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Project Number: 02-123-17



Doc#: 0329548008
Eugene "Gene" Moore Fee: \$36.00
Cook County Recorder of Deeds
Date: 10/22/2003 09:41 AM Pg: 1 of 7

JUNIOR MORTGAGE

SINGLE-FAMILY REHABILITATION PROGRAM

THIS INDENTURE, made this 26th day of August, 2003 between the West Suburban Neighborhood Preservation Agency an Illinois intergovernmental agency, herein referred to as "Mortgagee", and Jeffrey A. Pemberton & Kathleen A. Gilliland, Married to each other, herein referred to as "Mortgagors", witnesseth:

THAT WHEREAS the Mortgagors are justly indebted to the Mortgagee upon a Junior Mortgage Note of even date herewith, and on extensions and renewals in the initial principal sum of Twenty Thousand Seven Hundred Seventy Eight and 00/100 DOLLARS (\$20,778.00), and for advances, if any, not to exceed Five Thousand Dollars (\$5,000.00), payable to the order of and delivered to the Mortgagee, in and by which Junior Mortgage Note the Mortgagors promise to pay the said principal sum under the terms and conditions specified therein; with a payment of one-hundred percent (100%) of the principal and advances, if any, on the sale or transfer of the property or if the property that is the subject of this Junior Mortgage is no longer the Mortgagors' principal place of residence and all of said principal are made payable at such place as the holders of the Junior Mortgage Note may, from time to time, in writing appoint, and in absence of such appointment, then at the office of the Mortgagee at West Suburban Neighborhood Preservation Agency 4415 W. Harrison St. Suite 228 Hillside, IL 60162.

NOW, THEREFORE, the Mortgagors to secure to the Mortgagee the repayment of the indebtedness by the Junior Mortgage Note, with interest thereon, the payment of all other sums with interest thereon, in accordance with the terms, provisions and limitations of this Junior Mortgage, and the performance of the covenants and agreements herein contained by the Mortgagors to be performed, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, do by these presents MORTGAGE, CONVEY AND WARRANT unto the Mortgagee, and the and the Mortgagor's successors and assigns, the following described Real Estate and all of its estate, right, title and interest therein, situate, lying and being in the VILLAGE OF Lyons, COUNTY OF COOK AND STATE OF ILLINOIS, to wit:

Legal Description: Lot 36 in Hackel's West End Subdivision, being a Subdivision of all lots 7,8,9,23,31,32,33 and 56 in Arthur T. McIntosh's Plainfield Road addition and part of lot 24 in H. O. Stone and Company's fifth addition to Riverside acres in the Southwest 1/4 of Section 2, Township 38 North, Range 12, East of the Third Principal Meridian, In Cook County, Illinois.

Common Address: 8644 W. 44th St. Lyons, IL 60534

Permanent Index Number: 18-02-315-013-0000

(hereinafter the "property")

TOGETHER with all improvements, tenements, easements and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times now or hereafter erected or acquired as Mortgagors may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus or equipment now or hereafter therein used to supply heat, gas, air conditioning, water, light, power, refrigeration and ventilation, shall be considered as constituting part of the real estate.

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TO HAVE AND TO HOLD the premises unto the Mortgagee, and the Mortgagee's successors and assigns, forever, for the purposes, and upon the uses herein set forth.

The record owner is Jeffrey A. Pemberton & Kathleen A. Gilliland, and the Mortgagors covenant that the Mortgagors are lawfully seized of the estate hereby conveyed and has the right to Mortgage, Convey and Warrant the property, and that the property is unencumbered, except for encumbrances of record. The Mortgagors covenant that the Mortgagors warrant and will defend the title to the property against all claims and demands, subject to encumbrances of record.

This Junior Mortgage consists of seven (7) pages. The covenants, conditions and provisions appearing on pages three through seven (3-7) are incorporated herein by reference and are a part hereof and shall be binding on Mortgagors, and the Mortgagors' heirs, successors and assigns.

The Mortgagors hereby waive, to the extent authorized by law, any and all right of homestead and other exemption rights which would otherwise apply to the debt set out herein.

This Junior Mortgage is subordinate to an existing Mortgage and Note made in favor of Citi Mortgage, in an amount of \$99,500.00, and may be subordinated to no other liens.

The terms of the Junior Mortgage Note and the Single-Family Rehabilitation Program Owners Participation Agreement are incorporated herein as if fully set out herein.

Witness the hand and seal of Mortgagors the day and year first above written.

Jeffrey A. Pemberton
 Jeffrey A. Pemberton

Kathleen A. Gilliland
 Kathleen A. Gilliland

STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I, Cathleen M. Halwix, a Notary Public in and for said County in the State of Illinois, DO HEREBY CERTIFY that Jeffrey A. Pemberton & Kathleen A. Gilliland, is(are) personally known to me to be the same person(s) whose name(s) is(are) subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as a free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right homestead.

Given under my hand and official seal, this 26th day of August, 2003.

Cathleen M. Halwix
 Cathleen M. Halwix - Notary Public



My commission expires February 21, 2005

Prepared by and Return to: West Suburban Neighborhood Preservation Agency
4415 W. Harrison St. Suite 228 Hillside, IL 60162

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THE COVENANTS, CONDITIONS AND PROVISIONS REFERRED TO ON PAGE 2

1. **Prompt Payment.** Mortgagors shall promptly pay when due the principal indebtedness evidenced by the Junior Mortgage Note.
2. **Advances.** Any and all advances or payments made by the Mortgagee hereunder shall be secured by this Junior Mortgage pursuant to paragraph 3 of the Single-Family Rehabilitation Program Owners Participation Agreement.
3. **Performance of Mortgagors' Obligations.** Mortgagors shall perform all Mortgagors' obligations under any Junior Mortgage, deed of trust or other security over this Junior Mortgage, including Mortgagors' covenants to make payments when due.
4. **Repair and Maintenance of Mortgaged Property.** Mortgagors shall (1) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (2) keep said premises in good condition and repair, without waste, and free from mechanic's or other liens or claims for lien not expressly subordinate to a lien hereof; (3) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof other than the prior mortgage referred to on Page 2 of the Junior Mortgage and upon request exhibit satisfactory evidence of the discharge of any such prior lien to the Mortgagee; (4) complete on or before the construction deadline contained in the construction contract for the project any building or buildings now or at any time in process of erection, construction, alternation, repair or rehabilitation upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) make no material alterations in said premises except as required by law or municipal ordinance without the prior consent of Mortgagee. PROVIDED, HOWEVER, such repair, restoration or rebuilding must begin within thirty (30) days of the date of this Junior Mortgage.
5. **Payment of Taxes, Charges, etc.** Mortgagors shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges, including but not limited to leases and ground rents, against the premises when due, and shall, upon written request, furnish to the Mortgagee duplicate receipts therefor. To prevent default hereunder, Mortgagors shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagors may desire to contest.
6. **Reimbursement for Taxes Imposed on the Mortgagee.** In the event of the enactment after this date of any law of Illinois deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagors, or changing in any way the law relating to the taxation of mortgages or debts secured by Mortgagee or the Mortgagee's interest in the property, or the manner of collection of taxes, so as to affect this Junior Mortgage or the debt secured hereby or the holder thereof, then and in any such event the Mortgagors upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided, however, that if in the opinion of counsel for the Mortgagee (a) it might be unlawful to require Mortgagors to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, the Mortgagee may elect, by notice in writing given to the Mortgagors, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice.
7. **Tax Due Because of Issuance of this Mortgage.** If, by the laws of the United States of America or of any state having jurisdiction in the premises, any tax is due or becomes due in respect of the issuance of the Junior Mortgage Note hereby secured, the Mortgagors covenant and agree to pay such tax in the manner required by any such law. The Mortgagors further covenant to hold harmless and agree to indemnify the Mortgagee, and the Mortgagee's successors or assigns, against any liability incurred by reasons of imposition of any tax on the issuance of the Junior Mortgage Note secured hereby.
8. **Insurance.** Mortgagors shall keep the improvements now existing or hereafter erected on the premises insured under a replacement cost form of insurance policy against loss or damage resulting from fire, windstorm and other hazards as may be required by Mortgagee, and to pay promptly, when due, any premiums on such insurance. Said insurance shall name the Mortgagee as an additional insured and shall be kept in effect during the course of the rehabilitation project and for the term of this Junior Mortgage. The Mortgagors shall provide the Mortgagee with evidence that said insurance is in effect upon written request of the Mortgagee.

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9. **Acknowledgment of Debt.** Mortgagors shall furnish from time to time within fifteen (15) days after Mortgagee's written request, a written statement, duly acknowledged, of the amount due upon this Junior Mortgage and whether any alleged offsets or defenses exist against the indebtedness secured by this Junior Mortgage.
10. **Mortgagee's Options in Case of Default.** In case of default therein, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagors in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises or contest any tax or assessment, and, if any action is commenced, upon notice to Mortgagors, may make appearances, disburse such sums, including but not limited to reasonable attorney's fees, and take such action as is necessary to protect Mortgagee's interest. 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 mortgaged premises and the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the highest rate now permitted by Illinois law. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to the Mortgagee on account of any default hereunder on the part of the Mortgagors.
11. **Payment of Taxes by Mortgagors.** The Mortgagors making any payment hereby authorized relating to taxes or assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.
12. **Time to Cure Default.** The Mortgagors shall pay each item of the Junior Mortgage herein mentioned, including but not limited to the indebtedness evidenced by the Junior Note, both principal and interest, when due according to the terms hereof and of the Junior Note. At the option of the Mortgagee and without notice to Mortgagors all unpaid indebtedness secured by this Junior Mortgage shall, notwithstanding anything in the Junior Note or in this Junior Mortgage to the contrary, become due and payable (a) upon the failure of Mortgagors to punctually pay when due any installment of principal or interest due under the Junior Mortgage Note and remains uncured after ten (10) days written notice or (b) when default shall occur and continue for thirty (30) days in the performance of any other agreement of the Mortgagors herein contained or contained in the Junior Mortgage Note or the Single-Family Rehabilitation Program Owners Participation Agreement.
13. **Events of Default.** The following events, in addition to any others specified herein, shall constitute a default in the terms of this Junior Mortgage:
- (A) Discovery by the Mortgagee of any material misrepresentation, fraud or falsity in any representation, statement, affidavit, certificates, exhibit or instrument given or delivered by Mortgagors to the Mortgagee in connection with the making of this Junior Mortgage, Junior Mortgage Note or the Single-Family Rehabilitation Program Owners Participation Agreement; or,
 - (B) The voluntary or involuntary bankruptcy of Mortgagors, exchange, disposition, refinancing, or sale under foreclosure of the property; or,
 - (C) The acquisition in whole or in part, voluntary or involuntary, of title, the beneficial interest, or the equity of redemption in the property by any party other than Mortgagors except where such transfer is approved in writing by the Mortgagee and the remaining principal and interest due on the Junior Mortgage Note and this Junior Mortgage is paid in full.
 - (D) The balance of the mortgage loan payable to the West Suburban Neighborhood Preservation Agency, becoming or being declared due and payable for any reason whatsoever, or said Junior Mortgage loan being declared to be in default; and,
 - (E) The failure of Mortgagors to maintain the subject property in compliance with applicable municipal codes and "Section 8 - Housing Quality Standards"; or,
 - (F) Any change in the form of ownership of the subject property or any portion thereof or any change in partners in the partnership without prior written consent of Mortgagee; or

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(G) Failure to comply with any other provisions of this Junior Mortgage, the Junior Mortgage Note and the Single-Family Rehabilitation Program Owners Participation Agreement.

14. **Methods of Enforcement; Costs.** A) When the indebtedness hereby secured shall be due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof or in other actions in relation to the property as set out in subparagraphs (a), (b) and (c) of this paragraph, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee of attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs (which may be estimated as to items to be expended after entry of the decree), of procuring all such 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 such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the highest rate then permitted by Illinois law (or in the absence of such limit at 12%), when paid or incurred by Mortgagee in connection with (a) any proceeding, including probate proceedings and actions in relation to the enforcement of foreclosure actions, perfection of assignments of Rents, the voluntary or involuntary bankruptcy of the Mortgagor and litigation arising therefrom, assignments for the benefit of creditors and adjudication of affirmative defenses, counterclaims, set-offs or recoupments against the claim of the Mortgagee, to which the Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this Junior Mortgage or any indebtedness hereby secured; or (b) preparations for the commencement of any suit for foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any actual or threatened suit or proceeding which might affect the premises or the security hereof.

B) Notwithstanding Mortgagee's acceleration of the sums secured by this Junior Mortgage due to Mortgagors' breach, Mortgagors shall have the right to have any proceedings begun by Mortgagee to enforce this Junior Mortgage discontinued at any time prior to entry of a judgment enforcing this Junior Mortgage if: (a) Mortgagors pay Mortgagee all sums which would be then due under this Junior Mortgage and Junior Mortgage Note had no acceleration occurred; (b) Mortgagors cure all breaches of any other covenants or agreements of Mortgagors contained in this Junior Mortgage; (c) Mortgagors pay all reasonable expenses incurred by Mortgagee in enforcing the covenants and agreements of Mortgagors contained in this Junior Mortgage, and in enforcing Mortgagee's remedies as provided in paragraph 14(A) hereof, including, but not limited to, reasonable attorney's fees; and (d) Mortgagors take such action as Mortgagors may reasonably require to assure that the lien of this Junior Mortgage, Mortgagee's interest in the property and Mortgagors' obligation to pay the sums secured by this Junior Mortgage shall continue unimpaired. Upon such payment cure by Mortgagors, this Junior Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

15. **Priority of Distribution of Proceeds on Foreclosure.** The proceeds of any foreclosure sale of the premises 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 such items as are mentioned in the paragraph 14 hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Junior Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Junior Note; fourth, any overplus to Mortgagors, their heirs, legal representatives or assigns, as their rights may appear.

16. **Appointment of Receiver on Foreclosure; Rents; Costs due to Receiver.** Upon or at any time the filing of a complaint to foreclose this Junior Mortgage, the court in which such complaint is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagors at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not, and the Mortgagee may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises, if any, during the pendency of such foreclosure suit, and in case of sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagors, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The Court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) The indebtedness

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secured hereby, or by any decree foreclosing this Junior Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (2) the deficiency in case of a sale and deficiency.

17. **Appointment of Receiver on Acceleration; Collection of Rents.** Upon acceleration under this Junior Mortgage hereof or abandonment of the property, Mortgagors shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the property and to collect the rents of the property, if any, including those past due. All rents, if any, collected by the receiver shall be applied first to payment of the costs of management of the property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Junior Mortgage. The receiver shall be liable to account only for those rents actually received.

18. **Defenses.** No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in action at law upon the Junior Mortgage Note hereby secured.

19. **Inspection of Premises.** The Mortgagee shall have the right to inspect or may cause the inspection of the premises at all reasonable times and access thereto shall be permitted for that purpose.

20. **Extension, Variation or Release of the Debt.** If the payment of said indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in said premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation or release.

21. **Release of the Lien.** Mortgagee shall release this Junior Mortgage and lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Mortgagee for the execution of such release.

22. **Definition of Mortgagors and Mortgagee.** This Junior Mortgage and all provisions hereof, shall extend to and be binding upon Mortgagors and all persons claiming under or through Mortgagors and the word "Mortgagors" when used herein shall include all such persons and all persons liable for the payment of the indebtedness of any part thereof, whether or not such persons shall have executed the Junior Mortgage Note or this Junior Mortgage. The word "Mortgagee" when used herein shall include the successors and assigns of the Mortgagee named herein and the holder or holders, from time to time, of the Junior Note secured hereby.

23. **Applicable Laws; Severability.** The state and local laws applicable to this Junior Mortgage shall be the laws of the jurisdiction in which the property is located. The foregoing sentence shall not limit the applicability of Federal law to this Junior Mortgage. In the event that any provision or clause of this Junior Mortgage, the Junior Mortgage Note or the Single-Family Rehabilitation Program Owners Participation Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Junior Mortgage or of the Junior Mortgage Note which can be given effect without the conflicting provisions, and to this end the provisions of this Junior Mortgage, the Junior Mortgage Note and the Single-Family Rehabilitation Program Owners Participation Agreement are declared to be severable.

24. **Notice Due on Breach.** Upon Mortgagors' breach of any covenant or agreement of Mortgagors in this Junior Mortgage, including the covenants to pay when due any sums secured by this Junior Mortgage, Mortgagee prior to the acceleration shall give notice to Mortgagors specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than ten (10) days for the default in payment of principal and interest and thirty (30) days notice in the default in the performance of other obligations from the date the notice is mailed to Mortgagors, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Junior Mortgage, foreclosure by judicial proceeding, and sale of property. The notice shall further inform Mortgagors 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 Mortgagors to acceleration and foreclosure. If the breach is not cured on or before the date specified in the notice, Mortgagee, at Mortgagee's option, may declare all of the sums secured by this Junior Mortgage to be immediately due and payable without further demand and may foreclose this Junior Mortgage by judicial proceeding. Mortgagee shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorney's fees and costs of documentary evidence, abstracts and title reports.

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25. **Assignment of Rents.** As additional security hereunder, Mortgagors hereby assign to Mortgagee the rents of the property, if any; provided that Mortgagors shall, prior to acceleration under this Junior Mortgage hereof or abandonment of the property, have the right to collect and retain such rents as they become due and payable.

26. **Remedies Distinct and Cumulative.** All remedies provided in this Junior Mortgage are distinct and cumulative to any other right or remedy under this Junior Mortgage or afforded by law or equity and maybe exercised concurrently, independently or successively.

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