



001118650

NOTICE OF CLAIM
OF EQUITABLE
MORTGAGE/LIEN

EZZATULAH SAFAPOUR
and SHAHINE SAFAPOUR
hereby claim an equitable
mortgage and lien in favor of
EZZATULAH SAFAPOUR
and SHAHINE SAFAPOUR
in the amount of
of \$1,291,137.07, plus

COOK COUNTY
RECORDER
EUGENE "GENE" MOORE
BRIDGEVIEW OFFICE (For Recorders use only)

interest, expenses, costs and attorneys' fees on the premises described herein (the "Premises") arising out of money loaned to Cyrus Homes, Inc., Walter H. Kihm, Jr., Audrey Kihm, Ronald N. Fleckman and Janice H. Fleckman by written promissory note executed as of July 1, 2001 (the "Note") and the representation and promise by Walter H. Kihm, Jr. and Cyrus Homes, Inc. that they have an interest in said Premises and would cause to be executed the attached mortgage securing the Note.

The Premises:

Parcel 1: Units 201, 202, 207, 209, 211, 301, 303 and 305 in the Central Park Condominium as delineated on a survey of the following described tract of land: Lots 63-70, inclusive, in Westerlawn, a subdivision of lots 9, 10, 11 and 12 in the County Clerk's Division in the Southeast fractional 1/4 of section 33, township 42 North, Range 13 East of the third principal meridian, according to the plat thereof recorded December 17, 1915 as document 5772065 in Cook County, Illinois, which survey is attached to the Declaration of Condominium recorded as document 00385437; together with its undivided percentage interest in the common elements in Cook County, Illinois

Parcel 2: The exclusive right to the use of parking spaces and storage spaces, limited common elements, as delineated on the survey attached as Exhibit "A" to the aforesaid declaration, as amended from time to time.

Index Numbers: 11-18-302-009-0000; 11-18-302-010-0000; 11-18-302-011-0000;
11-18-302-012-0000; 11-18-302-027-0000; 11-18-302-029-0000

Property Address: 2951-2953 Central Street, Evanston, IL

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NOTICE OF CLAIM OF EQUITABLE MORTGAGE\LIEN (Page 2)

Dated: November 21, 2001

PLEASE PRINT OR TYPE
NAMES BELOW SIGNATURES

Ezzat Safaour

(SEAL)

Shahine Safaour

(SEAL)

EZZATULAH SAFAPOUR

SHAHINE SAFAPOUR

State of Illinois)

)ss.

County of Cook)

I, the undersigned, a Notary Public in and for said County, in the State of Illinois, do hereby certify that EZZATULAH SAFAPOUR and SHAHINE SAFAPOUR, husband and wife, are the same persons whose names are subscribed to the foregoing instrument, who appeared before me this day in person, and acknowledged that they signed, sealed and delivered the foregoing instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 21st day of November, 2001.

[Signature]
Notary Public



My Commission Expires: _____

Prepared by:

Joseph J. Walczak, P.C.
14744 Sprucecreek Lane
Orland Park, IL 60467

Mail To:

Joseph J. Walczak, P.C.
Attorney At Law
14744 Sprucecreek Lane
Orland Park, IL 60467



MORTGAGE

THIS MORTGAGE is by and between Bank OF WAUKEGAN, as Trustee under Trust Agreement dated February 21, 1997 and known as Trust No. 204187, herein referred to as "Mortgagor" and Ezzatulah Safapour and Shahine Safapour of

(For Recorders use only)

326 Grandview, Kalamazoo, MI 49001, herein referred to as "Mortgagee". Cyrus Homes, Inc., Walter H. Kihm, Jr., Audrey Kihm, Ronald N. Fleckman and Janice H. Fleckman ("Borrowers") have executed a Promissory Note dated as of July 1, 2001, payable to the order of the Mortgagee (herein referred to as the "Note") in the principal amount of **One Million Two Hundred Ninety-One Thousand One Hundred Thirty-Seven and 07/100 Dollars** (\$1,291,137.07), and some of the Borrowers have an interest in Trust No. R2342. The Note is payable as follows: Borrowers shall make consecutive monthly payments in the amount of \$16,000.00 per month beginning July 1, 2001 and continuing each month thereafter until the Note matures. In addition to the monthly payments, Borrowers shall pay the sum of Six Hundred Thousand \$600,000.00 in principal on or before October 31, 2001. The Note matures on August 1, 2002 and all principal and interest shall be due on that date. Borrowers promise to pay Lender interest in the amount of 15% per annum on the unpaid principal balance until the full amount of principal and interest have been paid. Interest on this Note shall begin to accrue on July 1, 2001 and will continue to accrue until the full balance is paid.

As an inducement of Mortgagee to lend money and/or to extend loans currently owed Mortgagee, and to secure payment of the indebtedness evidenced by the Note and the hereinafter defined Liabilities, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Mortgagor does by these presents CONVEY, WARRANT and MORTGAGE unto Mortgagee, all of Mortgagor's estate, right, title and interest in the real estate located in Cook County, Illinois, legally described on attached Exhibit A and made part hereof, which is referred to herein as the "Premises", together with all improvements, buildings, tenements, hereditaments, appurtenances, gas, oil, minerals, easements located in, on, over or under the Premises, and all types and kinds of furniture, fixtures, apparatus, machinery and equipment, including without limitation, all of the foregoing used to supply heat, gas, air conditioning, water, light, power, refrigeration or ventilation (whether single units or centrally controlled) and all screens, window shades, storm doors and windows, floor coverings, awnings, stoves and water heaters, whether now on the Premises or hereafter erected, installed or placed on or in the Premises, or whether or not physically attached to the Premises. The foregoing items are and shall be deemed a part of the Premises and a portion of the security for the Liabilities as

between the parties hereto and all persons claiming by, through or under them.

Further, Mortgagor does hereby pledge and assign to Mortgagee, all leases, written or verbal, rents, issues and profits of the Premises, including without limitation, all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing, and all deposits of money as advance rent or for security, under any and all present and future leases of the Premises, together with the right, but not the obligation, to collect, receive, demand, sue for and recover the same when due or payable. Mortgagee by acceptance of this Mortgage agrees, as a personal covenant applicable to Mortgagor only, and not as a limitation or condition hereof and not available to anyone other than Mortgagor, that until a Default, as hereinafter defined, shall occur or an event shall occur, which under the terms hereof shall give to Mortgagee the right to foreclose this Mortgage, Mortgagor may collect, receive and enjoy such avails.

Further, Mortgagor does hereby expressly waive and release all rights and benefits under and by virtue of the Dower and Homestead Exemption Laws of the State of Illinois, if applicable.

Further, Mortgagor covenants and agrees as follows:

1. Mortgagor shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the Premises which may become damaged or be destroyed; (b) keep the Premises in good condition and repair, without waste, and, except for this Mortgage, free from any encumbrances, mechanic's liens or other liens or claims for lien; (c) pay when due any indebtedness which may be secured by a lien or charge on the Premises, and upon request exhibit satisfactory evidence of the discharge of such lien to Mortgagee; (d) complete within a reasonable time any building or buildings now or at any time in process of erection upon the Premises; (e) comply with all requirements of all laws or municipal ordinances with respect to the Premises and the use of the Premises; (f) make no material alterations in the Premises, except as required by law or municipal ordinance, unless such alterations have been previously approved in writing by Mortgagee; (g) refrain from impairing or diminishing the value of the Premises.

2. Mortgagor shall pay, when due and before any penalty attaches, all general taxes, special taxes, special assessments, water charges, drainage charges, sewer service charges, and other charges against the Premises. Mortgagor shall, upon written request, furnish to Mortgagee duplicate paid receipts for such taxes, assessments and charges. To prevent Default hereunder Mortgagor shall pay in full prior to such tax, assessment or charge becoming delinquent under protest, in the manner provided by statute, any tax, assessment or charge which Mortgagor may desire to contest.

3. Upon the request of Mortgagee, Mortgagor shall deliver to Mortgagee all original leases of all or any portion of the Premises, together with assignments of such leases from Mortgagor to Mortgagee, which assignments shall be in form and substance satisfactory to Mortgagee; Mortgagor shall not procure, permit nor accept any prepayment, discharge or compromise of any rent nor release any tenant from any obligation, at any time while the

indebtedness secured hereby remains unpaid, without Mortgagee's written consent.

4. Any awards of damage resulting from condemnation proceedings, exercise of the power of eminent domain, or the taking of the Premises for public use are hereby transferred, assigned and shall be paid to Mortgagee and the proceeds or any part thereof may be applied by Mortgagee, after the payment of all of its expenses, including costs and attorneys' fees, to the reduction of the indebtedness secured hereby and Mortgagee is hereby authorized, on behalf and in the name of Mortgagor, to execute and deliver valid acquittances and to appeal from any such award.

5. No remedy or right of Mortgagee hereunder shall be exclusive. Each right and remedy of Mortgagee with respect to this Mortgage shall be in addition to, every other remedy or right now or hereafter existing at law or in equity. No delay by Mortgagee in exercising, or omission to exercise, any remedy or right accruing on or after Default shall impair any such remedy or right, or shall be construed to be a waiver of any such Default, or acquiescence therein, nor shall it affect any subsequent Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee.

6. Mortgagor shall keep all buildings and improvements now or hereafter situated on the Premises insured against loss or damage by fire, lightning, windstorm and such other hazards as may from time to time be designated by Mortgagee, including without limitation, flood damage, where Mortgagee is required by law to have the loan evidenced by the Note so insured. Each insurance policy shall be for an amount sufficient to pay the cost of replacing or repairing the buildings and improvements on the Premises and, in no event less than the principal amount of the Note; all policies shall be issued by companies satisfactory to Mortgagee. Each insurance policy shall be payable, in case of loss or damage, to Mortgagee. Each insurance policy shall contain a lender's loss payable clause or endorsement, in form and substance satisfactory to Mortgagee. Mortgagor shall deliver all insurance policies, including additional and renewal policies, to Mortgagee. In case of insurance about to expire, Mortgagor shall deliver to Mortgagee renewal policies not less than ten days prior to the respective dates of expiration.

7. Upon Default by Mortgagor hereunder, Mortgagee may, but need not, make any payment or perform any act required of Mortgagor hereunder in any form and manner deemed expedient by Mortgagee, and Mortgagee may, but need not, make full or partial payments of principal or interest on any encumbrances affecting the Premises and Mortgagee may purchase, discharge, compromise or settle any tax lien or other lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other moneys advanced by Mortgagee to protect the Premises or the lien hereof, plus reasonable compensation to Mortgagee for each matter concerning which action herein authorized may be taken, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and

with interest thereon at a per annum rate equivalent to the post maturity rate set forth in the Note. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to Mortgagee on account of any Default hereunder on the part of Mortgagor.

8. If Mortgagee makes any payment authorized by this Mortgage relating to taxes, assessments, charges or encumbrances, Mortgagee may do so according to any bill, statement or estimate received from the appropriate public office without inquiry into the accuracy or validity of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

9. Upon Default, at the sole option of Mortgagee, the Note and any other Liabilities shall become immediately due and payable and Mortgagor shall pay all expenses of Mortgagee including attorneys' fees and expenses incurred in connection with this Mortgage and all expenses incurred in the enforcement of Mortgagee's rights under this Mortgage and any and all other costs incurred in connection with the foreclosure or disposition of the Premises. The term "Default" when used in this Mortgage means any one or more of the events, conditions or acts defined as a "Default" in the Note, including but not limited to the failure of Mortgagor to comply with or to perform any representation, warranty, term, condition, covenant or agreement contained in this Mortgage, the Note or any instrument securing any Liabilities.

10. Notwithstanding any other provisions of this Mortgage, no sale, lease, mortgage, trust deed, grant by Mortgagor of an encumbrance of any kind, conveyance, contract to sell, or transfer of the Premises, or any part thereof, or transfer of occupancy or possession of the Premises, or any part thereof, or sale or transfer of ownership of any beneficial interest or power of direction in a land trust which holds title to the Premises, shall be made without the prior written consent of Mortgagee.

11. "Liabilities" means all obligations of Mortgagor to Mortgagee for payment of any and all amounts due under the Note, this Mortgage and of any indebtedness, or contractual duty of every kind and nature of Mortgagor or any guarantor of the Note to Mortgagee, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, joint or several, now or hereafter existing, due or to become due and howsoever owned, held or acquired, whether through discount, overdraft, purchase, direct loan or as collateral, or otherwise. Liabilities also includes all costs of collection, legal expenses and attorneys' fees incurred or paid by Mortgagee in attempting the collection or enforcement of the Note, any guaranty of the Note, or any other indebtedness of Mortgagor or any guarantor of the Note to Mortgagee or in the repossession, custody, sale, lease, assembly or other disposition of any collateral for the Note. Liabilities includes all of the indebtedness or contractual duties of partnerships to Mortgagee created or arising while Mortgagor or any guarantor of the Note may have been or may be a member of those partnerships.

12. When the indebtedness secured hereby shall become due whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien of this Mortgage. In any suit to

foreclose the lien of this Mortgage, there shall be allowed and included as additional indebtedness in the judgment of foreclosure all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute the foreclosure suit or to evidence to bidders at any foreclosure sale. All of the foregoing items, which may be expended after entry of the foreclosure judgment, may be estimated by Mortgagee. All expenditures and expenses mentioned in this paragraph shall become additional indebtedness secured hereby and shall be immediately due and payable, with interest thereon at a rate equivalent to the post maturity interest rate set forth in the Note, when paid or incurred by Mortgagee. This paragraph shall also apply to any expenditures or expenses incurred or paid by Mortgagee or on behalf of Mortgagee in connection with (a) any proceeding, including without limitation, probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness secured hereby; or (b) preparations for the commencement of any suit for the foreclosure of this Mortgage after accrual of the right to foreclose whether or not actually commenced or preparation for the commencement of any suit to collect upon or enforce the provisions of the Note or any instrument which secures the Note after Default under the Note, whether or not actually commenced; or (c) preparations for the defense of any threatened suit or proceeding which might affect the Premises or the security hereof, whether or not actually commenced.

13. The proceeds of any foreclosure sale shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all the items that are mentioned in the preceding paragraph; second, all other items which under the terms of this Mortgage constitute indebtedness secured by this Mortgage additional to that evidenced by the Note or the Liabilities, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note and the Liabilities (first to interest and then to principal); fourth, any surplus to Mortgagor or Mortgagor's heirs, legal representatives, successors or assigns, as their rights may appear.

14. Upon, or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such suit is filed may appoint a receiver of the Premises. The receiver's appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for the receiver and without regard to the then value of the Premises or whether the Premises shall be then occupied as a homestead or not. Mortgagee may be appointed as the receiver. Such receiver shall have power to collect the rents, issues and profits of the Premises during the pendency of the foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, if any, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of the receiver, would be entitled to collect the rents, issues and profits. Such receiver shall also have all other powers which may be necessary or are usual for the protection,

possession, control, management and operation of the Premises during the statutory redemption period, if any. The court in which the foreclosure suit is filed from time to time may authorize the receiver to apply the net income in the receiver's hands in payment in whole or in part of the indebtedness secured hereby, or secured by any judgment foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of the judgment, and the deficiency judgment against Mortgagor or any guarantor of the Note in case of a foreclosure sale and deficiency.

15. No action for the enforcement of the lien or of any provision of this Mortgage shall be subject to any defense which would not be good and available to the party interposing in an action at law upon the Note.

16. Mortgagee shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose.

17. Mortgagee shall release this Mortgage by a proper release upon payment in full of the Note and all Liabilities.

18. This Mortgage and all provisions hereof, shall extend to and be binding upon Mortgagor and all persons or parties claiming under or through Mortgagor. The word "Mortgagor" when used herein shall also include all persons or parties liable for the payment of the indebtedness secured hereby or any part thereof, whether or not such persons or parties shall have executed the Note or this Mortgage. The singular shall include the plural, the plural shall mean the singular and the use of any gender shall be applicable to all genders. The word "Mortgagee" includes the successors and assigns of Mortgagee.

19. No real estate tax escrow will be required, however Mortgagor shall comply with paragraph 6 hereinbefore.

20. No property insurance escrow will be required, however Mortgagor shall comply with paragraph 2 hereinbefore.

21. In the event this Mortgage is executed by a corporate land trustee, then this Mortgage is executed by the undersigned, not personally, but as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee, and insofar as said Trustee is concerned, is payable only out of the trust estate which in part is securing the payment hereof and through enforcement of the provisions of any other collateral or guaranty from time to time securing payment hereof; no personal liability shall be asserted or be enforceable against the undersigned, as Trustee, because or in respect of this Mortgage or the making, issue or transfer thereof, all such personal liability of said Trustee, if any, being expressly waived in any manner.

22. This Mortgage has been prepared in Illinois, and executed and delivered to Mortgagee in the County of Cook, State of Illinois, and shall be construed in accordance with the

laws of the State of Illinois. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law. If any provisions of this Mortgage are prohibited by or determined to be invalid under applicable law, such provisions shall be ineffective only to the extent of such prohibitions or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Mortgage.

23. As long as Mortgagor is not in Default, Mortgagee agrees that provided all proceeds available to Mortgagor, in excess of all sums required to be paid to Bank of Waukegan, as First Mortgagee, with respect to any Unit described in Exhibit A, are paid to Mortgagee for credit against the balance due under the Note, Mortgagee will release such unit from the lien of this Mortgage.

WITNESS Mortgagor has executed and delivered this Mortgage as of this 1st day of July, 2001.

BANK OF WAUKEGAN, as Trustee
under Trust Agreement dated
February 21, 1997 and known as
Trust Number 204187

By: _____

Its: _____

Property of Cook County Clerk's Office

State of Illinois)

)ss.

County of Cook)

I, _____, a Notary Public in and for Cook County, in the State of Illinois, do hereby certify that _____,

_____ personally known to me to be the same persons whose names are subscribed to the foregoing Mortgage, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as Trustee of said Trust, for the uses and purposes therein set forth in said Mortgage.

Given under my hand and notarial seal this _____ day of _____, 2001

NOTARY PUBLIC

My Commission Expires: _____

EXHIBIT A

Parcel 1: Units 201, 202, 207, 209, 211, 301, 303 and 305 in the Central Park Condominium as delineated on a survey of the following described tract of land: Lots 63-70, inclusive, in Westerlawn, a subdivision of lots 9, 10, 11 and 12 in the County Clerk's Division in the Southeast fractional 1/4 of section 33, township 42 North, Range 13 East of the third principal meridian, according to the plat thereof recorded December 17, 1915 as document 5772065 in Cook County, Illinois, which survey is attached to the Declaration of Condominium recorded as document 00385437; together with its undivided percentage interest in the common elements in Cook County, Illinois

Parcel 2: The exclusive right to the use of parking spaces and storage spaces, limited common elements, as delineated on the survey attached as Exhibit "A" to the aforesaid declaration, as amended from time to time

Prepared by:

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