

**Attachment 2**

**NOTICE OF DEFAULT AND FORECLOSURE SALE**

WHEREAS, on \_\_\_\_\_, a certain Mortgage [Deed of Trust] [Mortgage Deed] [Security Deed] was executed by \_\_\_\_\_ as mortgagor [trustor] [grantor] in favor of \_\_\_\_\_ as mortgagee [beneficiary] [grantee] [and \_\_\_\_\_ as trustee], and was recorded on \_\_\_\_\_, in Book \_\_\_\_\_, Page \_\_\_\_\_ [as Instrument No. \_\_\_\_\_] in the Office of the \_\_\_\_\_, \_\_\_\_\_ County, \_\_\_\_\_; and

<sup>1</sup>WHEREAS, the Mortgage [Deed of Trust] [Mortgage Deed] [Security Deed] was insured by the United States Secretary of Housing and Urban Development (the Secretary) pursuant to the National Housing Act for the purpose of providing single family housing; and

<sup>1</sup>WHEREAS, the Mortgage [beneficial interest in the Deed of Trust] [Mortgage Deed] [Security Deed] is now owned by the Secretary, pursuant to an assignment dated \_\_\_\_\_, and recorded on \_\_\_\_\_, in Book \_\_\_\_\_, Page \_\_\_\_\_, [as Instrument Number \_\_\_\_\_], in the office of the \_\_\_\_\_, \_\_\_\_\_ County, \_\_\_\_\_; and

WHEREAS, a default has been made in the covenants and conditions of the Mortgage [Deed of Trust] [Mortgage Deed] [Security Deed] in that the payment due on \_\_\_\_\_, was not made and remains wholly unpaid as of the date of this notice, and no payment has been made sufficient to restore the loan to currency; and

WHEREAS, the entire amount delinquent as of \_\_\_\_\_ is \$ \_\_\_\_\_; and

WHEREAS, by virtue of this default, the Secretary has declared the entire amount of the indebtedness secured by the Mortgage [Deed of Trust] [Mortgage Deed] [Security Deed] to be immediately due and payable;

NOW THEREFORE, pursuant to powers vested in me by the Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. 3751 et seq., by 24 CFR part 27, subpart B, and by the Secretary's designation of me as Foreclosure Commissioner, recorded on \_\_\_\_\_ in Book \_\_\_\_\_, Page \_\_\_\_\_ [as Instrument No. \_\_\_\_\_], notice is hereby given that on \_\_\_\_\_ at \_\_\_\_\_ local time, all real and personal property at or used in connection with the following described premises ("Property") will be sold at public auction to the highest bidder:

<sup>1</sup> Omit the above 2<sup>nd</sup> and 3<sup>rd</sup> "Whereas" clauses in Purchase Money Mortgage cases, in Sec. 312 cases, or as otherwise appropriate.

Commonly known as:

The sale will be held at \_\_\_\_\_.

The Secretary of Housing and Urban Development will bid \$\_\_\_\_\_.

There will be no proration of taxes, rents or other income or liabilities, except that the purchaser will pay, at or before closing, his prorata share of any real estate taxes that have been paid by the Secretary to the date of the foreclosure sale.

When making their bids, all bidders except the Secretary must submit a deposit totaling \$\_\_\_\_\_ [10% of the Secretary's bid] in the form of a certified check or cashier's check made out to the Secretary of HUD. A deposit need not accompany each oral bid. If the successful bid is oral, a deposit of \$\_\_\_\_\_ must be presented before the bidding is closed. The deposit is nonrefundable. The remainder of the purchase price must be delivered within 30 days of the sale or at such other time as the Secretary may determine for good cause shown, time being of the essence. This amount, like the bid deposits, must be delivered in the form of a certified or cashier's check. If the Secretary is the highest bidder, he need not pay the bid amount in cash. The successful bidder will pay all conveying fees, all real estate and other taxes that are due on or after the delivery date of the remainder of the payment and all other costs associated with the transfer of title. At the conclusion of the sale, the deposits of the unsuccessful bidders will be returned to them.

The Secretary may grant an extension of time within which to deliver the remainder of the payment. All extensions will be for 15-day increments for a fee of \$500.00, paid in advance. The extension fee shall be in the form of a certified or cashier's check made payable to the Secretary of HUD. If the high bidder closes the sale prior to the expiration of any extension period, the unused portion of the extension fee shall be applied toward the amount due.

If the high bidder is unable to close the sale within the required period, or within any extensions of time granted by the Secretary, the high bidder may be required to forfeit the cash deposit or, at the election of the foreclosure commissioner after consultation with the HUD representative, will be liable to HUD for any costs incurred as

a result of such failure. The Commissioner may, at the direction of the HUD representative, offer the property to the second highest bidder for an amount equal to the highest price offered by that bidder.

There is no right of redemption, or right of possession based upon a right of redemption, in the mortgagor or others subsequent to a foreclosure completed pursuant to the Act. Therefore, the Foreclosure Commissioner will issue a Deed to the purchaser(s) upon receipt of the entire purchase price in accordance with the terms of the sale as provided herein. HUD does not guarantee that the property will be vacant.

The scheduled foreclosure sale shall be cancelled or adjourned if it is established, by documented written application of the mortgagor to the Foreclosure Commissioner not less than 3 days before the date of sale, or otherwise, that the default or defaults upon which the foreclosure is based did not exist at the time of service of this notice of default and foreclosure sale, or all amounts due under the mortgage agreement are tendered to the Foreclosure Commissioner, in the form of a certified or cashier's check payable to the Secretary of HUD, before public auction of the property is completed.

The amount that must be paid if the mortgage is to be reinstated prior to the scheduled sale is \$\_\_\_\_\_ as of \_\_\_\_\_, plus all other amounts that would be due under the mortgage agreement if payments under the mortgage had not been accelerated, advertising costs and postage expenses incurred in giving notice, mileage by the most reasonable road distance for posting notices and for the Foreclosure Commissioner's attendance at the sale, reasonable and customary costs incurred for title and lien record searches, the necessary out-of-pocket costs incurred by the Foreclosure Commissioner for recording documents, a commission for the Foreclosure Commissioner, and all other costs incurred in connection with the foreclosure prior to reinstatement.

Tender of payment by certified or cashier's check or application for cancellation of the foreclosure sale shall be submitted to the address of the Foreclosure Commissioner provided below.

Date: \_\_\_\_\_

\_\_\_\_\_  
Foreclosure Commissioner

\_\_\_\_\_  
[signature and typed name]

\_\_\_\_\_  
[address]

\_\_\_\_\_  
[telephone no.]

\_\_\_\_\_  
[facsimile no.]