall be authorized to participate in all
6 court proceedings relating to the Property. The Referee may report to the court from time-to-time
7 relating to issues with the Property and the status of sale efforts relating to the Property.

8 30. **General Powers.** The Referee is authorized to execute and prepare all documents
9 and to perform all acts, in the Referee's own name or the names of the owners of the Property,
10 which are-necessary or incidental to preserving, protecting, managing, and/or controlling the
11 Property. The Referee may contact any utility provider to the Property (including without
12 limitation water, gas, electricity, and the like) for the purpose of transferring, starting, or stopping
13 utility service. In addition to the specific powers set forth herein, the Referee is hereby vested with
14 general powers of Referees in cases of this type.

15 31. **Orders in Aid of the Referee.** Plaintiff and Defendant, and their respective
16 agents, employees, servants, representatives, and persons acting in concert with them or under
17 their direction or control are hereby enjoined and restrained from:

- 18 i. Interfering with or impeding the Referee in carrying out his duties;
- 19 ii. Withholding from the Referee any documents or records to be delivered
20 from him pursuant to this order;
- 21 iii. Selling, leasing, transferring, mortgaging, or otherwise encumbering the
22 Property or any part thereof;
- 23 iv. Doing any act that impairs or damages the Property or that reduces the
24 value of the Property;
- 25 v. Taking any actions that interfere with the ability of the Referee to have
26 free and unfettered access to the Property, including but not limited to
27 installing locks, chains, or other barriers to entry to the Property for the
28 purpose of impeding the Referee's access to the property.

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ORDER

IT IS SO ORDERED AND THE INTERLOCUTORY JUDGMENT IS SO ENTERED.

DATED: _____

By: _____

THE HONORABLE
JUDGE OF THE SUPERIOR COURT

INTRODUCTION TO THE PARTITION REFEREE REMEDY FOR REAL PROPERTY DISPUTES

By

Matthew L. Taylor

This article discusses the remedy of partition of real property by a court-appointed Partition Referee. The particular focus of this article deals with the mechanics of how a partition referee operates in civil actions.

INTRODUCTION TO PARTITION OF REAL PROPERTY

In California, joint owners to real property may file a lawsuit seeking to have their joint interest in the property partitioned. *Code of Civil Procedure* section 872.210. Partition actions follow an unusual procedure in that the court conducts an initial trial to determine whether the plaintiff has a right to partition the real property. *Code of Civil Procedure* section 872.210. If the court determines that there is a right to partition the property, the court enters an interlocutory judgment for partition. *Code of Civil Procedure* section 872.720. This interlocutory judgment for partition determines the interests of the parties in the property, orders the partition of the property, and determines the method of partition. In this interlocutory judgment for partition, the court is authorized to either divide the property between the joint owners or order its sale. *Code of Civil Procedure* section 872.810, et seq. Only after the partition is completed is a later final judgment entered by the court.

APPOINTMENT OF A PARTITION REFEREE

Once the court has determined that real property is to be partitioned, the court is authorized to appoint a Partition Referee for the purpose of handling the actual partition of the property. *Code of Civil Procedure* section 873.010. The court may appoint either one Partition Referee or, with the consent of the parties, three Partition Referees. *Code of Civil Procedure* section 873.020 and 873.030. (It is much more common to have a single Partition Referee.)

The *Code of Civil Procedure* does not set forth any qualification requirements for the Partition Referee, but the following categories of people are *ineligible* to be a Partition Referee:

- a. A Clerk or Deputy Clerk of the Court
- b. A former or present partner or employee of the Judge
- c. A relative within the third degree of the Judge or the Judge's spouse
- d. An owner of record of the property that is being partitioned.

Code of Civil Procedure section 873.050.

The court's order of appointment will set forth the duties and powers of the Referee.

DIVISION OF REAL PROPERTY BY A PARTITION REFEREE

If the court's interlocutory judgment orders division of the real property (rather than sale of the property), the Partition Referee shall be appointed to carry out that division. *Code of Civil Procedure* section 873.210. To this end, the Partition Referee may be authorized to employ attorneys, surveyors, engineers, and the like. *Code of Civil Procedure* section 873.110 et seq.

The Partition Referee then issues a report proposing the division of the property into lots or parcels for the purpose of dividing the property amongst its owners. The report of the Referee may be confirmed, modified, or set aside by the appointing court. *Code of Civil Procedure* section 873.290. The division of real property proposed by the Referee shall become effective and vests title upon a final judgment of partition by the court. *Code of Civil Procedure* section 873.290.

SALE OF REAL PROPERTY BY A PARTITION REFEREE

If the court's interlocutory judgment orders sale of the real property, the Partition Referee shall be appointed to carry out that sale. *Code of Civil Procedure* section 873.510. The sale by the Partition Referee can be made by either public auction or private sale, whichever is more beneficial to the parties. The court may (and often does) refer to the Partition Referee the job of determining the best manner and mode of sale of the real property. *Code of Civil Procedure* section 873.610. In the experience of the author of this article, the most common method of sale of real property is by private sale with the assistance of a real estate broker for advertising the property. Most often, the property is listed for sale in the commercial multi-listing service, and marketed in a manner consistent with other similar properties.

In order to consummate a sale, the Partition Referee is required to make a report of the sale to the court. This report includes details of the sale, such as the name of the purchaser, the sale price, and the terms of the sale. *Code of Civil Procedure* section 873.710. Sales by Partition Referees must be confirmed by the court before becoming final. *Code of Civil Procedure* section 873.720. Confirmation of the sale is made by motion to the court by the purchaser, Referee, or any party. *Code of Civil Procedure* section 873.720. At the confirmation hearing, the court may confirm the proposed sale, set aside the proposed sale, or allow higher bids for the property. *Code of Civil Procedure* section 873.740.

Upon confirmation of the sale, the Partition Referee is given authority to execute documents as required to consummate the sale. *Code of Civil Procedure* section 873.750. Following the consummation of the sale, the Partition Referee would normally report back to the Court with a final report and would be instructed by the court as to the disposition of the proceeds of sale. At that point, the Partition Referee would be discharged by the court.

PARTITION REFEREE'S FEES

Partition Referees are normally paid on an hourly basis for the work performed. Costs of sale (including the Partition Referee's fees) are paid from the sale proceeds. *Code of Civil Procedure* section

873.820. As a matter of best practice, the court's order appointing the Partition Referee should set forth the allowable hourly rate of pay for the Partition Referee so that there are no misunderstandings about the rate of pay.

About the Author

Matthew L. Taylor is an attorney based in Rancho Cucamonga, California. In addition to being an attorney, he has also acted as a Superior Court Receiver and Partition Referee in California.

RECENT CHANGES TO THE LAW OF REAL PROPERTY PARTITION IN CALIFORNIA

By

Matthew L. Taylor

This article discusses changes to the procedural and substantive law of real property partition in California enacted to go into effect in 2022 and 2023. This article follows-up on three prior articles by the same author containing an introduction to the real estate partition process and giving an overview of the process to recover certain costs (such as attorney's fees) previously published in the journal of the Western San Bernardino County Bar Association.

INTRODUCTION TO PARTITION OF REAL PROPERTY

In California, joint owners to real property may file a lawsuit seeking to have their joint interest in the property partitioned. *Code of Civil Procedure* section 872.210. Historically, partition actions have followed an unusual, two-step procedure in that the court conducts an initial trial to determine whether the plaintiff has a right to partition the real property. *Code of Civil Procedure* section 872.210. If the court determines that there is a right to partition the property, the court enters an interlocutory judgment for partition. *Code of Civil Procedure* section 872.720. This interlocutory judgment for partition determines the interests of the parties in the property, orders the partition of the property, and determines the method of partition. In this interlocutory judgment for partition, the court is authorized to either divide the property between the joint owners or order its sale. *Code of Civil Procedure* section 872.810, *et seq.* Only after the partition is completed and all costs adjudicated is a later final judgment entered by the court. *Code of Civil Procedure* section 873.850

During the 2021 and 2022 legislative session, California passed a series of major changes to the procedural and substantive rules governing the partition of real property, and some of these procedural changes impact the traditional rules of the real property partition process.

Effective for actions filed after January 1, 2022, California adopted a slightly-modified version of the Uniform Partition of Heirs Property Act, codified at *Code of Civil Procedure* section 874.311 to 874.323. The Uniform Partition of Heirs Property Act defines a property called "Heirs Property" that involves title acquired from a relative (either living or deceased) that currently has at least 20% ownership by relatives. (See, *Code of Civil Procedure* section 874.312 for the definition of this type of property.) For actions filed on or after January 1, 2022, the provisions of the Uniform Partition of Heirs Property Act will apply, but only for Heirs Property. The traditional rules still apply for all property not defined as Heirs Property.

Effective for actions filed after January 1, 2023, the legislature enacted the Partition of Real Property Act, which expanded the types of property covered under the alternative procedures first enacted only a year prior in the Uniform Partition of Heirs Property Act. The Partition of Real Property Act governs the partition of all real property held in tenancy in common unless there is an agreement between the owners governing the partition of the real property in a different manner. See, *Code of Civil Procedure* section 874.311 for the definition of included properties. The Partition of Real Property Act completely supersedes and replaces the concept of "Heirs Property" first introduced only a year prior.

Note, though, that the Partition of Real Property Act is limited to actions involving the partition of real property held as tenants in common. The historical procedural rules of partition still exist to govern partition of any property not covered by the Partition of Real Property Act

The end result of the recent legislative changes is that three potential partition systems currently exist in California. For all actions filed prior to January 1, 2022, the traditional partition rules apply. For actions filed during calendar year 2022 (and only during calendar year 2022), property defined as “Heirs Property” follows the new Heirs Property rules, but all other properties follow the traditional rules. For actions filed after January 1, 2023, any property held as tenants-in-common (whether by heirs or not) are governed under the new rules, but all other properties follow the traditional rules.

Because the Heirs Property rules govern only actions filed during one calendar year, and because those rules were completely subsumed after January 1, 2023, into the new rules in the Partition of Real Property Act, the remainder of this article will focus on the rules in the new Partition of Real Property Act.

NEW PROCEDURAL RULES UNDER THE PARTITION OF REAL PROPERTY ACT

If the real property in question is held as tenants in common, then the procedural rules for its partition sale will be governed by the new rules in the Partition of Real Property Act for all actions filed after January 1, 2023.

The most striking change in the Partition of Real Property Act is a procedure for existing owners to stop the partition sale of the property by buying out the interest of the owner seeking partition. If the owners of the property are not able to agree on the value of the property, then the Court will appoint a disinterested real estate appraiser to determine the fair market value. *Code of Civil Procedure* section 874.316. Following issuance of the appraisal report and court determination of the fair market value of the selling owner’s interest, there is a limited period of time for existing owners to buy-out the interest of the owner seeking partition at the fair market value by “paying the entire price into the court”. *Code of Civil Procedure* section 874.317. In this same section, the purchasing owners may also seek court permission to purchase the interests of co-owners who were served with the complaint but did not appear in the action. If the fractional property interests are sold through these buy-out provisions, then the partition process ends without the traditional sale of the entire property.

If the fractional interests of the owners seeking partition are not purchased by the other owners, and if the court does not find that partition in kind (division of the property rather than sale) is appropriate under *Code of Civil Procedure* section 873.318, then the Court shall order the entire property sold under *Code of Civil Procedure* section 873.320. If the court orders an open-market sale (rather than a sale by auction or sealed bids), then the Court shall appoint a real estate broker to conduct the sale. The court-selected broker shall offer the property for sale for no less than the fair market value established by the appraisal proceeding earlier in the case. If the broker is not able to obtain an offer at or above the court-established fair market value within “a reasonable time”, then the court may approve lower offers, may approve lowering the listing price, or may order the property sold at auction.

ROLE OF A PARTITION REFEREE IN THE PARTITION OF REAL PROPERTY ACT

The Partition of Real Property Act retains the potential role of a Partition Referee in sales of real property. None of the prior statutes dealing with appointment or conduct of a Partition Referee were repealed by the Partition of Real Property Act. *Code of Civil Procedure* section 873.313(b) under the Partition of Real Property Act states that the new act “supplements the other provision of this title”, which would include all of the rules relating to appointment and conduct of a Partition Referee. The Court’s ability to appoint a Partition Referee is explicitly allowed by *Code of Civil Procedure* section 874.315 of the new act, which states that if a Court appoints a Partition Referee, the Referee “shall be disinterested and impartial and not a party to or a participant in the action”.

Even under the new sale rules of the Partition of Real Property Act, a Partition Referee would be necessary if one of the property owners refuses to cooperate with the court-appointed real estate broker by signing necessary listing and sale documents or refuses to cooperate by allowing access to the property. The Partition Referee has historically had that power in partition actions, and that power remains in new actions in the Partition of Real Property Act. Indeed, that is one of the primary roles of the Partition Referee under the prior statutory scheme, and it remains one of the primary roles of the Partition Referee under the new statutory scheme. Under the new Partition of Real Property Act, there is no mechanism other than the appointment of a Partition Referee to deal with sales involving uncooperative or missing co-owners.

About the Author

Matthew L. Taylor is an attorney based in Rancho Cucamonga, California. In addition to being an attorney, he has also acts as a Superior Court Receiver and Partition Referee and is a licensed real estate broker (DRE #02189284) in California.

RECOVERY OF COSTS, FEES, AND REIMBURSEMENTS IN A REAL PROPERTY PARTITION CASE

By

Matthew L. Taylor

This article discusses the recoverable costs, fees, and reimbursements available in a real property partition lawsuit in California. This article follows-up on a prior article by the same author containing an introduction to the real estate partition process and discussing the mechanics of how a Partition Referee is appointed and sells real property. (See, Journal of the Western San Bernardino County Bar Association, January 2018.)

INTRODUCTION TO PARTITION OF REAL PROPERTY

In California, joint owners to real property may file a lawsuit seeking to have their joint interest in the property partitioned. *Code of Civil Procedure* section 872.210. Partition actions follow an unusual procedure in that the court conducts an initial trial to determine whether the plaintiff has a right to partition the real property. *Code of Civil Procedure* section 872.210. If the court determines that there is a right to partition the property, the court enters an interlocutory judgment for partition. *Code of Civil Procedure* section 872.720. This interlocutory judgment for partition determines the interests of the parties in the property, orders the partition of the property, and determines the method of partition. In this interlocutory judgment for partition, the court is authorized to either divide the property between the joint owners or order its sale. *Code of Civil Procedure* section 872.810, et seq. Only after the partition is completed and all costs adjudicated is a later final judgment entered by the court.

Once the court has determined that real property is to be partitioned, the court is authorized to appoint a Partition Referee for the purpose of handling the actual partition of the property. *Code of Civil Procedure* section 873.010. After the Partition Referee has sold the property, the law allows claims for costs, fees, and expense reimbursements by the parties against the sale funds being held by the Partition Referee.

SUMMARY OF RECOVERABLE LEGAL FEES AND COSTS

California has a well-established body of statutory and decisional law dealing with apportionment of costs and legal fees in a partition action. The basic rules are set forth in *Code of Civil Procedure* sections 874.010 through 874.140. The default rule is that allowable costs and fees are to be apportioned by the court among the owners “in proportion to their interests or make such other apportionment as may be equitable.” *Code of Civil Procedure*, section 874.040. For example, if the owners each own a fifty percent interest in the property, then each owner would be apportioned fifty percent of the recoverable costs, unless the court finds that equitable considerations require a different division.

Allowable categories of costs are set forth in *Code of Civil Procedure* section 874.010 and include:

- a. Reasonable attorney’s fees incurred or paid by a party for the common benefit
- b. The fees and expenses of the referee.

- c. Compensation for surveyors or other persons employed by the referee
- d. The reasonable costs of a title report
- e. “Other disbursements or expenses determined by the court to have been incurred or paid for the common benefit.”

Costs apportioned by a court may be ordered paid in whole or in part prior to judgment, or they may be included and specified in the judgment. *Code of Civil Procedure* section 874.110. Unpaid costs shall be a “lien on the share of the party specified” and shall have priority over any other lien on the share except those imposed by the statutes dealing with partition. *Code of Civil Procedure* section 874.120.

Proceeds of the sale generated by the partition shall be applied in the following order:

- a. Payment of the expenses of sale
- b. Payment of the other costs of partition
- c. Payment of liens on the property in their order of priority except for those liens that are to remain on the property
- d. Distribution of the residue among the parties in proportion to their share as ordered by the Court

See, *Code of Civil Procedure*. section 873.820.

The most commonly-litigated issue is claims for attorney’s fees for the prevailing party. *Code of Civil Procedure* section 874.010(a) creates an allowable category of recoverable costs for “reasonable attorney’s fees incurred or paid by a party for the common benefit”. The plain language of the statute allows recovery for both paid and unpaid fees. Case law is clear that attorney’s fees incurred by the party successfully seeking partition are treated as being incurred for the “common benefit”. See, *Lin v. Jeng*, 203 Cal.App.4th 1008 (2012). Accordingly, the successful party seeking partition can make a claim for reimbursement of attorney’s fees from the proceeds generated by the sale. That party would still be required to pay his or her own proportionate share of attorney’s fees corresponding to the owner’s interest in the property. There is, however, a split of appellate court authority dealing with whether the court has the authority to order the division of fees by some method other than a proportion of the parties’ interest in the property.

Historically, the law allowed division of prevailing party attorney fees only in proportion to the interests in the property. See, for example, *Capuccio v. Ciare*, 215 Cal. 218 (1932). This was based on the then-current language of the statute found in *Code of Civil Procedure* section 796. In 1976 the statutory scheme was amended to create the current-day *Code of Civil Procedure* sections 874.010 and 874.040. Current section 874.040 allows the court to apportion costs either “in proportion to their interests” or “such other apportionment as may be equitable.” The split in appellate court authority deals with whether the court has authority to apportion attorney fees in a manner other than in proportion to the ownership interest.

Finney v. Gomez, 111 Cal.App.4th, 3 C.R.3d 604 (2003) held that a trial court can only deviate from proportional apportionment “where the interest of the parties in all items, lots, or parcels of property are not identical.” The later case of *Lin v. Jeng*, 203 Cal.App.4th 1008 (2012), analyzed this issue and came to the contrary conclusion. The *Lin* court held that

“[t]here is no ambiguity in the language of section 874.040. It simply states that the trial court must apportion the costs incurred in a partition action based on *either* the parties’ interest in the property, or equitable considerations. The statute’s broad language does not limit the trial court’s equitable discretion, and we decline to follow *Finney* by doing so.” [emphasis present in original.]

Thus, current case law does not create a simple set of rules for the court to follow relating to apportionment of costs. In that context, though, it is worth reviewing the facts that caused the court in *Lin v. Jeng* to apportion the partition-related fees against the interests of one party rather than in proportion to the ownership interests. In that case, one sibling utilized her knowledge of real estate to file a false grant deed awarding her 85% of a real property, thus depriving her siblings of their ownership share of the property. Also, when the partition action was filed, it did not include as parties all owners of the property, resulting in the siblings being required to file a complaint in intervention to protect their interests in the property. Thus, in the *Lin* case, the actions cited by the court involved both (1) active misdeeds intended to deprive another of property rights and (2) improper litigation actions that increased the cost to other parties.

Almost every partition action involves a dispute between owners about whether the property should be sold or not. The refusal of one co-owner about whether to sell the property is the trigger for filing a partition action; it should not be the justification for apportioning 100% of the attorney’s fees on the owner who does not want to sell. If that were the case, then the statute would simply apportion fees to the prevailing party in all cases. In order to successfully seek apportionment of attorney’s fees in a manner other than the proportionate interests of the owners, the successful party will need to show facts that allow the court to exercise equitable discretion to impose costs outside the proportion of ownership interest in the property.

RECOVERABLE COSTS AND EXPENSES FOR PROPERTY-RELATED EXPENDITURES

Often in a partition action, the parties seek to recover for property-related expenditures that were paid during ownership of the property or to account for one owner’s exclusive use of the property. These are treated as claims against the sale proceeds generated by the sale of the property.

Code of Civil Procedure section 872.140 allows the court to “order allowance, accounting, contribution, or other compensatory adjustment among the parties in accordance with the principles of equity”. The Law Revision Commission Comments to this section specify that its intent is to allow courts to make adjustments among the owners for “such items as common improvements, unaccounted rents and profits, and other matters for which contribution may be required.”

As summarized by the Court in *Wallace v. Daley*, 220 Cal.App.3d 1028, 1036 (1990): “Every partition action includes a final accounting according to the principles of equity for both charges and credits upon each co-tenant’s interest. Credits include expenditures in excess of the co-tenant’s fractional share for necessary repairs, improvements that enhance the value of the property, taxes, payments of principal and interest on mortgages,

and other liens, insurance for the common benefit, and protection and preservation of title.”

In partition actions that involve one owner in possession of the property and another owner not in possession of the property, claims are often made relating to the value of occupancy of the property. This can be a difficult area to resolve because the facts are not always clear, and there are often competing claims of abandonment or ouster relating to property occupancy.

The general rule in cases between co-owners is that co-owners cannot make a claim for the implied rental value of exclusive possession by one co-owner unless the co-owner out of possession can show an actual ouster. *Estate of Hughes v. Patton*, 5 Cal.4th 1607 (1992). Miller and Star, *California Real Estate 3d* “Holding Title” section 12:19 and 12:4. “An ouster, in the law of tenancy in common, is the wrongful dispossession or exclusion by one tenant of his cotenant or cotenants from the common property of which they are entitled to possession.” *Zaslow v. Kroenert*, 29 Cal.2d 541, 548 (1946). This requires a factual inquiry, and, as one court has noted, “[t]he practical borderline between privileged occupancy of the whole by a single cotenant and unprivileged greedy grabbing which subjects the greedy one to liability to his cotenants is not crystal clear.” *Estate of Hughes, supra*, 5 Cal.4th 1607 at 1612, quoting the treatise Powell, *The Law of Real Property* section 603 (1982).

However, even if the co-tenant cannot show actual ouster, in a partition action, the reasonable rental value enjoyed by the tenant in possession can be used to offset claims by the tenant in possession for the cost of expenses paid for the common benefit on the property (such as improvements, repairs, and the like). *Hunter v. Schultz*, 240 Cal.app.2d (1966). Notably, although the court may allow this type of offset, the court is not required in all cases to apply such an offset. *Milian v. DeLeon*, 181 Cal.App.3d (1986). Decisions in these cases are always fact intensive.

Courts can, and often do, request the Partition Referee to sort through these claims and make a recommendation to the Court about these issues. Statutory authority for this type of recommendation is found in *Code of Civil Procedure* section 872.630, which allows the Court to empower the Partition Referee to conduct fact finding investigations involving the “attendance of witnesses, the production of books, documents, or things, and the filing of verified claims” and to later make a report to the Court.

About the Author

Matthew L. Taylor is an attorney based in Rancho Cucamonga, California. In addition to being an attorney, he has also acts as a Superior Court Receiver and Partition Referee in California.

RECOVERY OF REAL PROPERTY EXPENSES IN A PROPERTY PARTITION CASE

By

Matthew L. Taylor

This article discusses the procedure and substantive law relating to recovery of real property expenses in a real property partition lawsuit in California. This article follows-up on two prior articles by the same author containing an introduction to the real estate partition process and giving an overview of the process to recover certain costs (such as attorney's fees) previously published in the journal of the Western San Bernardino County Bar Association.

INTRODUCTION TO PARTITION OF REAL PROPERTY

In California, joint owners to real property may file a lawsuit seeking to have their joint interest in the property partitioned. *Code of Civil Procedure* section 872.210. Partition actions follow an unusual procedure in that the court conducts an initial trial to determine whether the plaintiff has a right to partition the real property. *Code of Civil Procedure* section 872.210. If the court determines that there is a right to partition the property, the court enters an interlocutory judgment for partition. *Code of Civil Procedure* section 872.720. This interlocutory judgment for partition determines the interests of the parties in the property, orders the partition of the property, and determines the method of partition. In this interlocutory judgment for partition, the court is authorized to either divide the property between the joint owners or order its sale. *Code of Civil Procedure* section 872.810, *et seq.* Only after the partition is completed and all costs adjudicated is a later final judgment entered by the court.

Once the court has determined that real property is to be partitioned, the court is authorized to appoint a Partition Referee for the purpose of handling the actual partition of the property. *Code of Civil Procedure* section 873.010. After the Partition Referee has sold the property, the law allows claims for costs, fees, and expense reimbursements by the parties against the sale funds being held by the Partition Referee.

SUMMARY OF RECOVERABLE COMPENSATORY CLAIMS

Code of Civil Procedure section 872.140 allows the court to “order allowance, accounting, contribution, or other compensatory adjustment among the parties in accordance with the principles of equity”. The Law Revision Commission comments to this section specify that its intent is to allow courts to make adjustments among the owners for “such items as common improvements, unaccounted rents and profits, and other matters for which contribution may be required.”

As summarized by the court in *Wallace v. Daley*, 220 Cal.App.3d 1028, 1036 (1990): “Every partition action includes a final accounting according to the principles of equity for both charges and credits upon each co-tenant’s interest. Credits include expenditures in excess of the co-tenant’s fractional share for necessary repairs, improvements that enhance the value of the property, taxes, payments of principal and interest on mortgages, and other liens, insurance for the common benefit, and protection and preservation of title.”

This is often a source of bitter dispute in a partition action. These claims often arise when one co-owner claims to have spent more on common costs than the other co-owner. The claims also arise when one co-owner claims that the other co-owner obtained more benefit from the property, such as collecting rent. A large body of decisional law has been generated in California relating to the propriety of compensatory claims and fleshing out the types of claims that are allowable.

As a general rule, improvements to the property are a recoverable expense in an action for partition. *Wallace v. Daley*, 220 Cal.App.3d 1028, 1036 (1990). *Mercola v. Chester*, 97 C.A.2d 140, 143 (Cal. Ct. App. 2nd Dist. 1950). *Ventre v. Tiscornia*, 23 C.A.598, 604-605 (Cal. Ct. App. 1st Dist. 1913). *Milian v. De Leon*, 181 Cal.App.3d 1185 (Cal.Ct. App. 4th Dist. 1986). Note, however, that under the case of *Gerontopoulos v. Gerontopoulos*, 20 Cal.App.2d 261 (1937), the Court is not required in a partition action to compensate for “the ordinary type of repairs and improvements” during the sole tenancy of one owner.

Real property taxes and mortgage deed payments are generally recoverable expenses in a partition action. *Milian v. DeLeon*, 181 C.A.3d 1185 (1985).

Collected rent is normally a recoverable category of income in a partition action. See, *McWhorter v. McWhorter*, 99 Cal.App. 293 (1929). Thus, a co-owner can seek to recover for rental income from another co-owner who collected the rent without sharing.

Notably, even though costs may be reimbursed, the value of time or services provided by co-owners is not subject to contribution claims in a partition action. *Goodenow v. Ewe*, 16 Cal. 461 (1860). *Combs v. Ritter*, 100 Cal.App.2d 315 (1950).

PROCEDURE FOR MAKING COMPENSATORY CLAIMS

The *Code of Civil Procedure* gives the trial court jurisdiction to resolve claims for compensatory adjustments after completion of the sale of the real property. See, *Code of Civil Procedure* section 873.850. The code gives the trial court discretion to assign the matter to the Referee to gather evidence and make a recommendation, or the court may conduct further proceeding including taking further testimony on these subjects.

When a property has been sold through the partition process and the court finds that one party shall be reimbursed from the sale proceeds, the method for reimbursement is that the party is to be paid his or her reimbursement amount before the remaining money is divided in proportion to the ownership interests. *Ventre v. Tiscornia*, 23 Cal.App. 598 (1913). As stated by the Court in *Southern Adjustment Bureau v. Nelson*, 230 Cal.app.2d 539, 541 (Cal. Ct. App. 4th District., 1964):

“When a cotenant makes advances from his own pocket to preserve the common estate, his investment in the property increases by the entire amount advanced. Upon sale of the estate, he is entitled to be reimbursed his entire advancement before the balance is equally divided.”

Proceeds of the sale generated by the partition shall be applied in the following order:

- a. Payment of the expenses of sale
- b. Payment of the other costs of partition
- c. Payment of liens on the property in their order of priority except for those liens that are to remain on the property
- d. Distribution of the residue among the parties in proportion to their share as ordered by the Court

See, C.C.P. section 873.820.

There is no statute of limitation that applies to the apportionment of credits, offsets, and other reimbursements in a partition action. *Adams v. Hopkins*, 144 Cal. 19 (1904). However, equitable principles of laches can apply to these claims. *Akley v. Bassett*, 189 Cal. 625 (1922) In theory, co-owners can make compensatory claims all the way back to the start of the joint ownership period.

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