



# Storey County Board of County Commissioners

## Agenda Action Report

**Meeting date:** August 16, 2022      **Estimate of time required:** 20 Min

**Agenda:** Consent [ ] Regular agenda [X] Public hearing required [ ]

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1. **Title:** Discussion/Possible Action. Consideration and possible approval of settlement agreement between Storey County, bankruptcy Trustee Angelique Lamberti-Clark (Trustee) and Peter McAllester and Jack and Paula Flowers (Buyers) in the case in which Cetus Mortgage LTD> is the debtor. Pursuant to the Settlement the County and the Buyers will each pay \$75,000 to the Trustee. The Trustee will in turn issue a deed of reconveyance to real property commonly known as 1333 Venice Drive in McCarran Storey County, Nevada APN 005-101-20 (the Property). Each of the parties will execute releases of all other parties from any and all claims they may have. All Parties will ask the bankruptcy court to include in its order approving the settlement, a provision annulling the automatic stay rule back to January 1, 2011 insofar as it does or may affect the Property, certain deeds of trust and the tax deed, the tax sale and the sales deed of the Property. In addition the County will provide the Buyers with a policy of title insurance which does not have exceptions for various deeds of trust and agree that the Buyers and any purchasers from them may develop the property without reference to any subdivision maps, records of survey or CC & Rs imposed by the previous owners of the Property.

2. **Recommended motion:** I (commissioner), move to approve the terms of the Settlement Agreement between the Trustee, the Buyers and Storey County regarding the bankruptcy case filed by Cetus Mortgage and authorize the Chairman to sign.

3. **Prepared by:** Keith Loomis

**Department:** District Attorney's Office

**Telephone:** 847-0964

4. **Staff summary:** See attached.

5. **Supporting materials:** Settlement Agreement and Joint Motion for Court Approval of Compromise Under Provisions of FBRP 9019

6. **Fiscal impact:**

Funds Available:

Fund:

\_\_\_\_ Comptroller

7. **Legal review required:**

  X   District Attorney

8. **Reviewed by:**

\_\_\_\_ Department Head

Department Name: Commissioner's Office

\_\_\_\_ County Manager

Other agency review:

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**9. Board action:**

Approved

Approved with Modifications

Denied

Continued

Agenda Item No. \_\_\_\_\_

**Staff Summary**

Cetus Mortgage, Ltd., is a loan broker and investor which filed for bankruptcy in 2008. At that time it held minor interests in deeds of trust issued by Osborn Development Company LLC (Osborne) and RV & Yacht, LLC (RV & Y). The deeds of trust were secured by the Property. In 2011 the County's Tax Receiver delivered a deed in trust for the Property to the County Treasurer due to delinquent property taxes accruing against the Property. In 2014, the County Treasurer conducted a tax sale of the property and sold it to the Buyers for \$275,00.00. The County Treasurer delivered a Quitclaim Deed to the Buyers which was recorded. It is alleged by the Trustee that the delivery of the Tax Deed, the Tax Sale of the property and the delivery of the Quitclaim Deed all violated the Automatic Stay Rule of bankruptcy which generally prohibits creditors from taking actions to collect a debt from a debtor in bankruptcy. Prolonged though somewhat desultory litigation ensued. Before the Board is a proposed settlement agreement which is intended to settle the proceedings, provide some money to the Trustee to disburse among other creditors of Cetus Mortgage, provide Buyers with good title to the Property free of previous development actions taken by the Osborne and RV&Y and all parties will release all other parties from all claims causes of action, demands etc, To achieve this result, and to satisfy the requirement of Orange Coast Title, it may be necessary to file an action in Storey County against all other beneficial interest holders of record to invalidate their interests by reason of the ancient mortgage statute (NRS 106.240), as well as the applicable statute of limitations for written contracts, i.e., six years from the underlying due date in 2008 or 2009,