

STATE OF VERMONT

SUPERIOR COURT
Orleans Unit

CIVIL DIVISION
Case No. 25-CV-00514

Community National Bank,
Plaintiff

v.

Newport Natural, LLC,
Stephen Breault,
Occupants of 63 Highland Avenue, Newport VT and
Occupants of 167 Main Street in Derby, VT
Defendants

JUDGMENT AND DECREE OF FORECLOSURE BY JUDICIAL SALE

This foreclosure action was brought before the Vermont Superior Court- Orleans Civil Division by complaint of Community National Bank ("Plaintiff" or "CNB") filed February 4, 2025 and served upon all defendants on or before February 6, 2025. Judgment was granted to Community National Bank on April 16, 2025 on the basis of default. Plaintiff's Complaint against the State of Vermont-Department of Taxes was dismissed pursuant to V.R.C.P. 41(a)(1) because its tax lien was satisfied and released and the State of Vermont Department of Taxes no longer claims an interest in the Mortgaged Properties. The accountings were entered without a hearing. The redemption period was shortened to 30 days pursuant to V.R.C.P. 80.1(e) and 12 V.S.A. § 4946(c).

PURSUANT TO V.R.C.P. 80.1(G) AND V.R.C.P. 58, IT IS HEREBY ORDERED, ADJUDGED, and DECREED as follows:

1. **Judgment.** The amounts owed to Plaintiff Community National Bank under the Newport Mortgage Note and secured by the Newport Mortgaged Property as of April 18, 2025 are: \$127,294.68 in principal, \$2,652.26 in accrued interest, \$779.46 in late fees before acceleration, \$2,031.91 in insurance expense, \$317.93 in filing fees, \$77.09 in service expenses, \$165.00 in town clerk recording fees, and \$2,525.00 in reasonable attorney's fees through March 28, 2025, minus \$148.90 in unapplied funds, for a total

amount due of \$135,694.43. Interest shall continue to accrue at the rate of \$42.65 per day from April 19, 2025 to the date of redemption.

The amounts owed to Plaintiff Community National Bank under the Derby Mortgage Note and secured by the Newport and Derby Mortgaged Properties as of April 18, 2025 are: \$298,490.08 in principal, \$23,184.09 in accrued interest, \$1,989.02 in late fees before acceleration, \$4,954.94 in insurance expense, \$782.50 in title search expense and \$165.00 in town clerk recording fees, for a total amount due of \$329,565.63. Interest shall continue to accrue at the rate of \$100.07 per day from April 19, 2025 to the date of redemption.

2. Taxes and Other Advances. Plaintiff is entitled to reimbursement for any amounts paid for taxes after March 20, 2025 upon proof of payment made. Plaintiff shall also be entitled to reimbursement for other expenses incurred by Plaintiff that are authorized by the Mortgages, and all such advances shall be added to the amounts due to Plaintiff from the Defendants and necessary for redemption of the Mortgaged Properties upon the approval of the court.

3. Mortgaged Properties. The real property located in Derby, Vermont which is the subject of this foreclosure judgment, the “**Derby Mortgaged Property**” is known as **167 Main Street, Derby Line, Vermont** and more particularly described as follows:

Being all and the same land and premises, subject to the exceptions and reservations contained therein, conveyed to Newport Natural LLC by Warranty Deed of the College of Mount Saint Vincent dated October 14, 2022 and of record in Book 309 at Pages 280-282 of the Town of Derby Land Records.

Being all and the same land and premises together with all buildings and improvements thereon as were conveyed to the College of Mount Saint Vincent by Warranty Deed of Marilyn B. Foster dated December 13, 2021 and recorded in Book 304, Pages 99-101 of the Derby Land Records, said premises being described therein as follows:

A CERTAIN PIECE OF LAND in the Village of Derby Line, Town of Derby, County of Orleans and State of Vermont, described as follows, viz:

Being all and the same lands and premises together with all buildings and improvements thereon as were decreed to John Gilman Foster by Decree of Distribution in the Estate of Marjorie M. Foster dated February 13, 1973 and recorded in Book 65, Pages 449-451 of the Derby Land Records; said land and premises being described therein as follows:

House and Lot in Derby Line

Lots East of Route 91
Lots West of Route 91

EXCEPTING from the above described "Lots West of Route 91" that portion thereof as was conveyed to Roger L. Gosselin and Lorraine Y. Gosselin by Warranty Deed of John Gilman Foster dated August 21, 1973 and recorded in Book 66, Page 277 of said Derby Land Records.

ALSO EXCEPTING from the above described lands and premise a strip of land as conveyed to Roger Gosselin, Inc. by John G. Foster and Marilyn B. Foster by Warranty deed dated July 15, 1977 and recorded in Book 77, Page 105-6 of the derby Land Records.

TOGETHER WITH a right of way for ingress and egress, conveyed in a Quit Claim Deed to Austin T. Foster from Elizabeth E. Baxter, Administratrix of the Estate of Myron L. Baxter recorded January 15, 1900 in Book 25, Page 33 of the Derby Land Records.

TOGETHER WITH an easement noted in a Quit Claim Deed conveyed to John Gilman Foster and Marilyn B. Foster from Brent Tatum and Miriam Tatum recorded October 10, 2000 in Book 168, Pages 183-5 of the Derby Land Records.

SAID premises are shown on a survey by George W. Rumery, bearing Map No 9602B, and revised on June 19, 1998, which survey is references as Map B193 in the Derby Town Clerk's Office.

BEING a part of the premises conveyed to John Gilman Foster and Marilyn B. Foster by Quit Claim deed from Paul B. Wolfe, dated December 1, 1975 and recorded December 2, 1975 in Book 73, Pages 22-23 of the Derby Land Records.

SAID John Gilman Foster having died on September 18, 2006, a resident of Derby Line, Orleans County, Vermont and leaving surviving his wife, Marilyn B. Foster.

BEING intended to describe the premises owned by College of Mount Saint Vincent and known as 167 Main Street, Village of Derby Line, Town of Derby and shown as Parcel ID #MSTDL020A6-L.

This conveyance is subject to and with the benefit of any utility easements, spring rights, easements for ingress and egress, and rights incidental to each of the same as may appear of record, provided that this paragraph shall not reinstate any such encumbrances previously extinguished by the Marketable Record Title Act, Chapter 5, Subchapter 7, Title 27, Vermont Statutes Annotated.

Reference is hereby made to the above mentioned instruments, the records thereof, the references therein made, and their respective records and references, in further aid of this description.

The real property located in the City of Newport, Vermont which is the subject of this foreclosure judgment, the “**Newport Mortgaged Property**” is known as **63 Highland Avenue, Newport, Vermont** and more particularly described as follows:

Being a parcel of land, with two dwellings and any and all improvements thereon, known and numbered as 63 Highland Avenue in the City of Newport, Vermont; and being all and the same lands and premises conveyed to Newport Natural, LLC by the Warranty Deed of Amy Beth Prue dated June 10, 2021 and recorded in Book 258 at Page 387 of the City of Newport Land Records.

Being all and the same lands and premises, having a current E-911 address of 63 Highland Avenue, as conveyed to Amy Beth Prue by Amended Final Decree of Distribution issued by the Vermont Superior Court, Orleans Unit, Probate Division, In Re: Estate of Frederick C. Prue, dated May 12, 2021, and to be recorded in the City of Newport Land Records. The lands and premises conveyed are described as follows:

Being all and the same lands and premises conveyed in a Warranty Deed from James S. Bowers and Kristine M. Bowers to Frederick Prue, dated January 16, 2015, and recorded at Book 226, Pages 463-464 of the Land Records of the City of Newport, and are more particularly described therein as follows:

Being all and the same lands and premises conveyed James S. Bowers and Sherry L. Bowers by Laurend A. Rivard and Barbara W. Rivard and Paul R. Rexford by Warranty Deed dated November 30, 1976 and recorded in Book 62 at Pages 166-168 of the City of Newport Land Records and being therein more particularly described as follows:

It being a lot of land as was conveyed to Antonio J. Marcotte and Lola Marcotte by Theresa Flanders by deed, dated July 24, 1946, and therein described as follows:

A lot of land on the southerly side of Highland Avenue bounded and described as follows: Beginning at an iron pipe driven in the ground for a corner which is south 21 degrees west 64 feet from the southeast corner of the McCauley house and is due south 83 feet from the southwest corner of the McCauley house and is 24 feet 9 inches south of the center of Highland Avenue; thence south 21 degrees west 121 feet to a corner marked by an iron pipe; thence south 53 degrees east 80 feet to a corner marked by an iron pipe; thence north 27 degrees 30 minutes east 132 feet and 6 inches to a corner marked by an iron pipe said corner being in the southerly line of Highland Avenue; thence north 63 degrees west 97 feet along the southerly line of Highland Avenue to the point of beginning. Said piece of land containing 11176 square feet more or less.

Being a part of the land and premises conveyed to Warren B. Drown, Jr. and Gertrude M. Drown by Warren B. Drown by Warranty Deed dated the 11th day of September, A.D., 1944 and recorded or to be recorded in the Land Records of the City of Newport, and being all and the same land and premises as was deeded me the said Teresa Flanders by Warren B. Drown, Jr. and Gertrude M. Drown by their warranty deed dated March 26, 1945, and recorded in Book 14 at Page 153 of said Land Records.

Said lot of land was conveyed by the said Antonio J. Marcotte and Iola Marcotte to Laurend A. Rivard by deed dated February 15, 1949 and recorded in Book 17, Page 29 of said land records.

Said lot of land, together with the buildings thereon, were conveyed by Laurend A. Rivard and Barbara W. Rivard to Paul R. Rexford by deed dated February 11, 1953, and recorded in Book 19, Page 2370 [sic] in said land records and on the same day conveyed by Paul R. Rexford to Laurend A. Rivard and Barbara Rivard. Said deed recorded in Book 19, Page 239 of said land records.

Reference is here made to the aforesaid deeds and the records thereof and to all prior deeds and their records for further description of the premises hereby conveyed.

Paul R. Rexford is added as a Grantor in this instrument in order to correct a defect in the execution of the last two mentioned deeds wherein he witnessed and notarized both of said deeds when he was a party to them. He hereby conveys any and all interest which he may have in and to said premises by virtue thereof.'

Reference is here made to a Deed from Sherry L. Bowers to James S. Bowers dated October 6, 2000 and recorded in Book 137 at Pages 1-4 and rerecorded in Book 152 at Pages 161-164 of the City of Newport Land Records by virtue of which the said James S. Bowers became vested with sole title to the subject land and premises.

Being a portion of the same lands and premises conveyed to James S. Bowers and Kristine M. Bowers, husband and wife by James S. Bowers by Warranty Deed dated July 23, 2004 and recorded in Book 164 at Pages 125-126 of the City of Newport Land Records."

This conveyance is subject to and with the benefit of any utility easements, spring rights, easements for ingress and egress, and rights incidental to each of the same as may appear of record, provided that this paragraph shall not reinstate any such encumbrances previously extinguished by the Marketable Record Title Act, Chapter 5, Subchapter 7, Title 27, Vermont Statutes Annotated.

Reference is hereby made to the above mentioned instruments, the records thereof, the references therein made, and their respective records and references, in further aid of this description.

The Derby Mortgaged Property and Newport Mortgaged Property are collectively referred to as the "Mortgaged Properties"

4. Redemption-Derby Mortgaged Property. It is further ordered that unless Defendants **Newport Natural, LLC and Stephen Breault** pay to the Clerk of the Court on or before May 29, 2025 **2025, the date of redemption payable to Court**, before 4:30 p.m., the sum of \$329,565.63 with interest at the rate of \$100.07 per day from April 19, 2025 until the date of redemption, together with such other amounts

established under paragraph 2 hereof, for the benefit of Plaintiff Community National Bank, then any remaining rights of the Defendants to possession of the Derby Mortgaged Property shall terminate and the Clerk shall issue a Writ of Possession upon the Plaintiff's request and the approval of the Court.

Redemption-Newport Mortgaged Property. It is further ordered that unless Defendants **Newport Natural, LLC and Stephen Breault** pay to the Clerk of the Court on or before May 29, 2025 **2025, the date of redemption payable to Court**, before 4:30 p.m., the sum of \$135,694.43 with interest at the rate of \$42.65 per day from April 19, 2025 until the date of redemption on the Newport Mortgage Note and the sum of \$329,565.63 with interest at the rate of \$100.07 per day from April 19, 2025 until the date of redemption on the Derby Mortgage Note, together with such other amounts established under paragraph 2 hereof, for the benefit of Plaintiff Community National Bank, then any remaining rights of the Defendants to possession of the Newport Mortgaged Property shall terminate and the Clerk shall issue a Writ of Possession upon the Plaintiff's request and the approval of the Court.

5. Mortgagor Defendant's Additional Right to Redeem. Mortgagor Defendant Newport Natural, LLC may also redeem each Mortgaged Property up to the date of the judicial sale of such Mortgaged Property, described in paragraph 7 below, by payment of the redemption amounts due to Plaintiff pursuant to 12 V.S.A. §4949 including the costs and expenses of the sale. If no such redemption is made then such party shall be foreclosed and forever barred from any and all equity of redemption in the Mortgaged Properties.

6. Non-Redemption; Notice of Sale. If the Defendants shall fail to redeem the Mortgaged Properties as set forth in paragraph 4 above, then all further rights of the Defendants to possession of the Mortgaged Properties shall terminate, and the Clerk shall issue a Certificate of Non-Redemption for the Mortgaged Properties at the Plaintiff's request, and shall a issue a Writ of Possession for the Mortgaged Properties upon the Plaintiff's request and the approval of the Court. The Mortgaged Properties shall be sold to the highest bidder(s) at public sales by a sheriff, deputy sheriff, constable, licensed auctioneer, or other disinterested person specifically appointed by the Court, pursuant to 12 V.S.A. § 4946 et seq. and V.R.C.P. 80.1. The Mortgaged

Properties shall be sold as two separate parcels. The sales shall take place within six months of the last redemption date under paragraph 4 above, unless extended by the Court or the case is stayed by a bankruptcy filing. Plaintiff shall send a Notice of Sale as required by 12 V.S.A. §4952(b) at least 30 days before the sale. Plaintiff shall also publish a Notice of Sale in a newspaper distributed in the town of the Mortgaged Properties for three (3) consecutive weeks prior to the date of sale and shall specify that the Mortgaged Property shall be sold to the highest bidder at a public sale to be held at the Mortgaged Property on a specified date and time. The first publication shall be not less than 21 days prior to the date of sale. Prior to any request for confirmation, Plaintiff shall file copies of all Notices of Sale with the Court with a certificate of service. Plaintiff shall also file a copy of the published Notices of Sale with the Court, with a copy of publications or a certificate of publication dates.

7. **Public Sale.** At the sale(s), the person holding the public sale shall sell the Derby Mortgaged Property and Newport Mortgaged Property as two separate parcels to the highest bidder(s), "AS IS, WHERE IS, WITH ALL FAULTS, (known or unknown) WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER", subject to easements, rights of way, covenants, zoning, planning and environmental laws, permits, reservations, rights, and restrictions of record, title defects, superior mortgages and liens, if any, environmental hazards, unpaid real estate taxes (delinquent and current, including all penalties and interest to the date of closing on the sale of the property after confirmation by the court), and municipal liens, if any, If the Plaintiff makes the highest bid, Plaintiff shall be required to pay cash or certified funds only to the extent that its bid is in excess of the sum due it by the Defendants up to the date of sale under this Judgment and Decree. The purchaser at the sale shall pay in good funds by cash, bank treasurer's check, certified funds or wired funds to the person holding the sale. The Notices of Sale shall specify that this form of payment is required. In any case, a deposit shall be paid at the time of sale of at least \$10,000.00 in the form of cash, or bank treasurer's check. If the deposit does not equal at least 10 percent of the sale price, the deposit must be increased to at least 10% of the successful bid within 5 calendar days of the public sale by an additional payment in cash or by bank treasurer's check or wire transfer. The deposit is subject to forfeiture. Plaintiff is authorized to require the purchaser(s) to sign Purchase and Sales Agreement(s) with no

contingencies other than confirmation of the sale by the court. Any adjournment of the sale must comply with the requirements of 12 V.S.A. § 4953(b). The Notice of Sale shall provide that other terms may be announced at the time of sale and identify the place to inquire for other terms.

8. **Report of Sale.** The person holding the public sale(s) shall file a Report of Sale, under oath, with the Court pursuant to 12 V.S.A. § 4954. The person holding the public sales, or the attorney for the Plaintiff, shall retain all sale proceeds as custodian, to be disbursed in accordance with the final Confirmation Orders of this Court promptly following confirmation and closing on the sales pursuant to 12 V.S.A. §4954(c).

9. **Confirmation.** Plaintiff shall file a request for confirmation, which shall include an accounting of the sale proceeds and proposed orders confirming the sales. Copies of the reports of sale and request for confirmation shall be sent by first class mail, postage prepaid to all parties who appeared in this action through their attorneys of record. The Court may hold a Confirmation Hearing or confirm the sales without a hearing.

At confirmation, Plaintiff may be allowed reasonable attorneys' fees and the reasonable expenses of making the sale(s) pursuant to 12 V.S.A. §4954(c) as well as taxes paid, if any, since the effective date of the affidavit of amounts due, pursuant to 12 V.S.A. §4935 and such other expenses incurred as allowed by the Mortgages and approved by the Court.

If the Court confirms the sales, the Court shall issue Final Confirmation Orders which shall set forth the information required by V.R.C.P. 80.1 (k) and shall order distribution of sale proceeds to named persons in specified amounts in accordance with V.R.C.P. 80.1 (j)(1).


If the Court confirms the sales, the Confirmation Orders shall constitute conclusive evidence as against all persons that that the foreclosure and public sale was conducted in accordance with law. When the purchase price has been paid in full and the Confirmation Order is recorded in the land records, transfer of title is effectuated pursuant to 12 V.S.A. §4954(b).

10. **Deficiency Claim.** Unless otherwise ordered by the Court, pursuant to 12 V.S.A. § 4954(d), any motion for a deficiency judgment based on a claim in the

complaint shall be filed prior to issuance of a confirmation order; otherwise any claim for a deficiency judgment will be dismissed at the time of entry of the Confirmation Order.

If you wish to appeal this judgment, you must request permission to appeal by motion filed with the Court within fourteen (14) days of the date of entry of the judgment.

SO ORDERED, this 28th day of April, 2025.



Hon. Benjamin D. Battles
Superior Court Judge

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