

UNOFFICIAL COPY

1989 MAR 1 PM 3:16

89112217

89112217

**SECOND
SUBORDINATED MORTGAGE**

THIS INDENTURE, made as of the 10th day of March, 1989, between Wilson P. Funkhouser and Cynthia S. Funkhouser, his wife, (herein referred to as Mortgagor"), and The Trustees under The Levin & Funkhouser Profit Sharing Plan and Trust Agreement effective as of February 1, 1982, (hereinafter referred to as "Mortgagee").

WITNESSETH:

\$17.00

THAT, WHEREAS, the Mortgagor is justly indebted to the Mortgagee upon that certain promissory note of even date herewith payable to the order of and delivered to Mortgagee in the aggregate principal sum of FIFTY THOUSAND AND NO/100 (\$50,000.00) DOLLARS, in and by which note the Mortgagor promises to pay the said principal sum and interest at the rate and in installments as provided in said note with final payments of the balance due on the 31st day of March, 1999, and all of said principal and interest are made payable at such place as the holders of the note may, from time to time, in writing appoint (said note being herein referred to as the "Note").

NOW, THEREFORE, the Mortgagor to secure the payment of said principal sum of money and said interest in accordance with the terms, provisions and limitations of this mortgage, and the performance of the covenants and agreements herein contained, by the Mortgagor 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 CONVEY and WARRANT unto the Mortgagee, and the Mortgagee's successors and assigns, the following described Real Estate located at 1020 Hamlin, Park Ridge, Illinois, and all of its estate, right, title and interest therein, situate, lying and being in the County of Cook and State of Illinois and legally described on Exhibit "A" attached hereto and by this reference made a part hereof, which, together with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagee may be entitled thereto is referred to herein as the "Premises," and the interests of Mortgagee granted hereunder are subject and subordinated to the interests of Stanley E. Sopata and Barbara J. Sopata granted pursuant to that certain First Mortgage of even date herewith from Mortgagor encumbering the Premises, recorded as Document No. 89112216 with the Cook County Recorder of Deeds,

This Instrument was prepared by and after recording should be mailed to:

Permanent Index Number
09-34-415-001-0000

Fredric B. Prohov, Esq.
LEVIN & FUNKHOUSER, LTD.
55 West Monroe Street
Suite 2410 - Xerox Centre
Chicago, Illinois 60603

BOX 333 - GG

6-# 7195260
D-4

(2)
D-4/AM
E
MM

89112217

UNOFFICIAL COPY

Property of Cook County Clerk's Office

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 subject to the interests of the Mortgagee under aforesaid First Mortgage.

1. Mortgagor shall keep Premises in good condition and repair, without waste, and free from mechanics or other liens or claims for lien not subordinate to the lien hereof and pay when due any indebtedness which may be secured by a lien or charge on the Premises superior to the lien hereof and upon request, exhibit satisfactory evidence of the discharge of such prior lien to the Mortgagee.

2. Mortgagor shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the Premises when due, and shall upon written request, furnish to the Mortgagee duplicate receipts therefor.

3. The Mortgagor shall have such privilege of making prepayments on the principal of said Note (in addition, to the required payments) as is provided in said Note.

4(a). In case of default herein, Mortgagee may, upon thirty (30) days notice to Mortgagor, but need not, make any payment or perform any act hereinbefore required of Mortgagor 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. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith and any other moneys advanced by Mortgagee to protect the Premises and the lien hereof shall be so much additional indebtedness secured hereby and shall become immediately due and payable and with interest thereon at the rate of interest provided for in the Note. Inaction of Mortgagee shall not be considered as a waiver of any right accruing to the Mortgagee on account of any default hereunder on the part of the Mortgagor.

4(b). The Mortgagee 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.

5. Mortgagor shall pay each item of indebtedness herein mentioned, both principal and interest, when due according to the terms hereof. At the option of the Mortgagee all unpaid indebtedness secured by this mortgage shall, notwithstanding anything in the Note or in this mortgage to the contrary, become due and payable when either of the following Events of Default shall have occurred:

(a) default shall occur in the payment when due of any installment under the Note, and such installment shall remain unpaid after a date specified by written notice to Mortgagor, the date so specified to be not less than thirty (30) days from the date such notice is mailed; or

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

8 9 1 1 2 2 1 7

(b) default shall occur and continue for thirty (30) days after written notice thereof, in the performance of any other agreement of the Mortgagor herein contained, provided, however, that if any such default cannot be cured by Mortgagor within such thirty (30) day period, no Event of Default shall have occurred if Mortgagor commences within said thirty (30) day period to cure such default and diligently pursues such cure.

6. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all reasonable expenditures and expenses which may be reasonably paid or incurred by or on behalf of Mortgagee as may be reasonably necessary to prosecute such suit. All reasonable 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 rate of interest provided for in the Note when paid or incurred by Mortgagee in connection with (a) any proceeding to which the Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this mortgage or any indebtedness hereby secured; or (b) for any suit for the foreclosure hereof after accrual of such right to foreclose.

7. 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; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note; fourth, any surplus to Mortgagor, its successors or assigns, as their rights may appear.

8. Upon or at any time after the filing of a complaint to foreclose this mortgage, the Court in which such complaint is filed may appoint a receiver of said Premises. Such receiver shall have power to collect the rents, issues and profits of said Premises during the pendency of such foreclosure suit as well as during any further times when Mortgagor, 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 (a) the indebtedness secured hereby, or by any decree foreclosing this 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; and (b) the deficiency in case of a sale and deficiency.

9. Mortgagee shall release this mortgage and lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby. Recording costs for any such instruments shall be borne by Mortgagor.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

10. In order to induce the Mortgagee to make the loan secured by this Mortgage, the Mortgagor agrees not to sell, encumber, lease or convey, or otherwise dispose of all or any part of the Premises without the prior written consent of the Mortgagee or refinance the repayment of the indebtedness secured by this Mortgage without the prior written consent of the mortgagee, not to be unreasonably withheld, and that if the Premises, or any part thereof, or interest, legal or equitable, therein is sold, assigned, transferred, leased, conveyed or otherwise alienated by the Mortgagor, or an option granted for any such interest in either or any case without the prior written consent of the Mortgagee, the Mortgagee, at its option, may declare the then full outstanding principal balance of the indebtedness under the Note to be forthwith due and payable. Any change in the legal or equitable title to the Premises or in the beneficial interest in the land trust holding title to the Premises without the prior written consent of Mortgagee, whether or not of record and whether or not for consideration or sale or other disposition of any interest in the Mortgagor, shall be deemed a transfer of an interest in the Premises in violation of this Section.

11. This mortgage and all provisions hereof shall extend to and be binding upon Mortgagor and all persons claiming under or through Mortgagor and the word "Mortgagor" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the note or this 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 note secured hereby.

12. Notwithstanding anything contained herein to the contrary, Mortgagor may contest the validity and/or amount of any lien, encumbrance, general tax, special tax, special assessment, water charge, sewer charge, mechanics or materialman's lien or any other charge against the Premises, without first paying such charge, provided that such contest is diligently pursued.

13. Any notice or other communication with respect to this Mortgage shall be in writing and shall be deemed to have been given when delivered personally or when deposited in the United States Mail, registered or certified, return receipt requested, and with proper postage prepaid addressed as follows:

(a) If to Mortgagor:

Wilson P. Funkhouser and
Cynthia S. Funkhouser
1020 Hamlin
Park Ridge, Illinois 60068

89112217

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

0 9 1 1 1 2 1 7

with copy to:

Fredric B. Prohov, Esq.
Levin & Funkhouser, Ltd.
55 West Monroe Street
Suite 2410
Chicago, Illinois 60603

(b) If to Mortgagee:

The Levin & Funkhouser Profit Sharing Plan
Levin & Funkhouser, Ltd.
55 West Monroe Street
Suite 2410
Chicago, Illinois 60603

Attention: Vance L. Liebman, Esq.

or such other address as either party may specify for himself or itself by written notice as provided herein.

14. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage or the application thereof to any party or circumstance shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or any other provision of this Mortgage or the application of such provision to other parties or circumstances.

15. This Mortgage is being executed and delivered in the State of Illinois, and the validity, construction and enforceability of this Mortgage shall be governed in all respects by the laws of the State of Illinois.

IN WITNESS WHEREOF, Wilson P. Funkhouser and Cynthia S. Funkhouser have executed this Agreement as of the first date written above.


Wilson P. Funkhouser


Cynthia S. Funkhouser

89112217

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY 7

EXHIBIT A LEGAL DESCRIPTION

PARCEL 1:

LOT 1 IN BLOCK 4 IN THE FOREST ADDITION TO THE HULBERT DEVONSHIRE TERRACE, BEING A SUBDIVISION IN THE SOUTH EAST 1/4 OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 1, 1926 AS DOCUMENT 9192923 IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE 16 FOOT ALLEY LYING WEST OF AND ADJOINING LOT 1 IN AFORESAID SUBDIVISION IN THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PN # 09-311-415-001-0000

1020 S. HAMLIN

PARK RIDGE, IL

60068

89112217

Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office