

**PRELIMINARY MEMORANDUM REPORT  
FOR THE USE OF  
STEWART TITLE & TRUST OF PHOENIX  
244 W. OSBORN RD., PHOENIX, AZ 85013  
(602) 462-8000 • Fax (602) 264-0857**

ORDER NO: 09052476

Search made to: September 18, 2009 at 5:00 p.m.

Examiner: Max Brewer

THIS IS A MEMORANDUM REPORT ONLY, NOT A TITLE INSURANCE POLICY.

**CONDITION OF TITLE**

The above named has examined for Stewart Title & Trust of Phoenix, the title to the land described herein, the results of which are set forth in Schedule A and B hereof.

This is a Condition of Title Report only. This report does not represent nor commit any type of title insurance. The liability incurred, if any, is limited to twice the amount of the fees paid for this report.

(All recording data refer to records in the office of the County Recorder of the county in which the land is situated.)

## **SCHEDULE A**

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1. The estate or interest in the land described in this report is:

FEE

2. The estate or interest referred to herein is at the date hereof vested in:

Donahue Schriber Realty Group LP, a Delaware limited partnership

3. The land referred to in this report is situated in the State of Arizona, County of Maricopa, and is described as follows:

See Exhibit A attached hereto and made a part hereof.

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Exhibit A

Parcel No. 1 (North Parcel):

That portion of the Northwest quarter of Section 14, Township 5 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

Commencing at the West quarter corner of said Section 14, from which the Northwest corner of said section bears North 00 degrees 01 minutes 33 seconds East, a distance of 2642.13 feet;

Thence North 00 degrees 01 minutes 33 seconds East, along the West line of said Northwest quarter a distance of 795.34 feet;

Thence South 89 degrees 58 minutes 27 seconds East, leaving said West line, a distance of 75.00 feet to a point on the Eastern right of way of Scottsdale Road, and also the Point of Beginning of the Parcel herein described;

Thence North 00 degrees 01 minutes 33 seconds East, along said Eastern right of way a distance of 846.87 feet;

Thence North 89 degrees 58 minutes 27 seconds East, leaving said Eastern right of way a distance of 1230.00 feet;

Thence South 00 degrees 01 minutes 33 seconds West, a distance of 670.13 feet;

Thence North 90 degrees 00 minutes 00 seconds West, a distance of 81.01 feet;

Thence South 00 degrees 01 minutes 59 seconds West, a distance of 30.97 feet;

Thence South 89 degrees 57 minutes 17 seconds West, a distance of 349.57 feet;

Thence 74.10 feet along an arc of a curve to the left having a radius distance of 680.47 feet, a central angle of 06 degrees 14 minutes 20 seconds and the long chord of which measures South 06 degrees 43 minutes 16 seconds West, a distance of 74.06 feet;

Thence South 00 degrees 00 minutes 00 seconds East, a distance of 106.09 feet;

Thence North 90 degrees 00 minutes 00 seconds West, a distance of 360.66 feet;

Thence North 03 degrees 29 minutes 09 seconds East, a distance of 61.15 feet;

Thence North 90 degrees 00 minutes 00 seconds West, a distance of 56.64 feet;

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Thence 27.63 feet along an arc of a curve to the right having a radius distance of 287.04 feet, a central angle of 05 degrees 30 minutes 58 seconds and the long chord of which measures South 09 degrees 09 minutes 23 seconds West, a distance of 27.62 feet;

Thence 196.99 feet along an arc of a curve to the left having a radius distance of 547.43 feet, a central angle of 20 degrees 37 minutes 01 seconds and the long chord of which measures South 01 degrees 36 minutes 21 seconds West, a distance of 195.92 feet;

Thence 81.93 feet along an arc of a curve to the right having a radius distance of 879.92 feet, a central angle of 05 degrees 20 minutes 05 seconds and the long chord of which measures south 06 degrees 02 minutes 07 seconds East, a distance of 81.90 feet;

Thence 129.63 feet along an arc of a curve to the right having a radius distance of 2135.94 feet, a central angle of 03 degrees 28 minutes 38 seconds and the long chord of which measures South 01 degrees 37 minutes 45 seconds East, a distance of 129.61 feet;

Thence South 00 degrees 06 minutes 34 seconds West, a distance of 23.13 feet;

Thence South 00 degrees 56 minutes 04 seconds West, a distance of 65.14 feet;

Thence South 89 degrees 57 minutes 17 seconds West, a distance of 228.77 feet;

Thence North 00 degrees 01 minutes 33 seconds East, a distance of 15.89 feet;

Thence North 00 degrees 02 minutes 43 seconds West, a distance of 479.17 feet;

Thence North 89 degrees 58 minutes 27 seconds West, a distance of 149.41 feet to a point on said Eastern right of way and the Point of Beginning of the parcel herein described.

Parcel No. 2 (South Parcel):

That portion of the Northwest quarter of Section 14, Township 5 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

Commencing at the West quarter corner of said Section 14, from which the Northwest corner of said Section bears North 00 degrees 01 minutes 33 seconds East, a distance of 2642.13 feet;

Thence North 89 degrees 57 minutes 17 seconds East, along the Monument Line of Ashler Hills Drive a distance of 816.38 feet;

Thence North 00 degrees 02 minutes 43 seconds West, leaving said Monument line, a distance of 50.00 feet to a point on the Northern Right of Way of Ashler Hills Drive and also the Point of Beginning of the Parcel herein described:

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Thence leaving said Northern right of way a distance of 81.74 feet along an arc of a curve to the right having a radius distance of 290.72 feet, a central angle of 16 degrees 06 minutes 35 seconds and the long chord of which measures North 11 degrees 16 minutes 41 seconds East, a distance of 81.47 feet;

Thence North 19 degrees 19 minutes 58 seconds East, 14.02 feet;

Thence 108.38 feet along an arc of a curve to the left having a radius distance of 330.00 feet, a central angle of 18 degrees 49 minutes 02 seconds and the long chord of which measures North 09 degrees 55 minutes 28 seconds East, a distance of 107.89 feet;

Thence North 00 degrees 30 minutes 57 seconds East, a distance of 52.41 feet;

Thence North 03 degrees 33 minutes 31 seconds East, a distance of 43.20 feet;

Thence North 03 degrees 50 minutes 19 seconds East, a distance of 60.75 feet;

Thence North 05 degrees 45 minutes 26 seconds West, a distance of 28.13 feet;

Thence North 13 degrees 06 minutes 58 seconds West, a distance of 33.00 feet;

Thence North 06 degrees 48 minutes 57 seconds West, a distance of 24.08 feet;

Thence North 90 degrees 00 minutes 00 seconds East, a distance of 230.86 feet;

Thence South 00 degrees 00 minutes 00 seconds East, a distance of 118.47 feet;

Thence South 89 degrees 57 minutes 22 seconds East, a distance of 186.76 feet;

Thence North 00 degrees 16 minutes 18 seconds East, a distance of 155.47 feet;

Thence South 89 degrees 57 minutes 22 seconds East, a distance of 28.06 feet;

Thence South 00 degrees 00 minutes 06 seconds East, a distance of 226.03 feet;

Thence South 89 degrees 57 minutes 17 seconds West, a distance of 410.01 feet;

Thence South 00 degrees 30 minutes 57 seconds West, a distance of 50.92 feet;

Thence 118.23 feet along an arc of a curve to the right having a radius distance of 360.00 feet, a central angle of 18 degrees 49 minutes 02 seconds and the long chord of which measures South 09 degrees 55 minutes 28 seconds West, a distance of 117.70 feet;

Thence South 19 degrees 19 minutes 58 seconds West, a distance of 14.02 feet;

Thence 71.59 feet along an arc of a curve to the left having a radius distance of 260.72 feet, a central angle of 15 degrees 44 minutes 00 seconds and the long chord of which measures South 11 degrees 27

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minutes 59 seconds West, a distance of 71.37 feet to a point on said Northern right of way of Ashler Hills Drive;

Thence South 89 degrees 57 minutes 17 seconds West, along said Northern right of way a distance of 30.05 feet to the Point of Beginning of the Parcel herein described.

Parcel 3 (Easement Tracts):

Easements and rights appurtenant to Parcels 1 and 2 created by that certain Operation and Easement Agreement, dated August 26, 1999 and recorded on August 26, 1999, Document No. 99-0807251 in the Official Records of Maricopa County, Arizona, as amended by that certain First Amendment to Operation and Easement Agreement dated December 11, 2002 and recorded December 12, 2002 in Document No. 20021333386 in the Official Records of Maricopa County, Arizona.

Except from Parcels 1, 2 and 3:

That certain parcel of land located in the Northwest quarter of Section 14, Township 5 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more fully described as follows:

Commencing at the Northwest corner of said Section 14 from which the West quarter corner bears South 00 degrees 01 minutes 33 seconds West, a distance of 2642.13 feet;

Thence South 00 degrees 01 minutes 33 seconds East, along the West line of said Northwest quarter, a distance of 1254.75 feet;

Thence South 89 degrees 58 minutes 27 seconds East, leaving said West line of the Northwest quarter of Section 14, a distance of 474.51 feet to the Point of Beginning of the Parcel described herein;

Thence North 00 degrees 00 minutes 02 seconds East, a distance of 175.79 feet;

Thence 33.77 feet along an arc of a curve to the right having a radius distance of 21.50 feet, having a central angle of 90 degrees 00 minutes 00 seconds and the long chord of which measures North 45 degrees 00 minutes 02 seconds East, a distance of 30.41 feet;

Thence South 89 degrees 59 minutes 58 seconds East, a distance of 96.10 feet;

Thence 7.85 feet along an arc of a curve to the right having a radius distance of 5.00 feet, having a central angle of 90 degrees 00 minutes 00 seconds and the long chord of which measures South 44 degrees 59 minutes 58 seconds East, a distance of 7.07 feet;

Thence South 00 degrees 00 minutes 02 seconds West, a distance of 205.79 feet;

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Thence 12.57 feet along an arc of a curve to the right having a radius distance of 8.00 feet, having a central angle of 90 degrees 00 minutes 00 seconds and the long chord of which measures South 45 degrees 00 minutes 02 seconds West, a distance of 11.31 feet;

Thence North 89 degrees 59 minutes 58 seconds West, a distance of 93.10 feet;

Thence 33.77 feet along an arc of a curve to the right having a radius distance of 21.50 feet, having a central angle of 90 degrees 00 minutes 00 seconds and the long chord of which measures North 44 degrees 59 minutes 58 seconds West, a distance of 30.41 feet to the Point of Beginning of the Parcel described herein.

## **SCHEDULE B**

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Subject to the usual printed conditions, stipulations and exceptions contained in the regular form of a policy, or by a rider attached thereto, and also subject to the following specific encumbrances, reservations and exceptions:

1. Taxes and assessments collectible by the County Treasurer, a lien not yet due and payable for the year 2009.
2. Reservations contained in the Patent from the United States of America, recorded in Docket 1238, Page 565, reading as follows:  
  
Subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States of America.
3. Easement for highway purposes and rights incident thereto, as set forth in instrument recorded in Docket 7132, page 539.
4. Terms and conditions as contained in instrument entitled Notice of Reimbursement Agreement, recorded in Document No. 89-493929.
5. Terms and conditions as contained in instrument entitled Operation and Easement Agreement, recorded in Document No. 99-807251 and thereafter First Amendment recorded in Document No. 2002-1333386.
6. Terms and conditions as contained in instrument entitled Development Agreement, recorded in Document No. 99-807252.
7. Terms and conditions as contained in instrument entitled Repurchase Agreement, recorded in Document No. 99-807253.
8. Easement, restrictions, reservations and conditions as set forth on the recorded plat recorded in Book 569 of Maps, page 05 and in Book 651 of Maps, page 44, and thereafter City of Scottsdale Release of Easement Map of Dedication recorded in Document No. 20071193939.
9. Terms and conditions as contained in instrument entitled Road Development Agreement and Grant of Easements, recorded in Document No. 2001-197286.



## SCHEDULE B (CONTINUED)

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10. Easement for utilities and rights incident thereto, as set forth in instrument recorded in Document No. 2001-539441.
11. Unrecorded lease under the terms and conditions contained therein made by Donahue Schriber Realty Group, L.P., a Delaware limited partnership, Lessor and Safeway Inc., a Delaware corporation, Lessee, dated April 10, 2000, for a term of 20 years, as disclosed by Memorandum of Ground Lease, recorded July 05, 2001, in Document No. 2001-599971, rerecorded in Document No. 2002-526214 and in Document No. 2002-1333388.

The leasehold interest was subordinated to the lien or charge of the Deed of Trust described in Exception No. 18 by Subordination, Non-Disturbance and Attornment Agreement recorded in Document No. 20070751032.

12. Terms and conditions as contained in instrument entitled Memorandum of Agreement, recorded in Document No. 2002-1333387.
13. Lease under the terms and conditions contained therein made by Donahue Schriber Realty Group, L.P., a Delaware limited partnership, Lessor and Eckerd Corporation, a Delaware corporation, Lessee, for a term of 20 years, recorded April 29, 2003 in Document No. 2003-535263.
14. Terms and conditions as contained in instrument entitled Development Fee Agreement, recorded in Document No. 2003-972348.
15. Terms and conditions as contained in instrument entitled Development Fee Agreement recorded in Document No. 2004-183317.
16. Unrecorded lease under the terms and conditions contained therein made by Donahue Schriber Realty Group, L.P., a Delaware limited partnership, Lessor, and Officemax North America, Inc., an Ohio Corp., Lessee, dated May 5, 2006, for a term of 10 years with option to renew, as disclosed by instrument, recorded May 24, 2006, in Document No. 20060705001.
17. The following matter(s) disclosed by survey of said land by DEI Professional Services, L.L.C., Job No. 07068, dated May 7, 2007, recorded in Book 977 of Maps, Page 47:

Encroachment of the Building situated on land adjoining on the North onto Parcel 2 by approximately 4.55 feet.

18. Deed of Trust and Security Agreement and Fixture Filing given to secure the original amount of \$36,750,000.00, and any other amounts payable under the terms thereof  
Dated: June 28, 2007  
Trustor:  
Trustee: Stewart Title Guaranty Company  
Beneficiary: Massachusetts Mutual Life Insurance Company, a Massachusetts corporation  
Recorded: June 29, 2007, in Document No. 20070751028

**SCHEDULE B (CONTINUED)**

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19. Assignment of Leases and Rents executed by Donahue Schriber Realty Group, L.P., a Delaware limited partnership, to Massachusetts Mutual Life Insurance Company, a Massachusetts corporation, dated June 28, 2007, recorded June 29, 2007, in Document No. 20070751029, as additional security for indebtedness secured by Deed of Trust and Security Agreement and Fixture Filing, recorded June 29, 2007, in Document No. 20070751028.

And thereafter modified by an agreement as disclosed by title application.

20. Deed of Trust and Security Agreement and Fixture Filing given to secure the original amount of \$185,750,000.00, and any other amounts payable under the terms thereof  
Dated: June 28, 2007  
Trustor: Donahue Schriber Realty Group, L.P., a Delaware limited partnership  
Trustee: Stewart Title Guaranty Company  
Beneficiary: Massachusetts Mutual Life Insurance Company, a Massachusetts corporation  
Recorded: June 29, 2007, in Document No. 20070751030.
21. Assignment of Leases and Rents executed by Donahue Schriber Realty Group, L.P., a Delaware limited partnership, to Massachusetts Mutual Life Insurance Company, a Massachusetts corporation, dated June 28, 2007, recorded June 29, 2007, in Document No. 20070751031, as additional security for indebtedness secured by Deed of Trust and Security Agreement and Fixture Filing, recorded June 29, 2007, in Document No. 20070751030.
22. Deed of Trust and Security Agreement and Fixture Filing given to secure the original amount of \$29,500,000.00, and any other amounts payable under the terms thereof  
Dated: December 5, 2007  
Trustor: Donahue Schriber Realty Group, L.P., a Delaware limited partnership  
Trustee: Stewart Title guaranty Company, a Texas corporation  
Beneficiary: Massachusetts Mutual Life Insurance Company, a Massachusetts corporation  
Recorded: December 5, 2007, in Document No. 20071281476
23. Assignment of Leases and Rents executed by Donahue Schriber Realty Group, L.P., a Delaware limited partnership, to Massachusetts Mutual Life Insurance Company, a Massachusetts corporation dated December 5, 2007, recorded December 5, 2007 in Document No. 20071281477, as additional security for indebtedness secured by Deed of Trust and Security Agreement and Fixture Filing, recorded December 5, 2007 in Document No. 20071281476.

THERE ARE NO FURTHER ITEMS