

FILED
JUN 17 P 2
CIVIL DISTRICT COURT

**DEUTSCHE BANK NATIONAL TRUST CO.,
AS TRUSTEE, FOR THE REGISTERED HOLDERS
OF MORGAN STANLEY ABS CAPITAL I INC. TRUST
2004-HE1, MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2004-HE1**

**DOCKET NO. 15-2454
CIVIL DISTRICT COURT
DIVISION: M
PARISH OF ORLEANS**

VERSUS

**ALFREDO APOLINAR and BETTY APOLINAR,
ALSO KNOWN AS, BETTY GUIDRY APOLINAR** **STATE OF LOUISIANA**

**PETITION FOR INTERVENTION AND
NOTICE OF PROOF OF CLAIM**

NOW INTO COURT, through undersigned counsel, comes Intervenor, the State of Louisiana, Office of Community Development, Disaster Recovery Unit, Hazard Mitigation Grant Program (hereinafter, "HMGP"), through this Petition for Intervention and Notice of Proof of Claim, which respectfully represents:

1.

The Defendant in this case, BETTY APOLINAR, also known as, BETTY GUIDRY APOLINAR and ALFREDO APOLINAR, ("Defendants"), are major domiciliaries of Orleans Parish, who voluntarily participated in HMGP to mitigate their home after Hurricane Katrina.

2.

HMGP's New Orleans office did not receive notice of the June 18, 2015 sheriff's sale until June 15, 2015.

3.

HMGP is a mitigation program funded by FEMA and is administered by the State of Louisiana, the grantee. HMGP assists homeowners whose homes were damaged as a result of Hurricanes Katrina and Rita. It also helps homeowners in coastal Louisiana protect their homes from damage which may occur in future natural disasters by elevating their homes, reconstructing safer structures, or installing individual mitigation measures. The State of Louisiana serves as the funding vehicle by which FEMA funds are awarded to eligible homeowners.

4.

Defendants voluntarily agreed to participate in the HMGP. *See Exhibit A.* Federal grant funds in the amount of \$50,000.00 were received by Defendants. Separate demand letters were sent to the Defendant, Ms. Apolinar, on January 21, 2014 and April 13, 2015, respectively to request return of the \$50,000.00.00 HMGP elevation grant funds for failure to comply with Program guidelines. *See Exhibit B (in globo).*

5.

Defendants' failure to provide proof of current flood insurance has resulted in them owing HMGP \$50,000.00 in unearned federal funds, which must be recovered by HMGP, the state program charged with distributing FEMA funds for mitigation projects.

6.

A letter was mailed to the Defendants on March 14, 2014, notifying them that they were not in compliance with Program guidelines because there was no current proof of flood insurance, which is a requirement by HMGP. *See Exhibit C.*

7.

Defendants, who are identified by their Road Home number – 06HH056082, were mailed a letter similar to that which is attached. *Id.* The March 14, 2014 postmark shows that a letter was mailed to Defendants, along with other HMGP participants. Defendants' Road Home identifier is highlighted. *Id.*

8.

HMGP must account to FEMA for all funds issued through HMGP. Failure of HMGP to recover the \$50,000.00 award to Defendants will result in reimbursement to FEMA being made directly by the State of Louisiana.

9.

HMGP intervenes in the seizure and judicial sale of the property of BETTY APOLINAR, also known as, BETTY GUIDRY APOLINAR and ALFREDO APOLINAR at 10821 Dreaux Avenue in New Orleans, Louisiana 70127 and notices all interested parties that the covenant running with the land recorded in Orleans Parish at Instrument No. 455572 evidences the obligation of BETTY APOLINAR, also known as, BETTY GUIDRY APOLINAR and ALFREDO APOLINAR and all future owners of the property to comply with the terms and provision of the Covenant. *Exhibit D.*

10.

Said judicial sale is scheduled for June 18, 2015 or on any day thereafter by the Orleans Parish sheriff.

11.

HMGP requests the debt of \$50,000.00 owed by BETTY APOLINAR, also known as, BETTY GUIDRY APOLINAR, and ALFREDO APOLINAR be recognized in the seizure and

judicial sale of the subject property; and that, out of the proceeds of the judicial sale of the subject property, HMGP be paid the amount necessary to satisfy the indebtedness owed to HMGP by BETTY APOLINAR, also known as, BETTY GUIDRY APOLINAR, and ALFREDO APOLINAR.

12.

HMGP further requests that it be notified of any and all claims made against 10821 Dreux Avenue in New Orleans, Louisiana 70127.

13.

HMGP additionally requests that the Order issued in this matter is recorded.

ALL PREMISES CONSIDERED, WHEREFORE, INTERVENOR PRAYS:

- a. For leave of court to file this petition of intervention;
- b. It is permitted to intervene in the seizure and judicial sale of 10821 Dreux Avenue in New Orleans, Louisiana 70127;
- c. That the debt of \$50,000.00 owed by BETTY APOLINAR, also known as, BETTY GUIDRY APOLINAR, and ALFREDO APOLINAR be recognized in the seizure and judicial sale of the subject property and that proceeds of the sale be distributed to HMGP in satisfaction of the debt owed;
- d. That funds recovered from the judicial sale that satisfy the debt owed to the State of Louisiana's HMGP be transmitted by the Orleans Parish Sheriff's Office to HMGP;
- e. It be notified of any and all claims made against 10821 Dreux Avenue in New Orleans, Louisiana 70127; and
- f. That the Court grant such other relief as is just and proper.

Respectfully submitted:



LaKoshia R. Roberts
Bar Roll No. 26715
State of Louisiana - HMGP
2021 Lakeshore Drive, Suite 100
New Orleans, Louisiana 70122
Phone: 504-284-4022
Facsimile: 504-284-4091
LaKoshia.Roberts@la.gov

DEUTSCHE BANK NATIONAL TRUST CO.,
AS TRUSTEE, FOR THE REGISTERED HOLDERS
OF MORGAN STANLEY ABS CAPITAL I INC. TRUST
2004-HE1, MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2004-HE1

DOCKET NO. 15-2454
FILED
CIVIL DISTRICT COURT
2015 JUN 17 P 2:40
DIVISION: M
CIVIL DISTRICT COURT
PARISH OF ORLEANS

VERSUS

ALFREDO APOLINAR and BETTY APOLINAR,
ALSO KNOWN AS, BETTY GUIDRY APOLINAR

STATE OF LOUISIANA

VERIFICATION

CONSIDERING THE FOREGOING PETITION FOR INTERVENTION AND
NOTICE OF PROOF OF CLAIM:

I, CRAIG P. TAFFARO, JR., Director of the State of Louisiana's Hazard Mitigation Grant Program, declare under penalty of perjury that the representations made in the foregoing Petition are true and correct to the best of my knowledge, belief and understanding.

THUS DONE ON THIS 16th DAY OF JUNE 2015 IN NEW ORLEANS,
ORLEANS PARISH, LOUISIANA.



Craig P. Taffaro, Jr.



La Koshia Reconda Roberts
Notary Public
Bar Roll No. 26715
My Commission expires at death.

