

Timothy S. Deans, Bar Number 13193  
Halliday, Watkins & Mann, P.C.  
376 East 400 South, Suite 300  
Salt Lake City, UT 84111  
Telephone: 801-355-2886  
Email: evictions@hwmlawfirm.com  
File Number: 43510

**IF YOU DO NOT RESPOND TO THIS  
DOCUMENT WITHIN APPLICABLE  
TIME LIMITS, JUDGMENT COULD  
BE ENTERED AGAINST YOU AS  
REQUESTED.**

Attorney for Plaintiff

**IN THE SEVENTH JUDICIAL DISTRICT, STATE OF UTAH  
CARBON COUNTY, PRICE DEPARTMENT**

<b>DPW ENTERPRISES ,LLC,</b>	<b>COMPLAINT UNLAWFUL</b>
<b>Plaintiff,</b>	<b>DETAINER (POST FORECLOSURE</b>
<b>v.</b>	<b>SALE)</b>
<b>DANA MICHELE AXELGARD AND</b>	<b>Civil Number _____</b>
<b>MICHAEL K. AXELGARD, AND DOES</b>	<b>Honorable _____</b>
<b>1 THROUGH 10,</b>	<b>(Discovery Tier Exempt)</b>
<b>Defendants.</b>	

Plaintiff alleges:

1. The Plaintiff is the owner of real property located at 615 East 300 North, Price, UT 84501-2609 (“Property”).
2. That the Defendants, Dana Michele Axelgard and Michael K. Axelgard (the “Defendants”), are residents of Carbon County, State of Utah.
3. That Jurisdiction is appropriate with this Court pursuant to U.C.A. § 78B6-8-801, et seq. Plaintiff is exempt from the disclosure requirements of U.R.C.P. 26 and will comply with

U.R.C.P. 26.3. Defendants are hereby provided notice of their requirement to serve disclosures pursuant to U.R.C.P. 26.3.

4. The Property was sold at a foreclosure sale on November 25, 2019.

5. On December 7, 2021, Defendants were served with a copy of the Notice to Vacate personally at the Property. A copy of the Notice to Vacate and Return of Service is attached as Exhibit "A" and is incorporated herein and by reference. Additionally, Plaintiff's counsel mailed to the Property a copy of the Notice to Vacate by regular and certified mail. A copy of the United States Postal Service certified mail receipts are attached as Exhibit "B" and are incorporated herein and by reference.

7. This proceeding is brought under and pursuant to Utah Stat. § 78B-6-802 and/or § 78B-6-802.5.

8. The Property in question was purchased by the Plaintiff at the foreclosure sale and Plaintiff has demanded possession of the Property from the Defendants.

9. Defendants have failed to vacate the Property after service of the notice to quit and are in unlawful detainer of the Property.

10. Plaintiff is entitled to judgment against the Defendants, including but not limited to, a Writ of Restitution, ordering the Sheriff to restore the Plaintiff possession of the Property within 72 hours of receiving the Writ of Restitution.

11. Plaintiff is entitled to a judgment against the Defendants resulting from Plaintiff's unlawful detainer, unpaid rent, and waste. Said judgment shall be trebled pursuant to Utah Stat. § 78B-6-811(3).

12. Defendants are liable to pay Plaintiff reasonable rental value of the Property from the date of foreclosure sale to December 17, 2021 in the amount of \$45.00 per day. Said amount

to be trebled from December 18, 2021 to the date the Defendants vacate.

13. Plaintiff is entitled to its attorney's fees incurred herein pursuant to Utah. Stat. § 78B-6-811(3) in the amount of \$450.00 and costs.

14. Plaintiff has not inspected the interior of the Property and reserves the right to amend this Complaint and/or commence a separate action against Defendants to pursue a judgment and/or other relief with respect to any waste or damage to the Property.

**WHEREFORE**, Plaintiff demands judgment against the Defendants as follows:

1. For the immediate Order of Restitution of the above described property;
2. For reasonable attorney's fees and costs incurred in bringing this action;
3. For an order that Defendants are liable to pay Plaintiff reasonable rental value of the Property from the date of the foreclosure sale to December 17, 2021 in the amount of \$45.00 per day. Said amount to be trebled from December 18, 2021 to the date the Defendants vacate.
4. For the order of this Court permitting the Plaintiff to assert the waste, unjust enrichment or damage in an amended complaint or other independent action once an amount is established;
5. For costs of Court and such other and further relief in the premises as the Court deems just and proper.

DATED this 21st day of December, 2021

**Halliday, Watkins & Mann, P.C.**



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**Timothy S. Deans**  
**Attorney for Plaintiff**

# EXHIBIT A

## **NOTICE TO VACATE**

**MICHAEL K. AXELGARD  
DANA MICHELE AXELGARD  
AND ALL OTHER OCCUPANTS  
615 East 300 North  
Price, UT 84501-2609**

**YOU ARE HEREBY NOTIFIED** that the trust deed foreclosure of the below-described real property you are occupying (the “property”) was completed on 11/25/2019 being the date of the trustee’s sale. The property was purchased at the trustee’s sale by DPW Enterprises, LLC (the “Property Owner”). The Property Owner is entitled to immediate possession of the property and may be contacted through Halliday, Watkins & Mann, P.C. at the address and/or phone number set forth below.

You are now tenants at will and in accordance with Title 78B-6-802(1)(b)(ii) and 802.5, Utah Code Annotated, demand is hereby made upon you to move out and vacate the property within five (5) calendar days from the date of the service of this Notice to Vacate (the “Notice”) upon you. At the time of moving out, you should remove all of your personal property and leave the premises neat and clean. If you fail to vacate within said five (5) calendar days, you will be deemed guilty of an unlawful detainer and subject to judgment for unpaid rent and treble damages, being three (3) times the reasonable daily rental value, and appropriate eviction proceedings will be commenced at once.

The real property to which this Notice pertains is commonly known as 615 East 300 North, Price, UT 84501-2609, and is more particularly described as follows:

All of Lot 9 Block 7, Revised Plat Addition to Carbon Annex, according to the Official Plat thereof, recorded in Book 2 of Plats, at Page 80, records of the Carbon County Recorder.

Situated in Carbon County, State of Utah,

If you are an active service member, or a dependent of an active service member of the United States Armed Forces, you may be entitled to rights as provided in the Servicemembers Civil Relief Act. In such case, you or your attorney should immediately provide proof of military service to the undersigned to determine if you qualify for the protections under that Act.

**NOTICE PURSUANT TO UTAH CODE § 78B-6-802(1)(i)**

Additionally, and in accordance to Section 78B-6-802(1)(i) of the Utah Code and Section 702 of the Protecting Tenants At Foreclosure Act, be advised that if you are a bona fide tenant (specifically, you are not the mortgagor or the mortgagor's child, spouse or parent) and you are renting the property under a bona fide residential rental agreement (specifically, an arm's length rental agreement granting exclusive use and occupancy, established prior to the date on which complete title to a property is transferred to a successor entity or person as a result of the foreclosure action, for a period specified by the agreement that is no longer than 12 months, that requires payment of rent not substantially less than fair market rent, or less than fair market rent due to a federal, state or local subsidy) you may be entitled to remain in the property for 90 days from the date of service of this Notice upon you, or until the end of your rental agreement term if that 12 month (or less) term expires beyond said 90 days.

In order for us to determine on behalf of the Property Owner what rights you may have under the Protecting Tenants at Foreclosure Act, you must immediately forward to us the following:

- (a) a copy of your written lease (if an oral lease you must provide us a summary of the terms of your oral lease, including: the terms of the lease, monthly rental amount, and all other relevant least terms);
- (b) proof of your alleged monthly rental amount (proof may be in the form of a copy of you lease showing the rent amount, or, if an oral lease, copies of cancelled checks or money orders);
- (c) proof that all monthly rental payments due under the lease have been paid to date (proof may be in the form of copies of cancelled checks, money orders, or a signed statement from your landlord stating that you have paid your rent in full as required by your lease);
- (d) the names of all occupants of the Property who are over 18 years of age; and
- (e) indicate whether you are a Section 8 tenant.

If you are determined to be a bona fide tenant with a bona fide residential rental agreement that has expired or will expire within 90 days from the date you

were served with this Notice, then you must vacate the property no later than 90 days from the date this Notice was served on you. If you are still in possession of the property at the end of said 90 days the Property Owner will immediately begin eviction proceedings against you and will consider you to be guilty of an unlawful detainer and subject to judgment for unpaid rent plus treble damages.

If you are determined to be a bona fide tenant with a bona fide residential rental agreement that will expire after 90 days from the date you were served with this Notice, then you may be entitled to remain in possession of the property until the end of the term of your rental agreement, subject to you fulfilling your rental obligations, including the timely payment of rental payments as set forth in your rental agreement. In such case, if you are still in possession of the property at the end of your rental agreement, or fail to comply with the rental agreement, the Property Owner will immediately begin eviction proceedings against you and will consider you to be guilty of an unlawful detainer and subject to judgment for unpaid rent plus treble damages. Please contact the undersigned to make arrangements for the payment of your rent during the period of your occupancy.

Also be advised that the acceptance by the Property Owner of any rent payment is done pursuant to the above-referenced statute and is not a waiver of the Property Owner's right to challenge your status as a bona fide tenant with a bona fide rental agreement, or to otherwise pursue eviction proceedings or its other rights.

### **NOTICE PURSUANT TO THE FEDERAL PROTECTING TENANTS AT FORECLOSURE ACT OF 2009**

If you are a tenant of the former owner of the property, and not a child, spouse, or parent of the former owner of the property, you may be entitled to additional rights as provided in the Protecting Tenants at Foreclosure Act of 2009. In order for us to determine on behalf of the Property Owner what rights you may have under the Protecting Tenants at Foreclosure Act of 2009, you must immediately forward to us the following:

- (a) a copy of your written lease (if an oral lease you must provide us a summary of the terms of your oral lease, including: the terms of the lease, monthly rental amount, and all other relevant lease terms);
- (b) proof of your alleged monthly rental amount (proof may be in the form of a copy of your lease showing the rent amount, or, if an oral lease, copies of cancelled checks or money orders);

- (c) proof that all monthly rental payments due under the lease have been paid to date (proof may be in the form of copies of cancelled checks, money orders, or a signed statement from your landlord stating that you have paid your rent in full as required by your lease);
- (d) the names of all occupants of the Property who are over 18 years of age; and
- (e) indicate whether you are a Section 8 tenant.

If you are determined to be a bona fide tenant with an expired lease, the Property Owner hereby provides notice that your right to remain at the property expires no later than 90 calendar days after the service of this Notice. If you are still in possession of the property at that time, the Property Owner will immediately begin eviction proceedings against you.

If you believe you are a bona fide tenant with an unexpired lease or a bona fide tenant with an expired lease, you are required to make your required monthly lease payments during the remainder of your lease agreement if your lease is unexpired and/or during the 90-day notice of eviction period if your lease is expired. To date, those payments have not been received by the Property Owner. The Property Owner requires rental payments from 11/25/2019 to the present date at the pre-foreclosure agreed upon rate pursuant to the terms and conditions of your rental agreement within 3 business days of the date this notice is served upon you or to quit the property. Failure to make these payments or quit the property will result in the owner of the property immediately bringing an eviction action against you. Please contact me immediately for details on how to make your rental payments.

Also be advised that the acceptance by the Property Owner of any rent payment is done pursuant to the above-referenced statute and is not a waiver of the Property Owner's right to challenge your status as a bona fide tenant with a bona fide rental agreement, or to otherwise pursue eviction proceedings or its other rights.

Please govern yourselves accordingly.



DATED this 1st day of December, 2021.



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Timothy S. Deans  
Attorney for Property Owner  
Halliday, Watkins & Mann, P.C.  
376 East 400 South, Suite 300  
Salt Lake City, UT 84111  
Phone: 801-355-2886  
Email: [evictions@hwmlawfirm.com](mailto:evictions@hwmlawfirm.com)  
HWM: 43510

Halliday, Watkins & Mann, P.C.  
376 East 400 South, Suite 300  
Salt Lake City, UT 84111

Atty File #: 43510  
Job ID #: 505696

Plaintiff/Petitioner: DPW ENTERPRISES, LLC

vs.

Defendant/Respondent: MICHAEL K. AXELGARD, DANA MICHELE  
AXELGARD, AND ALL OTHER OCCUPANTS

**DECLARATION OF SERVICE**

Case No:

Legal documents received by COURT OPS on the December 02, 2021 to be served on:

**MICHAEL K. AXELGARD, DANA MICHELE AXELGARD, AND ALL OTHER OCCUPANTS**  
615 EAST 300 NORTH PRICE, UT 84501

I, **Josh Dunn**, being duly sworn, swear and affirm that on the **December 07, 2021** at **05:12 PM**, I did the following:

**PERSONALLY SERVED:** by personally delivering a true and correct copy of the **NOTICE TO VACATE** to:  
**DANA MICHELE AXELGARD** at the address of: **615 EAST 300 NORTH PRICE, UT 84501** In accordance with  
the UT state rules of civil procedure.

**Supplemental Data Appropriate to this Service:**

**615 EAST 300 NORTH PRICE, UT 84501**

**Description of the person served:**

Gender: Female, Race/Skin Color: White, Hair Color: Brown, Approx. Age: 60, Approx. Height: 5' 5", Approx. Weight: 130

I HEREBY CERTIFY that I am 18 years of age or older, a resident of the State of Utah, and have no interest in the above legal matter. I further certify that at the time of service of the said article(s), I endorsed my name and official title and added the date thereto. I declare under criminal penalty of the State of Utah that the foregoing is true and correct. (Utah State Code: 78B-18a, Unsworn Declaration in Lieu of Affidavit)

Service Fee: **\$100.00**



Josh Dunn  
COURT OPS  
5693 S Redwood Rd, Ste 13  
Taylorsville, UT 84123  
(801) 261-9000



# EXHIBIT B

**Firm Mailing Book For Accountable Mail**

Name and Address of Sender

Halliday, Watkins & Mann PC  
376 E 400 S STE 300  
Salt Lake City UT 84111

Check type of mail or service

- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature Required            | <input type="checkbox"/> Priority Mail Express                      |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail                            |
| <input checked="" type="checkbox"/> Certified Mail           | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Certified Mail Restricted Delivery  | <input type="checkbox"/> Signature Confirmation                     |
| <input type="checkbox"/> Collect on Delivery (COD)           | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                        |   |
| <input type="checkbox"/> Priority Mail                       |   |

Mailing Date 12/2/2021 15:38	USPS Tracking/Article Number 9214 8901 9403 8360 6308 33
First Class Mail Postage <b>\$0.53</b>	Certified Mail Postage <b>\$6.13</b>
Sent To Current Occupant 615 East 300 North Price, UT 84501-2609 ,	
Reference Information 43510 Notice to Vacate	

**Firm Mailing Book For Accountable Mail**

Name and Address of Sender

Halliday, Watkins & Mann PC  
376 E 400 S STE 300  
Salt Lake City UT 84111

Check type of mail or service

- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature Required            | <input type="checkbox"/> Priority Mail Express                      |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail                            |
| <input checked="" type="checkbox"/> Certified Mail           | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Certified Mail Restricted Delivery  | <input type="checkbox"/> Signature Confirmation                     |
| <input type="checkbox"/> Collect on Delivery (COD)           | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                        |   |
| <input type="checkbox"/> Priority Mail                       |   |

Mailing Date 12/2/2021 15:38	USPS Tracking/Article Number 9214 8901 9403 8360 6308 40
First Class Mail Postage <b>\$0.53</b>	Certified Mail Postage <b>\$6.13</b>
Sent To  Michael K. Axelgard 615 East 300 North Price, UT 84501-2609 ,	
Reference Information  43510 Notice to Vacate	

**Firm Mailing Book For Accountable Mail**

Name and Address of Sender

Halliday, Watkins & Mann PC  
376 E 400 S STE 300  
Salt Lake City UT 84111

Check type of mail or service

- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature Required            | <input type="checkbox"/> Priority Mail Express                      |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail                            |
| <input checked="" type="checkbox"/> Certified Mail           | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Certified Mail Restricted Delivery  | <input type="checkbox"/> Signature Confirmation                     |
| <input type="checkbox"/> Collect on Delivery (COD)           | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                        |   |
| <input type="checkbox"/> Priority Mail                       |   |

Mailing Date 12/2/2021 15:38	USPS Tracking/Article Number 9214 8901 9403 8360 6308 57
First Class Mail Postage <b>\$0.53</b>	Certified Mail Postage <b>\$6.13</b>
Sent To Dana Michele Axelgard 615 East 300 North Price, UT 84501-2609 ,	
Reference Information 43510 Notice to Vacate	