

April 7, 2023

City of St. Paul
Office of City Council
Attn: Marcia Moermond
310 City Hall
15 West Kellogg Blvd
St. Paul, MN 55102

Re: 1366 Fremont Avenue, St. Paul, MN
Our File No. 20-0235

Dear Ms. Moermond:

On behalf of my client, Wells Fargo Bank, N.A. (“Wells Fargo”), I submit this letter in response to the City’s letter dated March 31, 2023. At this time, Wells Fargo intends to rehabilitate the subject property to bring it into compliance with city and state building regulations. My client’s position may change once a comprehensive inspection is conducted by the city, but my client is absolutely committed to proceeding with the city inspection and completing the pending foreclosure. As detailed below, the property should now be in such a state that a city inspection may be performed. Arrangements are also in place to have a private contractor provide a rehabilitation estimate completed as soon as possible. We request some additional time to follow through on these intentions. I hope the chronology below and enclosures will provide some helpful context for the delays that have been encountered.

As you know, Wells Fargo holds the first-priority mortgage on the subject property. On July 22, 2022, Wells Fargo secured a judgment directing a sheriff’s sale of the subject property. On August 8, 2022, the Ramsey County Sheriff signed the Notice of Sheriff’s Sale pursuant to Judgment, referencing a sheriff’s sale scheduled for October 18, 2022. Had the sale scheduled for October been held, the five-week redemption period would have expired on or about November 22, 2022 and Wells Fargo would have had fee title to the subject property. This, of course, did not occur.

In September of 2022, my office discovered an error in the pre-foreclosure title report issued in March of 2022. The pre-foreclosure title report omitted an assignment of the junior mortgage. This error required Wells Fargo to file a motion to vacate that portion of the July 20, 2022 judgment as it related to the previous, junior mortgagee and obtain leave to amend the complaint to reference the correct, current, junior mortgagee (i.e., United Asset Management, LLC) as a named defendant. In the same motion, Wells Fargo also sought a court order allowing it to enter the premises to dispose of the substantial amount of trash and relocate the former occupants’ personal property to an on-site storage container. On November 28, 2022, the court granted Wells Fargo’s motion.

Upon receipt of the court’s November 28, 2022 order: 1) Wells Fargo served its amended complaint and summons on the new defendant, United Asset Management, LLC, on December 12, 2022; 2) disposed of 20 cubic yards of garbage within the premises on or about December 28, 2022; and 3) met with Inspector Clint Zane at the property on February 6, 2023 for a preliminary inspection of the property. Mr. Zane informed me at

April 7, 2023
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the February 6th meeting that there was still too much personal property at the premises to conduct a comprehensive inspection.

In February 2023, Wells Fargo submitted requests for bids to vendors to have onsite storage facilities installed at the property for temporary storage of the personal property. On March 6, 2023, the court granted Wells Fargo's motion for default judgment against United Asset Management, LLC, thereby adjudicating Wells Fargo's right to foreclose the property with respect to all defendants.

On or about March 14, 2023, vendors' bids were accepted by Wells Fargo and two, onsite storage containers were expected to be delivered to the property on March 24th. Due to substantial snow cover at the property, however, the container installation was delayed to March 30th, and subsequently delayed again until April 3rd. On or about April 4th, crews moved the vast majority of personal property within the home into two, onsite storage containers. The subject property should now be in a sufficiently tidy state to have inspections performed.

A private contractor will visit the property, hopefully this month, and provide an estimate of the costs of rehabilitating the home. A rush order for a contractor's inspection was submitted by Wells Fargo on March 29th. It is our hope to have an estimate from the contractor by the end of April.

We expect Wells Fargo to be the sole, fee owner of the property by late July. A sheriff's sale of the property has been scheduled and noticed for June 13th, with a redemption expiration date of approximately July 18th.

I appreciate the City's frustration with the amount of time it has taken to reach the point where an inspection can be completed. My client shares much of that frustration. But considering the circumstances, I believe the record demonstrates that my client has acted diligently and in good faith.

Sincerely,

/s/ Samuel R. Coleman
Samuel R. Coleman
Attorney at Law

Enc.

- Ex. A – Order for Judgment, July 20, 2022.
- Ex. B – Notice of Sheriff's Sale, August 8, 2022.
- Ex. C – Memorandum of Law in Support of Motion to Amend, November 8, 2022
- Ex. D – Order, November 28, 2022
- Ex. E – Photo of Trash, December 28, 2022
- Ex. F – Order for Judgment, March 6, 2023
- Ex. G – Photos of PODS, April 6, 2023.
- Ex. H – Notice of Sheriff's Sale, March 28, 2023

EXHIBIT A

STATE OF MINNESOTA
 COUNTY OF RAMSEY

DISTRICT COURT
 SECOND JUDICIAL DISTRICT
 CASE TYPE: CIVIL OTHER/MISC

Wells Fargo Financial Minnesota, Inc. n/k/a
 Wells Fargo USA Holdings, Inc. successor by
 merger to Wells Fargo Financial Minnesota, Inc.,

Plaintiff,

**ORDER FOR JUDGMENT AND
 JUDGMENT**

v.

The Unknown Heirs of Betty J. Luna,
 the Unknown Heirs of Andrew M. Luna,
 Brian Luna, Julie Seavey,
 CitiBank, N.A., as Trustee for CMLTI Asset Trust,
 John Doe and Mary Roe,

Case No.: 62-CV-22-1562
 Judge: Mark Ireland

Defendants.

The above-entitled matter came on for hearing before the undersigned Judge of District Court on July 20, 2022. Samuel R. Coleman appeared on behalf of Plaintiff. All other appearances are noted on the record. Upon all of the files, records and proceedings herein, the Court makes the following:

UNDISPUTED FACTS

1. Defendants were duly served with the Summons and Complaint herein as evidenced by the Affidavits of Service and Affidavit of Publication on file. None of Defendants herein have interposed an Answer or response to the Complaint. Brian Luna stipulated to the relief sought by Plaintiff. Accordingly, this matter is proceeding by default.

2. Plaintiff Wells Fargo Financial Minnesota, Inc., n/k/a Wells Fargo USA Holdings, Inc. successor by merger to Wells Fargo Financial Minnesota, Inc. (“Wells Fargo”) holds a first lien mortgage interest in the real property legally described as:

Lots 7 and 8, Smith’s subdivision of block 14, Stinson’s Frances St. addition to St. Paul, Ramsey County, Minnesota
and
Lot 9, Smith’s Subdivision of Block 14, Stinson’s Frances St. addition to St. Paul, Ramsey County, Minnesota,
REGISTERED PROPERTY

(hereinafter "Subject Property").

3. Defendants Andrew M. Luna and Betty J. Luna are the record owners of the Subject Property.

4. Andrew M. Luna died on February 20, 2009. To date, a probate of the estate of Andrew M. Luna has not been commenced in the state of Minnesota. Accordingly, the Unknown Heirs of Andrew M. Luna are named as defendants herein.

5. Betty J. Luna died on November 2, 2019. To date, a probate of the estate of Betty J. Luna has not been commenced in the state of Minnesota. Accordingly, the Unknown Heirs of Betty J. Luna are named as defendants herein.

6. Defendants Brian Luna and Julie Seavey are known, potential heirs of Betty J. Luna and Andrew M. Luna and may hold an interest in the Subject Property.

7. Defendant Citibank, N.A. as Trustee for CMLTI Asset Trust holds a junior mortgagee’s interest in the Subject Property pursuant to that mortgage dated August 31, 2006 and recorded with the office of the Ramsey County Recorder on September 6, 2006 as Document No. 3975600 and with the office of the Ramsey County Registrar of Titles on September 6, 2006 as Document No. 1977472.

8. No John Doe or Mary Roe defendants were identified.

9. On October 5, 2005, Betty J. Luna Lunas executed and delivered to Wells Fargo a promissory note in the original principal amount of \$121,020.31 (the “Note”).

10. Wells Fargo holds the Note, directly or through an agent. A true and correct copy of the Note is attached to the Complaint as Exhibit A.

11. To secure repayment of the indebtedness evidenced by the Note, Andrew M. Luna and Betty J. Luna executed and delivered to Wells Fargo a mortgage encumbering the Subject Property dated October 5, 2005 and recorded in the office of the Ramsey County Registrar of Titles on November 10, 2005 as Document No. 1939359 and erroneously recorded again on February 27, 2006 as Document No. T1952656; and also filed of record with the Ramsey County Recorder on November 10, 2005 as Document No. A3903580 (the “Mortgage”). A true and correct copy of the Mortgage is attached to the Complaint as Exhibit.

12. After realizing that the Mortgage had been erroneously recorded with the Registrar of Titles a second time as Document No. T1952656, Plaintiff attempted to correct the mistake by filing a satisfaction of the Mortgage.

13. Plaintiff correctly recorded a satisfaction of the Mortgage with the Registrar of Titles on April 21, 2021 as Document No. T02696225.

14. Plaintiff erroneously filed the same satisfaction with the County Recorder on December 14, 2020 as Document No. A04851330, thereby erroneously extinguishing its mortgage lien on the abstract portion of the Subject Property.

15. After realizing the mistake, Plaintiff attempted to retract Satisfaction Document No. A04851330 on the abstract portion of the Subject Property by recording a Rescission of Satisfaction of Mortgage with the County Recorder on March 22, 2021 as Document No. A04871640. Said document, however, is legally ineffective to revive Mortgage Document No. A3903580.

16. Due to error or inadvertence, Plaintiff is entitled to equitable relief under Minn. Stat. §555.01, *et seq.* declaring Satisfaction Document No. A04851330 null and void and reviving Mortgage Document No. A3903580 as a valid, first-priority mortgage lien.

17. The Note is in default due to non-payment of the sums due thereunder from October 1, 2019 to date. The unpaid principal balance due and owing on the Note and Mortgage is \$56,329.48. Plaintiff is entitled to collect interest accruing from and after September 1, 2019, plus applicable costs, fees, disbursements, and attorneys' fees due and owing under the Note and Mortgage.

18. Wells Fargo has declared the entire unpaid principal balance of the Note together with all accrued and unpaid interest thereon, and any other amounts owing under the Note and Mortgage, to be due and payable in full.

19. The Mortgage is in default for non-payments of the sums due on the Note.

20. The terms of the Mortgage and Minn. Stat. § 581.03 provide that in the event of default under the Mortgage, the mortgaged premises may be sold at a foreclosure sale. The proceeds of the sale shall be used to pay the amount owing in addition to costs and attorneys' fees.

21. No other action or proceeding at law has been instituted to recover the indebtedness secured by the Note and Mortgage.

22. Wells Fargo has complied with all pre-foreclosure notice and acceleration requirements under the Mortgage.

CONCLUSIONS OF LAW

1. The court has the authority pursuant to Minn. Stat. § 555.01 *et seq.* to declare the rights of the parties and adjudicate the title of the Subject Property.

2. When a borrower and/or mortgagor defaults on a promissory note and mortgage, the holder of the note and mortgage may obtain a judgement, pursuant to Minn. Stat. § 581.03, for the

amount due, with costs and disbursements” and directing the sheriff to sell the mortgaged premises to satisfy that amount.

3. Plaintiff has established that a default as occurred on the Note and Mortgage for non-payments required by the Note. The Mortgage provides for foreclosure and the collections of expenses incurred in pursuing a remedy, including reasonable attorneys’ fees.

4. Plaintiff is entitled to judgment against the Estate Betty J. Luna for the balance of the Note.

5. Plaintiff is entitled to an order directing the Ramsey County Sheriff to conduct a sale of real property encumbered by the Mortgage.

ORDER FOR JUDGMENT AND JUDGMENT

1. Plaintiff’s motion is GRANTED.

2. That it is hereby declared, pursuant to Minn. Stat. § 555.01, that Satisfaction of Mortgage Document No. A04851330 is null and void and Mortgage Document No. A3903580 is revived as a valid, first-priority mortgage lien.

3. Plaintiff shall have the right upon reasonable notice to occupants in the premises, if any, to enter and inspect the premises for purposes of appraisal.

4. Plaintiff is granted judgment in the amount due on the Note and Mortgage, which, as of June 13, 2022, was \$79,201.32 with the principal balance of \$56, 329.48 accruing interest at 4.625% per annum (a per diem of \$7.14) from June 14, 2022 to the date of entry of judgment.

5. Plaintiff’s mortgage interest in the Subject Property is prior, paramount, and superior to all of Defendants’ purported liens or interests.

6. The Sheriff of Ramsey County, Minnesota, shall conduct a sale of the Subject Property, situated in Ramsey County, Minnesota and described above, as provided by Minn. Stat. § 581.03 and

shall apply the proceeds thereof to the payment of the amount adjudged hereinabove to be due, with interest thereon at the time of payment, and the expenses of such sale, the costs and disbursements herein, and Plaintiff's attorneys' fees.

7. Defendants are granted the right to redeem the premises from said sale within twelve (12) months from the date of confirmation of such sale.

LET JUDGMENT BE ENTERED IMMEDIATELY.

BY THE COURT:

Mark Ireland
Judge of District Court

MINNESOTA
JUDICIAL
BRANCH

EXHIBIT B

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

CASE TYPE: CIVIL OTHER/
MISCELLANEOUS

Wells Fargo Financial Minnesota, Inc. n/k/a
Wells Fargo USA Holdings, Inc. successor by
merger to Wells Fargo Financial Minnesota, Inc.,

Plaintiff,

NOTICE OF SHERIFF'S SALE
PURSUANT TO JUDGMENT

v.

Case No.: 62-CV-22-1562

The Unknown Heirs of Betty J. Luna,
the Unknown Heirs of Andrew M. Luna,
Brian Luna, Julie Seavey,
CitiBank, N.A., as Trustee for CMLTI Asset Trust,
John Doe and Mary Roe,

Defendants.

NOTICE IS HEREBY GIVEN that on October 18, 2022 at 10:00 a.m., at the Ramsey County Sheriff's Office, Lowry Building/City Hall Annex, 25 West 4th Street, Suite 150, St. Paul, Minnesota, the Ramsey County Sheriff will sell the real property described as follows:

Lots 7 and 8, Smith's subdivision of block 14, Stinson's Frances St. addition to St. Paul, Ramsey County, Minnesota

and

Lot 9, Smith's Subdivision of Block 14, Stinson's Frances St. addition to St. Paul, Ramsey County, Minnesota

REGISTERED PROPERTY

Property Address: 1366 FREMONT AVE, SAINT PAUL, MN 55106

Tax ID: 342922230047

to the highest bidder by auction pursuant to the Order for Judgment and Judgment entered in the above-entitled action on July 22, 2022; to satisfy the judgment entered therein for Plaintiff in the

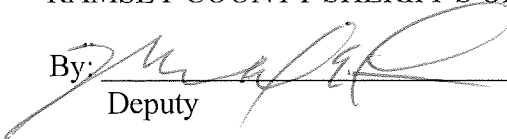
amount \$79,201.32 as of June 13, 2022 plus interest thereafter and the costs of said sale. A certified copy of the Order for Judgment and Judgment has been delivered to the Ramsey County Sheriff.

The redemption period from the sale will be twelve (12) months from the date of confirmation of the sale by the Court. The real property must be vacated by 11:59 p.m. on the last day of the redemption period.

THE TIME ALLOWED BY LAW FOR REDEMPTION BY THE MORTGAGOR, THE MORTGAGOR'S PERSONAL REPRESENTATIVES OR ASSIGNS, MAY BE REDUCED TO FIVE WEEKS IF A JUDICIAL ORDER IS ENTERED UNDER MINNESOTA STATUTES, SECTION 582.032, DETERMINING, AMONG OTHER THINGS, THAT THE MORTGAGED PREMISES ARE IMPROVED WITH A RESIDENTIAL DWELLING OF LESS THAN FIVE UNITS, ARE NOT PROPERTY USED IN AGRICULTURAL PRODUCTION, AND ARE ABANDONED.

RAMSEY COUNTY SHERIFF'S OFFICE

Dated: 8/8/22

By: 
Deputy

TROTT LAW, P.C.

Dated: August 3, 2022


By: 
Samuel R. Coleman (#0389839)
Attorneys for Plaintiff
25 Dale Street North
St. Paul, MN 55102
Telephone: (651) 209-9785
scoleman@trottlaw.com
(20-0235-LIT03)

EXHIBIT C

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

CASE TYPE: CIVIL OTHER/MISC

Wells Fargo Financial Minnesota, Inc. n/k/a
Wells Fargo USA Holdings, Inc. successor by
merger to Wells Fargo Financial Minnesota, Inc.,

Plaintiff,

MEMORANDUM OF LAW

Case No.: 62-CV-22-1562

v.

The Unknown Heirs of Betty J. Luna,
the Unknown Heirs of Andrew M. Luna,
Brian Luna, Julie Seavey,
CitiBank, N.A., as Trustee for CMLTI Asset Trust,
John Doe and Mary Roe,

Defendants.

BACKGROUND

This action was commenced in March of 2022. Plaintiff filed a motion for default judgment and the Court entered its Order for Judgment and Judgment in favor of Plaintiff on July 22, 2022 (“the Judgment”). Amongst other relief granted in the Judgment, the Court granted Plaintiff the right to foreclose its mortgage encumbering the Subject Property dated October 5, 2005 and recorded in the office of the Ramsey County Registrar of Titles on November 10, 2005 as Document No. 1939359 and erroneously recorded again on February 27, 2006 as Document No. T1952656; and also filed of record with the Ramsey County Recorder on November 10, 2005 as Document No. A3903580 (the “Mortgage”). Prior to commencing this action, Plaintiff obtained a title report for the Subject Property on March 23, 2022. The title report purported to reflect all existing liens, interests, and assignments

affecting the Subject Property as of March 11, 2022. Based on this title report, Plaintiff filed this action on March 24, 2022, recorded its Lis Pendens on March 30, 2022, and began making efforts to serve the Complaint and Summons on those defendants identified as having an interest in the Subject Property.

At that time, and based on the March 23, 2022 title report, Plaintiff named CitiBank, N.A., as Trustee for CMLTI Asset Trust as a defendant, which entity was identified as holding a junior, second-priority mortgage encumbering the Subject Property. This junior mortgage was dated August 31, 2006 and recorded with the office of the Ramsey County Recorder on September 6, 2006 as Document No. 3975600 and with the office of the Ramsey County Registrar of Titles on September 6, 2006 as Document No. 1977472 (the “Junior Mortgage”). CitiBank, N.A., as Trustee for CMLTI Asset Trust was identified in the March 23, 2022 title report as having taken an assignment of the Junior Mortgage.

After the Judgment was entered and Plaintiff was preparing to schedule and notice the sheriff’s sale, Plaintiff obtained an updated title report to identify any changes of record affecting the Subject Property. This title report was dated September 20, 2022 and purported to reflect all existing liens, interests, and assignments affecting the Subject Property as of September 12, 2022. In this September 20, 2022 title report, it was discovered that CitiBank, N.A., as Trustee for CMLTI Asset Trust had in fact assigned the Junior Mortgage to United Asset Management, LLC via assignment of mortgage recorded with the office of the Ramsey County Recorder on March 8, 2022 as Document No. A04937043. Because United Asset Management LLC held the Junior Mortgage prior to the date this action was commenced, filed, and the Lis Pendens recorded, United Asset Management LLC should have been named as a defendant in this action. Plaintiff brings this motion, in part, to seek an order granting it leave to amend its Complaint to remove CitiBank, N.A., as Trustee for CMLTI Asset Trust as a defendant and add United Asset Management LLC as a defendant. Additionally, Plaintiff asks

that the Judgment be vacated with respect to CitiBank, N.A., as Trustee for CMLTI Asset Trust and an amended scheduling order be issued to allow time for the new defendant, United Asset Management LLC, to assert its rights in this action.

The City of St. Paul Issues Order to Abate Nuisance for Vacate Property

On or about August 2, 2022, Plaintiff's counsel was notified by the City of St. Paul indicating that the Subject Property had been deemed a nuisance property under city ordinances. This was the first notice received by Plaintiff's counsel that the Subject Property was in such a severe state of disrepair. Counsel was aware that the Subject Property was vacant (which is not uncommon for properties being foreclosed), but did not know the city had commenced proceedings to demolish the structures. The Subject Property had been deemed a vacant building under municipal ordinance on August 26, 2020 and there have been police reports involving the Subject Property and drug use, and the structure is in a current and ongoing state of decay. It is unlawful under City ordinance for anyone to occupy the premises.

Plaintiff's counsel has attended two hearings before a St. Paul, Legislative Hearing Officer at which there were no appearances by the mortgagors, any occupants, or their representatives. The mortgagors and record owners of the Subject Property are deceased and no heir has come forward to protect the Subject Property or pursue any rights therein.

The City also informed Plaintiff's counsel that a comprehensive city inspection needs to be conducted to identify all deficiencies that need to be corrected in order to bring the property into building code compliance. However, because there is a substantial amount of garbage and personal property in home structure and in various out-buildings, the City indicated that they could not conduct the code compliance inspection until the structures had been tidied up to the extent that would allow city inspectors to access all areas of the structures.

Because Plaintiff is merely a mortgagee—that is, a party with no immediate rights of possession—it cannot legally remove or dispose of the personal property on the premises. Pursuant to Minn. Stat. § 582.031, Plaintiff seeks an order allowing it to access the interior of the Subject Property for purposes of a) moving the personal property therein to suitable storage locations on the premises or elsewhere, b) clearing trash, and c) winterizing the home and other structures located on the Subject Property. Such an order would allow Plaintiff to prepare the Subject Property for a code compliance inspection, and subsequently, remediation work on the deficiencies.

ARGUMENT

A. Vacating the Judgment with Respect to Defendant CitiBank, N.A., as Trustee for CMLTI Asset Trust Is Warranted under Minn. R. Civ. P. 60.01.

Minn. R. Civ. P. 60.01 provides as follows:

On motion and upon such terms as are just, the court may relieve a party or the party's legal representatives from a final judgment (other than a marriage dissolution decree), order, or proceeding and may order a new trial or grant such other relief as may be just for the following reasons:

(a) Mistake, inadvertence, surprise, or excusable neglect;...

Here, relief from the Judgment with respect to CitiBank, N.A., as Trustee for CMLTI Asset Trust is sought due to Plaintiff's inadvertent failure to name an indispensable party to this action, namely United Asset Management LLC. On account of the failure of the March 24, 2022 title report to identify United Asset Management LLC as the holder of the Junior Mortgage, Plaintiff proceeded to seek, and in fact did obtain, a judgment identifying the wrong entity as the holder of the Junior Mortgage. Since United Asset Management LLC was not named, it is not bound by the Judgment and its mortgage will not be extinguished upon foreclosure of Plaintiff's senior Mortgage. Whether the incorrect title report, and the proceedings held thereafter, are categorized as mistake, surprise or inadvertence, no prejudice will be suffered by any of the parties to this action because none of the existing defendants

submitted an answer and the Judgment was entered by default.

B. Justice Requires that Plaintiff Be Granted Leave to Amend Its Complaint to Include United Asset Management LLC as a Defendant.

Minn. R. Civ. P. 15.01 allows a party to amend a pleading “when justice so requires.” United Asset Management LLC is an indispensable party because it holds the Junior Mortgage. In order for Junior Mortgage to be extinguished after the expiration of the redemption period, United Asset Management LLC must be included as a defendant in this action. Again, no prejudice will be suffered by any of the existing defendants because they have already allowed default judgment to be entered.

C. Good Cause Has Been Demonstrated under Minn. R. Civ. P. 16.02 to Amend the May 3, 2022 Scheduling Order.

Minn. R. Civ. P. 16.02 grants the Court the authority to establish amend scheduling orders “upon a showing of good cause”. If United Asset Management LLC is allowed to be substituted as a party in this action, it will need time to weight its rights and options. Under the existing Scheduling Order, it will be impossible for United Asset Management LLC to protect its rights or for Plaintiff to engage in pre-trial activities with the new defendant, such as discovery and motion practice.

D. Circumstances Regarding the Deteriorating Subject Property Warrant an Order Permitting Plaintiff to Take Drastic Steps to Protect Its Collateral.

Minn. Stat. § 582.031 allows the “holder of the mortgage” or the “holder’s agents and contractor’s” to enter the mortgaged premises and take such actions as are necessary to protect it from “waste”, “trespass”, “the elements”, “vandalism”, “other illegal activity”, or from “falling below minimum community standards for public safety and sanitation”. The statute allows the mortgagee to take a number of specified actions to protect the property without court authorization, but nowhere does the statute specify that the mortgagee may move personal property or remove trash. Plaintiff asks the Court for specific permission to take all of the actions specified in statute as well as to move personal property and remove trash. Plaintiff asserts that authority for taking this kind of action exists

under Minn. Stat. 582.031, Subd. 2, which provides:

The holder of the mortgage or sheriff's certificate may take the following actions to protect the premises from waste, trespass, or from falling below minimum community standards for public safety and sanitation: make reasonable periodic inspections; install or change locks on doors and windows; board windows, doors, and other openings; install and operate an alarm system; *and otherwise prevent or minimize damage to the premises from the elements, vandalism, trespass, or other illegal activities*. If the holder of the mortgage or sheriff's certificate installs or changes locks under this section, a key to the premises must be promptly delivered to the mortgagor or any person lawfully claiming through the mortgagor, upon request.

The emphasized phrase appears to allow a certain amount of discretion on the part of the mortgagee to protect its collateral. In this instance, the only way the Subject Property can be saved from demolition by the City is to allow Plaintiff and its agents to enter the premises and move the personal property and rubbish so that the City may conduct a comprehensive code compliance inspection. If an inspection cannot be conducted in the next two to three months, it appears likely that the City will adopt a resolution to demolish the Subject Property.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant its motion in its entirety.

TROTT LAW, P.C.

Dated: November 7, 2022

By: /s/ Samuel R. Coleman
Samuel R. Coleman (#0389839)
Attorneys for Plaintiff
25 Dale Street North
The Academy Professional Bldg.
St. Paul, Minnesota 55102-2227
(651) 209-9785
scoleman@trottlaw.com

EXHIBIT D

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

CASE TYPE: CIVIL OTHER/MISC

Wells Fargo Financial Minnesota, Inc. n/k/a
Wells Fargo USA Holdings, Inc. successor by
merger to Wells Fargo Financial Minnesota, Inc.,

Plaintiff,

v.

**ORDER PARTIALLY VACATING
JUDGMENT AND GRANTING
OTHER RELIEF**

Case No.: 62-CV-22-1562

The Unknown Heirs of Betty J. Luna,
the Unknown Heirs of Andrew M. Luna,
Brian Luna, Julie Seavey,
CitiBank, N.A., as Trustee for CMLTI Asset Trust,
John Doe and Mary Roe,

Defendants.

The above-entitled matter came before the undersigned Judge of District Court pursuant to the request of Plaintiff. Upon all of the files, records and proceedings herein, the court makes the following:

ORDER

1. Plaintiff's motion to vacate the Order for Judgment and Judgment entered on July 22, 2022 with respect to Defendant is CitiBank, N.A., as Trustee for CMLTI Asset Trust **GRANTED**. The Judgment shall remain unaffected with respect to the remaining defendants.

2. Plaintiff's motion for leave to amend its Complaint to dismiss CitiBank, N.A., as Trustee for CMLTI Asset Trust and substitute United Asset Management LLC is **GRANTED**. Plaintiff shall file its Amended Summons and Amended Complaint in accordance with this Order on or before December 12, 2022 and perfect service on United Asset Management LLC on or before January 31, 2022.

3. Plaintiff's motion for an amendment to the Court's May 3, 2022 Scheduling Order is **GRANTED**. Within thirty days after service of the Amended Summons and Amended Complaint on United Asset Management LLC, Plaintiff's counsel shall confer with United Asset Management LLC or its counsel as to scheduling matters for this case and notify the Court of the result of the parties' discussion.

4. Plaintiff's motion for an order permitting Plaintiff and its agents to access the interior of the Subject Property (located at 1366 Fremont Ave, St. Paul, MN) for purposes of: a) moving the personal property therein to suitable storage locations on the premises or to a commercially reasonable, offsite storage facility, b) disposing of fungible items and trash, and c) winterizing the home and other structures located on the Subject Property is **GRANTED**. Pursuant to Minn. Stat. .§ 582.031, Plaintiff shall not be considered a mortgagee in possession notwithstanding these actions.

LET JUDGMENT BE ENTERED IMMEDIATELY.

BY THE COURT:

Dated: _____

Judge of District Court

EXHIBIT E



EXHIBIT F

STATE OF MINNESOTA
 COUNTY OF RAMSEY

DISTRICT COURT
 SECOND JUDICIAL DISTRICT
 CASE TYPE: CIVIL OTHER/MISC

Wells Fargo Financial Minnesota, Inc. n/k/a
 Wells Fargo USA Holdings, Inc. successor by
 merger to Wells Fargo Financial Minnesota, Inc.,

Plaintiff,

v.

The Unknown Heirs of Betty J. Luna;
 the Unknown Heirs of Andrew M. Luna;
 Brian Luna; Julie Seavey; United Asset
 Management, LLC, as substituted for CitiBank,
 N.A., as Trustee for CMLTI Asset Trust;
 John Doe; and Mary Roe;

Defendants.

**ORDER FOR JUDGMENT AND
 JUDGMENT AGAINST UNITED
 ASSET MANAGEMENT, LLC**

Case No.: 62-CV-22-1562

The above-entitled matter came on for hearing before the undersigned Judge of District Court on March 1, 2023. Samuel R. Coleman appeared on behalf of Plaintiff. There were no other appearances. Upon all of the files, records and proceedings herein, the Court makes the following:

PROCEDURAL BACKGROUND

1. On July 22, 2022, the court entered its Order for Judgment and Judgment granting default judgment against all Defendants named in Plaintiff's original Complaint.
2. On December 6, 2022, pursuant to a motion brought by Plaintiff, the court entered an Amended Order to Amend Judgment and Granting other Relief, which Order vacated the July 22, 2022 Order for Judgment and Judgment solely with respect to CitiBank, N.A., as Trustee for CMLTI Asset Trust and permitted plaintiff to substitute United Asset Management, LLC as a defendant in

place of CitiBank, N.A., as Trustee for CMLTI Asset Trust through an Amended Summons and Amended Complaint. This substitution of parties was permitted and proper because CitiBank, N.A., as Trustee for CMLTI Asset Trust had assigned its junior mortgage to United Asset Management, LLC just before the commencement of this action.

UNDISPUTED FACTS

1. Defendant United Asset Management, LLC, as substituted for CitiBank, N.A., as Trustee for CMLTI Asset Trust was duly served with the Amended Summons and Amended Complaint as evidenced by the Affidavit of Service on file. Said Defendant has not interposed an Answer or response to the Amended Complaint. Accordingly, this matter is proceeding by default.

3. Plaintiff Wells Fargo Financial Minnesota, Inc., n/k/a Wells Fargo USA Holdings, Inc. successor by merger to Wells Fargo Financial Minnesota, Inc. (“Wells Fargo”) holds a first lien mortgage interest in the real property legally described as:

Lots 7 and 8, Smith`s subdivision of block 14, Stinson`s Frances St. addition
to St. Paul, Ramsey County, Minnesota
ABSTRACT PROPERTY
and

Lot 9, Smith`s Subdivision of Block 14, Stinson`s Frances St. addition to St.
Paul, Ramsey County, Minnesota,
REGISTERED PROPERTY

(hereinafter "Subject Property").

4. Defendants Andrew M. Luna and Betty J. Luna are the record owners of the Subject Property.

5. Andrew M. Luna died on February 20, 2009. To date, a probate of the estate of Andrew M. Luna has not been commenced in the state of Minnesota. Accordingly, the Unknown Heirs of Andrew M. Luna are named as defendants herein.

6. Betty J. Luna died on November 2, 2019. To date, a probate of the estate of Betty J. Luna has not been commenced in the state of Minnesota. Accordingly, the Unknown Heirs of Betty J. Luna are named as defendants herein.

7. Defendants Brian Luna and Julie Seavey are known, potential heirs of Betty J. Luna and Andrew M. Luna and may hold an interest in the Subject Property.

8. Defendant United Asset Management, LLC holds a junior mortgagee's interest, via four, recorded assignments of said mortgage, in the Subject Property pursuant to that mortgage dated August 31, 2006 and recorded with the office of the Ramsey County Recorder on September 6, 2006 as Document No. 3975600 and with the office of the Ramsey County Registrar of Titles on September 6, 2006 as Document No. 1977472.

9. No John Doe or Mary Roe defendants were identified.

10. On October 5, 2005, Betty J. Luna executed and delivered to Wells Fargo a promissory note in the original principal amount of \$121,020.31 (the "Note").

11. Wells Fargo holds the Note, directly or through an agent. A true and correct copy of the Note is attached to the Complaint as Exhibit A.

12. To secure repayment of the indebtedness evidenced by the Note, Andrew M. Luna and Betty J. Luna executed and delivered to Wells Fargo a mortgage encumbering the Subject Property dated October 5, 2005 and recorded in the office of the Ramsey County Registrar of Titles on November 10, 2005 as Document No. 1939359 and erroneously recorded again on February 27, 2006 as Document No. T1952656; and also filed of record with the Ramsey County Recorder on November 10, 2005 as Document No. A3903580 (the "Mortgage"). A true and correct copy of the Mortgage is attached to the Complaint as Exhibit B.

13. After realizing that the Mortgage had been erroneously recorded with the Registrar of Titles a second time as Document No. T1952656, Plaintiff attempted to correct the mistake by filing a satisfaction of the Mortgage.

14. Plaintiff correctly recorded a satisfaction of the Mortgage with the Registrar of Titles on April 21, 2021 as Document No. T02696225.

15. Plaintiff erroneously filed the same satisfaction with the County Recorder on December 14, 2020 as Document No. A04851330, thereby erroneously extinguishing its mortgage lien on the abstract portion of the Subject Property.

16. After realizing the mistake, Plaintiff attempted to retract Satisfaction Document No. A04851330 on the abstract portion of the Subject Property by recording a Rescission of Satisfaction of Mortgage with the County Recorder on March 22, 2021 as Document No. A04871640. Said document, however, is legally ineffective to revive Mortgage Document No. A3903580.

17. Due to error or inadvertence, Plaintiff is entitled to equitable relief under Minn. Stat. §555.01, *et seq.* declaring Satisfaction Document No. A04851330 null and void and reviving Mortgage Document No. A3903580 as a valid, first-priority mortgage lien.

18. The Note is in default due to non-payment of the sums due thereunder from October 1, 2019 to date. The unpaid principal balance due and owing on the Note and Mortgage is \$56,329.48. Plaintiff is entitled to collect interest accruing from and after September 1, 2019, plus applicable costs, fees, disbursements, and attorneys' fees due and owing under the Note and Mortgage.

19. Wells Fargo has declared the entire unpaid principal balance of the Note together with all accrued and unpaid interest thereon, and any other amounts owing under the Note and Mortgage, to be due and payable in full.

20. The Mortgage is in default for non-payments of the sums due on the Note.

21. The terms of the Mortgage and Minn. Stat. § 581.03 provide that in the event of default under the Mortgage, the mortgaged premises may be sold at a foreclosure sale. The proceeds of the sale shall be used to pay the amount owing in addition to costs and attorneys' fees.

22. No other action or proceeding at law has been instituted to recover the indebtedness secured by the Note and Mortgage.

23. Wells Fargo has complied with all pre-foreclosure notice and acceleration requirements under the Mortgage.

CONCLUSIONS OF LAW

1. The court has the authority pursuant to Minn. Stat. § 555.01 et seq. to declare the rights of the parties and adjudicate the title of the Subject Property.

2. When a borrower and/or mortgagor defaults on a promissory note and mortgage, the holder of the note and mortgage may obtain a judgement, pursuant to Minn. Stat. § 581.03, for the amount due, with costs and disbursements” and directing the sheriff to sell the mortgaged premises to satisfy that amount.

3. Plaintiff has established that a default as occurred on the Note and Mortgage for non-payments required by the Note. The Mortgage provides for foreclosure and the collections of expenses incurred in pursuing a remedy, including reasonable attorneys' fees.

4. Plaintiff is entitled to judgment against the Estate Betty J. Luna for the balance of the Note.

5. Plaintiff is entitled to an order directing the Ramsey County Sheriff to conduct a sale of real property encumbered by the Mortgage.

ORDER FOR JUDGMENT AND JUDGMENT

1. Plaintiff's motion is GRANTED with respect to United Asset Management, LLC.
2. That it is hereby declared, pursuant to Minn. Stat. § 555.01, that Satisfaction of Mortgage Document No. A04851330 is null and void and Mortgage Document No. A3903580 is revived as a valid, first-priority mortgage lien.
3. Plaintiff shall have the right upon reasonable notice to occupants in the premises, if any, to enter and inspect the premises for purposes of appraisal.
4. Plaintiff is granted judgment in the amount due on the Note and Mortgage, which, as of June 13, 2022, was \$79,201.32 with the principal balance of \$56,329.48 accruing interest at 4.625% per annum (a per diem of \$7.14) from June 14, 2022 to the date of entry of judgment.
5. Plaintiff's mortgage interest in the Subject Property is prior, paramount, and superior to all of Defendants' purported liens or interests.
6. The Sheriff of Ramsey County, Minnesota, shall conduct a sale of the Subject Property, situated in Ramsey County, Minnesota and described above, as provided by Minn. Stat. § 581.03 and shall apply the proceeds thereof to the payment of the amount adjudged hereinabove to be due, with interest thereon at the time of payment, and the expenses of such sale, the costs and disbursements herein, and Plaintiff's attorneys' fees.
7. Defendants are granted the right to redeem the premises from said sale within twelve (12) months from the date of confirmation of such sale.

LET JUDGMENT BE ENTERED IMMEDIATELY.

BY THE COURT:

Judge of District Court

EXHIBIT G



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EXHIBIT H

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

CASE TYPE: CIVIL
OTHER/MISCELLANEOUS

WELLS FARGO FINANCIAL MINNESOTA,
INC., N/K/A WELLS FARGO USA HOLDINGS,
INC. SUCCESSOR BY MERGER TO WELLS
FARGO FINANCIAL MINNESOTA, INC.,

Plaintiff,

**NOTICE OF SHERIFF'S SALE
PURSUANT TO JUDGMENT**

Case No.: 62-CV-22-1562

vs.

THE UNKNOWN HEIRS OF BETTY J. LUNA;
THE UNKNOWN HEIRS OF ANDREW M.
LUNA; JULIE SEAVEY; UNITED ASSET
MANAGEMENT, LLC, AS SUBSTITUTED
FOR CITIBANK, N.A., AS TRUSTEE FOR
CMLTI ASSET TRUST; BRIAN A. LUNA,
JOHN DOE and MARY ROE,

Defendants.

NOTICE IS HEREBY GIVEN that on June 13, 2023 at 10:00 A.M., at the Ramsey County Sheriff's Office, Lowry Building/City Hall Annex, 25 West 4th Street, Suite 150, St. Paul, Minnesota, the Ramsey Sheriff will sell the real property legally described as:

Lots 7 and 8, Smith's subdivision of block 14, Stinson's Frances St. addition to St. Paul, Ramsey County, Minnesota

ABSTRACT PROPERTY

and

Lot 9, Smith's Subdivision of Block 14, Stinson's Frances St. addition to St. Paul, Ramsey County, Minnesota

REGISTERED PROPERTY

Property Address: 1366 FREMONT AVE, SAINT PAUL, MN 55106-5305

Tax ID: 342922230047


to the highest bidder by auction pursuant to the Order for Judgment and Judgment entered in the above-entitled action on July 22, 2022, as amended by Judgment entered on December 7, 2022, and further amended by Judgment entered on March 3, 2023; to satisfy the judgment entered for Plaintiff in the amount \$79,201.32, plus interest and the costs of the sale. A certified copy of the Order for Judgment and Judgment has been delivered to the Ramsey County Sheriff.

The redemption period from the sale will be twelve (12) months from the date of confirmation of the sale by the Court. The real property must be vacated by 11:59 p.m. on the last day of the redemption period.

THE TIME ALLOWED BY LAW FOR REDEMPTION BY THE MORTGAGOR, THE MORTGAGOR'S PERSONAL REPRESENTATIVES OR ASSIGNS, MAY BE REDUCED TO FIVE WEEKS IF A JUDICIAL ORDER IS ENTERED UNDER MINNESOTA STATUTES, SECTION 582.032, DETERMINING, AMONG OTHER THINGS, THAT THE MORTGAGED PREMISES ARE IMPROVED WITH A RESIDENTIAL DWELLING OF LESS THAN FIVE UNITS, ARE NOT PROPERTY USED IN AGRICULTURAL PRODUCTION, AND ARE ABANDONED.


Dated: 3/28/23

RAMSEY COUNTY SHERIFF'S OFFICE

By: 
Deputy

Dated: March 23, 2023

TROTT LAW, P.C.

By: 
Samuel R. Coleman (#389839)
Attorneys for Plaintiff
Wells Fargo Financial Minnesota, Inc., n/k/a
Wells Fargo USA Holdings, Inc. successor by
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