

COOK COUNTY
RECORDER
EUGENE "GENE" MOORE
ROLLING MEADOWS



Prepared by +:
After Recording Return To:
James B. Nutter & Company
4153 Broadway, KCMO 64111



(Space Above This Line For Recording Data)

754097

MORTGAGE

209605

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated **SEPTEMBER 10, 2001** together with all Riders to this document.

(B) "Borrower" is **DEWITT TOLBERT SR AND RUTH TOLBERT HUSBAND & WIFE**

Borrower is the mortgagor under this Security Instrument.

(C) "Lender" is **James B. Nutter & Company**. Lender is a corporation organized and existing under the laws of the **State of Missouri**. Lender's address is **4153 Broadway, Kansas City, Missouri 64111**. Lender is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Borrower and dated **SEPTEMBER 10, 2001**.

The Note states the Borrower owes Lender **ONE HUNDRED FIFTY THOUSAND & 00/100** Dollars (U.S. \$ **150,000.00**) plus interest.

Borrower as promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **SEPTEMBER 1, 2031**.

(E) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(G) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- | | | |
|--|---|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Other(s) [specify] _____ |
| <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Biweekly Payment Rider | |

(H) "Applicable Law" means all controlling applicable federal, state and local statues, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(I) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(J) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(K) "Escrow Items" mean those items that are described in Section 3.

(L) "Miscellaneous Proceeds" means any compensations, settlement, award of damages, or proceeds

UNOFFICIAL COPY

COOK county of
[Type of Recording Jurisdiction]
[Name of Recording Jurisdiction]
LOT 2 (EXCEPT THE NORTH 16 FEET AND EXCEPT THE SOUTH 1.1 FEET) IN BLOCK
5 IN FOWLER AND CARNEX'S ADDITION TO EVANSTON, A SUBDIVISION OF THE NORTH
WEST QUARTER OF THE SOUTH WEST QUARTER OF SECTION 13, TOWNSHIP 41 NORTH,
RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.#: 10-13-305-018

SUBJECT TO ALL RESTRICTIONS, RESERVATIONS & EASEMENTS NOW OF RECORD, IF ANY,
THE NOTE HEREIN DESCRIBED AND SECURED HEREBY IS GIVEN IN PART PAYMENT OF THE
PURCHASE PRICE OF THE ABOVE DESCRIBED PROPERTY.

which current has the address of 1538 PITNER AVENUE, EVANSTON
[Street]
[City] Illinois 60121 ("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all
easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and
additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this
Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has

the right to mortgage, grant and convey the Property and that the Property is unencumbered, except
for encumbrances of record. Borrower warrants and will defend generally the title to the Property
against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT contains uniform covenants for national use and non-uniform
covenants with limited variations by jurisdiction to constitute a uniform security instrument covering
real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower

shall pay when due the principal, of and interest on, the debt evidenced by the Note and any
prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow
items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made
in U.S. currency. However, if any check or other instrument received by Lender as payment under the
Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all
subsequent payments due under the Note and this Security Instrument be made in one or more of the
following forms, as selected by Lender: (a) cash, (b) money order, (c) certified check, bank check,
treasurer's check or cashier's check, provided any such check is drawn upon an institution whose
deposits are insured by a federal agency, instrumentally, or entity or (d) Electronic Funds Transfer.
Payments are deemed received by Lender when received at the location designated in the Note or
at such other location as may be designated by Lender in accordance with the notice provisions in
Section 15. Lender may return any payment(s) or partial payment(s) if the payment(s) or partial
payment(s) are insufficient to bring the loan current. Lender may accept any payment(s) or partial
payment(s) insufficient to bring the loan current, without waiver of any rights hereunder or prejudice
to its rights to refuse such payment(s) or partial payment(s) in the future, but Lender is not obligated to
apply such payments at the times such payments are accepted. If each Periodic Payment is applied as
of it scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such
unapplied funds until Borrower makes payment(s) to bring the loan current. If Borrower does not do
so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower.
If not applied earlier, such funds will be applied to the outstanding principal balance under the Note
immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future
against Lender shall relieve Borrower from making payments due under the Note and this Security
Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA.

UNOFFICIAL COPY

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

proceeds shall be applied in the order provided for in Section 2. Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance security would be lessened, the insurance proceeds shall be applied to the sums secured by this the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not payment or in a series of progress payments as the work is completed. Unless an agreement is made shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as All insurance policies required by Lender and renewals of such policies shall be subject to Lender's interest, upon notice from Lender to Borrower requesting payment.

shall bear interest at the Note rate from the date of disbursement and shall be payable, with such Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed risk, hazard or liability and might provide greater or lesser coverage than was previously in effect, not protect Borrower's equity in the Property, or the contents of the Property, against any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance in connection with the review of any flood zone determination resulting from an objection by Borrower, be responsible for the payment of any fees imposed by the Federal Emergency Management Agency changes occur which reasonably might affect such determination or certification. Borrower shall also zone determination and certification services and subsequent charges each time remappings or similar charge for flood zone determination, certification and tracking services or (b) a one-time charge for flood unreasonable. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower periods that Lender requires. What Lender requires pursuant to the preceding sentences can change insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the any other hazards including, but not limited to, earthquakes and floods, for which Lender requires the Property insured against loss by fire, hazards included within the term "extended coverage," and

5. **Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on reporting service used by Lender in connection with this Loan.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to, (a) paying any sums secured by a lien which has priority over this Security Instrument, (b) appearing in court, and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately

UNOFFICIAL COPY

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreement will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if after notice by Lender to Borrower that the Oposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. Oposing Party means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding

to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument. (b) is not personally obligated to pay the sums secured by this Security Instrument and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 13, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to attorneys fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the requirement of this Security Instrument.

substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and opportunity to take corrective action pursuant to Section 20. The notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. If Applicable Law provides a time period which must elapse before certain alleged breach and afforded the other party hereto a reasonable period after the giving of such notice other party (with such notice given in compliance with the requirements of Section 15) of such duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the this Security Instrument or that alleges that the other party has breached any provision of, or any an individual litigant or the member of a class) that arises from the other party's actions pursuant to Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either otherwise provided by the Note purchaser.

be transferred to a successor Loan Servicer(s) and are not assumed by the Note purchaser unless If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of made and any other information RESPA requires in connection with a notice of transfer of servicing. will state the name and address of the new Loan Servicer, the address to which payments should be there is a change of the Loan Servicer, Borrower will be given written notice of the change which There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law, collects Periodic Payments due under the Note and this Security Instrument and performs other to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that the Note (together with this Security Instrument) can be sold one or more times without prior notice **20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in Section 18.

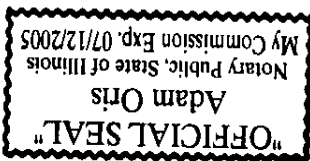
had occurred. However, this right to reinstate shall not apply in the case of acceleration under Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration instrumentality or entity or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this any such check is drawn upon an institution whose deposits are insured by a federal agency, cash, (b) money order, (c) certified check, bank check, treasurer's check or cashier's check, provided reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged unless as otherwise provided under Applicable Law. Lender may require that Borrower pay such require to assure that Lender's interest in the Property and rights under this Security Instrument, and and rights under this Security Instrument; and (d) takes such action as Lender may reasonably valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property instrument, including, but not limited to, reasonable attorneys' fees, property inspection and of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security contained in this Security Instrument; (b) such other period as Applicable Law might specify for the time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale Borrower shall have the right to have enforcement of this Security Instrument discontinued at any

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, remedies permitted by this Security Instrument without further notice or demand on Borrower. Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any Section 15 within which Borrower must pay all sums secured by this Security Instrument. If shall provide a period of not less than 30 days from the date the notice is given in accordance with If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice prohibited by federal law. Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without

UNOFFICIAL COPY

00/00/0000

My Commission Expires:



Notary Public

[Handwritten Signature]

STATE OF ILLINOIS, by DEWITT TOLBERT SR AND RUTH TOLBERT
The foregoing instrument was acknowledged before me this 10th day of SEPTEMBER, 2001
Count ss: *col*

- Borrower (Seal)

- Borrower (Seal)

RUTH TOLBERT - Borrower (Seal)

DEWITT TOLBERT SR - Borrower (Seal)

Witnesses:

Security Instrument and in any Rider(s) executed by Borrower and recorded with it.
BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this

24. Waiver of Homestead. Borrower waives all right of homestead exemption in the Property, and the charging of the fee is permitted under Applicable Law.

23. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered

but not limited to, reasonable attorneys' fees and costs of title evidence.
Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

NON-UNIFORM COVENANTS, Borrower and Lender further covenant and agree as follows:
any obligation on Lender for an Environmental Cleanup.
take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly notified by any governmental or regulatory authority, or any private party, that any removal or other of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of any Hazardous Substance, including but not limited to, any spillage, leaking, discharge, release or threat Environmental Condition, including but not limited to, any spillage, leaking, discharge, release or threat of release of any Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

UNOFFICIAL COPY

Property of Cook County Clerk's Office