

REQUESTED BY
Stewart Title of Douglas County

IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

2004 JAN -6 AM 10:45

WERNER CHRISTEN
RECORDER

\$ 170 PAID R& DEPUTY

WHEN RECORDED MAIL TO

Wells Fargo Bank, N. A.
Attn: Doc. Management MAC B6955-011
PO Box 31557
Billings, MT 59107-1557

Loan No. 117-117-0100617-0001 ED

SUBORDINATION AGREEMENT

031415702 BILLINGS

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

This Subordination Agreement, made this December 17, 2003 by WELLS FARGO BANK, N.A. (hereinafter referred to as "Beneficiary"), present owner and holder of the Deed of Trust and note first hereafter described, in favor of DELBERT D. SMART AND EVELYN L. SMART, TRUSTEES, it's successors and/or assigns (hereinafter referred to as "Lender");

WITNESSETH

THAT WHEREAS, John V. Massey And Janet L. Massey, As Trustees Of The Massey Family Revocable Living Trust Agreement Dated April 27, 1990 (hereinafter referred to as "Owner") did execute a Deed of Trust, dated May 7, 2002 to American Securities Company Of Nevada, as Trustee, covering that certain real property described as follows:

THE LEGAL DESCRIPTION IS ATTACHED HERETO AND MADE A PART HEREOF
APN: 1318-03-210-013

To secure a note in the sum of \$100,000.00, dated May 7, 2002, in favor of Wells Fargo Bank, N. A., which Deed of Trust was recorded May 24, 2002, as BOOK 0502 PAGE 7930-7939, Official Records of Douglas county. Through subsequent agreements with the Owner, either recorded or unrecorded, the current borrowing limit for said note has been amended to \$100,000.00, and

WHEREAS, Owner has executed, or is about to execute, a ^{modification of} Deed of Trust or Mortgage (hereinafter referred to as "Lender's Security Instrument") and note not to exceed the sum of \$1,178,084.14, dated 4-3-2003, in favor of Lender, payable with interest and upon the terms and conditions described therein, which Lender's Security Instrument is to be recorded concurrently herewith; and

WHEREAS, It is a condition precedent to obtaining said loan that said Lender's Security Instrument last above mentioned shall unconditionally be and remain at all times a lien or charge upon the land hereinbefore described, prior and superior to the lien or charge of the Deed of Trust first mentioned, Owner has requested Beneficiary to subordinate Beneficiary's lien to the lien about to be taken by the Lender; and

WHEREAS, Lender is willing to make said loan provided the Lender's Security Instrument securing the same is a lien or charge upon the above described property prior and superior to the lien or charge of the Deed of Trust first above mentioned and provided that Beneficiary will specifically and unconditionally subordinate the lien or charge of the Deed of Trust first above mentioned to the lien or charge of the Lender's Security Instrument in favor of the Lender; and

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WHEREAS, It is to the mutual benefit of the parties hereto that Lender make such loan to Owner; and Beneficiary is willing that the Lender's Security Instrument securing the same shall, when recorded, constitute a lien or charge upon said land which is unconditionally prior and superior to the lien or charge of the Deed of Trust first above mentioned.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Lender to make the loan above referred to, it is hereby declared, understood and agreed to as follows:

- (1) That said Lender's Security Instrument securing said note in favor of Lender, and any renewals or extensions thereof, shall unconditionally be and remain at all times a lien or charge on the property therein described, prior and superior to the lien or charge of the Deed of Trust first above mentioned.
- (2) That Lender would not make its loan above described without this subordination agreement.
- (3) That this agreement shall be the whole and only agreement with regard to the subordination of the lien or charge of the Deed of Trust first above mentioned to the lien or charge of the Lender's Security Instrument in favor of Lender above referred to and shall supersede and cancel, but only insofar as would affect the priority between the lien instruments hereinbefore specifically described, any prior agreements as to such subordination including, but not limited to, those provisions, if any, contained in the Deed of Trust first above mentioned, which provide for the subordination of the lien or charge thereof to another deed or deeds of trust or to another mortgage or mortgages.

Beneficiary declares, agrees and acknowledges that:

- (a) It consents to and approves (i) all provisions of the note and Lender's Security Instrument in favor of Lender above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements, between Owner and Lender for the disbursement of the proceeds of Lender's loan.
- (b) Lender in making disbursements pursuant to any such agreement is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part.
- (c) It intentionally waives, relinquishes and subordinates the lien or charge of the Deed of Trust first above mentioned in favor of the lien or charge upon said land of the Lender's Security Instrument in favor of Lender above referred to and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination; and
- (d) An endorsement has been placed upon the note secured by the Deed of Trust first above mentioned that said Deed of Trust has by this instrument been subordinated to the lien or charge of the Lender's Security Instrument in favor of Lender above referred to.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF LAND.

BENEFICIARY:
WELLS FARGO BANK, N.A.

BY: *Robin Oge*
Robin Oge, Authorized Signer

STATE OF: OREGON) SS
COUNTY OF: WASHINGTON)

On December 17, 2003 before me the undersigned, a Notary Public in and for said state personally appeared, Robin Oge, Authorized Signer, personally known to me (or 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 acknowledge 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.

WITNESS my hand and official seal.

NOTARY STAMP OR SEAL

Rebecca Drey
Notary Public in and for said County and State



LEGAL DESCRIPTION

The land referred to herein is situated in the State of Nevada, County of Douglas, described as follows:

Lot 30, as shown on the map entitled SKYLAND SUBDIVISION NO. 1, filed for record in the Office of the County Recorder of Douglas County, Nevada, on February 27, 1958, as Document No. 12967.

Excepting any portion of the above described property lying within the bed of Lake Tahoe below the line of natural ordinary high water and also excepting any artificial accretions to the land waterward of the line of natural ordinary high water or, if lake level has been artificially lowered, excepting any portion lying below an elevation of 6,223.00 feet, Lake Tahoe Datum established by NRS 321.595.

Assessors Parcel No. 1318-03-210-013

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