

STATE OF VERMONT  
BENNINGTON COUNTY, SS.

BERKSHIRE BANK	)	
Plaintiff	)	Bennington Superior Court
vs.	)	Docket No.56-2-09 Bncv
N.W.P., INC. d/b/a NORTHEAST WOOD	)	
PRODUCTS, ROBERT KOBELIA, KRISTENA T.	)	
KOBELIA, VERMONT DEPARTMENT OF TAXES	)	
BRATTLEBORO KILN DRY, LOFTUS ROSS, LLP	)	
BRIAN O'NEIL LANDSCAPE SERVICES, INC.	)	
MICHAEL DEEP, US BANCORP, CATERPILLAR	)	
FINANCIAL SERVICES CO., PEOPLE'S UNITED	)	
BANK d/b/a CHITTENDEN BANK	)	
Defendants.	)	

**NOTICE OF SALE**

By virtue and in execution of the Judgment and Decree of Foreclosure by Judicial Sale dated November 30, 2009, for breach of the Mortgage given by N.W.P., Inc. to Berkshire Bank dated June 25, 2001, and recorded on July 6, 2001 in Book 121, Page 197 of the Town of Pownal Land Records; for breach of the Loan and Security Agreement given by N.W.P., Inc. to Berkshire Bank dated July 28, 2003, and for the purpose of foreclosing the same, the Real Property and Personal Property will be sold in lots, beginning with the Real Property, at public auction at 10:00 a.m. and the Personal Property immediately thereafter, on **FEBRUARY 23, 2010** at the lands and premises known as 33 -39 Church Street, Pownal, Vermont (the "Real Property") described as follows:

**REAL PROPERTY**

**PARCEL A:** Being a portion of the same lands and premises conveyed to Northeast Wood Products, Inc., by Siegfried W. Tolle and Helen N. Tolle by their Warranty Deed dated August 2, 1948, and recorded in Book 56, Page 143 of the Pownal Land Records and more particularly described as follows:

Being the same lands and premises set forth on a Survey prepared by Cadiz Consultants, Inc. for Northeast Wood Products, Inc., dated April 1979 with a Scale of 1"= 50' with said lands being more particularly described as follows:

Beginning at a pin in the westerly fenceline of the Boston and Maine Railroad right of way, said pin marking a southeast corner of Siegfried W. Tolle and the northeast corner of the herein described parcel; thence on an average bearing of S 29° 19 1/2 ' E along said right of way 659.20 feet to the northeast corner of Vincent Pizzano; thence S 65° 48' W along the northerly line of Pizzano 165.20 feet to a point; thence S 10° 31' E 131.91 feet to a northerly line of Green Mountain Park; thence S 76° 40 1/4' W285.32 feet to a fencepost on the easterly bank of the Hoosic River; thence on an average bearing of N 37° 24 1/4'W along the top of said bank 261.47 feet to a point; thence N 8° 35 1/4W 588.00 feet to a pipe in the southerly line of Tolle; thence N 81° 24 3/4' E 331.38 feet to the point of beginning.

Said parcel contains 7.90 acres, more or less, together with any interest that may exist in the roadbed of the B&M Railroad Company and the banks and bed of the Hoosic River.

Said parcel is subject to the possible right of way easement referred to in the Warranty Deed of Northeast Wood Products, Inc., to Vincent Pizzano, dated January 1, 1969 and recorded in Book 67, Page 255 of the Pownal Land Records and more particularly described in said Deed as follows:

"Also conveying hereby, to the Grantee and his heirs and assigns, the right, if any, of the Grantor to use the right of way of the Boston and Main Railroad from the road entitled "Access Road to Pownal" on the aforesaid survey to the parcel of land hereby conveyed. Said right, if any, is the right of the Grantee, his heirs and assigns, to use, in common with the Grantor, its successors, assigns and others, said railroad right of way for the purpose of ingress and egress from the lot of land hereby conveyed. As part of the consideration herefor, the Grantor, for itself and its successors and assigns, agrees that if the Grantee, his heirs and assigns, shall be lawfully precluded from using the aforesaid railroad right of way then the Grantor shall convey an alternate right of way to the Grantee. Said alternate right of way shall be situated upon the parcel of land described in the aforesaid deed from the Tolles to Northeast Wood Products, Inc., at a location thereon to be mutually agreed upon by the Grantor and the Grantee."

The above lands and premises are being conveyed herein subject to all stipulations and conditions set forth in State of Vermont Land Use Permit #8-B 0193, recorded in Book 74, Page 69 of the Pownal Land Records.

PARCEL B: Being the same lands and premises conveyed to Northeast Wood Products, Inc., by Siegfried and Helen Tolle, husband and wife, by their Warranty Deed dated April 26, 1979 and recorded in Book 74, Page 338 of the Pownal Land Records, and which lands and premises are more particularly described in said deed as follows:

"Being a portion of the same lands and premises conveyed to Siegfried W. Tolle and Helen A. Tolle by Howard M. Smith and Frances M. Smith, husband and wife, by their Warranty Deed dated November 27, 1964 and recorded December 4, 1964 in Book 54, Pages 348-350 of the Pownal Land Records with said portion being more particularly described as follows:

Being the same parcel of land described as "Parcel B" set forth on a survey prepared by Cadiz Consultants, Inc. of Bennington, Vermont for Northeast Wood Products, Inc., dated April 1979 with a Scale of 1"=50' with said parcel being more particularly described as follows:

Beginning at a pipe in the southerly line of lands of Siegfried and Helen Tolle, marking the northwest corner of lands of the grantee and the northeast corner of the herein described parcel; thence S 8° 35 1/4" E along the westerly line of the grantee 588.00 feet to a point on the bank of the Hoosic River; thence on an average bearing of N 34° 51 1/4' W along the top of said bank 108.05 feet to a point being S 73° 16 1/4" W 121.66 feet from the southwest corner of a lumber storage shed thence N 14° 33' W through lands of the grantors 493.78 feet to a pin set at the base of an 18" apple tree; thence N 81° 24 3/4' E 99.12 feet to the point of beginning.

Said parcel contains 0.88 acres together with any interest that may exist in the banks and bed of that portion of the Hoosic River running along the southerly boundary of the above parcel.

In order to comply with the State of Vermont Health Regulations on the subdivision of lands and disposal of wastes including sewage, the Grantee shall not construct or erect a structure or building on the parcel of land conveyed herein, the useful occupancy of which will require the installation of plumbing and sewage treatment facilities without first complying with the State regulations.

The above parcels are conveyed subject to all utility easements now existing or of record, if any.

**PERSONAL PROPERTY**

(i) All goods including without limitation all Inventory (as hereinafter defined), farm products, Equipment (as hereinafter defined), including without limitation machinery, furniture and trade fixtures;

- (ii) All products of and accessions;
- (iii) "Equipment" shall mean and include all machinery, equipment, furniture, trade fixtures and motor vehicles and intending to include all tangible personal property, or goods, and all replacements or substitutions therefore and all accessions thereto.
- (iv) "Inventory" means all inventory of whatever name, nature, kind or description, all goods held for sale or lease or to be furnished under contracts of service, finished goods, work in process, raw materials, materials, parts, supplies, all wrapping, packaging, advertising labeling, and shipping materials, devices, names and marks, all contract rights and documents relating to any of the foregoing.

N.W.P., Inc. is entitled to redeem the Real Property and Personal Property at any time prior to the sale by paying the full amount due under the Judgment and Decree of Foreclosure by Judicial Sale, including the costs and expense of sale.

#### **TERMS OF SALE**

The above Real Property shall be sold "AS IS WHERE IS", to the highest bidder for cash or wire funds only. The Personal Property shall be sold "AS IS WHERE IS", in lots. The sale of the Real Property is subject to confirmation by the Bennington Superior Court. The Real Property is sold subject to taxes due to the Town of Pownal, Vermont.

#### **REAL PROPERTY DEPOSIT**

A non-refundable deposit of 10% of the high bid for the Real Property shall be payable as follows: \$20,000.00 shall be paid by certified check or bank draft at the public auction, to Capital Recovery Group, LLC, who shall hold the deposit until closing; and the balance up to 10% of the high bid shall be paid by certified check or bank draft within twenty-four (24) hours from the date of public auction. The balance of the purchase price for the Real Property shall be due and payable within the LATER of 10 days from the date of confirmation of said sale by the Bennington Superior Court or 30 days from the date of public auction. If the balance of the purchase price is not paid within the period set forth herein, the deposit shall be forfeited and shall be retained by the Plaintiff herein as agreed and liquidated damages and said Real Property may be offered to the next highest bidder still interested in the Real Property.

#### **PERSONAL PROPERTY**

The Personal Property will be sold in lots to the high bidder at the public auction, for each of said lots. Payment in full is required within twenty-four (24) hours from the date of the public auction and shall be by cash, bank draft, cashiers check, wire transfer or other form of payment acceptable to Plaintiff. The personal property will be sold in its "AS IS" condition. Personal Property shall be removed promptly after sale and payment in full.

#### **PURCHASE AND SALE CONTRACT**

The high bidder for the Real Property shall be required to sign a no contingency contract of purchase and sale at the public auction, agreeing to purchase the Real Property, in its "AS IS" condition, as a result of being the successful and high bidder at said sale.

#### **OTHER TERMS TO BE ANNOUNCED AT SALE**

Inquiries can be made to Capital Recovery Group, LLC, Attention Marion Illouz, 1654 King Street, Suite 9, Enfield, CT 06082; telephone 860-623-9060.