

UNOFFICIAL COPY

88301111

THIS INSTRUMENT PREPARED BY

D. MORRALL

WHEN RECORDED MAIL TO:
HOME SAVINGS OF AMERICA
P.O. BOX 7075
PASADENA, CALIFORNIA 91109-7075



ALL NOTICES TO LENDER SHALL BE
MAILED OR DELIVERED TO THE ABOVE
ADDRESS

Mortgage and Assignment of Rents
ADJUSTABLE INTEREST RATE LOAN

LOAN NO. 1010035-0

This Mortgage, made this 15th day of DECEMBER, 1988, between
ROBERT S. STRAUSS AND AILEEN STRAUSS, HUSBAND AND WIFE

herein called BORROWER, whose address is 4400 WEST BIRCHWOOD AVENUE
(number and street)

SKOKIE IL 60076
(city) (state) (zip code)

,and

and HOME SAVINGS OF AMERICA, F.A., a corporation herein called LENDER, whose address is P.O. Box 7075, Pasadena,
California 91109-7075.

WITNESSETH: Borrower hereby grants, conveys mortgages and warrants to Lender the real property legally described as
follows:

LOT 26 AND THE SOUTH 5 FEET OF LOT 27 IN ARTHUR MICHEL AND COMPANY'S SECOND ADDITION TO
HOWARD STREET "L" SUBDIVISION, BEING A SUBDIVISION IN THE SOUTHWEST 1/4 OF SECTION 27,
TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,
ILLINOIS.

COMMONLY KNOWN AS 4400 WEST BIRCHWOOD AVENUE, SKOKIE, IL. 60076

PLN: 10-27-306-057

RUSH
UAK
S1187516

Property of Cook County Clerk's Office

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Together with all interest which Borrower now has or may hereafter acquire in or to said property, and in and to all easements and rights
of way appurtenant thereto; and (b) all buildings, structures, improvements, fixtures and appurtenances now or hereafter placed thereon,
including, but not limited to, all apparatus and equipment, whether or not physically affixed to the land or any building, used to provide or
supply air-cooling, air-conditioning, heat, gas, water, light, power, refrigeration, ventilation, laundry, drying, dish washing, garbage disposal
or other services; and all waste vent systems, antennas, pool equipment, window coverings, drapes and drapery rods, carpeting and floor
covering, awnings, ranges, ovens, water heaters and attached cabinets, it being intended and agreed that such items be conclusively
deemed to be affixed to and to be part of the real property that is conveyed hereby; and (c) all water and water rights (whether or not
appurtenant). Borrower agrees to execute and deliver, from time to time, such further instruments as may be requested by Lender to confirm
the lien of this Mortgage on any such properties. The properties conveyed to Lender hereunder are hereinafter referred to as
"such property."

The Borrower absolutely and irrevocably grants, transfers and assigns to Lender the rents, income, issues, and profits of all property
covered by this Mortgage.

FOR THE PURPOSE OF SECURING:

- (1) Payment of the sum of \$ 190,500.00 with interest thereon, according to the terms of a promissory
note of even date herewith and having a final maturity date of JANUARY 10, 2019 made by Borrower,
payable to Lender or order, and all modifications, extensions or renewals thereof. (2) Payment of such sums as may be incurred, paid out, or
advanced by Lender, or may otherwise be due to Lender, under any provision of this Mortgage and all modifications, extensions or
renewals thereof. (3) Performance of each agreement of Borrower contained herein or incorporated herein by reference or contained in
any papers executed by Borrower relating to the loan secured hereby. (4) Performance, if the loan secured hereby or any part thereof is for
the purpose of constructing improvements on such property, of each provision or agreement of Borrower contained in any building loan
agreement or other agreement between Borrower and Lender relating to such property. (5) The performance and keeping by Borrower of
each of the covenants and agreements required to be kept and performed by Borrower pursuant to the terms of any lease and any and all
other instruments creating Borrower's interest in or defining Borrower's right in respect to such property. (6) Compliance by Borrower, with
each and every monetary provision to be performed by Borrower under any declaration of covenants, conditions and restrictions pertaining
to such property or any declaration of condominium ownership and upon written request of Lender, the enforcement by Borrower of any
covenant to pay maintenance or other charges, if the same have not been paid or valid legal steps taken to enforce such payment within 90
days after such written request is made. (7) At Lender's option, payment, with interest thereon, of any other present or future indebtedness
or obligation of Borrower (or of any successor in interest of Borrower to such property) due to Lender, whether created directly or acquired
by absolute or contingent assignment, whether due or not, whether otherwise secured or not, or whether existing at the time of the execu-
tion of this Mortgage or arising thereafter, the exercise of such option to be evidenced by a notice in writing to Borrower or any successor in
interest of Borrower. (8) Performance of all agreements of Borrower to pay fees and charges to the Lender whether or not herein set forth.
- (9) Payment of charges, as allowed by law when such charges are made, for any statement regarding the obligation secured
hereby.

TO PROTECT THE SECURITY OF THIS MORTGAGE, BORROWER AGREES:

(1) Construction or Improvements. To complete in good and workmanlike manner any building or improvement or repair relating thereto which may be begun on such property or contemplated by the loan secured hereby...

(2) Repair and Maintenance of Property.

Keep such property in good condition and repair, not to substantially alter, remove or demolish any buildings thereon, to replace or repair any buildings which may be damaged or destroyed...

(3) Fire and Casualty Insurance.

Provide and maintain in force at all times fire and other types of insurance with respect to such property as may be required by Lender. Each policy of such insurance shall be in form and content and by such companies...

(4) Life, Health or Accident Insurance.

If Borrower shall maintain life, accident or health insurance and Lender shall be the owner or holder of any policy of such insurance as further security hereunder, Lender may elect to pay any premiums thereon as to which Borrower shall be in default...

(5) Taxes and Other Sum Due.

To pay, satisfy and discharge (a) at least ten (10) days before delinquency, all general and special taxes affecting such property...

(6) Lien, Impoundment and Other Matters.

To pay to Lender in addition to any other payments required hereunder, monthly advance installments, as estimated by Lender, for taxes, assessments, insurance premiums, ground rents or other obligations secured by this Mortgage...

(7) Condemnation and Injury to Property.

All sums due, paid or payable to Borrower or any successor in interest in connection with any condemnation for public use or injury to such property, whether by way of judgment, settlement or otherwise...

(8) Disposition of the Proceeds of any Insurance Policy.

Condemnation or other Recovery. The amount received by Lender pursuant to this Mortgage under any fire or other insurance policy, in connection with any condemnation for public use or injury to such property...

(9) Litigation.

Borrower shall defend in any action or proceeding brought to affect such property whether or not it affects the lien hereon, but not to affect the lien hereon and shall file and prosecute all necessary claims and actions to prevent or recover for any damage to or destruction of such property...

(10) Loan on Leasehold Estate.

Borrower agrees to comply with all of the terms, conditions and provisions of the instrument or instruments creating such leasehold. Borrower also agrees not to amend, change, or modify his leasehold interest, or the terms on which he has such leasehold interest, or to agree to do so, without the written consent of Lender being first obtained...

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(11) **Prepayment Charge.** To pay any prepayment charge required under any note or obligation secured by this Mortgage, in the event that Borrower shall have defaulted in the performance of any obligation secured by this Mortgage and Lender, by reason thereof, shall have declared all sums secured by this Mortgage immediately due and payable.

(12) **Failure of Borrower to Comply with Mortgage.** Should Borrower fail to make any payment, or fail to do any act required in this Mortgage, or fail to perform any obligation secured by this Mortgage, or do any act Borrower agreed not to do, Borrower shall be in default under this Mortgage. Lender, but without obligation so to do and without notice to or demand upon Borrower and without releasing Borrower from any obligation hereof and without contesting the validity or amount of the same, may (a) pay or do the same in such manner and to such extent as it may deem necessary to protect the security hereof, Lender being authorized to enter upon such property for such purposes, (b) pay, purchase, contest or compromise any encumbrance, charge or lien, which in its judgment is or appears to be prior or superior hereof; and (c) in exercising any such power pay necessary expenses. Borrower agrees to repay any amount so expended on demand of Lender.

(13) **Sums Advanced to Bear Interest and To Be Added to Indebtedness.** To pay immediately upon demand any sums advanced or paid by Lender or Borrower under any clause or provision of this Mortgage. Any such sum, until so repaid, shall be secured hereon and bear interest from the date it was advanced or paid at the same interest rate, as may be adjusted from time to time as such indebtedness and shall such sum and interest thereon be secured by this Mortgage.

(14) **Application of Funds.** Lender shall have the right at its sole discretion to direct the manner in which any sum advanced or paid shall be applied upon or allocated among the various items constituting Borrower's indebtedness or obligations secured hereby.

(15) **Obligation of Borrower Joint and Several.** If more than one person is named as Borrower, each shall be jointly and severally obligated to the joint and several obligation of each such person.

(16) **Acceleration Clause: Right of Lender to Declare All Sums Due on any Transfer, Etc.** Lender shall have the right, at its option, to declare any indebtedness and obligations secured hereby, irrespective of the maturity date specified in any note or agreement, upon the same due and payable within 30 days after such declaration. If a Borrower or any successor in interest to Borrower (if the property sells, enters into a contract of sale, conveys or conveys such property or any part thereof, or suffers any change of interest therein to be devised, whether voluntarily or involuntarily or leases such property or any part thereof for a term of more than 3 years, or changes permits to be changed, the character or use of such property, or draws or extends or enters into a lease for the drilling or extraction of oil or other hydrocarbon substances or any mineral of any kind or character on such property or to Borrower, or a partner or partner in a general partnership, or transferred, or if Borrower is a corporation and more than 25% of the corporation's stock is owned and transferred or assigned during a 12 month period, or if Borrower is a trust and there is a change of beneficial interest with respect to more than 25% of such property, or if Borrower has made any material misrepresentation or failed to disclose any material fact, those facts, financial and other written representations and disclosures made by Borrower in order to induce Lender to enter into the transaction evidenced by the promissory note or notes or agreements which this Mortgage secures.

(17) **No Waivers by Lender.** No waiver by Lender of any right under this Mortgage shall be effective unless in writing. Waiver by Lender of any right granted to Lender under this Mortgage or of any provision of this Mortgage as to any particular default shall not be deemed a waiver as to any future breach, non-occurrence. By accepting payment of any sum secured hereon, Lender shall not be deemed to have made any payment or performing any act on behalf of Borrower that Borrower was obligated hereon or that Lender waives its right to require prompt payment when due of all other sums so secured or to require prompt performance of all other acts required hereunder or to declare a default for failure to pay such other sums or to perform such other acts.

(18) **Modification in Writing.** This Mortgage may not be changed or modified except as otherwise may be set forth in this Mortgage in writing agreement in writing signed by Borrower or any successor in interest to Borrower, and Lender.

(19) **Right to Collect and Receive Rents and Profits.** Notwithstanding any other provisions hereof, Lender hereby grants permission to Borrower to collect and retain the rents, income, issues and profits of such property, as they become due and payable, until Lender exercises the right to revoke such permission at any time with or without cause by notice in writing to Borrower, mailed to Borrower at the last known address. In any event, such permission to Borrower automatically shall be terminated upon default by Borrower in payment of any indebtedness secured hereby or in the performance of any agreement hereunder. On any such default, Lender may at any time without notice, either in person, by agent, or by receiver to be appointed by the court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of such property, or any part thereof, make, cancel, enforce or modify, leases, obligations and rent tenants, set or modify rents, in its own name, set or other, use, collect the rents, income, issues and profits thereof, including those past due and unpaid, and apply the same less costs and expenses of collection and collection of any indebtedness secured hereby, and in such order as Lender may determine, and except for such application, Lender shall not be liable for the collection or non-collection of such rents, income, issues or profits, nor the failure to assert in effect any of the foregoing rights. The entering upon and taking possession of such property, the collection of such rents, income, issues and profits, the doing of other acts herein authorized, and the application thereof as aforesaid, shall not constitute or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(20) **Remedies.** No remedy herein provided shall be exclusive of any other remedy hereof, or now or hereafter existing by law, but shall be cumulative. Every power or remedy hereby given to Borrower or to Lender or to which either of them may be otherwise entitled may be exercised from time to time and as often as may be deemed expedient by them, and either of them may pursue independent remedies. If Lender holds any additional security for any obligation secured hereby, it may enforce the sale thereof at its option, the Lender may, contemporaneously with, or after any Mortgagee's sale is made hereunder, and in any default of Borrower, Lender may at its option, obtain an injunction against any indebtedness owing by it to Borrower, the whole or any part of the indebtedness secured hereby. The Lender is hereby authorized and empowered at its option, without any obligation so to do, and without affecting its obligations hereof, to apply, law and the payment of any indebtedness secured hereby, any and all sums or money, or rents or profits of or from any real, personal and what-so-ever property, which is in its possession or under its control, including, among other things, any proceeds held by Lender or its partner, paragraph 6 hereof.

In order to assure the definiteness and certainty of the rights and obligations herein provided, Borrower waives, any and all right of offset which Borrower now or hereafter may have against Lender, of claims and no offset made by Lender shall relieve Borrower from paying any installments on the obligations secured hereby as they become due.

(21) **Foreclosure of Mortgage.** When the indebtedness hereby secured shall become due, whether by an expiration of term or otherwise, the Lender shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be included and treated as additional indebtedness in the decree of sale all penalties and expenses which may be imposed, directly or indirectly, on the party, for the attorney's fees, appraisal fees, court fees, for documentary and expert witnesses, depositions, transcripts, subpoenas, and other costs and expenses of procuring all abstracts of title or commitments for the insurance. Such fees, charges and costs may be estimated by the Lender to be expended after entry of the decree as Lender may deem reasonably necessary either to prosecute such suit or to defend itself, and all such costs which may be had pursuant to such decree the true condition of the title to or the value of the Property. All expenditures and expenses of the nature of this paragraph mentioned shall become so much additional indebtedness secured hereby, and shall be immediately due and payable with interest thereon at the rate specified in the Note. Such expenditures and expenses shall include expenditures made in connection with, any proceeding to which Lender shall be a party, either as plaintiff, defendant or defendant, by reason of this Mortgage, or any indebtedness hereby secured, (b) preparation for the commencement of any suit for foreclosure hereof after accrual of such right to foreclose whether or not actually commenced, (c) preparations for the defense of any threatened suit or proceeding which might affect the Property or the security hereof, whether or not actually commenced, (d) any efforts for collection of any past due indebtedness secured hereby. The proceeds of any foreclosure sale of the Property 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 this paragraph hereof; second, all other items which under the terms hereof constitute indebtedness secured by this Mortgage; third, any surplus to Borrower, his legal representatives or assigns, as their rights may appear.

(22) **Appointment of Receiver.** Upon or at any time after the filing of a complaint to foreclose this Mortgage the court in which such complaint filed may appoint a receiver of the property or may appoint Lender as Mortgagee in possession. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency at the time of application for such receiver, of the person or persons, if any, liable for the payment of the indebtedness secured hereby and without regard to the then value of the property, whether the same shall be then occupied as a homestead or not. Such receiver or Mortgagee in possession shall have power to collect the rents, issues and profits of the premises during the pendency of such foreclosure suit, as well as during any further times when Borrower, his successors or assigns, 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 property during the whole said period. The court from time to time may authorize the receiver or Mortgagee in possession to apply the net income held by either of them in payment in whole or in part of the indebtedness and other sums secured hereby, or in payment of any tax, special assessment or other lien which may be or become superior to the lien hereof or superior to a decree foreclosing this Mortgage, provided such application is made prior to foreclosure sale. In case of a judicial sale, the property, or so much thereof as may then be affected by this Mortgage, may be sold in one parcel.

(23) **Waiver of Statute of Limitations.** Time is of the essence as to all of Borrower's obligations hereunder, and to the extent permitted by law, Borrower waives all present or future statutes of limitation with respect to any debt, demand or obligation secured hereby in any action or proceeding for the purpose of enforcing this Mortgage or any rights or remedies hereunder.

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Notary Public, State of Florida at Large
My Commission Expires May 30, 2009

Notary Public

My commission expires _____
Given under my hand and official seal this _____
20th DAY of DECEMBER 19 88
and after the uses and purposes therein set forth
in this day in person and acknowledged that
THEY ARE
personally known to me to be the same persons whose names
subscribed to the foregoing instrument appeared before
me on this day in person and acknowledged that
ROBERT S. STRAUSS and ALLEN STRAUSS, HUSBAND AND WIFE
a Notary Public and of said county and state do hereby certify that

State of ~~FLORIDA~~ Florida

County of ~~BREVARD~~ BREVARD

ALLEN STRAUSS - 01 RECORDING
143322 FAX 9785 12/30/88 11:34:00
#8877 E * - 83 - 601114
COOK COUNTY RECORDER

Signature of Borrower
ROBERT S. STRAUSS

BORROWER REQUESTS THAT A COPY OF ANY NOTICE OF DEFAULT AND OF ANY NOTICE OF SALE HEREUNDER BE MAILED TO BORROWER AT THE ADDRESS HEREINABOVE SET FORTH

indebtedness.
interest will be added to principal in no case shall the unpaid interest added to the principal exceed 150% of the original principal
interest rate may be adjusted from time to time in accordance with a monthly increase or decrease in an index all as provided in said Note
(32) Adjustable Rate Mortgage Provisions. The Note which this Mortgage secures is an adjustable mortgage loan on which the
conveyance and hereafter, the mortgage shall not be used in constructing it
(31) General Provisions. All this Mortgage applies for matters to the benefit of, and binds, all parties hereto, their heirs, legatees,
assigns, administrators, executors and assigns. (b) The term "Lender" shall mean the owner and holder including a pledgee,
of any note secured hereby, whether or not named as Lender herein. (c) Where, in the context so requires, the masculine gender includes
the feminine and neuter, the singular includes the plural and vice versa. (d) Captions and paragraph headings used herein are for
convenience only, are not a part of this Mortgage and shall not be used in construing it
(30) Notice to Borrower. Any notice to the Borrower provided for in the note or this Mortgage shall be deemed given when it is
deposited in the United States and postage prepaid addressed to the Borrower at the address of the Borrower as it appears in Lender's
records pertaining to the loan evidenced by the note at the time notice is given
(29) Waiver of Homestead. Borrower hereby waives all right of homestead exemption in such property
payable
debt and the indebtedness secured by this Mortgage, respectively of the maturity date specified in the note or notes, immediately due and
representing the indebtedness secured by this Mortgage, in order to discharge the same and to allow the Lender to sell the property
Lender to make the loan evidenced by the note or notes which this Mortgage secures, and in the event that Borrower has made any
misrepresentation or intentional fact or failed to disclose any material fact, Lender at its option and without prior notice shall have the right to
(28) Misrepresentation or Nondisclosure. Borrower has made certain written representations and disclosures in order to induce
time of filing his answer be barred by the applicable statute of limitations.
demands are compensated so far as they equal each other, notwithstanding that an independent action asserting his claim would at the
action is hereafter commenced by one such person, the other person may, in answer to the defense of payment, and an
waives the benefits of any applicable law, regulation or procedure which provides or substantially provides that, where cross-demands for
which Borrower now or hereafter may have or claim to have in respect to all or part of the indebtedness secured hereby, and further
whether liquidated or unliquidated, when Borrower now or hereafter may have or claim to have against Lender and all rights of offset
the indebtedness now or hereafter secured hereby. Borrower waives, to the fullest extent permitted by law, any and all rights of offset
compensated by all or part of any claim, cause of action, counterclaim or part of any claim, cause of action, counterclaim or cross-claim,
(27) Offset. No indebtedness secured by this Mortgage shall be offset or compensated or shall be deemed to have been offset or
Mortgage or the note or other notes secured by this Mortgage
only those paragraphs, clauses or provisions so determined and shall not affect the remaining paragraphs, clauses and provisions of this
secured by this Mortgage is determined by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect
the laws of the United States and the rules and regulations promulgated thereunder, including the federal laws, rules and regulations, and
(26) Governing Law; Severability. The loan secured by this Mortgage is made pursuant to, and shall be construed and governed by
requested by Lender relating to any of such lending statements
and Borrower further agrees, when requested by Lender, to promptly deliver in writing such further additional information as
to the generally accepted accounting principles and practices, which statements shall cover the financial operations relating to each
and loss statements of such types and at such intervals as may be required by Lender which will be in form and content prepared according
income purposes, that when requested by Lender, Borrower will promptly deliver to Lender such certified financial statements and profit
property at any reasonable time. Borrower agrees that in the event that such property is now or hereafter used for commercial or residential
(25) Inspection and Business Records. Lender at any time during the continuation of this Mortgage may enter and inspect such
plus
\$215,900.00