

UNOFFICIAL COPY

00076342
0478/0113 08 001 Page 1 of 15
2000-01-28 17:00:50
Cook County Recorder 49.50

This instrument prepared by
and please return to:
Jennifer L. Worstell, Esq.
100 West Monroe Street #1500
Chicago, Illinois 60603



P.I.N.: 20-35-116-021-0000
COMMONLY KNOWN AS: 8126-28 S. Ingleside, Chicago, Illinois

SECOND LOAN MODIFICATION AGREEMENT

This instrument is a Second Loan Modification Agreement ("Second Modification") among LaSalle Bank National Association, formerly known as LaSalle National Bank, a national banking association ("Lender"), Chicago Title Land Trust Company ("Trustee") under Trust Agreement dated May 22, 1941 and known as its Trust No. 32480 ("Trust"), and Vivian Thomas ("Beneficiary"). Trustee and Beneficiary are collectively referred to herein as "Borrowers."

R E C I T A L S:

A. Trustee holds fee simple title to certain real estate ("Real Estate") commonly known as 8126-28 S. Ingleside, Chicago, Illinois, which is legally described on Exhibit A attached hereto. Beneficiary is the beneficiary of the Trust.

B. On March 25, 1999, the parties hereto entered into a Construction Loan Agreement ("Loan Agreement"), pursuant to which

Borrowers executed and delivered to Lender a Promissory Note in the amount of \$220,000 ("Note") which evidenced a loan in the amount of \$220,000 ("Loan"). The Loan proceeds were to be used to rehabilitate the improvements on the Real Estate. To secure the Note, Borrowers executed and delivered to Lender the following documents ("Security Documents"):

1. a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-2 Financing Statement ("Mortgage") executed by Borrowers covering the Real Estate, which Mortgage was recorded with the Cook County Recorder of Deeds on March 29, 1999 as Document No. 99293193;

2. an Environmental Indemnity Agreement executed by Beneficiary;

3. UCC-1 Financing Statements executed by:

(a) Chicago Title Land Trust Company, as Trustee under Trust Agreement dated May 2, 1941 and known as its Trust No. 32480; and

(b) Vivian Thomas;

4. a Collateral Assignment of Beneficial Interest in Land Trust executed by Beneficiary and accepted by Trustee; and

5. a Construction Loan Escrow Trust and Disbursing Agreement executed by Beneficiary, Lender, Chicago Title Insurance Company ("Title Insurer") and Vivian Thomas as general contractor.

C. On September 30, 1999, the parties hereto executed a Loan Modification Agreement ("Modification"), pursuant to which Borrowers executed and delivered to Lender a revised Promissory

Note ("Revised Note") in the amount of \$220,000. Pursuant to the Modification, the Rehabilitation Period (as defined in the Loan Agreement) was extended from September 30, 1999 to December 31, 1999 and the date on which principal repayments of the Note were to commence was extended until February 1, 2000. The Modification was recorded with the Cook County Recorder of Deeds on October 7, 1999 as Document No. 999481700.

D. Borrowers have now requested Lender to extend the end of the Rehabilitation Period from December 31, 1999 to May 31, 2000 and to extend the date on which principal repayments of the Note commence until July 1, 2000. Lender is agreeable to these requests subject to the covenants, conditions and restrictions contained herein.

NOW, THEREFORE, in consideration of good and valuable consideration, the parties agree as follows:

1. The Note and Revised Note are hereby modified and amended in their entirety by a revised Promissory Note ("Revised Note II"), a copy of which is attached hereto as Exhibit B. The Loan Agreement is hereby modified and amended to extend the date on which construction of the Project is to be completed from December 31, 1999 to May 31, 2000, and to extend the date on which principal repayments on the Revised Note commence until July 1, 2000. The Security Documents and Loan Agreement are hereby modified and amended to secure the Revised Note II and all references to the Note or the Revised Note in the Security Documents and Loan

Agreement are hereby modified and amended to refer to the Revised Note II in place of the Note and the Revised Note.

2. This Second Modification shall be effective upon Lender's receipt of this Second Modification executed by the parties hereto and the following documents and items:

- (a) the Revised Note II executed by Borrowers;
- (b) a certified copy of the Letter of Direction to Trustee authorizing the execution of this Second Modification;
- (c) an endorsement to Lender's current title insurance policy in connection with the next construction draw which insures the Mortgage as modified by this Second Modification as a first lien on the Real Estate subject only to such exceptions as Lender shall permit and which reflects and insures that Trustee is the holder and owner of fee simple interest in the Real Estate;
- (d) updated certificates of insurance as required by Section 4 of the Mortgage;
- (e) a revised and modified construction schedule; and
- (f) payment of Lender's expenses as described in Section 6 hereof.

3. This Second Modification shall constitute an amendment of the Security Documents and wherever in said instruments or in any other instrument evidencing or securing the indebtedness evidenced by the Note, Revised Note or Revised Note II ("Loan Documents") reference is made to the Loan Documents aforesaid, such reference shall be deemed a reference to such Loan Documents as hereby modified and amended. All other provisions of the Loan Documents

UNOFFICIAL COPY

00076342

remain unchanged. Nothing herein contained shall in any manner affect the lien or priority of the Mortgage, or the covenants, conditions and agreements therein contained or contained in the Note or Revised Note.

4. In the event of conflict between any of the provisions of the Loan Documents and this instrument, the provisions of this instrument shall override and control.

5. Borrowers hereby renew, remake and affirm the representations and warranties contained in the Loan Documents.

6. Borrowers hereby agree to pay all of Lender's expenses arising out of and in connection with this Second Modification including but not limited to attorneys' fees, title insurance premiums and recording fees.

7. This instrument is executed by Chicago Title Land Trust Company, as Trustee, not individually or personally, but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on Trustee personally to pay any indebtedness arising or accruing under or pursuant to this instrument, or to perform any covenant, undertaking, representation or agreement, either express or implied, contained in this instrument, all such personal liability of Trustee, if any, being expressly waived by each and every person now or hereafter claiming any right under this instrument.

8. Borrowers hereby attest that they have reviewed the areas within their business and operations which could be adversely affected by, and have developed or are developing a program to address on a timely basis, the "Year 2000 Problem" (that is, the risk that computer applications used by Borrowers may be unable to recognize and perform properly date-sensitive functions involving certain dates prior to and any date on or after December 31, 1999), and have made related appropriate inquiry of material suppliers and vendors. Based on such review and program, Borrowers believe that the "Year 2000 Problem" will not have a material adverse effect on Borrowers. From time to time, at the request of the Lender, Borrowers shall provide to Lender such updated information or documentation as is requested regarding the status of their efforts to address the "Year 2000 Problem."

IN WITNESS WHEREOF, the parties hereto have executed this Second Modification as of January 1, 2000.

LENDER:

LaSalle Bank National Association, formerly known as LaSalle National Bank, a national banking association

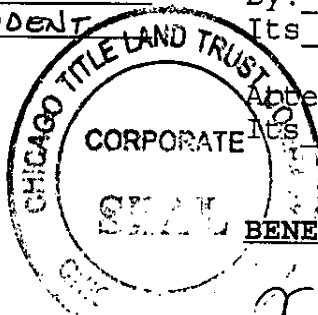
By: [Signature]
Its ASSISTANT VICE PRESIDENT

TRUSTEE:

Chicago Title Land Trust Company, as Trustee under Trust Agreement No. 32490 dated May 22, 1941

By: [Signature]
Its ASST VICE PRESIDENT

Attest: [Signature]
ASST. SECRETARY



BENEFICIARY:

[Signature]
Vivian Thomas

UNOFFICIAL COPY

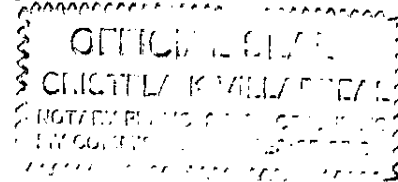
00076342

STATE OF ILLINOIS)
)
COUNTY OF C O O K) SS

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Sandra R. Varga, A.V. President of LaSalle Bank National Association, formerly known as LaSalle National Bank, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 1/21, 2000.

Cristela K. Villanueva
Notary Public

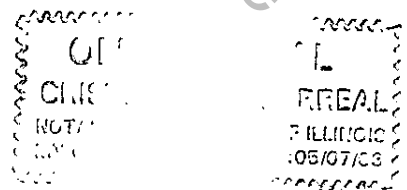


STATE OF ILLINOIS)
)
COUNTY OF C O O K) SS

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Vivian Thomas, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 1/21, 2000.

Cristela K. Villanueva
Notary Public



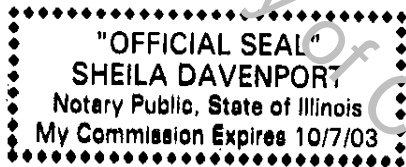
UNOFFICIAL COPY

00076342

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that LIDIA MARINCA and ASST VICE PRESIDENT President and ASST SECRETARY Secretary, respectively, of Chicago Title Land Trust Company, as Trustee as aforesaid, personally known to me to be the same persons who whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal JAN 14 2000, 2000.



Sheila Davenport
Notary Public

UNOFFICIAL COPY

EXHIBIT A

00076342

LEGAL DESCRIPTION:

Lot 157 (except the North 14 feet) and all of Lot 158 in Shogen and Company's Avalon Highland Subdivision in Section 35, Township 38 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois

COMMONLY KNOWN AS: 8126-28 S. Ingleside, Chicago, Illinois
P.I.N.: 20-35-116-021-0000

UNOFFICIAL COPY

EXHIBIT B

REVISED PROMISSORY NOTE ("Revised Note II")

00076342

\$220,000.00

January 1, 2000

FOR VALUE RECEIVED the undersigned, Chicago Title Land Trust Company, as Trustee under Trust Agreement dated May 22, 1941 and known as its Trust No. 32480 and Vivian Thomas (collectively "Borrowers") jointly and severally promise to pay to the order of LaSalle Bank National Association, formerly known as LaSalle National Bank, (said Bank and each successive owner and holder of this Note being hereinafter called "Holder"), the principal sum of Two Hundred Twenty Thousand (\$220,000) Dollars, or so much thereof as may from time to time be outstanding hereunder, together with interest on the balance of principal from time to time remaining unpaid, in the amounts, at the rates and on the dates hereafter set forth.

The rate of interest payable on this Note will change from time to time as hereafter provided. Monthly payments on account of this Note are to be made in such amounts as are appropriate to amortize the original principal balance, adjusted, however, from time to time as the rate of interest changes. Payments on account of this Note shall be made as follows:

(1) On May 1, 1999, and on the first day of each succeeding calendar month to and including the earlier of June 1, 2000 or the first day of the first calendar month next succeeding the end of the Rehabilitation Period (as defined in the Loan Agreement defined hereafter), there shall be paid interest only, in arrears, on the outstanding principal balance at a rate equal to the prime rate of interest in effect from time to time at LaSalle Bank National Association plus two (2.0%) percent per annum.

(2) On the first day of the second calendar month next succeeding the Rehabilitation Period or July 1, 2000, whichever first occurs, and on the first day of each succeeding month thereafter to and including April 1, 2004, there shall be paid such amount as shall be appropriate to amortize the outstanding principal balance as of the end of the Rehabilitation Period ("Note Balance") over a term of thirty (30) years at an interest rate of 7.50% per annum by the level rate amortization method, which such payment shall be applied first to interest at a rate of 7.50% per annum and the remainder to principal. For purposes of example, if the Note Balance is the amount of \$220,000 there shall be paid \$1,538.27 per month on account of the Note.

(3) On April 1, 2004, April 1, 2009, April 1, 2014, April 1, 2019, April 1, 2024 and April 1, 2029 (each date shall

UNOFFICIAL COPY

EXHIBIT B

00076342

hereafter be referred to as "Adjustment Date"), the rate of interest to be paid by Borrowers to Holder shall be adjusted ("Adjusted Rate"). The Adjusted Rate shall be determined by adding 2.75 percentage points to the weekly average yield on United States Treasury securities adjusted to a constant maturity of five years in effect as of the date 45 days preceding the Adjustment Date, as published in the Federal Reserve Statistical Release (H.15, Selected Interest Rates Report), rounded to the nearest .125%. Notwithstanding the foregoing, while no default exists hereunder, the Adjusted Rate shall not exceed 12.50% per annum.

(4) On May 1, 2004, May 1, 2009, May 1, 2014, May 1, 2019, May 1, 2024 and May 1, 2029 (each date shall hereafter be referred to as an "Adjusted Payment Date"), the monthly payment shall be adjusted to a payment in the appropriate amount required to amortize, by the level rate amortization method, the outstanding principal balance of the Note as of the Adjustment Date at such Adjusted Rate for a term of months determined by deducting from 360 months the number of months elapsed from the first day of the second calendar month succeeding the Rehabilitation Period or July 1, 2000, whichever first occurs, to the Adjustment Date ("Adjusted Payment"). The Adjusted Payment shall be on the Adjusted Payment Date and on the first day of each succeeding month thereafter until the next Adjusted Payment Date and shall be applied first to interest at the Adjusted Rate and the remainder to principal.

(5) On June 1, 2030 ("Maturity Date"), the principal balance together with all accrued interest and all other amounts due hereunder shall be paid.

In the event prior to any Adjustment Date the United States shall discontinue the publication of the Federal Reserve Statistical Release, the adjustment provided for in subparagraph (3) above shall be made based upon such index as shall be, in the reasonable judgment of Holder, comparable to the index provided for in said subparagraph (3). In the event the index selected by the Holder is not acceptable to Borrowers, the interest rate previously in effect shall continue to be in effect for an additional period of two (2) months and monthly payments shall continue in the same amount. During such period of two (2) months Borrowers and Holder shall negotiate an acceptable rate of interest and a mutually acceptable method of determining a rate of interest for future adjustments. Should the parties reach an agreement the monthly payments for the preceding two (2) months shall be adjusted and monthly payments shall be calculated based upon such agreement. Should the parties not reach an agreement within such two (2) months, then the principal balance, together with all accrued interest and all other amounts due hereunder, shall be due and payable, and shall be paid on the tenth day following the expiration of such two-month period.

UNOFFICIAL COPY

00076342

EXHIBIT B

During the Rehabilitation Period, interest shall be calculated and paid on the basis of a year having 365 days. After the Rehabilitation Period ends, interest shall be calculated and paid on the basis of a year having 360 days and a month having 30 days.

The balance due on account of this Note may be prepaid, without premium or penalty, in whole or in part and all accrued interest hereon shall be payable and shall be paid on the date of prepayment.

Payment upon this Note shall be made in lawful money of the United States at such place as the Holder of this Note may from time to time in writing appoint and in the absence of such appointment, shall be made at the offices of LaSalle Bank National Association, 135 South LaSalle Street, Chicago, Illinois 60603.

Without limiting the provisions of the succeeding paragraphs, in the event any payment of interest is not paid within fifteen (15) days after the date the same is due, the undersigned promises to pay a "Late Charge" of five (5.0%) percent of the amount so overdue to defray the expense incident to handling any such delinquent payment or payments.

This Note is executed pursuant to a Second Loan Modification Agreement executed concurrently herewith ("Second Modification"). This Note replaces that certain Promissory Note in the amount of \$220,000 ("Original Note") made by Borrowers on March 25, 1999 and that certain Promissory Note ("Revised Note") in the amount of \$220,000 made by Borrowers on September 30, 1999. The Original Note was executed pursuant to a Construction Loan Agreement ("Loan Agreement") executed by Borrowers and Lender on March 25, 1999 and is secured by a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-2 Financing Statement ("Mortgage") executed on March 25, 1999 and recorded on March 29, 1999 with the Cook County Recorder of Deeds as Document No. 99298193 and the Revised Note was executed pursuant to a Loan Modification Agreement ("Modification") executed and delivered by Borrowers to Lender on September 30, 1999 and recorded on October 7, 1999 with the Cook County Recorder of Deeds as Document No. 99948170. Amounts outstanding pursuant to the Original Note and the Revised Note shall be outstanding under this Note. All interest rates applicable to and charged on the Original Note and the Revised Note and all payments made in the Original Note and the Revised Note are unchanged. Pursuant to the Second Modification, the Mortgage and other documents securing the Original Note and the Revised Note ("Security Documents") are modified to secure this Note.

At the election of the Holder hereof, without notice, the principal sum remaining unpaid hereon, together with accrued inter-

UNOFFICIAL COPY

00075342

EXHIBIT B

est; shall be and become at once due and payable in the case of default for five (5) days in the payment of principal or interest when due in accordance with the terms hereof or upon the occurrence of any "Event of Default" under the Mortgage or the Loan Agreement.

Under the provisions of the Mortgage the unpaid balance hereunder may, at the option of the Holder, be accelerated and become due and payable forthwith upon the happening of certain events as set forth therein. The Mortgage and the Loan Agreement are, by this reference, incorporated herein in their entirety and notice is given of such possibility of acceleration.

The principal hereof, including each installment of principal, shall bear interest after the occurrence of an Event of Default, not cured within the applicable cure period, at the annual rate (herein called the "Default Rate") determined by adding three (3.0%) percentage points to the interest rate then required to be paid, as above provided, on the principal balance.

Borrowers waive notice of default, presentment, notice of dishonor, protest and notice of protest.

If this Note is placed in the hands of an attorney for collection or is collected through any legal proceeding, the undersigned promise to pay all costs incurred by Bank in connection therewith including, but not limited to, court costs, litigation expenses and attorneys' fees.

Payments received on account of this Note shall be applied first to the payment of any amounts due pursuant to the next preceding paragraph, second to interest and Late Charges and the balance to principal.

Funds representing the proceeds of the indebtedness evidenced herein which are disbursed by Holder by mail, wire transfer or other delivery to Borrowers, Escrowees or otherwise for the benefit of Borrowers shall, for all purposes, be deemed outstanding hereunder and received by Borrowers as of the date of such mailing, wire transfer or other delivery, and interest shall accrue and be payable upon such funds from and after the date of such mailing, wire transfer or other delivery until repaid to Holder, notwithstanding the fact that such funds may not at any time have been remitted by such Escrowees to the Borrowers.

This Note is executed by Chicago Title Land Trust Company, not individually or personally, but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing herein contained shall be construed as creating any

UNOFFICIAL COPY

EXHIBIT B

00076342

liability on Chicago Title Land Trust Company, personally to pay any indebtedness arising or accruing under or pursuant to this Note, or to perform any covenant, undertaking, representation or agreement, either express or implied, contained in this instrument, all such personal liability of Chicago Title Land Trust Company, if any, being expressly waived by each and every person now or hereafter claiming any right under this Note.

Borrowers knowingly, voluntarily and intentionally waive irrevocably the right they may have to trial by jury with respect to any legal proceeding based hereon, or arising out of, under or in connection with this Note, Mortgage, Loan Agreement or any of the other obligations, or the collateral secured by the Security Documents, or any agreement, executed or contemplated to be executed in conjunction herewith or any course of conduct or course of dealing, in which Holder and Borrowers are adverse parties. This provision is a material inducement for Holder in granting any financial accommodation to Borrowers.

Borrowers hereby irrevocably submit to the jurisdiction of any state or federal court sitting in Chicago, Illinois over any action or proceeding based hereon and Borrowers hereby irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined in such state or federal court. Borrowers hereby irrevocably waive, to the fullest extent they may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. Borrowers irrevocably consent to the service of any and all process in any such action or proceeding by the mailing of copies of such process to such Borrowers at their addresses as specified in the records of the Holder. Borrowers agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

Borrowers agree not to institute any legal action or proceeding against Holder or the directors, officers, employees, agents or property thereof, in any court other than the one hereinabove specified. Nothing in this Section shall affect the right of Holder to serve legal process in any other manner permitted by law or affect the right of Holder to bring any action or proceeding against Borrowers or their property in the courts of any other jurisdictions.

UNOFFICIAL COPY

00076342

EXHIBIT B

Time is of the essence of this Note and each provision hereof.

Chicago Title Land Trust
Company, as Trustee under Trust
No. 32480 dated May 22, 1941

By: _____
Its _____

Attest: _____
Its _____

Vivian Thomas

Property of Cook County Clerk's Office

COPY

COPY