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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF PLACER

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JAKE CHATTERS
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By: E. Cavazos, Deputy

7 *Attorneys for Plaintiff,*
COMMUNITY FACILITIES DISTRICT
8 NO. 1 OF THE NORTHSTAR
COMMUNITY SERVICES DISTRICT,
9 a legally constituted governmental entity

10 SUPERIOR COURT OF CALIFORNIA

11 COUNTY OF PLACER

SCV0043081

12 COMMUNITY FACILITIES DISTRICT
NO. 1 OF THE NORTHSTAR COMMUNITY
13 SERVICES DISTRICT, a legally constituted
governmental entity,

CASE NO.

**COMPLAINT TO FORECLOSE LIEN OF
SPECIAL TAXES UNDER THE MELLO-
ROOS COMMUNITY FACILITIES ACT
OF 1982**

14 Plaintiff,

*[Answer Required to Be Verified Pursuant to
CCP § 446]*

15 v.

16 MOUNTAINSIDE CALIFORNIA 2, LLC,
17 a Delaware limited liability company;
MOUNTAINSIDE CALIFORNIA 3, LLC, a
18 Delaware limited liability company;
TIMBERLINE HIGHLANDS LLC, a
19 Delaware limited liability company; and
DOES 1 through 200, inclusive,

20 Defendants.
21

22 Plaintiff COMMUNITY FACILITIES DISTRICT NO. 1 OF THE NORTHSTAR
23 COMMUNITY SERVICES DISTRICT ("CFD"), a legally constituted governmental entity,
24 alleges:

25 1. This foreclosure proceeding is brought pursuant to California Government Code
26 § 53356.1, *et seq.*, which is part of the Mello-Roos Community Facilities Act of 1982, California
27 Government Code § 53311, *et seq.* (the "Act").

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1 2. This action is brought in the name of the CFD on behalf of the owners of its bonds
2 (“Bonds”) pursuant to a covenant with those bondholders authorized by Government Code
3 § 53356.1.

4 3. At all times herein mentioned, the CFD was and is a legally constituted
5 governmental entity established pursuant to the Act for the purpose of financing public facilities
6 and services.

7 4. Plaintiff alleges on information and belief that Defendant MOUNTAINSIDE
8 CALIFORNIA 2, LLC (“Mountainside 2”), a Delaware limited liability company, is the owner of
9 the parcel of land designated as Placer County Assessor’s parcel number (“APN”) 110-051-008-
10 000 (the “Mountainside 2 Parcel”).

11 5. Plaintiff alleges on information and belief that Defendant MOUNTAINSIDE
12 CALIFORNIA 3, LLC (“Mountainside 3”), a Delaware limited liability company, is the owner of
13 the parcels of land designated as APNs 110-051-005-000; 110-051-006-000; 110-051-007-000;
14 and 110-051-010-000 (the “Mountainside 3 Parcels”).

15 6. Plaintiff alleges on information and belief that Defendant TIMBERLINE
16 HIGHLANDS LLC (“Timberline”), a Delaware limited liability company, is the owner of the
17 parcels of land designated as APNs 110-051-013-000; 110-051-015-000; 110-051-018-000; 110-
18 051-019-000; 110-051-047-000; 110-081-017-000; and 110-400-005-000 (the “Timberline
19 Parcels,” together with the Mountainside 2 Parcel and Mountainside 3 Parcels, the “Parcels”).

20 7. Plaintiff is informed and believes that the Mountainside 2 Parcel is undeveloped
21 land with entitlements for future residential units.

22 8. Plaintiff is informed and believes that the Mountainside 3 Parcels are undeveloped
23 land with entitlements for future residential units.

24 9. Plaintiff is informed and believes that the Timberline Parcels are undeveloped land
25 with entitlements for future residential units.

26 10. Plaintiff alleges on information and belief that Defendants DOES 1 through 200
27 each holds an interest in one or more of the Parcels, whether of record or otherwise.

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1 11. The true names and capacities of the Defendants sued as DOES 1 through 200 are
2 unknown to Plaintiff, who therefore sues those Defendants by those fictitious names and prays
3 leave of this Court to insert their true names and capacities together with charging allegations, if
4 appropriate, when they are ascertained.

5 12. On May 10, 2005, a Notice of Special Tax Lien ("Notice") for the CFD was
6 recorded in the office of the Placer County Recorder as Document Number 2005-0059170.

7 13. Pursuant to the Act, the recordation of the Notice created a continuing lien against
8 the Parcels to secure payment of the CFD special taxes and penalties (the "CFD Special Taxes").

9 14. At the request and on behalf of the CFD, Northstar Community Services District
10 ("NCSD") directly billed the CFD Special Taxes to the Mountainside 2 Parcel for the 2018/19
11 fiscal year in the following amounts:

APN	First Installment	Second Installment	Annual Total
110-051-008-000	\$59,665.06	\$59,665.06	\$119,330.12

15 15. At the request and on behalf of the CFD, NCSD directly billed the CFD Special
16 Taxes to the Mountainside 3 Parcels for the 2018/19 fiscal year in the following amounts:

APN	First Installment	Second Installment	Annual Total
110-051-005-000	\$89,497.58	\$89,497.58	\$178,995.16
110-051-006-000	\$79,553.41	\$79,553.41	\$159,106.82
110-051-007-000	\$89,497.58	\$89,497.58	\$178,995.16
110-051-010-000	\$89,497.58	\$89,497.58	\$178,995.16

23 16. At the request and on behalf of the CFD, NCSD directly billed the CFD Special
24 Taxes to the Timberline Parcels for the 2018/19 fiscal year in the following amounts:

APN	First Installment	Second Installment	Annual Total
110-051-013-000	\$79,553.41	\$79,553.41	\$159,106.82
110-051-015-000	\$715,732.02	\$715,732.02	\$1,431,464.04

APN	First Installment	Second Installment	Annual Total
110-051-018-000	\$442,515.80	\$442,515.80	\$885,031.60
110-051-019-000	\$54,692.97	\$54,692.97	\$109,385.94
110-051-047-000	\$208,827.69	\$208,827.69	\$417,655.38
110-081-017-000	\$5,447.30	\$5,447.30	\$10,894.60
110-400-005-000	\$318,666.85	\$318,666.85	\$637,333.70

17. The CFD Special taxes were to be paid in two equal installments, the first due on or before December 10 (the “First Installment Delinquency Date”) and the second due on or before April 10 (the “Second Installment Delinquency Date”) of each fiscal year. A fiscal year in the CFD begins on July 1 and continues until June 30 of the following calendar year.

18. As to all of the Parcels, the first installment of the 2018/19 CFD Special Taxes was not paid by the First Installment Delinquency Date, and penalties, interest and fees began to accrue on the Parcels based on this delinquency.

19. As to all of the Parcels, the second installment of the 2018/19 CFD Special Taxes was not paid by the Second Installment Delinquency Date, and penalties, interest, and fees began to accrue on the Parcels based on this delinquency.

20. At the time the CFD Special Taxes became delinquent, the Bonds were outstanding and payable in whole or in part by the delinquent CFD Special Taxes.

21. CFD Special Taxes are co-equal to and of the same priority as *ad valorem* property taxes, become delinquent on the same dates as *ad valorem* property taxes, and bear the same interest and penalties on delinquency as do *ad valorem* property taxes, as provided in Government Code § 53340. CFD Special Taxes are delinquent if not paid on December 10 and April 10 of each year.

22. A delinquency penalty of 10% of the CFD Special Tax installment attached on each Delinquency Date pursuant to Revenue & Taxation Code §§ 2617 and 2618. Similarly, a penalty of 10% of each subsequently delinquent CFD Special Tax installment will attach to each such tax on its delinquency date.

1 23. In addition, a redemption penalty of 1.5% of each delinquent CFD Special Tax
2 installment will attach on the next July 1 after the delinquency date pursuant to Revenue &
3 Taxation Code § 4103, and a like amount will attach on the first of each month thereafter until
4 judgment.

5 24. As of June 4, 2019, the total delinquency amount for the 2018/19 fiscal year,
6 including penalties, interest, and fees, for the Mountainside 2 Parcel was \$131,763.13.

7 25. As of June 4, 2019, the total delinquency amount for the 2018/19 fiscal year,
8 including penalties, interest, and fees, for the Mountainside 3 Parcels was \$767,701.54.

9 26. As of June 4, 2019, the total delinquency amount for the 2018/19 fiscal year,
10 including penalties, interest, and fees, for the Timberline Parcels was \$4,019,459.28.

11 27. The total amount for the 2018/19 CFD Special Taxes on the Parcels remained
12 unpaid as of June 4, 2019, and as of the date of filing this complaint. Therefore, interest,
13 penalties, fees, and costs continue accruing thereon to the date of judgment.

14 28. If additional CFD Special Taxes become delinquent after judgment, the CFD may
15 submit evidence supporting the inclusion of such amounts and the interest, penalties, fees and
16 costs accruing thereon in the judgment.

17 29. The Board of Directors of NCSD, acting as the legislative body of the CFD,
18 ordered that the delinquent CFD Special Taxes be collected by Superior Court foreclosure action.

19 30. Pursuant to Government Code § 53356.5, the foreclosure judgment shall include
20 an award of the CFD's attorneys' fees, interest, penalties and other authorized costs, including
21 cost of litigation guarantees, charges and advances calculated to date of judgment.

22 **WHEREFORE**, Plaintiff prays for relief as follows:

23 1. For judgment as to the Parcels for:

24 a) The total delinquent CFD Special Taxes, authorized costs and charges as of
25 the date of judgment, and for all interest, redemption penalties, delinquent
26 penalties, and other charges accrued thereon to date of judgment;

27 b) Costs of suit, including litigation guarantee, and for attorneys' fees;

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- 1 c) Such additional sums, if any, as Plaintiff may hereafter expend to protect
2 its security interest in the Parcels together with interest thereon according
3 to proof; and
- 4 d) Such additional sums as the Court may deem proper.
- 5 2. That this Court decree that upon post-judgment application to this Court, the
6 judgment may be amended or modified to include any post-judgment CFD Special Tax
7 delinquencies, penalties and costs as provided by law;
- 8 3. That this Court adjudge and decree a lien against the Parcels for the amount of the
9 judgment as amended (the "CFD Lien"), and that the CFD Lien shall date from the date of
10 recordation of the notice of special tax lien;
- 11 4. That this Court decree that the CFD Lien be superior to all private liens on the
12 Parcels;
- 13 5. For judgment that the rights, claims, ownership, liens, titles and demands of each
14 Defendant and all persons claiming under or through each Defendant as to the Parcels are subject
15 and subordinate to the CFD Lien;
- 16 6. For judgment that the rights, claims, ownership, liens, titles and demands of any
17 defendants currently unnamed but later joined to this action, are subject and subordinate to the
18 CFD Lien;
- 19 7. For judgment that the rights, claims, ownership, liens, titles and demands of any
20 third parties to or in the Parcels, which rights, claims, ownership, liens, titles and demands arose
21 subsequent to recordation by Plaintiff of a notice of pending action are subject and subordinate to
22 the CFD Lien;
- 23 8. That this Court adjudge the CFD Lien against the Parcels be foreclosed and order
24 the Parcels to be sold on execution without post-sale right of redemption or right to deficiency
25 judgment;
- 26 9. That this Court order that the Parcels be sold as in other cases of the sale of real
27 property by the process of the Court except as otherwise provided in the Act; that all third party
28 claims that arose subsequent to or were not of record at the time of Plaintiff's recordation of a

1 notice of pending action be disallowed; that all the liens and interests of all Defendants'
2 successors in interest shall be extinguished upon sale of the Parcels pursuant to judgment; and
3 that Defendants and all persons claiming under or through them, and all such third parties shall be
4 barred and foreclosed from all rights, claims, and interest in the Parcels;

5 10. That this Court order that the purchaser at the sale of the Parcels take title to the
6 Parcels subject to all unpaid CFD Special Taxes and *ad valorem* taxes;

7 11. That this Court order that Plaintiff may become the purchaser at the sale of the
8 Parcels on credit bid; and

9 12. That this Court award Plaintiff such other and further relief as the Court may deem
10 proper.

11
12 DATED: June 4, 2019

DOWNEY BRAND LLP

By: _____



ANDREW L. COLLIER
Attorneys for Plaintiff,

COMMUNITY FACILITIES DISTRICT
NO. 1 OF THE NORTHSTAR COMMUNITY
SERVICES DISTRICT

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