



PRACTICE
AREAS

Real Estate
Creditor/Lender Rights
Commercial Litigation
Business Organizations

Andrew M. Cox
Douglas D. Gerrard
Jay R. Larsen
Gary C. Milne
Sheldon A. Herbert
James E. Shapiro
Richard D. Chatwin

EAST
2450 St. Rose Parkway, Suite 200
Henderson, NV 89074
702 796-4000
702 796-4848 facsimile
(Main Office)

WEST
7201 West Lake Mead Blvd., Suite 108
Las Vegas, Nevada 89128
702 796-4000
702 384-5900 facsimile

May 17, 2011

Via hand delivery to:

City Clerk
CITY OF LAS VEGAS
400 Stewart Avenue
Las Vegas, NV 89101

RE: City of Las Vegas v. Yung Kwai Chan.
Your Case: #89130
Property: 125 Sam Jonas Drive, Las Vegas, NV
(APN 138-33-518-031)
Our File No. 11177

Dear Deputy Clerk:

Our office has been retained to represent the interests of Yung Kwai Chan. Mr. Chan is the subject of NEIGHBORHOOD RESPONSE DIVISION NEIGHBORHOOD SERVICES DEPARTMENT (the "Department") Case #89130, involving the property identified above.

Case #89130 is set to be heard by the City Council, pursuant to the attached notice on May 18, 2011 at 1:00 p.m., as Public Hearing Item No. 62 on the Agenda.

Also attached hereto is a letter we sent to Mr. Devin Smith of the Department, in an attempt to resolve this matter, which letter constitutes our client's formal protest of Item No. 62. The evidence and arguments set forth in the letter are incorporated by this reference herein.

Douglas D. Gerrard, Esq. will be present at the hearing to argue our case to the City Council. Thank you for your prompt attention to this matter.

Sincerely,

GERRARD COX & LARSEN

Sheldon A. Herbert, Esq.

Attachments (Notice, Letter)

Receipt of the foregoing with attachments is acknowledged this _____ day of May, 2011.

Deputy Clerk, City of Las Vegas

RECEIVED
CITY CLERK
2011 MAY 18 A 9:13



NOTICE OF PUBLIC HEARING

MAY 18, 2011

LAS VEGAS CITY COUNCIL

OSCAR B. GOODMAN
MAYOR

GARY REESE
MAYOR PRO TEM

STEVE WOLFSON

LOIS TARKANIAN

STEVEN D. ROSS

RICKI Y. BARLOW

STAVROS S. ANTHONY

ELIZABETH N. FRETWELL
CITY MANAGER

Pursuant to Las Vegas Municipal Code for the Abatement of Dangerous Buildings/Nuisance Code and/or Housing Code, NOTICE IS HEREBY GIVEN THAT ON **WEDNESDAY, MAY 18, 2011**, at the hour of **1:00 P.M.** in the City Council Chambers, 400 Stewart Avenue, Las Vegas, Nevada, the City Council will consider the **REPORT OF EXPENSES** submitted by the Director of Building and Safety for:

Abatement of the violations on the property located at 125 **SAM JONAS DRIVE - Case No. 89130**. The Director of Building and Safety certifies that the sum of **\$4,209.35** was expended and Civil Penalties in the sum of **\$43,050.00** may be imposed for a total of **\$47,259.35**. Owner of record at time of abatement: **CHAN KWAI YUNG - WARD 2 (WOLFSON)**

If the City Council is satisfied with the report, it may order a lien of assessment recorded against the property. Any person affected by the proposed charge may file a written protest with the City Clerk any time prior to the hearing. Each protest must contain a description of the property and the grounds for the protest.

BEVERLY K. BRIDGES
CITY CLERK

CITY OF LAS VEGAS
400 STEWART AVENUE
LAS VEGAS, NEVADA 89101

VOICE 702.229.6011
TTY 702.386.9108
www.lasvegasnevada.gov



GERRARD
COX
LARSEN

ATTORNEYS AT LAW

PRACTICE
AREAS

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(Main Office)

WEST
7201 West Lake Mead Blvd., Suite 108
Las Vegas, Nevada 89128
702 796-4000
702 384-5900 facsimile

May 16, 2011

Via facsimile (382-4341)
and United States mail to:

Devin S. Smith, Manager
NEIGHBORHOOD RESPONSE DIVISION
NEIGHBORHOOD SERVICES DEPARTMENT
CITY OF LAS VEGAS
400 Stewart Avenue
Las Vegas, NV 89101

RE: City of Las Vegas v. Yung Kwai Chan.
Your Case: #89130
Property: 125 Sam Jonas Drive, Las Vegas, NV
(APN 138-33-518-031)
Our File No. 11177

Dear Mr. Smith:

Our office has been retained to represent the interests of Yung Kwai Chan. On February 15, 2011, Mr. Chan purchased the property identified above (the "Property") from the Federal National Mortgage Association ("Fannie Mae"). A true and correct copy of the deed whereby Mr. Chan acquired the Property is enclosed herewith for your convenience.

After Mr. Chan acquired the Property, he was notified that the City of Las Vegas (the "City") was seeking to assess the Property, as a result of the remediation of the Property back in September 3, 2010. On April 28, 2011, you sent Mr. Chan a letter, indicating that the City was seeking an assessment of \$4,209.35, along with a potential civil penalty of an additional \$43,050.00.

Apparently, the assessment and civil penalties arose as a result of the failure of a former property owner, Ronald Froyd, to remove a truck, trash, and weeds from the Property. On September 3, 2010, after no apparent remediation from Mr. Froyd, the City cleaned up the Property, incurring costs in the amount of \$989.00. Fannie Mae became the owner of the Property ten days later, after purchasing the Property at a trustee's sale. The trustee's deed upon sale was recorded on September 20, 2011. A true and correct copy of the trustee's deed upon sale is also enclosed for your convenience.

During the five months that Fannie Mae owned the Property, either it failed to pay the assessment, or the City failed to take any steps to enforce the assessment. Further, Fannie Mae never disclosed to Mr. Chan the existence of an assessment prior to his purchase of the Property. Had it done so, the assessment could have been handled through the closing of Mr. Chan's escrow.

Devin S. Smith, Manager
NEIGHBORHOOD RESPONSE DIVISION
NEIGHBORHOOD SERVICES DEPARTMENT
CITY OF LAS VEGAS
May 16, 2011
Page 2

We have reviewed documents provided by Mr. Chan, his real estate agents, and his title company, as well as documents apparently produced by the City. We have also reviewed pertinent provisions of the City of Las Vegas Municipal Code. We are aware that the City has set a public hearing for this matter to take place on May 18, 2010 at 1:00 p.m. (the "Public Meeting").

Our understanding is that the City is attempting to assess Mr. Chan with the following charges:

Remediation costs:	\$989.00
Admin fees:	\$148.35
Reinspection fees:	\$1,122.00
Civil Penalties:	\$1,950.00
TOTAL:	\$4,209.35

Even though, Mr. Chan did not cause the problem, which should have been solved by Mr. Froyd, and paid for, long before Mr. Chan purchased the Property, Mr. Chan is willing to pay the assessment in the amount of \$4,209.35 to the City.

However, the City is also seeking additional civil penalties, pursuant to City of Las Vegas Municipal Code § 9.04.040, up to a potential of \$43,050.00, for the period between June 6, 2010 and September 3, 2010, when the nuisance created by Mr. Froyd was apparently abated. City of Las Vegas Municipal Code § 9.04.040 provides:

- (A) Pursuant to NRS 268.019, the City may proceed to impose civil liability, instead of a criminal sanction, against a person for causing or maintaining a public nuisance. The amount of liability that may be imposed may not exceed five hundred dollars, or one thousand dollars in the case of liability imposed against an owner of commercial property. Each day that a violation continues constitutes a separate violation for purposes of imposing civil liability.
- (B) Proceedings instituted under this Section shall be as set forth in Sections 9.04.050 to 9.04.100, inclusive.

Mr. Chan was not the person who caused or maintained the public nuisance. He purchased the property approximately five months after the nuisance was abated. Rather, Mr. Froyd was the owner of the Property between the time that the nuisance notice was sent out and the nuisance was abated by the City of Las Vegas, and the apparent perpetrator. Likewise, Fannie Mae purchased the Property ten days after the abatement, and sold it to Mr. Chan five months later without taking care of any of the cost of abatement or even disclosing the same.

Devin S. Smith, Manager
NEIGHBORHOOD RESPONSE DIVISION
NEIGHBORHOOD SERVICES DEPARTMENT
CITY OF LAS VEGAS
May 16, 2011
Page 3

As the Code is drafted, civil liability under Municipal Code § 9.04.040 may only be imposed against a person, not a property, and, therefore, not lienable. Otherwise, the municipal code is vague and ambiguous, and must be construed against the City. Further, because the civil penalty is an alternative to a criminal misdemeanor charge, it is clear that the intent of the penalty is as a sanction for bad behavior. Mr. Froyd was the bad actor, who "caused or maintained a public nuisance", not Mr. Chan. It would be manifestly unjust for Mr. Chan to bear the burden of the civil penalties. Moreover, the amount of the sanction is excessive on its face. Mr. Chan paid \$72,900.00 for the Property, and the City wants to potentially assess \$47,259.35 (or 65% of the purchase price and present value of the Property) for the bad behavior of someone else.

As stated earlier, Mr. Chan is willing to pay the \$4,209.35, which actually includes nearly \$2,000.00 of civil penalties. This is more than enough to make the City whole by covering its actual costs of abatement (\$989.00), service charges for re-inspections (\$1,122.00), administrative fees (\$148.35), and interest.

Please let me know at your earliest convenience whether we can resolve this matter in the manner stated herein prior to the Public Meeting. Otherwise, we will be appearing at the Public Meeting and presenting our case to the City Council. Thank you for your prompt attention to this matter.

Sincerely,

GERRARD COX & LARSEN



Douglas D. Gerrard, Esq.

Enclosures (as stated)

Inst #: 201102250004244

Fees: \$19.00 N/C Fee: \$25.00

RPTT: \$0.00 Ex: #003

02/25/2011 03:26:45 PM

Receipt #: 689090

Requestor:

OLD REPUBLIC TITLE COMPANY

Recorded By: GILKS Pgs: 8

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN# 138-33-518-031

11-digit Assessor's Parcel Number may be obtained at:

<http://redrock.co.clark.nv.us/assrrealprop/owner.aspx>

5115019521-KR

Re-Record to correct typo in Grantee name

Re-Record Grant, Bargain and Sale Deed

Type of Document

(Example: Declaration of Homestead, Quit Claim Deed, etc.)

Recording Requested By:

Old Republic Title Company

Return Documents To:

Name Yung Kwai Chan

Address 8400 W. Sahara Ave, Attn: Leslie Lan

City/State/Zip Las Vegas, NV 89117

This page added to provide additional information required by NRS 111.312 Section 1-2

(An additional recording fee of \$1.00 will apply)

This cover page must be typed or printed clearly in black ink only.

R.P.T.T.: \$372.30
APN: 138-33-518-031

Title Order No. 5115019521
Escrow No. 5115019521-KR

WHEN RECORDED MAIL TO:

Yung Kwai *Chan*
8400 W Sahara Ave
Attn: Leslie Lan
Las Vegas, NV 89117

MAIL TAX STATEMENTS TO:

Yung Kwai *Chan*
8400 W Sahara Ave
Attn: Leslie Lan
Las Vegas, NV 89117

Inst #: 201102150003317

Fees: \$17.00 N/C Fee: \$25.00

RPTT: \$372.30 Ex: #

02/16/2011 02:17:16 PM

Receipt #: 678039

Requestor:

OLD REPUBLIC TITLE COMPANY

Recorded By: MGM Pgs: 5

DEBBIE CONWAY

CLARK COUNTY RECORDER

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT, BARGAIN AND SALE DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Fannie Mae aka Federal National Mortgage Association, organized and existing under the laws of the United States of America

hereby GRANT(S), BARGAIN(S), SELL(S) AND CONVEY(S) to

Chan
Yung Kwai, an unmarried man,

that property in Clark County, Nevada, described as:

See "Exhibit A" attached hereto and made a part hereof.

Dated February 4, 2011

Federal National Mortgage Association

By: Old Republic Title Company of Nevada, a Nevada Corporation, its attorney in fact

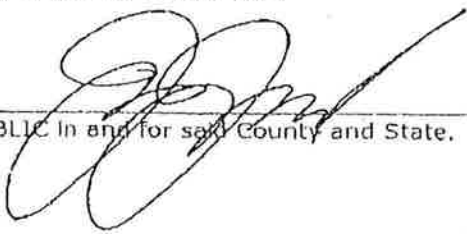
By: *Cindy Nunn V.P.*
Its: _____

Cindy Nunn, Vice President

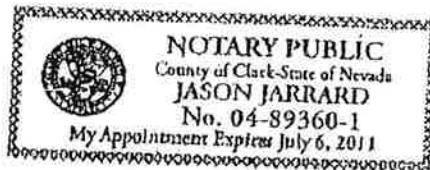
STATE OF NEVADA)
)SS:
COUNTY OF CLARK)

On this 8th day of February, 2011, personally appeared
before me, the undersigned, a Notary Public in and for said County and State,
Cindy Nunn, Vice President of Old Republic Title
Company of Nevada, as attorney-in-fact for Federal National Mortgage Association,
who acknowledged to me that she executed the same..

WITNESS my hand and official seal.



NOTARY PUBLIC in and for said County and State.



ORDER NO. : 5115019521-KR

EXHIBIT A

The land referred to is situated in the County of Clark, City of Las Vegas, State of Nevada, and is described as follows:

Lot Seven (7) in Block One (1) of CHARLESTON RAINBOW 16-A, as shown by map thereof on file in Book 22 of Plats, Page 68, in the Office of the County Recorder of Clark County, Nevada.

Exhibit B

Escrow holder is hereby instructed and authorized to cause the policy of title insurance in favor of the buyer herein subject to the following deed restriction: Grantee herein shall be prohibited from conveying captioned property to a bona fide purchaser for value for a sales price of greater than \$87,480.00 for a period of 3 month(s) from the date of this deed. Grantee shall also be prohibited from encumbering subject property with a security interest in the principal amount of greater than \$87,480.00 for a period of 3 month(s) from the date of this deed. These restrictions shall run with the land and are not personal to Grantee. This restriction shall terminate immediately upon conveyance at any foreclosure sale related to a mortgage or deed of trust.



CERTIFIED COPY. THIS
DOCUMENT IS A TRUE AND
CORRECT COPY OF THE
RECORDED DOCUMENT MINUS
ANY REDACTED PORTIONS

FEB 25 2011

Debra Conway
RECORDER

**STATE OF NEVADA
DECLARATION OF VALUE FORM**

1. Assessor Parcel Number(s)
138-33-518-031

2. Type of Property

- a) ☐ Vacant Land b) ☒ Single Fam. Res.
c) ☐ Condo/Twnhse d) ☐ 2-4 Plex
e) ☐ Apt. Bldg f) ☐ Comm'l/Ind'l
g) ☐ Agricultural h) ☐ Mobile Home
☐ Other _____

FOR RECORDER'S OPTIONAL USE ONLY

Book: _____ Page: _____

Date of Recording: _____

Notes: _____

3. Total Value/Sales Price of Property \$72,900.00
Deed in Lieu of Foreclosure Only (value of property) ()
Transfer Tax Value \$72,900.00
Real Property Transfer Tax Due \$372.30

4. **If Exemption Claimed:**

- a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Cindy Munoz Capacity: Grantor

Signature _____ Capacity: Grantee

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Federal National Mortgage Association
14221 DALLAS PARKWAY SUITE 1000
DALLAS, TX 75254

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Yung Kwai Chen
8400 W Sahara Ave
Attn: Leslie Lan
Las Vegas, NV 89117

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

Old Republic Title Company of Nevada
8861 W. Sahara Ave. Suite 290
Las Vegas, NV 89117

Escrow #: 5115019521-KR

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

**STATE OF NEVADA
DECLARATION OF VALUE FORM**

1. Assessor Parcel Number(s)

a. 138-33-518-031
b. _____
c. _____
d. _____

2. Type of Property:

a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
i. ☐ Other _____

FOR RECORDER'S OPTIONAL USE ONLY	
Book: _____	Page: _____
Date of Recording: _____	
Notes: _____	

3. a. Total Value/Sales Price of Property \$ _____
b. Deed in Lieu of Foreclosure Only (value of property) (_____)
c. Transfer Tax Value: \$ _____
d. Real Property Transfer Tax Due \$ 0.00

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section 3
b. Explain Reason for Exemption: Re-Record to correct typo in grantee name
201102150003317

5. Partial Interest: Percentage being transferred: 100.00 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature [Signature] Capacity Agent

Signature _____ Capacity _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: Fannie Mae
Address: 14221 Dallas Parkway, #1000
City: Dallas
State: TX Zip: 75254

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Yung Kwai Chan
Address: 8400 W. Sahara/Attn: Leslie Lan
City: Las Vegas
State: NV Zip: 89117

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

Print Name: Old Republic Title Company
Address: 8861 W. Sahara Ave., #290
City: Las Vegas

Escrow #: 5115019521-KR
State: NV Zip: 89117

RECORDING REQUESTED BY:

~~RECONTRUST COMPANY~~ FNMA

AND WHEN RECORDED MAIL TO:

~~RECONTRUST COMPANY~~ *Recontrust company*

400 COUNTRYWIDE WAY SV-35

SIMI VALLEY, CA 93065

138-33-518-031

Forward Tax Statements to Address listed above

TS No. 10-0011793

Title Order No. 100050649NVGTI

Inst #: 201009200000734

Fees: \$16.00 N/C Fee: \$0.00

RPTT: \$0.00 Ex: #002

09/20/2010 09:01:01 AM

Receipt #: 507760

Requestor:

FIDELITY NATIONAL DEFAULT S

Recorded By: BGN Pgs: 4

DEBBIE CONWAY

CLARK COUNTY RECORDER

TRUSTEE'S DEED UPON SALE NEVADA

APN# 138-33-518-031

The amount of the unpaid debt was \$ 166,462.12

The amount paid by the Grantee was \$ 131,743.43

The property is in the city of LAS VEGAS, County of CLARK

The documentary transfer tax is \$ 0. The Grantee herein was the beneficiary.

RECONTRUST COMPANY, N.A., as the duly appointed Trustee, under a Deed of Trust referred to below, and herein called "Trustee", does hereby grant without covenant or warranty to: FEDERAL NATIONAL MORTGAGE ASSOCIATION herein called Grantee, the following described real property situated in CLARK County, Nevada:

SEE ATTACHED LEGAL DESCRIPTION

This conveyance is made pursuant to the powers conferred upon Trustee by the Deed of Trust executed by RONALD FROYD, AN UNMARRIED PERSON, AND RICHARD RIGGINS AND TERESA RIGGINS, MARRIED TO EACH OTHER, as Trustor, recorded on 02/02/2004, Instrument Number 01138 (or Book 20040202, Page) Official Records in the Office of the County Recorder of CLARK County. All requirements of law regarding the recording and mailing of copies of the Notice of Default and Election to Sell, and the mailing, posting, and publication of the Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's Sale and in exercise of its power under said Deed of Trust sold said real property at public auction on 09/13/2010. Grantee, being highest bidder at said sale became the purchaser of said property for the amount bid, which amount was \$ 131,743.43.

"This Instrument is being recorded as an
ACCOMMODATION ONLY, with no
Representation as to its effect upon title"

DATED: September 15, 2010

RECONTRUST COMPANY, N.A., Successor Trustee

State of: Texas

County of: Tarrant

BY:

Jorge Valadez

Authorized Signer

On 9/16/10 before me Antonia Rodriguez, personally appeared Jorge Valadez, Auth. SGN, know to me (or proved to me on the oath of DL) or through DL to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed. Witness my hand and official seal.

Antonia Rodriguez
Notary Public's Signature

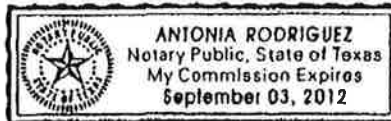


EXHIBIT A

REF. NO. 10-0011793

**LOT SEVEN (7) IN BLOCK ONE (1) OF CHARLESTON RAINBOW 16-A, AS SHOWN BY
MAP THEREOF ON FILE IN BOOK 22 OF PLATS, PAGE 68, IN THE OFFICE OF THE
COUNTY RECORDER OF CLARK COUNTY NEVADA.**

**STATE OF NEVADA
DECLARATION OF VALUE FORM**

1. Assessor Parcel Number(s)

a. 138-33-518-091
b. _____
c. _____
d. _____

2. Type of Property:

a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
i. ☐ Other _____

FOR RECORDER'S OPTIONAL USE ONLY

Book: _____ Page: _____

Date of Recording: _____

Notes: _____

3. a. Total Value/Sales Price of Property

\$131,743.43

b. Deed in Lieu of Foreclosure Only (value of property)

()

c. Transfer Tax Value:

\$131,743.43

d. Real Property Transfer Tax Due

\$ 0.00

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section 2

b. Explain Reason for Exemption: TRANSFER TO GOVERNMENT ENTITY

5. Partial Interest: Percentage being transferred: _____ %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature

Brendy Taylor

Capacity Grantor

Signature

J. E. S.

Capacity Grantee

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: Reconstruct Company

Address: 400 Countrywide Way

City: Simi Valley

State: CA Zip: 93065

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: FNMA

Address: 400 Countrywide Way

City: Simi Valley

State: CA Zip: 93065

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

Print Name: FADS

Escrow #: 10050619

Address: _____

City: 3220 El Camino Real

State: _____ Zip: _____

Irvine, CA 92602

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED