


# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Central Florida Expressway Authority Board

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel 

DATE: April 27, 2015

RE: *Central Florida Expressway Authority v. VIP Properties, LLC, et al.*  
Case No. 2014-003698-O, Project: 429-203, Parcel 170  
Owner: VIP Properties, LLC  
Location: 3202 Phils Lane, North of Ponkan Road  
Present Use: Office Building  
Zoning: A-1, Citrus Rural District (Agricultural)  
Size of Land Before: 10.138 acres; Amount Taken: 0.454; Remainder: 9.684 acres

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## INTRODUCTION

Section 73.032 of the Florida Statutes allows a condemning authority to serve an offer of judgment in an eminent domain case. The purpose of the offer is to shift liability for expert fees and costs. If the judgment obtained is equal to or less than the offer of judgment, the trial court is prohibited from awarding costs incurred by the property owner after the date the offer of judgment was rejected. If the judgment obtained is greater than the offer of judgment, the offer does not limit expert fees and costs.

To be effective, an offer of judgment must be greater than the ultimate judgment or jury verdict, including interest through the date of the offer. Although the Expressway Authority does not have the owner's appraisal report, an offer of judgment would not be as effective in limiting costs if the Expressway Authority waited until after all of the expert reports were completed and associated costs incurred before serving an offer of judgment.

## DESCRIPTION OF PARCEL 170

According to the appraisal report of David K. Hall, ASA, the parent tract is a 10.138-acre parcel that was formerly operated as a plant nursery and landscaping business. It was purchased at a foreclosure auction in November 2012 and since that time the majority of the nursery improvements have been demolished. The taking is an acquisition of Phils Lane, which is currently a 60-foot wide ingress/egress easement improved with a two-lane, asphalt paved road. The west half of Phils Lane is on this parcel.

Mr. Hall appraised Parcel 170, with a highest and best use as vacant of rural residential. Since the 1,680 square-foot office building and perimeter fencing/gate were not affected by the

Project: 429-203, Parcel 170  
Owner: VIP Properties, LLC

taking, only the land and affected improvement were valued. He appraised the land and improvements as follows:

Land (.454 acres x \$30,000)	\$13,700
Cost to Cure	<u>\$ 2,600</u>
Total	\$16,300

The adjusted comparable sales ranged from \$22,874 to \$30,021 per acre, with an estimated value of \$30,000 per acre. The cost to cure to reestablish a fire standpipe was estimated by Speer Construction.

In a letter, Tom Callan, the owner's attorney, indicated that he had retained Richard Dreggors to appraise the property, but he has not provided the Authority with an appraisal report. In other appraisal reports, Mr. Dreggors valued property in the area, including Parcels 177, 180, 186, 188, 189, and 190 at \$75,000 per acre, with comparable sales ranging from roughly \$66,000 to \$159,000 per acre.

### **REQUEST**

We respectfully request the Board approve the Right of Way Committee's recommendation to tender an offer of judgment in the amount of \$20,001.

### **ATTACHMENTS**

Excerpt of Appraisal Report

Parcel No. 170  
Wekiva Parkway  
Orange County, Florida  
Our Project Number 12-05

120 SUMMARY OF SALIENT FACTS AND CONCLUSIONS

OWNER OF RECORD: VIP Properties LLC

OWNER'S ADDRESS: P.O. Box 5757  
Winter Park, Florida 32793-5757

PROPERTY LOCATION: 3202 Phils Lane; west side of Phils Lane, approximately 1,320 feet north of Ponkan Road, Apopka, Orange County, Florida

INSPECTION DATE(S): October 15, 2013, November 19, 2013, April 21, 2014, and August 14, 2014

ACCOMPANIED APPRAISER: The property manager, Arman Rahvarian, was present at the scheduled inspection on October 15, 2013.

EXTENT OF INSPECTION: The land and improvements were inspected from the interior and exterior of the site.

SIZE OF LAND:

Before:	10.138 Acres
Taking:	<u>.454 Acres</u> (19,782 Square Feet)
Remainder:	9.684 Acres

DATE OF VALUE: June 3, 2014

ZONING: A-1, Citrus Rural District (Agricultural) (Orange County)

PRESENT USE: Office building

HIGHEST AND BEST USE: Vacant – Rural residential or agricultural development  
Improved – Continued plant nursery use

RIGHTS OR INTERESTS APPRAISED: Market value of the fee simple interest for the part taken, plus damages to the remainder, if any.

**PHOTOGRAPHS OF SUBJECT  
PARCEL 170**



1. LOOKING NORTH AT THE FRONTAGE ALONG  
PHILS LANE (INGRESS/EGRESS EASEMENT)



2. LOOKING SOUTHWEST AT THE OFFICE BUILDING



**PHOTOGRAPHS OF SUBJECT  
PARCEL 170**



3. LOOKING NORTHWEST AT THE PROPERTY



4. REAR VIEW OF THE OFFICE BUILDING



**PHOTOGRAPHS OF SUBJECT  
PARCEL 170**



5. LOOKING SOUTH AT THE TAKING



6. LOOKING WEST AT THE FIRE DEPARTMENT STANDPIPE

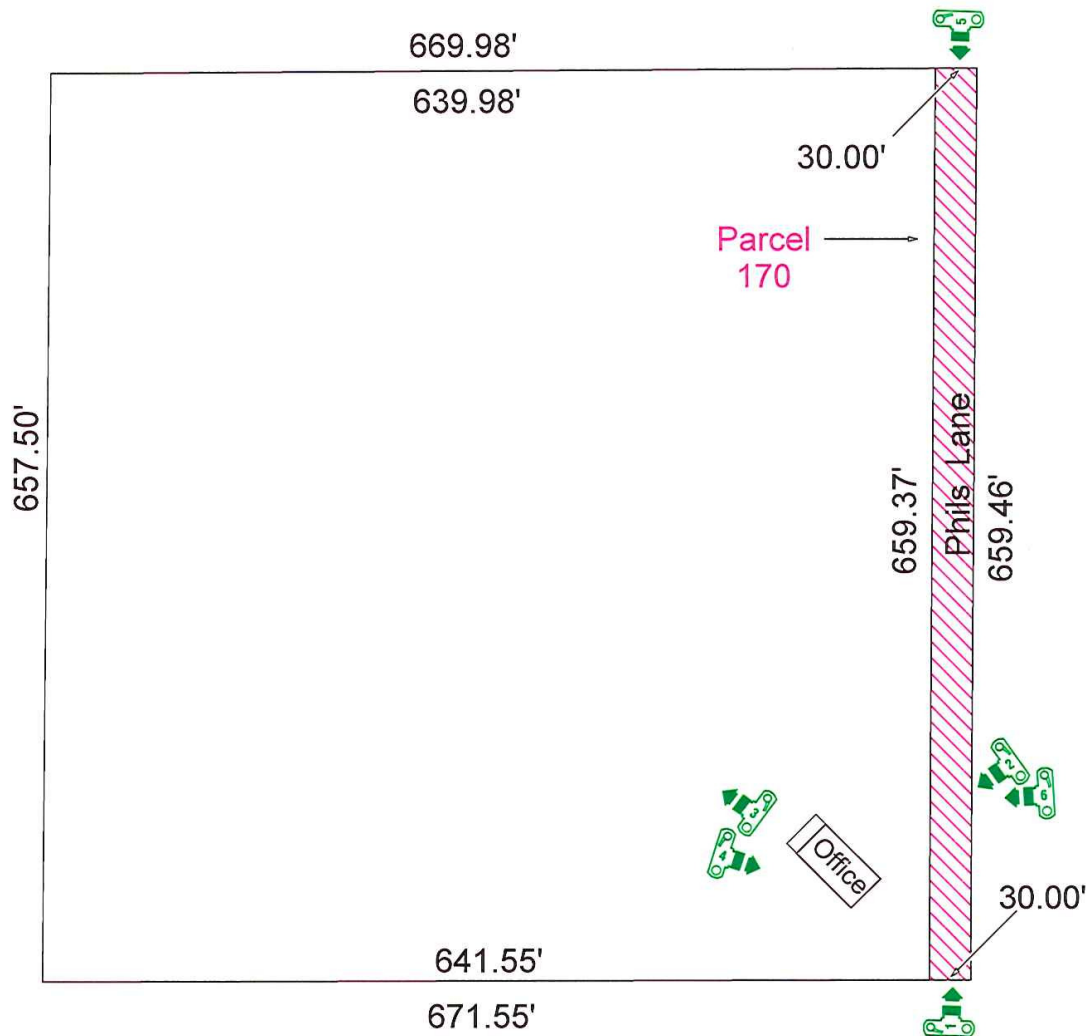


SIZE OF LAND:

Before: 10.138 Acres

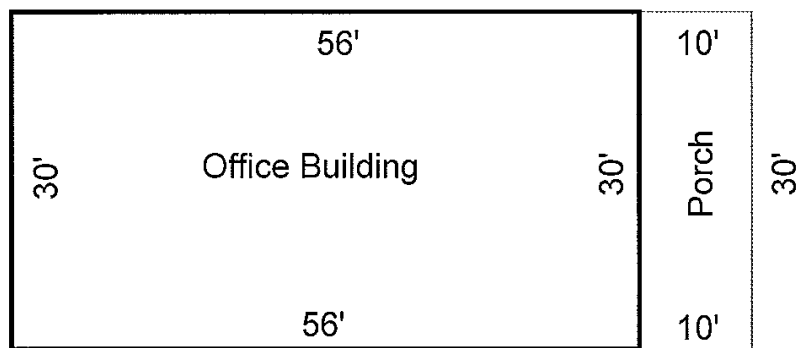
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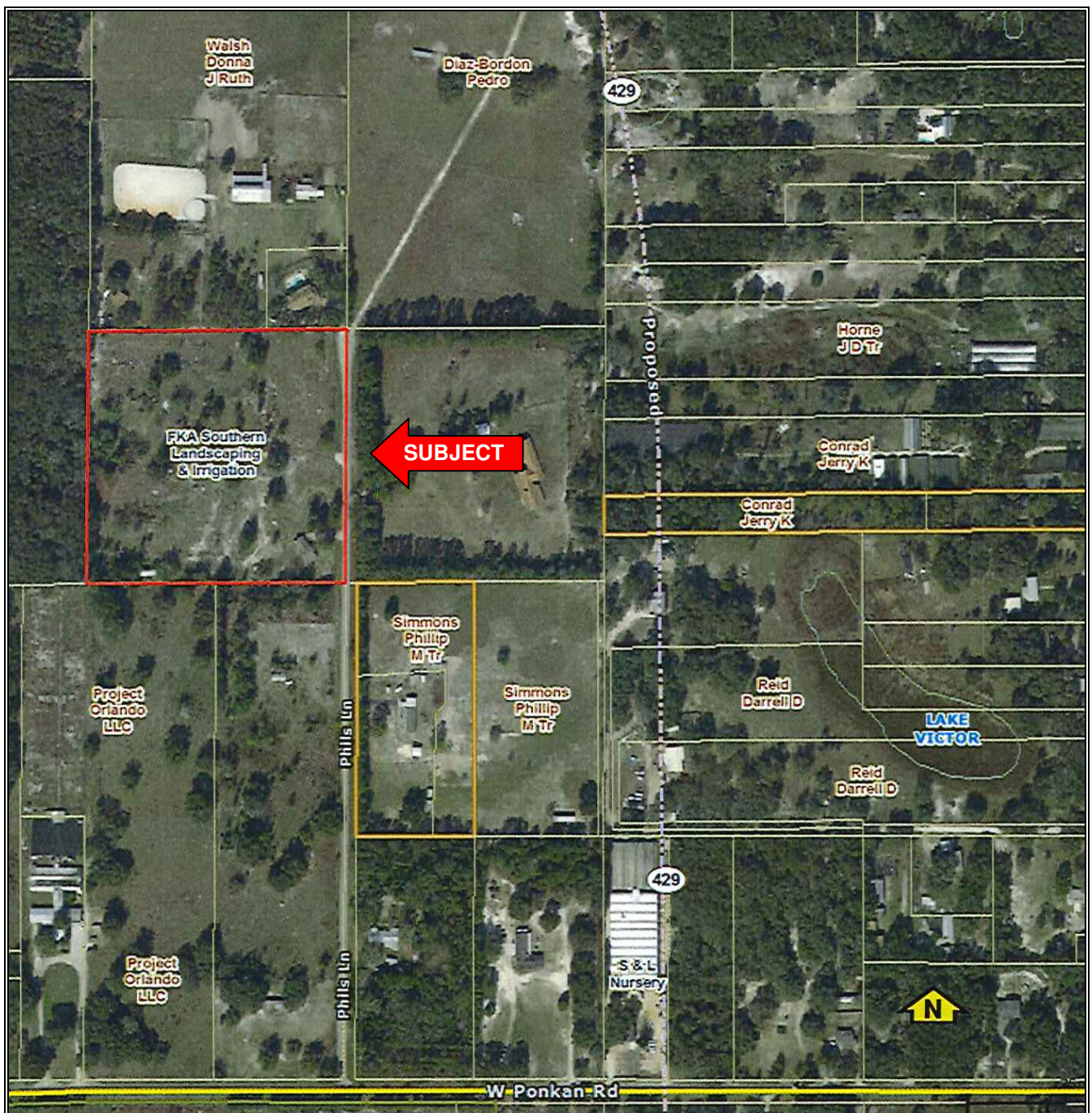
FOR VISUAL AID  
NOT TO SCALE

**PARCEL SKETCH  
PARCEL 170**



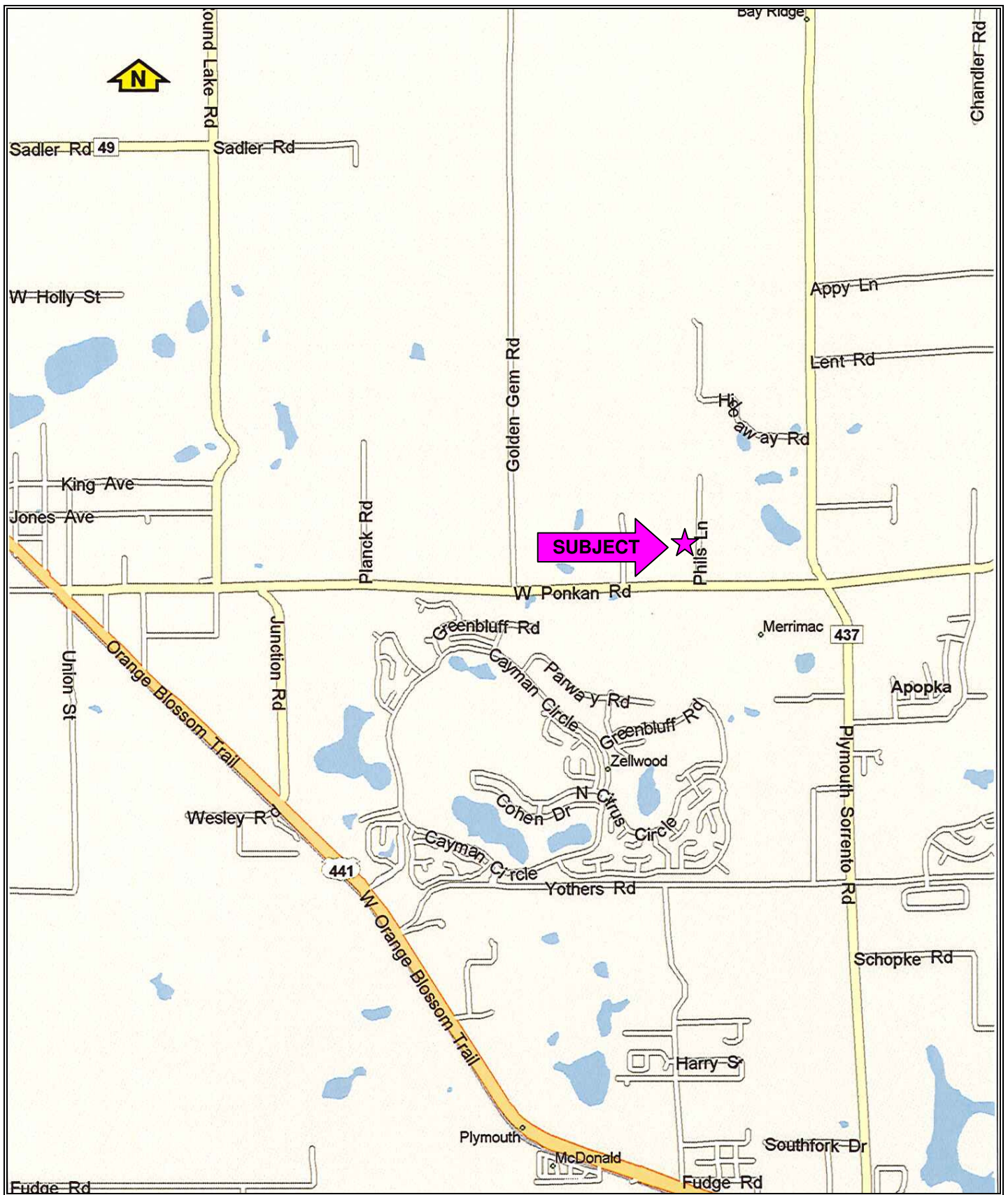
FOR VISUAL AID  
NOT TO SCALE





AERIAL PHOTO  
PARCEL 170





**SUBJECT LOCATION MAP  
PARCEL 170**

12/12/2012 3:34 PM Filed In The Office Of Lydia Gardner Clerk Circuit Court Orange Co FL

DOCH 20120688712 B: 10490 P: 5483  
12/17/2012 08:27:47 AM Page 1 of 1  
Rec Fee: \$0.00  
Deed Doc Tax: \$882.70  
DOR Admin Fee: \$0.00  
Intangible Tax: \$0.00  
Mortgage Stamp: \$0.00  
Martha O. Haynie, Comptroller  
Orange County, FL  
IO - Ret To: CLERK OF COURT CIVIL



IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT IN AND  
FOR ORANGE COUNTY, FLORIDA

CASE NO: 2010-CA-023572-O

**BANK OF AMERICA, N.A.,  
Plaintiff**

**Vs.**

**SOUTHERN LANDSCAPING & IRRIGATION SYSTEMS INC; A FLORIDA  
CORPORATION, JEROME ZEBROWSKY, AN INDIVIDUAL, DEBRA L.  
ZEBROWSKY, AN INDIVIDUAL AND UNKNOWN TENANT(S),  
Defendant**

**CERTIFICATE OF TITLE**

The undersigned, clerk of the court certifies that he or she executed and filed a certificate of sale in this action on 11/30/2012, for the property described herein and that no objections to the sale have been filed within the time allowed for filing objections.

Sale Price: \$126,100.00

The following property in Orange County, Florida:

**Parcel A:**

The North 1/2 of the South 1/2 of the West 1/2 of the NW 1/4 of the SE 1/4 of Section 24, Township 20 South, Range 27 East, Orange County, Florida.

**Parcel B:**

The South 1/2 of the South 1/2 of the West 1/2 of the NW 1/4 of the SE 1/4 of Section 24, Township 20 South, Range 27 East, Orange County, Florida.

Together with a non-exclusive easement for ingress and egress and utilities over the East 30 feet of the East 1/2 of the West 1/2 of the Southwest 1/4 of the Southeast 1/4 of Section 24, Township 20 South, Range 27 East (less road right-of-way on the South)

Was sold to: **VIP PROPERTIES LLC**  
**PO BOX 5757, WINTER PARK, FL 32793**

WITNESS my hand and the seal of the court on 12/12/2012.

LYDIA GARDNER  
Clerk of the Circuit Court

By: Stephen D. Blair  
Deputy Clerk



**LAST INSTRUMENT OF CONVEYANCE  
PARCEL 170**

