

UNOFFICIAL COPY

~~92400598~~

92400598

(Space Above This Line For Recording Data)

MORTGAGE

LOAN #: 1-784813-51

26

THIS MORTGAGE ("Security Instrument") is given on MAY 26, 1992. The mortgagor is JAMES A. BIESTADA AND GAEPANA BIESTADA, HIS WIFE

("Borrower"). This Security Instrument is given to GMAC MORTGAGE CORPORATION OF PA which is organized and existing under the laws of PENNSYLVANIA, and whose address is 8360 OLD YORK ROAD, ELKINS PARK, PA 19117-1590 ("Lender").

Borrower owes Lender the principal sum of NINEFY THOUSAND AND 00/100 ***** Dollars (U.S. \$ 90,000.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on JUNE 01, 2007. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender the following described property located in COOK County, Illinois:

LOT 1 IN O'DONNELL'S 89TH PLACE RESUBDIVISION OF LOTS 80, 81 AND 82 IN FRANK DE LUGAGH'S FLORENCE HIGHLANDS SUBDIVISION BEING A SUBDIVISION OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 (EXCEPT THAT PART LYING EAST OF THE WEST LINE OF THE EAST 22 ACRES OF SAID SOUTH 1/2 OF THE SOUTHEAST 1/4) OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED OCTOBER 15, 1935 AS DOCUMENT NO. 1163425, IN COOK COUNTY, ILLINOIS.

TAX I.D. NUMBER: 24-05-217-048 VOLUME 239

which has the address of 5840 WEST 89TH PLACE (Street) OAK LAWN (City) Illinois 60453 (Zip Code) ("Property Address")

92400598

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

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

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



2950

UNOFFICIAL COPY

TERMINAL COVENANTS - Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest, Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the due date of the monthly payments when due under the Note, a sum of "Funds" for (a) yearly taxes and assessments which must be paid in full, (b) yearly hazard or property insurance premiums, (c) yearly household payments or amounts on the Property, if any, and (d) any sums payable by Borrower to Lender in connection with the payment of mortgage insurance premiums. These amounts shall be paid to Lender in full, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the Federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. § 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonably estimates of expenditures of future escrow items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity including Lender, if Lender is such an institution or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the escrow items. Lender may not charge Borrower for holding and applying the Funds, annually, analyzing the escrow account or carrying the escrow items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender may agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the escrow items when due, Lender may so notify Borrower in writing, and, in such case, Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. (If under paragraph 2, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraph 2, third, to interest due, fourth, to principal due, and last, to any late charges due under the Note.

4. **Changes; Loans.** Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attach to the Property, over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien, or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attach to the Property, Lender may give Borrower a notice identifying the lien. Borrower shall promptly satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. **Hazard or Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 2 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

865002526

UNOFFICIAL COPY

6. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property, or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

7. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorney's fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

8. Mortgage Insurance. If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Lender, if mortgage insurance coverage (in the amount and for the period that Lender requires) provided by an insurer approved by Lender again becomes available and is obtained. Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Borrower and Lender or applicable law.

9. Inspection. Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

10. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Borrower and Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

11. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument, (b) is not personally obligated to pay the sums secured by this Security Instrument, and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.



445418000

UNOFFICIAL COPY

13. **Loan Charges.** The loan secured by this Security Instrument is subject to a law which sets maximum loan charges. An overdraft charge shall be applied to the interest on other loan charges collected or to be collected in connection with the loan. The overdraft charge shall be reduced by the amount necessary to reduce the charge to the permitted amount and the amount already collected from Borrower which exceeded permitted limits will be refunded. Borrower shall be required to make this refund by reducing the principal owed under the Note or by making a direct payment to GMAC. If the overdraft charge is not paid, the refund now will be treated as a partial prepayment without any prepayment penalty or other charge.

14. **Notice.** All notices provided for in this Security Instrument shall be given by delivering it or by mailing it to the address designated by Borrower in the Security Instrument. The notice shall be directed to the property address of the address designated by Borrower. Any notice to Lender shall be given by the Lender to the address of the Lender designated by Lender. Any notice to Borrower shall be given as provided in this paragraph.

15. **Governing Law; Severability.** This Security Instrument shall be governed by federal law and the law of the state of Maryland. If the event that any provision of this Security Instrument or the Note which is intended to be enforceable under the law of the state of Maryland is held to be unenforceable under the law of any other state, the enforceability of the remaining provisions of this Security Instrument and the Note shall not be affected. If any provision of this Security Instrument or the Note which is intended to be enforceable under the law of the state of Maryland is held to be unenforceable under the law of any other state, the enforceability of the remaining provisions of this Security Instrument and the Note shall not be affected.

16. **Borrower's Copy.** Borrower shall be given one conformed copy of the Note and of this Security Instrument and be given one conformed copy of the Security Instrument and the Note. The provisions of this Security Instrument and the Note shall be enforceable under the law of the state of Maryland.

17. **Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in the Property or a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person, the Lender shall be notified in writing of the sale or transfer. Lender may, at its option, require immediate payment in full of all sums secured by the Note and the Security Instrument. If the sale or transfer is prohibited by federal law, the Lender shall also be notified. Lender shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by the Note. Lender may, at its option, require immediate payment in full of all sums secured by the Note and the Security Instrument. If the sale or transfer is prohibited by federal law, the Lender shall also be notified. Lender shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by the Note and the Security Instrument.

18. **Borrower's Right to Redeem.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument terminated. If the Security Instrument is terminated, Borrower shall have the right to have enforcement of this Security Instrument terminated. If the Security Instrument is terminated, Borrower shall have the right to have enforcement of this Security Instrument terminated.

19. **Sale of Note (Change of Loan Servicer).** The Note or a partial interest in the Note together with this Security Instrument may be sold or assigned to another party without prior notice to Borrower. A sale may result in a change in the entity which services the Note. The new servicer shall be notified of the change in the servicer. The new servicer shall be notified of the change in the servicer. The new servicer shall be notified of the change in the servicer.

20. **Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on the Property. Borrower shall not allow anyone else to do anything affecting the Property that is prohibited by or under the Environmental Law. The preceding two sentences shall not apply to the presence, use, disposal, storage, or release of any Hazardous Substances if the presence, use, disposal, storage, or release of such substances is required by a governmental or regulatory agency or private party involving the Property and any Hazardous Substance or any governmental or regulatory agency or private party involving the Property and any Hazardous Substance. If Borrower learns, or is notified by any governmental or regulatory agency, that any removal or other remedial action is required by any governmental or regulatory agency, Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by or on behalf of any governmental or regulatory agency or private party involving the Property and any Hazardous Substance. If Borrower learns, or is notified by any governmental or regulatory agency, that any removal or other remedial action is required by any governmental or regulatory agency, Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by or on behalf of any governmental or regulatory agency or private party involving the Property and any Hazardous Substance.

21. **Acceleration Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 21, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

865000255

UNOFFICIAL COPY

LOAN #: 1-785813-51

22. **Release.** Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.

23. **Waiver of Homestead.** Borrower waives all right of homestead exemption in the Property.

24. **Riders to this Security Instrument.** If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.

[Check applicable boxes]

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

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

Witnesses:

James A. Biestada (Seal)
JAMES A. BIESTADA
Social Security Number

Gaetana Biestada (Seal)
GAETANA BIESTADA
Social Security Number

Social Security Number

Social Security Number

[Space Below This Line for Acknowledgment]

STATE OF ILLINOIS,

County ss:

On this, the TWENTY SIXTH day of MAY, 1992, before me, the subscriber, the undersigned officer, personally appeared JAMES A. BIESTADA AND GAETANA BIESTADA, HIS WIFE

known to me (or satisfactorily proven) to be the person(s) whose name ARE subscribed to the within instrument and acknowledged that they executed the same for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires:

Lynda S. Bimstead

TITLE OF OFFICER
"OFFICIAL SEAL"
LYNDA S. BIMSTEAD
Notary Public, State of Illinois
My Commission Expires 12/14/95

This document was prepared by:
SANDY HALLER for
GMAC Mortgage Corporation of PA
5540 WEST 111TH STREET
OAKLAWN, IL 60453



92540595