

STATE OF MAINE  
PENOBSCOT, ss.

SUPERIOR COURT  
Docket No. RE-2009-93

MAINE STATE HOUSING AUTHORITY, )  
 )  
 Plaintiff )  
 )  
 vs. )  
 )  
 JAMES L. KERNAN and )  
 SAFEHAVEN INVESTMENT GROUP, )  
 LLC, )  
 )  
 Defendants )

\*\*\*\* **DISCLAIMER** \*\*\*\*

Maine State Housing Authority and Keenan Auction Company have provided the information contained in this bid package to persons interested in bidding for the property described herein. Each believes the information contained herein to be accurate and complete. ***However, neither Maine State Housing Authority nor Keenan Auction Company, nor their respective 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.

For further information regarding the sale please contact Keenan Auction Company:

Keenan Auction Company ■ One Runway Road, South Portland, ME 04106 ■ 207-885-5100 ■ [www.keenanauction.com](http://www.keenanauction.com) ■ Auctioneer

Michael S. Haenn, Esq. ■ 88 Hammond Street, Bangor, ME 04401 ■ 207-990-4905 ■ [www.haennlaw.com](http://www.haennlaw.com) ■ Attorney for Maine State Housing Authority

**TERMS AND CONDITIONS OF PUBLIC SALE**

*MSHA v. James L. Kernan et al.*

59 Rutland Road  
Plymouth, Maine

The following are the terms of the public sale of the property described in the mortgage deed of James L. Kernan to Bangor Savings Bank, predecessor in interest to Maine State Housing Authority ("MSHA"), dated April 17, 1997 and recorded in the Penobscot Registry of Deeds in Vol. 6364, Page 255. The property subject to the mortgage lien is situated generally at 59 Rutland Road in Plymouth, Maine ("the Property"). The mortgage interest being foreclosed is also described in more detail in the Order and Judgment of Foreclosure dated August 4, 2009 and entered by the Superior Court for Penobscot County in the action docketed as *Maine State Housing Authority v. James L. Kernan et al.*, Docket No. RE-2009-93.

**Date/Place of Sale** - March 2, 2010 commencing at 12:00 p.m. at 59 Rutland Road, Plymouth, Maine.

**Nature of Sale** - MSHA is foreclosing the real estate mortgage described above and granted by James L. Kernan. The public sale of the Property is pursuant to 14 M.R.S.A. § 6321 et seq. and the 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 January 23, 30, and February, 2010, including but not limited to the following: (i) a deposit to bid of \$2,500.00 in certified funds, payable to Keenan Auction Company, to be increased to 10% of the bid amount on March 2, 2010; and (ii) the balance of the purchase price is due and payable within 30 days of the public sale. The deposits to bid from the highest bidder are non-refundable.

(b) MSHA 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 encumbrances, whether or not of record in the Penobscot 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.

(e) A record of bidding will be maintained by MSHA 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, MSHA reserves the right to either hold a new sale or to contact the next highest bidder and allow that party to purchase the Property for the next highest bid as the assignee of the highest bidder. MSHA disclaims any responsibility for providing notice of any kind to any person subsequent to the public sale.

(f) MSHA 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 MSHA.

(g) The transfer of the Property by MSHA will be by release deed in substantially the same form as that attached to the Purchase and Sale Agreement included in the bid package provided to registered bidders by the auctioneer.

**Purchase and Sale Agreement** - the highest bidder for the Property will be required to execute a Purchase and Sale Agreement with MSHA, 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: March 2, 2010

Keenan Auction Company ■ One Runway Road, South Portland, ME  
04106 ■ 207-885-5100 ■ [www.keenanauction.com](http://www.keenanauction.com) ■ Auctioneer

Michael S. Haenn, Esq. ■ 88 Hammond Street, Bangor, ME 04401 ■  
207-990-4905 ■ [www.haennlaw.com](http://www.haennlaw.com) ■ Attorney for Maine State  
Housing Authority

**PURCHASE AND SALE AGREEMENT**

AGREEMENT made as of this 2<sup>nd</sup> day of March, 2010 by and between the following parties:

**Seller:** Maine State Housing Authority, a public body corporate and politic and instrumentality of the State of Maine with a place of business in Augusta, 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 59 Rutland Road in Plymouth, Maine, and more particularly described in the mortgage deed of James L. Kernan dated April 17, 1997 and recorded in the Penobscot Registry of Deeds in Vol. 6364, Page 255 ("the Property").

2. **Basic Terms of Transfer.** Seller hereby agrees to transfer, and Buyer agrees to purchase, the Property on or before April 1, 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

Penobscot 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 March 2, 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) Twenty-five Hundred Dollars (\$2,500.00) at the time of the execution of this Agreement, all of which is non-refundable and the receipt thereof is hereby acknowledged by Seller;

(ii) an additional deposit equal (with the initial deposit) to ten percent (10%) of the purchase price and which additional deposit is due and payable to Keenan Auction Company on March 2, 2010; and

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

(b) Should Buyer fail to tender the additional deposit as required by subparagraph (3) (a) (ii) hereinabove; or, having tendered such additional deposit, 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 except to the auctioneer. Buyer is not liable, by virtue of this Agreement, for payment of any fees to the auctioneer.

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 Kennebec 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:

**MAINE STATE HOUSING AUTHORITY  
By: Bangor Savings Bank  
Its Attorney In Fact**

\_\_\_\_\_

By: \_\_\_\_\_  
Gavin A. Robinson  
Its Asst. Vice President

\_\_\_\_\_

\_\_\_\_\_  
**Buyer** - SS#/EID

\_\_\_\_\_

\_\_\_\_\_  
**Buyer** - SS#/EID

**\*\*\*\* DISCLAIMER ON NEXT PAGE \*\*\*\***

**Disclaimer:** Please read this Purchase and Sale Agreement carefully. Neither Seller nor the auctioneer, nor their respective 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., 88 Hammond Street,  
Bangor, Maine 04401 ■ 207-990-4905 ■ [www.haennlaw.com](http://www.haennlaw.com)

**RELEASE DEED**

**Maine State Housing Authority**, a public body corporate and politic and instrumentality of the State of Maine with a place of business in Augusta, County of Kennebec and State of Maine, for consideration paid, releases to       [Buyer]      , certain real property situated in Plymouth, County of Penobscot and State of Maine, and more particularly bounded and described as follows:

A certain lot or parcel of land, together with any buildings located thereon, situated in Plymouth, County of Penobscot, and State of Maine, bounded and described as follows, viz:

Being Lot #2 of a Plan of Lots prepared by William E. Webber, R.L.S., for Round Pond Estates, dated September 25, 1989 and recorded in the Penobscot County Registry of Deeds in Map File #D-299-89. Lot #2 of Round Pond Estates Subdivision being more particularly bounded and described as follows:

Beginning at a number five rebar on the Northerly sideline of said Round Pond Road at the Southwesterly corner of land now or formerly of Wilma D. Castoun, described in the Penobscot County Registry of Deeds in Book 1436, Page 22; thence South 52° 25' 00" West by said Round Pond Road a distance of 143.00 feet to a number five rebar at the Northeasterly sideline of Lewis Drive, so-called; thence North 37° 35' 00" West by said Lewis Drive a distance of 130.00 feet to a number five rebar; thence North 14° 16' 45" East by Lot #4 of said Round Pond Estates a distance of 445.50 feet to a number five rebar; thence South 83° 22' 00" East by land of A. James Vashon a distance of 130.31 feet to a number five rebar; thence South 6° 09' 50" West by land of said Castoun a distance of 435.00 feet to the point of beginning; containing 1.84 acres.

Subject to the following covenants and restrictions:

1. No mobile homes older than 1984 are to be placed on the lots.
2. Any mobile home must be enclosed with skirting.
3. All lawns or other suitable landscape areas shall be maintained in an attractive manner. No trash, waste, filth, tools, junked cars, appliances or other refuse shall be allowed to accumulate on the lot and exterior of the residence in such a manner as to give an unsightly appearance, to create a nuisance, or depreciate the subdivision. All clothes lines shall be placed behind one's residence so as not to cause an unsightly area.

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

For Grantor's source of title reference may be had to the mortgage deed of James L. Kernan to Bangor Savings Bank ("BSB")

dated April 17, 1997 and recorded in the Penobscot Registry of Deeds in Vol. 6364, Page 255. BSB assigned said mortgage deed and the debt secured thereby to the Grantor by an instrument dated March 13, 1998 and recorded in the Penobscot Registry of Deeds in Vol. 6671, Page 213. The Grantor foreclosed said mortgage deed in an action commenced in the Superior Court for Penobscot County in the action docketed as *Maine State Housing Authority v. James L. Kernan et al.*, Docket No. RE-2009-93, 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: January 23, 30, and February 6, 2010.  
Sale date: March 2, 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, Maine State Housing Authority has caused this instrument to be executed by Gavin A. Robinson, Asst. Vice President of Bangor Savings Bank, Its Attorney in Fact pursuant to a Limited Power of Attorney recorded in the Penobscot Registry of Deeds, duly authorized this \_\_\_\_\_ day of March, 2010.

Witness:

**MAINE STATE HOUSING AUTHORITY**  
**By: Bangor Savings Bank**  
**Its Attorney In Fact**

\_\_\_\_\_

By: \_\_\_\_\_  
Gavin A. Robinson  
Its Asst. Vice President

State of Maine  
Penobscot, ss.

March \_\_\_\_\_, 2010

Personally appeared the above-named Gavin A. Robinson, Asst. Vice President of Bangor Savings Bank, Attorney in Fact for Maine State Housing Authority, and acknowledged the foregoing instrument by him signed to be his 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 dated August 4, 2009 and entered by the Superior Court for Penobscot County in the action entitled *Maine State Housing Authority v. James L. Kernan et al.*, Docket No. RE-2009-93, and wherein the Court adjudged a foreclosure of the mortgage deed of James L. Kernan dated April 17, 1997 and recorded in the Penobscot Registry of Deeds in Vol. 6364, Page 255; the period of redemption having expired; a public sale will be conducted on March 2, 2010 commencing at 12:00 p.m. at 59 Rutland Road, Plymouth, Maine. The property is also described on the Plymouth Tax Maps as Map \_\_\_\_, Lot \_\_\_\_\_. Reference should be had to said mortgage deed for a more complete legal description of the property to be conveyed.

The property will be sold by public auction subject to all outstanding municipal assessments. The deposit to bid is \$2,500.00, to be increased to 10% of the bid amount on the day of the sale, with the balance 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.