

# Litigation Guarantee

Washington



Issued by Old Republic National Title Insurance Company

Guarantee Number **ZB-08035848**

**File Number: 205831-LT**

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, a Florida corporation, herein called the Company, for the fee paid for this Guarantee, the number, amount and effective date of which are shown herein, hereby

## GUARANTEES

the Assured named in Part 2 of this Guarantee

the parties herein called the Assured, against loss not exceeding the liability amount stated herein which the Assured shall sustain by reason of any incorrectness in the assurance which the Company hereby gives that, according to the public record on the effective date stated herein.

1. The title to the herein described estate or interest was vested in the vestee named, subject to the matters shown as Exceptions herein, which Exceptions are not necessarily shown in the order of their priority.

which are recorded in the public records subsequent to or have been subordinated by a document recorded in the public records to the foreclosing mortgage, other than those shown in paragraph 5 of Part 2 of this guarantee; and

This Guarantee is issued with the expectation that, within 60 days and based upon the facts set forth herein, a Notice of Trustee's Sale will be prepared and recorded, or an action will be commenced in a Court of competent jurisdiction. If a Notice of Sale is not recorded or such action is not commenced, all liability and obligation of the Company hereunder shall cease and terminate 60 days after the effective date shown herein or as may have been extended hereto.

This Guarantee shall not be valid or binding until countersigned below by an authorized officer or agent of the Company.

Issued through the office of:

**Policy Issuer:**  
**LAND TITLE AND ESCROW COMPANY [ISLAND]**  
**901 NE MIDWAY BOULEVARD**  
**PO BOX 1138**  
**OAK HARBOR, WA 98277**  
**PHONE: (360) 675-2246**

*Holly Mathers*

\_\_\_\_\_  
Authorized Signatory

### OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

*A Stock Company*

*400 Second Avenue South, Minneapolis, Minnesota 55401*

*(612) 371-1111*

By

*C Monroe*

President

Attest

*David Wald*

Secretary

## **GUARANTEE CONDITIONS AND STIPULATIONS**

### **1. DEFINITION OF TERMS**

The following terms when used in this Guarantee mean:

- (a) "land": the land described, specifically or by reference, in this Guarantee and improvements affixed thereto which by law constitute real property;
- (b) "public records": those records which impart constructive notice of matters relating to said land;
- (c) "date": the effective date;
- (d) "the Assured": the party or parties named as the Assured in this Guarantee, or in a supplemental writing executed by the Company;
- (e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

### **2. EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE**

The Company assumes no liability for loss or damage by reason of the following:

- (a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
- (b) Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
- (c) Title to any property beyond the lines of the land expressly described in the description set forth in this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways on which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or any rights or easements are expressly and specifically set forth in said description.
- (d) Defects, liens, encumbrances, adverse claims against the title as guaranteed or other matters (1) created, suffered, assumed or agreed to by one or more of the Assured; or (2) resulting in no loss to the Assured.

### **3. PROSECUTION OF ACTIONS**

- (a) The Company shall have the right at its own cost to institute and prosecute any action or proceeding or do any other act which in its opinion may be necessary or desirable to establish or confirm the matters herein guaranteed; and the Company may take any appropriate action under the terms of this Guarantee whether or not it shall be liable thereunder and shall not thereby concede liability or waive any provision hereof.
- (b) In all cases where the Company does so institute and prosecute any action or proceeding, the Assured shall permit the Company to use, at its option, the name of the Assured for such purpose. Whenever requested by the Company, the Assured shall give the Company all reasonable aid in prosecuting such action or proceeding, and the Company shall reimburse the Assured for any expense so incurred.

### **4. NOTICE OF LOSS - LIMITATION OF ACTION**

A statement in writing of any loss or damage for which it is claimed the Company is liable under this Guarantee shall be furnished to the Company within sixty days after such loss or damage shall have been determined, and no right of action shall accrue to the Assured under this Guarantee until thirty days after such statement shall have been furnished, and no recovery shall be had by the Assured under this Guarantee unless action shall be commenced thereon within two years after expiration of said thirty day period. Failure to furnish such statement

of loss or damage or to commence such action within the time hereinbefore specified, shall be a conclusive bar against maintenance by the Assured of any action under this Guarantee.

## **5. OPTION TO PAY, SETTLE OR COMPROMISE CLAIMS**

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage, the Company shall have the option to purchase the indebtedness secured by said mortgage. Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness and the mortgage securing the same to the Company upon payment of the purchase price.

## **6. LIMITATION OF LIABILITY - PAYMENT OF LOSS**

- (a) The liability of the Company under this Guarantee shall be limited to the amount of actual loss sustained by the Assured because of reliance upon the assurances herein set forth, but in no event shall such liability exceed the amount of liability stated within this Guarantee.
- (b) The Company will pay all costs imposed upon the Assured in litigation carried on by the Company for the Assured, and all costs and attorneys' fees in litigation carried on by the Assured with the Written authorization of the Company.
- (c) No claim for damages shall arise or be maintainable under this Guarantee (1) if the Company after having received notice of an alleged defect, lien or encumbrance not shown as an Exception or excluded herein removes such defect, lien or encumbrance within a reasonable time after receipt of such notice, or (2) for liability voluntarily assumed by the Assured in settling any claim or suit without written consent of the Company.
- (d) All payments under this Guarantee, except for attorneys' fees as provided for in paragraph 6(b) hereof, shall reduce the amount of the liability hereunder pro tanto, and no payment shall be made without producing this Guarantee for endorsement of such payment unless the Guarantee be lost or destroyed, in which case proof of such loss or destruction shall be furnished to the satisfaction of the Company.
- (e) When liability has been definitely fixed in accordance with the conditions of this Guarantee, the loss or damage shall be payable within thirty days thereafter.

## **7. SUBROGATION UPON PAYMENT OR SETTLEMENT**

Whenever the Company shall have settled a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured, and it shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to such claim had this Guarantee not been issued. If the payment does not cover the loss of the Assured, the Company shall be subrogated to the rights and remedies in the proportion which said payment bears to the amount of said loss. The Assured, if requested by the Company, shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect such right subrogation, and shall permit the Company to use the name of the Assured in any transaction or litigation involving such rights or remedies.

## **8. GUARANTEE ENTIRE CONTRACT**

Any action or actions or rights of action that the Assured may have or may bring against the Company arising out of the subject matter hereof must be based on the provisions of this Guarantee.

No provision or condition of this Guarantee can be waived or changed except by a writing endorsed or attached hereto signed by the President, a Vice President, the Secretary, an Assistant Secretary or other validating officer of the Company.

**9. NOTICES, WHERE SENT**

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at the office which issued this Guarantee or to the Company at 400 Second Avenue South, Minneapolis, Minnesota 55401-2499, (612) 371-1111.

**10. FEE**

The fee specified on the face of this guarantee is the total fee for title search and examination of this Guarantee.

# Litigation Guarantee

## Schedule A

Order No.: 205831-LT  
Guarantee No.: ZB-08035848  
Date of Guarantee: May 16, 2022 at 8:00 A.M.  
Amount of Liability: \$100,000.00  
Premium: \$603.00  
Tax: \$53.67  
Reference No.: **S6140-05-18011-0 / 196326 / Item 5**

Assured:

### **Island County, Washington**

The estate or interest in the land hereinafter described or referred to covered by this Guarantee is:

### **FEE SIMPLE ESTATE**

Title to said estate or interest at the date hereof is vested in:

### **The heirs of A. J. McMillan and E. Gertrude McMillan, both deceased**

The land referred to in this Guarantee is situated in the State of Washington, County of **Island** and is described as follows:

### **SEE ATTACHED EXHIBIT "A"**

Order No.: 205831-LT  
Guarantee No.: ZB-08035848  
**S6140-05-18011-0/196326/Item 5**

## **EXHIBIT "A"**

**Lot 11, Block 18, Plat of Bon Air, Division No. 5, as per plat recorded in Volume 7 of Plats, page 29, records of Island County, Washington.**

**Situate in the County of Island, State of Washington.**

## Litigation Guarantee

### Schedule B

1. Easement for power lines as reserved in contract between Washington Land Co., a corporation, as seller, and A.J. McMillan and E. Gertrude McMillan, husband and wife, as purchasers, dated July 19, 1961, filed September 11, 1961, under Auditor's File No. [139086](#).
2. Reservation of all oils, and gases as reserved in contract between Washington Land Co., a corporation, as seller, and A.J. McMillan and E. Gertrude McMillan, husband and wife, as purchasers, dated July 19, 1961, filed September 11, 1961, under Auditor's File No. [139086](#).
3. Covenants, conditions, restrictions, recitals, easements, easements provisions, dedications, building setback lines, notes, statements, and other matters, if any, as set forth on the face of the plat of Bon Air Division No. 5:  
Recording Date: March 6, 1962  
Auditor's File No.: [142838](#)
4. Declaration of Covenants, Conditions and Restrictions as recorded June 18, 1965, under Auditor's File No. [173205](#). Amended by Auditor's File Nos. [259221](#), [273162](#), [285161](#), [88000100](#), [88007474](#), [92017214](#), [93009939](#), and [95005810](#). Amended and Restated Declaration of Covenants and Restrictions as recorded August 19, 2016 under Auditor's File No. [4405491](#).
5. Terms and conditions of Bylaws of Bon Air Community Club, Inc., including restrictions, regulations and conditions for dues and assessments, as established and levied pursuant thereto recorded May 17, 1992 under Auditor's File No. [92017215](#).
6. Matters disclosed by survey, including, but not limited to, chainlink fence encroachment, as recorded August 3, 1995 under Auditor's File No. [95012198](#).

(Continued...)

(Schedule B continued...)

7. General taxes, as follows, together with interest, penalty and statutory foreclosure costs, if any, after delinquency which can be obtained from the Island County Treasurer's Office. First half taxes become delinquent May 1st, if unpaid and second half taxes become delinquent November 1st, if unpaid:

Tax Account No. and Property ID: S6140-05-18011-0/196326

Tax Area: 319

Total Assessed: \$30,000.00

Year: 2022

Amount Billed: \$303.98

Amount Paid: \$0.00

Balance: \$303.98

Year: 2021

Amount Billed: \$286.74

Amount Paid: \$0.00

Balance: \$286.74

Year: 2020

Amount Billed: \$289.79

Amount Paid: \$0.00

Balance: \$289.79

Year: 2019

Amount Billed: \$508.70

Amount Paid: \$0.00

Balance: \$508.70

8. Liability for pending adjustments that have not been completed by the Island County Treasurer's Office. These may be due to, but not limited to, prior senior citizen exemptions, land segregations, and/or classification removals.
9. Assessments, dues or transfer fees, if any, as may be levied by Bon Air Community Club Inc.
10. LIEN:  
Claimed By: Bon Air Community Club, Inc.  
Against: Geraldine Palmer  
In Amount of: \$952.13, plus interest and costs  
Recorded: October 7, 1994  
Auditor's File No.: [94021182](#)

(Continued...)



(Schedule B continued...)

11. LIEN:  
Claimed By: Bon Air Community Club Inc., a Washington corporation  
Against: Geraldine Palmer  
In Amount of: \$4,748.58, plus interest and costs  
Recorded: September 1, 2017  
Auditor's File No.: [4429386](#)
12. Rights of heirs, devisees, creditors and/or any liability for lien of state or federal taxes applicable to the estate of AJ McMillan, presumed deceased, or other matters that a probate of the estate might disclose.
13. Rights of heirs, devisees, creditors and/or any liability for lien of state or federal taxes applicable to the estate of E. Gertrude McMillan, presumed deceased, or other matters that a probate of the estate might disclose.
14. Rights of heirs, devisees, creditors and/or any liability for lien of state or federal taxes applicable to the estate of Maurine F. Bestul, also shown of record as Maurine F. Johnson, presumed deceased, or other matters that a probate of the estate might disclose.
15. Rights of heirs, devisees, creditors and/or any liability for lien of state or federal taxes applicable to the estate of Geraldine Palmer, presumed deceased, or other matters that a probate of the estate might disclose.
16. Rights of heirs, devisees, creditors and/or any liability for lien of state or federal taxes applicable to the estate of Gerald R. Lopas, presumed deceased, or other matters that a probate of the estate might disclose.
17. Right, title and interest of Maurine F. Bestule, also shown of record as Maurine F. Johnson as disclosed by instrument recorded under Auditor's File No. [309572](#).
18. Right, title and interest of Geraldine Palmer and Gerald R. Lopas as disclosed by instrument recorded under Auditor's File No. [309572](#).
19. Right, title and interest of Michael James Palmer as disclosed by instrument recorded under Auditor's File No. [4438668](#).
20. Right, title and interest of Bon Air Community Club, Inc. as disclosed by instrument recorded under Auditor's File No. [4438668](#).

## Litigation Guarantee

### Schedule C

Said Necessary parties (those having claim or interest by reason of ownership of fee title and matters shown in Exceptions of the attached Schedule "B", to be made defendants in said action to be brought by:

***Island County, Washington***

As Plaintiff (or as Attorney for Plaintiff), are as follows:

1. A.J. McMillan and E. Gertrude McMillan  
Address unknown
2. Heirs of A.J. McMillan  
Address unknown
3. Heirs of E. Gertrude McMillan  
Address unknown
4. Heirs of Maurine F. Bestul, formerly known as Maurine F. Johnson  
Address unknown
5. Heirs of Geraldine Palmer  
Address unknown
6. Heirs of Gerald R. Lopas  
Address Unknown
7. Michael James Palmer  
Address unknown
8. Bon Air Community Club, Inc.  
P.O. Box 55  
Greenbank, WA 98253

## Litigation Guarantee

### Notes

NOTE 1:

Municipality in which said Land is located: City of **Coupeville**

NOTE 2:

Legal publication:

Is given once on or between the thirty-fifth and twenty-eighth day before the date of sale, and once on or between the fourteenth and seventh day before the date of sale. See attached list for the appropriate newspaper.

NOTE 3:

The names and addresses of persons who have recorded requests, as provided by RCW 61.24.040 (d), for a copy of notice of sale are:

**None**

NOTE 4:

This Guarantee is for the benefit of the Insured named in Schedule A in determining the record entities having an interest in the property described in Schedule A in order to conduct a foreclosure of a deed of trust. It is not to be used as a basis for closing any transaction and no insurance for such a transaction is provided herein.

NOTE 5:

Attention is called to the Federal Tax Lien Act of 1966 (Public Law 89-719) which, among other things, provides for the giving of written notice of sale in a specified manner to the Secretary of Treasury or his or her delegate as a requirement for the discharge or divestment of a Federal Tax Lien in a nonjudicial sale, and establishes with respect to such lien a right in the United States to redeem the property within a period of 120 days from the date of any such sale.

Attention is called to the Military Reservist Relief Act of 1991 (Sec. 800 to 810, Military and Veterans Code), and the Servicemembers Civil Relief Act of 2003 (Public Law 108-189, 50 U.S.C. Appx. Sec. 501 et seq.) and any amendments thereto, which contain inhibitions against the sale of land under a Deed of Trust if the owner is entitled to the benefits of said Act.

NOTE 6:

If an abbreviated legal description is needed on the forthcoming instrument in order to comply with the recording format statute, one similar to the following is suggested:

**Lot 11, Block 18, Bon Air, Div. 5**

Order No.: 205831-LT

Guarantee No.: ZB-08035848

**S6140-05-18011-0/196326 / Item 5**

## **Litigation Guarantee**

### **Legal Publication**

**Whidbey News Times – PO Box 2520 – Oak Harbor, WA 98277**

**South Whidbey Record - PO Box 2520 – Oak Harbor, WA 98277**

**The Whidbey Examiner - PO Box 2520 – Oak Harbor, WA 98277**

**Stanwood Camano News – 1215 Anderson Road – Mount Vernon, WA 98274**