

Lois K. Murphy, Trustee  
P.O. Box 741  
Meridian, ID 83680  
(208) 888-6442  
Fax (208) 888-9738  
Email: [loismurphy@cableone.net](mailto:loismurphy@cableone.net)

U. S. COURTS

OCT 12 2004

FILED  
OCT 3 2004  
U.S. COURT OF APPEALS  
FOR THE NINTH CIRCUIT

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF IDAHO

In Re:

DAVID MORGAN BERGH  
JANET SEDA BERGH

) CHAPTER 7

) CASE NO. 04-00282

) TRUSTEE'S NOTICE OF SALE OF  
) REAL PROPERTY BY  
) AUCTION

Debtors

) AND NOTICE OF HEARING

TO THE DEBTORS, DEBTOR'S ATTORNEY, CREDITORS AND OTHER PARTIES IN INTEREST:

PLEASE TAKE NOTICE THAT the undersigned Trustee will sell the below described property in which the above-entitled estate claims an interest pursuant to 11 USC 363, Bankruptcy Rule 6004(e) and LBR 2002.1. This sale will take place unless a written objection is received by the Clerk, United States Bankruptcy Court, U.S. Courtroom, 550 W. Fort St., Boise, ID 83724 and the Trustee on or before November 4, 2004. Any objection not timely filed and served will be deemed waived.

**NOTICE OF HEARING**

Notice is further given that any objection will be heard on **November 8, 2004, at 1:30 p.m.**, at the United States Bankruptcy Court, Federal Building, Court Room 5, 550 W. Fort St., Boise, ID 83724. At such hearing, the Trustee shall request the Court to enter an order approving said sale.

**1. DESCRIPTION OF PROPERTY TO BE SOLD:**

The property is the estate's interest in real property (Bare land) which debtors refer to as 2.04 acre lot located at Featherville, ID in their bankruptcy schedules. The legal description of the subject lot is:

Township 3 North, Range 10 East, Boise Meridian, Elmore County, Idaho

Section 16: A parcel of land located in said section, more particularly described as follows:

Commencing at the northwest corner of Lot 2, Section 16, Township 3 North, Range 10 East, Boise Meridian and running thence East 400 feet along the North boundary line of said Lot 2 to the Real Point of Beginning; thence continuing East a distance of 200 feet; thence South 480 feet; thence West 200 feet; thence North 480 feet to the Point of Beginning.

Saving, Excepting and Reserving from said parcel of land the road easement right-of-way deeded to the U.S.A. and recorded June 5, 1964 as Instrument No. 121476, in Book 4 of Highway Deeds at Page 15, records of Elmore County, Idaho, and Saving and Excepting and Reserving also so much of said parcel as lies West of said road right-of-way.

**2. TYPE OF SALE:**

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This is a public auction with an opening bid by Matthew Dorschel. The subject property is listed for sale by Jude Gary of Metropolitan Real Estate, 7080 Sorenson Dr., Boise, ID 83709, pursuant to a Petition to Employ by Trustee dated July 1, 2004, and the Order filed with this Court on July 22, 2004, authorizing employment of realtor.

3. **TERMS OF SALE:**

\$32,500 cash at closing, see the attached RE-21 Real Estate Purchase and Sale Agreement and Receipt For Earnest Money dated August 18, 2004.

4. **TIME AND PLACE OF SALE:**

The sale will be valid unless objections are filed with the U.S. Bankruptcy Court by November 4, 2004 at United States Bankruptcy Court, 550 West Fort, 5<sup>th</sup> Floor, Boise, Idaho and copies provided to the Trustee, Lois K. Murphy, at P.O. Box 741, Meridian, ID, 83680. The sale auction will occur on November 8, 2004, at 9:00 a.m. (MT) at the offices of Lois Murphy, Trustee, 52 E. State Avenue, Meridian, ID 83642. The sale will be closed at First American Title Company within a reasonable time after it is approved by the Court.

5. **TREATMENT OF EXISTING LIENS:**

Sale free and clear of all liens with all valid liens to attach to the sale proceeds. The Trustee has made a reasonable investigation and believes that the property encumbered by a first deed of trust in the approximate amount of \$16,194.55 and delinquent property taxes in an approximate amount of \$616.81 for 2002 and 2003 and \$293.99 for 2004 to Elmore County

5. **VALUE OF PROPERTY TO BE SOLD:**

In the opinion of the Trustee, estimates that the market value is approximately the value offered by the purchaser.

6. **REALTOR COMMISSION:** At closing Jude Gary of Metropolitan Real Estate will be paid a 10% commission as stated in the Petition to Employ Realtor. Trustee will seek court's approval of Realtor's Commission after the property is closed.

7. **CLOSING COSTS:** The estate will pay the following expenses at closing through First American Title Company:

|                         |                               |
|-------------------------|-------------------------------|
| Title Insurance         | \$ 336.50                     |
| Property Taxes          | 293.99 * (Prorated 2004 year) |
| Past Due Property Taxes | 616.81                        |
| Recording Fees          | 24.00                         |
| Reconveyance Fee        | 63.00                         |
| ½ Appraisal Fee         | 250.00                        |

These amounts will be adjusted to the day of actual closing (calculated to October 29, 2004).

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8. **AUTHORITY FOR CONDUCTING SALE:**

The authority for conducting the sale is 11 U.S.C. §363(f)(1).

10. **ADDITIONAL TERMS OF SALE:** The property is sold "AS IS, "WHERE IS", and without warranty of any nature whatsoever, either express or implied. The title to the real property will be transferred by a "Trustee's Deed".

11. **MISCELLANEOUS INFORMATION:**

Trustee estimates the net proceeds to the estate after realtor's commission and closing costs are approximately \$12,121.15, as of October 29, 2004.

This sale shall be effective immediately and the ten-day stay imposed by Rule 6004 (g) and other rules is hereby waived.

Purchase Agreement documents are on file with the Court, and can be reviewed on the Bankruptcy Website.

DATED:

10-12-04

  
Lois K. Murphy, Trustee