

STATE OF MAINE
HANCOCK, ss.

DISTRICT COURT
DISTRICT FIVE
Location: Ellsworth
Docket No. ELL-RE-2008-31

BAR HARBOR BANK & TRUST f/k/a)
BAR HARBOR BANKING AND)
TRUST COMPANY,)
)
Plaintiff)
)
vs.)
)
SHAWN W. HAMILTON and)
CRANBERRY RIDGE EAST)
CONDOMINIUM ASSOCIATION,)
)
Defendants)

**** DISCLAIMER ****

Bar Harbor Bank & Trust has provided the information contained in this bid package to persons interested in bidding for the property described herein. It believes the information contained herein to be accurate and complete. **However, neither Bar Harbor Bank & Trust nor its agents, employees or attorneys, make any warranties of any kind as to the accuracy or completeness of the information contained herein.** Prospective bidders are urged to make such an independent investigation as to each of those matters to which an ordinary and prudent buyer would inquire.

Michael S. Haenn, Esq. ■ 88 Hammond Street ■ Bangor, Maine
04401 ■ 207-990-4905 ■ Attorney for Bar Harbor Bank & Trust ■
mhaenn@haennlaw.com

TERMS AND CONDITIONS OF PUBLIC SALE

Bar Harbor Bank & Trust v. Shawn W. Hamilton et al.

78 East Ridge Road
Southwest Harbor, Maine

The following are the terms of the public sale of the property described in the mortgage deeds of Shawn W. Hamilton to Bar Harbor Bank & Trust f/k/a Bar Harbor Banking and Trust Company ("BHB&T") (a) dated May 24, 2002 and recorded in the Hancock Registry of Deeds in Vol. 3352, Page 277, and (b) dated July 16, 2003 and recorded in the Hancock Registry of Deeds in Vol. 3680, Page 54 ("the Property"). The interest being foreclosed is also described in more detail in the Order and Judgment of Foreclosure dated March 10, 2009 and entered by the Maine District Court (at Ellsworth) in the action docketed as *Bar Harbor Bank & Trust v. Hamilton et al.*, Docket No. ELL-RE-2008-31.

Date/Place of Sale - January 29, 2010 commencing at 10:00 a.m. at Bar Harbor Bank & Trust, 135 High Street, Ellsworth, Maine.

Nature of Sale - BHB&T is foreclosing the real estate mortgages described above and granted by Shawn W. Hamilton. The public sale of the Property is pursuant to 14 M.R.S.A. § 6321 et seq. and the said judgment of foreclosure.

Terms of Sale - (a) All of those terms set forth in the Notice of Public Sale published in the *Bangor Daily News* on December 26, 2009, January 2, and 9, 2010, including but not limited to the following: (i) a deposit to bid of \$10,000.00 in certified funds, payable to Bar Harbor Bank & Trust; and (ii) the balance of the purchase price is due and payable within 30 days of the public sale. The deposit to bid from the highest bidder is non-refundable.

(b) BHB&T makes no warranties of any kind whatsoever regarding its title to the Property; or the physical condition, location or value of the property; or compliance with any applicable federal, state or local law, ordinance and regulation, including zoning or land use ordinances. Bidders must satisfy themselves as to each of those matters to which an ordinary and prudent buyer would inquire.

(c) The Property is sold subject to all outstanding tax liens and municipal and quasi-municipal encumbrances, whether or not of record in the Hancock Registry of Deeds, as well as all

real estate transfer taxes.

(d) No personal property is being sold with the Property, and bidders must satisfy themselves as to the legal character of specific property as real or personal in nature. Further, BHB&T reserves the right, but not the obligation, to itself and its assigns to remove any personal property from the Property without liability of any kind to the buyer of the real estate for any loss, injury or damage sustained as a result of the storage or removal of said personal property.

(e) A record of bidding will be maintained by BHB&T for its own use. All persons present at the public sale and wishing to submit a bid must register with the auctioneer and submit the requisite deposit in cash or certified funds prior to the commencement of bidding. In the event that there is a failure to close the sale with any person who executes a Purchase and Sale Agreement, BHB&T reserves the right to either hold a new sale or to contact the next highest bidder and allow that party to purchase the Property as the assignee of the highest bidder. BHB&T disclaims any responsibility for providing notice of any kind to any person subsequent to the public sale.

(f) BHB&T reserves the right to refuse or accept any irregular bid; to hold periodic recesses in the sale process; to continue the sale from time to time without notice to any person; and to amend the terms of sale as it deems in the best interests of BHB&T.

(g) The transfer of the Property by BHB&T will be by release deed in substantially the same form as that attached to the Purchase and Sale Agreement and distributed in the bid package.

Purchase and Sale Agreement - the highest bidder for the Property will be required to execute a Purchase and Sale Agreement with BHB&T, and which must be executed immediately after the close of bidding.

ADDITIONAL TERMS AND CONDITIONS MAY BE ANNOUNCED BY THE AUCTIONEER ON THE DATE OF THE PUBLIC SALE AND ARE INCORPORATED HEREIN BY REFERENCE.

Dated: January 29, 2010

Michael S. Haenn, Esq. ■ 88 Hammond Street ■ Bangor, Maine
04401 ■ 207-990-4905 ■ mhaenn@haennlaw.com ■ Attorney for
Bar Harbor Bank & Trust

PURCHASE AND SALE AGREEMENT

AGREEMENT made as of this 29th day of January, 2010 by and between the following parties:

Seller: Bar Harbor Bank & Trust, a Maine corporation with a place of business in Bar Harbor, Maine ("Seller"); and

Buyer: _____

("Buyer").

1. **Purchase and Sale; Property.** Seller hereby agrees to sell, and Buyer hereby agrees to buy, a certain lot or parcel of land with any buildings thereon situated generally at 78 East Ridge Road, Southwest Harbor, Maine, and more particularly described in the mortgage deeds of Shawn W. Hamilton (a) dated May 24, 2002 and recorded in the Hancock Registry of Deeds in Vol. 3352, Page 277, and (b) dated July 16, 2003 and recorded in the Hancock Registry of Deeds in Vol. 3680, Page 54 ("the Property").

2. **Basic Terms of Transfer.** Seller hereby agrees to transfer, and Buyer agrees to purchase, the Property on or before February 28, 2010 ("the Closing Deadline"). Seller will convey its interest in the Property subject to the following conditions and restrictions:

(a) conveyance of the Property at closing (on or before the Closing Deadline) will be by release deed from Seller to Buyer in substantially the same form as that annexed hereto. Unless otherwise indicated below, and if more than one Buyer executes this Agreement, the deed from Seller to Buyer will be a deed to Buyer as tenants in common.

Buyer's affirmative election as to the form of the deed of conveyance from Seller:

- joint tenancy
- tenancy in common

(b) the closing will take place at the Law Office of Michael S. Haenn, 88 Hammond Street, Bangor, Maine, or at such other place as may be agreed between the parties.

(c) Seller makes no representations of any kind or nature as to the physical condition or title to the Property, both of which are expressly and strictly sold on "AS IS, WHERE IS" basis.

(d) conveyance at closing will be subject to all outstanding property tax liens or other municipal or quasi-municipal encumbrances or assessments, whether or not of record in the Hancock Registry of Deeds on the date of closing, and further subject to all real estate transfer taxes assessed by the State of Maine, all of which are entirely the responsibility of Buyer.

(e) Buyer specifically and affirmatively waives the right to request any writ of possession from Seller and for the Property.

(f) conveyance is further subject to the terms and conditions of sale as announced at the public sale of the Property on January 29, 2010 or as set forth in the Terms and Conditions of Public Sale distributed by the auctioneer to registered bidders at the time of registration to bid.

3. Purchase Price. (a) Buyer hereby agrees to pay to Seller the sum of

_____ Dollars

(\$ _____) for the Property as follows:

(i) Ten Thousand Dollars (\$10,000.00) at the time of the execution of this Agreement, all of which is non-refundable and the receipt thereof is hereby acknowledged by Seller; and

(ii) the balance (after such deposit) is due and payable at the time of closing in cash or by certified check.

(b) Should Buyer fail to tender the balance due at closing and on or before the Closing Deadline, all deposit(s) from Buyer shall be retained by Seller as liquidated damages but which shall not limit the right of Seller to enforce any other right or remedy against Buyer, including an action to compel specific performance.

4. Risk of Loss. The risk of loss or damage to the Property by fire or otherwise until closing and the delivery of a deed is assumed by Buyer.

5. Personal Property. Buyer recognizes that there are or may be items of personal property situated on or in the Property, and that Seller is not conveying any interest in such personal property to Buyer. Buyer agrees that Seller has made and will make no representations as to the legal character of specific property as real or personal in nature. Further, Seller reserves the right, but not the obligation, to itself and its designees to remove any personal property from the property without liability of any kind to Buyer for any loss, injury or damage sustained as a result of the storage or removal of such personal property.

6. **Broker.** Seller and Buyer agree that there is no real estate broker involved in this transaction, and that no one is due a commission in conjunction with the sale or purchase of the Property.

7. **Non-reliance; Construction.** Buyer acknowledges that Buyer has not relied upon any oral or written representations of any employee, agent, or attorney for Seller not expressly set forth in this Agreement as a basis for Buyer's decision to execute this Agreement. In express recognition thereof, Buyer agrees that in the event of any ambiguity as to the meaning or intent of the terms or obligations set forth herein, or any documents executed in connection herewith, such ambiguous term or provision shall not be construed more favorably to one party than to another.

8. **Limitation on Buyer Damages.** Buyer agrees that in any dispute or action arising out of this Agreement, or the matters described herein, the damages to which Buyer may be due at any time and as against Seller for any reason shall be specifically limited to the amount of Buyer's deposit, repayable without interest, and that under no circumstances may such damages include any claim for punitive damages, lost profits or investment opportunities, or attorneys' fees.

9. **Waiver of Jury Trial, Arbitration.** (a) Buyer agrees that in the event of any dispute as between Buyer and Seller and relating to the subject matter of this Agreement, or the property hereby contemplated to be transferred by Seller to Buyer, such dispute shall (unless Seller shall have demanded arbitration as set forth in this paragraph) be tried before a single Justice of the Superior Court in Hancock County sitting without a jury.

(b) Buyer further agrees that in any dispute or controversy with Seller as to the terms of this Agreement, or with respect to the matters described herein, and whether sounding in contract or tort, shall, at the election of Seller and at any time, be resolved by binding arbitration in accordance with the applicable provisions of the Maine Uniform Arbitration Act, at 14 M.R.S.A. § 5927 et seq. and as the same may be amended from time to time. Seller may further elect to submit less than all disputes or controversies as between Buyer and Seller to binding arbitration. Nothing herein shall be construed as limiting the rights or remedies of Seller pursuant to this Agreement or any document or agreement as between Buyer and Seller and at any time, whether or not Seller shall have previously demanded such arbitration.

10. **Assignment.** Buyer may assign its rights under this Agreement to any third party by a writing approved by Seller, but

such assignment may not mitigate or modify Buyer's obligations and liability to Seller pursuant to the terms hereof. Any such assignment, in a form approved by and acceptable to counsel for Seller, must be executed and delivered by Buyer and the proposed assignee(s) to counsel for Seller at least seven (7) calendar days prior to the date of closing.

11. **Amendments.** This Agreement contains the entire agreement of the parties, and it may not be amended subsequent to the execution hereof except by a writing executed by each of the parties to this Agreement.

12. **Binding Nature.** This Agreement shall be binding upon the respective heirs, successors, personal representatives and assigns of the parties hereto.

13. **Applicable Law.** This Agreement shall be enforced and construed in accordance with the laws of the State of Maine.

14. **TIME IS OF THE ESSENCE AND NOT A MERE RECITAL.** Should Buyer default in any obligation under this Agreement, Buyer agrees to indemnify and hold Seller harmless from any resulting or consequential loss, claim or damage of any kind whatsoever, including but not limited to any attorneys' fees incurred by Seller.

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement in duplicate original as of the day and year first above written.

Witness:

BAR HARBOR BANK & TRUST

By: _____
Stacie J. Alley
Its Asst. Vice President

Buyer - SS#/EID

Buyer - SS#/EID

Disclaimer: Please read this Purchase and Sale Agreement carefully. Neither Seller nor its agents, employees or attorneys, make any warranties or representations of any kind to Buyer beyond those expressly set forth in this Agreement. Further, none of such persons offer any advice to you as to any aspect of the arrangement reflected by, or contemplated by, the foregoing.

Counsel for Seller: Michael S. Haenn, Esq., Lambert Coffin
Haenn, 88 Hammond Street, Bangor, Maine 04401 ■ 207-990-4905 ■
mhaenn@haennlaw.com

RELEASE DEED

Bar Harbor Bank & Trust f/k/a **Bar Harbor Banking and Trust Company**, a Maine corporation with a place of business in Bar Harbor, County of Hancock and State of Maine, for consideration paid, releases to ___[Buyer]___, certain real property situated generally in Southwest Harbor, County of Hancock and State of Maine, and more particularly bounded and described as follows:

Certain premises, together with the buildings thereon, situated in the Town of Southwest Harbor, Hancock County, Maine, and being described as follows, to wit:

Unit 2, containing 4,506 square feet, the Common Elements and the Common Area, situated in Southwest Harbor, Hancock County, Maine, all as depicted on the plan entitled "Planned Unit Development, Cranberry Estates II formerly shown as Lot 3 - East Ridge Estates as depicted on a plan recorded in Hancock County Registry of Deeds Condominium and Residential Plan File 4A, Southwest Harbor, Maine for Cranberry Homes, Inc.", prepared by Plisga & Day, dated May 25, 1989 and recorded in File 23, No. 37 in said Registry of Deeds.

Reference is further made to:

1. The Declaration of Condominium, acknowledged on March 23, 1993 and recorded in Book 2076, Page 315 in said Registry of Deeds;
2. Amendment to said Declaration of recent date to be recorded herewith; and
3. Deed to Marcheta K. Bennett dated February 28, 1996 and recorded in Book 2501, Page 47 in said Registry of Deeds.

Subject to all municipal liens and encumbrances, including but not limited to real property taxes, whether or not of record in the Hancock Registry of Deeds. Further subject to all real estate transfer taxes.

For Grantor's source of title reference may be had to the mortgage deeds of Shawn W. Hamilton (a) dated May 24, 2002 and recorded in the Hancock Registry of Deeds in Vol. 3352, Page 277, and (b) dated July 16, 2003 and recorded in the Hancock Registry of Deeds in Vol. 3680, Page 54. The Grantor foreclosed said mortgage deeds in an action commenced in the Maine District Court (at Ellsworth) in the action docketed as *Bar Harbor Bank & Trust v. Shawn W. Hamilton et al.*, Docket No. ELL-RE-2008-31, and pursuant to an Order and Judgment of Foreclosure entered by the said Court. This deed is a conveyance of all right, title and interest of the Grantor and all parties to said action and in and

to the above property pursuant to 14 M.R.S.A. § 6323.

For purposes of compliance with 14 M.R.S.A. § 6323(1):
Newspaper in which publication occurred: *Bangor Daily News*.
Dates of publication: December 26, 2009, January 2, and 9,
2010.

Sale date: January 29, 2010. [If the public sale was
continued from the date reflected in the notice of public sale as
printed in such newspaper, such sale was continued in accordance
with 14 M.R.S.A. § 6323(1)].

In witness whereof, Bar Harbor Bank & Trust has caused this
instrument to be executed by Stacie J. Alley, Its Asst. Vice
President duly authorized this _____ day of January, 2010.

Witness:

BAR HARBOR BANK & TRUST
f/k/a Bar Harbor Banking and
Trust Company

By: _____
Stacie J. Alley
Its Asst. Vice President

State of Maine
Hancock, ss.

January _____, 2010

Personally appeared the above-named Stacie J. Alley, Asst.
Vice President of Bar Harbor Bank & Trust, and acknowledged the
foregoing instrument by her signed to be her free act and deed in
said capacity and the free act and deed of said corporation.

Before me,

Notary Public
Printed Name:

NOTICE OF PUBLIC SALE

14 M.R.S.A. § 6323

Notice is hereby given that in accordance with an Order and Judgment of Foreclosure entered by the Maine District Court (at Ellsworth) dated March 10, 2009 and entered in the action entitled *Bar Harbor Bank & Trust v. Shawn W. Hamilton et al*, Docket No. ELL-RE-2008-31, and wherein the Court adjudged a foreclosure of mortgage deeds granted by Shawn W. Hamilton (a) dated May 24, 2002 and recorded in the Hancock Registry of Deeds in Vol. 3352, Page 277, and (b) dated July 16, 2003 and recorded in the Hancock Registry of Deeds in Vol. 3680, Page 54; the period of redemption from said judgment having expired, a public sale will be conducted on January 29, 2010 commencing at 10:00 a.m. at Bar Harbor Bank & Trust, 135 High Street, Ellsworth, Maine, of the following property:

Property Description: Certain property situated generally at 78 East Ridge Road, Southwest Harbor, Maine. Reference should be had to said mortgage deeds for a more detailed legal description of the property to be conveyed.

Terms of Sale: The property will be sold subject to all outstanding municipal assessments, whether or not of record in the Hancock Registry of Deeds, as well as all real estate transfer taxes assessed on the transfer. The sale will be by public auction. The deposit to bid, non-refundable as to the highest bidder, is \$10,000.00 in certified funds. The deposit to bid should be made payable to Bar Harbor Bank & Trust. The highest bidder will be required to execute a purchase and sale agreement with Bar Harbor Bank & Trust. The balance of the sale price will be due and payable within 30 days of the public sale. Conveyance of the property will be by release deed. All other terms will be announced at the public sale. For further information please contact Stacie Alley at 207-667-8466 or download a bid package from www.haennlaw.com

Michael S. Haenn, Esq., Attorney for Bar Harbor Bank & Trust, P.O. Box 915, Bangor, Maine.