

UNOFFICIAL COPY

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THIS INSTRUMENT PREPARED BY:
PAUL DAVIS
WHEN RECORDED MAIL TO:
HOME SAVINGS OF AMERICA
LOAN SERVICE CENTER
P.O. BOX 60015
CITY OF INDUSTRY, CALIFORNIA 91716-0015

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

Mortgage and Assignment of Rents ADJUSTABLE INTEREST RATE LOAN

LOAN NO. 1428831-0

This Mortgage, made this 29th day of APRIL, 1992, between
FIRST CHICAGO TRUST COMPANY OF ILLINOIS, NOT PERSONALLY, BUT AS TRUSTEE
UNDER A CERTAIN TRUST AGREEMENT DATED JULY 14, 1988, AND KNOWN AS TRUST NO. R-658

herein called BORROWER, whose address is 791 ELM STREET

(number and street)

WINNETKA
(city)

IL
(state)

60093
(zip code)

, and

and HOME SAVINGS OF AMERICA, FSB, a corporation herein called LENDER, whose address is 4900 Rivergrade Road, Irwindale, California 91706.

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

THE WEST 48 FEET OF LOTS 189, 190 AND 191 IN "THE TERRACE" MCKEY AND POAGUES ADDITION TO EVANSTON BEING A SUBDIVISION OF ADAM HUTH HOMESTEAD (EXCEPT THE SOUTH 47 FEET THEREOF) IN THE EAST 1/2 SOUTH OF GROSS POINT ROAD OF FRACTIONAL SECTION 33 AND OF THE EAST 200 FEET OF LOT 3 IN HENRY WITBOLDS SUBDIVISION OF THE SOUTH 47 FEET OF LOTS 5 AND 8 AND THAT PART OF LOT 7 LYING EAST OF THE WEST 247.5 FEET THEREOF IN COUNTY CLERK'S DIVISION OF FRACTIONAL SECTION 33, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS 3111 THAYER, EVANSTON, IL. 60201

PTN: 05-33-410-026

1992 APR 28 PM 3:41

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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, dishwashing, 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 \$ 252,000.00 with interest thereon, according to the terms of a promissory note of even date herewith and having a final maturity date of MAY 10, 2032 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 execution 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.

REI-C-53382-191

(11) Prepayment Charge. The Borrower shall pay to the Lender a prepayment charge of _____ percent of the amount of the prepayment of principal of the Mortgage when the amount of the prepayment of principal of the Mortgage exceeds _____ percent of the amount of the principal of the Mortgage outstanding as of the date of the prepayment.

(12) Failure of Borrower to Comply with Mortgage. If the Borrower fails to comply with any of the terms of this Mortgage, the Lender may, at its option, (a) declare the entire principal amount of the Mortgage to be immediately due and payable, (b) demand and without notice, judgment or delay, to take possession of the Property and without releasing the Borrower therefrom, (c) take any action which the Lender may lawfully take to protect its interest in the Property and to such extent as may be necessary to protect its interest hereof, (d) subject to the limitations set forth in this Mortgage, to sell, lease, convey, or otherwise dispose of the Property, (e) to execute any instrument which may be necessary to carry out any of the purposes of this Mortgage, (f) to execute any instrument which may be necessary to carry out any of the purposes of this Mortgage, and (g) to incur any expense which may be necessary to carry out any of the purposes of this Mortgage.

(13) Status of Lender. The Borrower shall stand to be added to indebtedness of the Lender to the extent of any sums advanced or loaned by the Lender to the Borrower for the purpose of the Mortgage, and the same shall be secured by the same lien and be a part of the same debt as the principal of the Mortgage, and the same may be added to the principal of the Mortgage, and the same shall be secured by the same lien and be a part of the same debt as the principal of the Mortgage.

(14) Obligation of Borrower and Several. The Borrower shall be bound by the terms of this Mortgage, and the same shall be secured by the same lien and be a part of the same debt as the principal of the Mortgage, and the same may be added to the principal of the Mortgage, and the same shall be secured by the same lien and be a part of the same debt as the principal of the Mortgage.

(15) Acceleration Clause; Right of Lender to Declare All Sums Due on Any Transfer, Etc. In the event the Borrower fails to declare any indebtedness secured hereby, and the Lender is notified in writing of the same, the Lender may, at its option, (a) declare the entire principal amount of the Mortgage to be immediately due and payable, (b) demand and without notice, judgment or delay, to take possession of the Property and without releasing the Borrower therefrom, (c) take any action which the Lender may lawfully take to protect its interest in the Property and to such extent as may be necessary to protect its interest hereof, (d) subject to the limitations set forth in this Mortgage, to sell, lease, convey, or otherwise dispose of the Property, (e) to execute any instrument which may be necessary to carry out any of the purposes of this Mortgage, (f) to execute any instrument which may be necessary to carry out any of the purposes of this Mortgage, and (g) to incur any expense which may be necessary to carry out any of the purposes of this Mortgage.

(16) 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 transaction or occurrence shall not be deemed a waiver as to any future transaction or occurrence. By accepting payment of any sum secured hereby after its due date or by making any payment or performing any act on behalf of Borrower that Borrower was obligated hereunder but failed to make or perform, or by adding any payment so made by Lender to the indebtedness secured hereby, Lender does not waive 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.

(17) Modification in Writing. This Mortgage cannot be changed or modified except as otherwise provided in this Mortgage or by agreement in writing signed by Borrower, or any successor in interest to Borrower, and Lender.

(18) Right to Collect and Receive Rents and Profits. Notwithstanding any other provision to the contrary, 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, but Lender reserves the right to revoke such permission at any time with or without cause by notice in writing to Borrower, mailed to Borrower at his last known address. In any event, such permission to Borrower automatically shall be revoked 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, evict and eject tenants, set or modify rents, in its own name sue for or otherwise collect the rents, income, issues and profits thereof, including those past due and unpaid; and apply the same, less costs and expenses of operation and collection, upon any indebtedness secured hereby and in such order as Lender may determine, and except for such application, Lender shall not be liable to any person for the collection or non-collection of any rents, income, issues or profits, nor the failure to assert or enforce any of the foregoing rights. The entering upon and taking possession of such property, the collection of such rents, income, issues or profits, the doing of other acts herein authorized, and the application thereof as aforesaid, shall not cure or waive any default or non-compliance hereunder or constitute any act done pursuant to such notice.

(19) Remedies. No remedy herein provided shall be exclusive of any other remedy herein 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 none of them may, per se, be inconsistent therewith. If Lender holds any additional security for any obligation secured hereby, it may enforce the same hereat if it so elects, either before, contemporaneously with, or after any Mortgagee's sale is made hereunder, and on any default of Borrower, Lender may, at its option, offset 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 the obligations hereof, to apply toward the payment of any indebtedness secured hereby, any and all sums or money, or credits of or belonging to Borrower and which the Lender may have in its possession or under its control, including, among other things, any impounds held by Lender under paragraph (18) hereof.

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

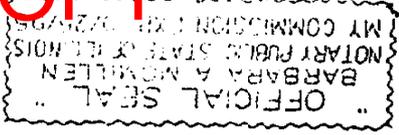
(20) Foreclosure of Mortgage. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, the Lender shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree of sale all expenditures and expenses which may be paid or incurred by or on behalf of Lender for attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographer's charges, publication cost and costs of procuring all abstracts of title or commitments for title insurance. Such fees, charges and costs may be estimated as to terms to be expended after entry of the decree as Lender may deem reasonably necessary either to prosecute such suit or to tender to bid let, if any sale 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 (a) any proceeding to which Lender shall be a party, either as plaintiff, defendant or both, (b) any proceeding to which Lender or any indebtedness hereby secured, (c) preparation for the commencement of any suit to foreclose the lien hereof, (d) any suit to foreclose whether or not actually commenced, (e) preparation for the defense of any threatened suit to foreclose the lien hereof, (f) the Property or the security hereof, whether or not actually commenced, (g) any effort to collect or satisfy the 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 fees, charges and expenses 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.

(21) Appointment of Receiver. Upon or at any time after the filing of a complaint to foreclose this Mortgage the court in which the 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 of the Mortgagee 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.

(22) 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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BOX 169



IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this 8th day of April, 1993

Barbara A. McMillen, a Notary Public, in and for and residing in Cook County, in the State aforesaid, DO HEREBY CERTIFY that Lynda K. Anderson and Lynda K. Anderson, respectively, of The First Chicago Bank of Winnetka, personally known to me to be the same persons whose names are subscribed in the foregoing instrument as such Vice President and President, respectively, appeared before me this day in person and being first duly sworn by me severally acknowledged that they signed and delivered the said instrument as their free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth and the said seal of said company, did affix the corporate seal of said company to said instrument as said President and Vice President of said company, for the uses and purposes therein set forth and as the free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

STATE OF ILLINOIS } COUNTY OF COOK } SS } LOAN NO. 1428831-0

ATTEST: FIRST CHICAGO TRUST COMPANY OF ILLINOIS as Trustee as aforesaid, and not personally or individually D. Bruce Magers, Vice President

BORROWER REQUESTS THAT A COPY OF ANY NOTICE OF DEFAULT AND OF ANY NOTICE OF SALE HEREUNDER BE MAILED TO BORROWER AT THE ADDRESS HEREINAFORE SET FORTH. This Mortgage is executed by FIRST CHICAGO TRUST COMPANY OF ILLINOIS

- (24) Future Advances. Upon request of Borrower, Lender at Lender's option prior to release of this Mortgage, may make Future Advances to Borrower. Such Future Advances, with interest thereon, shall be secured by this Mortgage when evidenced by promissory notes stating that said notes are secured hereby. At no time shall the principal amount of the indebtedness secured by this Mortgage, including sums advanced in accordance herewith to protect the security of this Mortgage, exceed the original amount of the Note plus 277,000.00
(25) Inspection and Business Records. Lender at any time during the continuation of this Mortgage may enter and inspect such property at any reasonable time. Borrower agrees that in the event that such property is now or hereafter used for commercial or residential income purposes, that when requested by Lender, Borrower will promptly deliver to Lender such certified financial statements and profit 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 to the generally accepted accounting principles and practices, which statements shall cover the financial operations relating to such property, and Borrower further agrees, when requested by Lender, to promptly deliver, in writing such further additional information as required by Lender relating to any of such financial statements.
(26) Governing Law; Severability. The loan secured by this Mortgage is made pursuant to, and shall be construed and governed by, the laws of the United States and the rules and regulations promulgated thereunder, including the federal laws, rules and regulations for federal savings and loan associations. If any paragraph, clause or provision of this Mortgage is determined by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those paragraphs, clauses or provisions so determined and shall not affect the remaining paragraphs, clauses and provisions of this Mortgage or the note or other notes secured by this Mortgage.
(27) Offset. No indebtedness secured by this Mortgage shall be offset or compensated or shall be deemed to have been offset or compensated by all or part of any claim, cause of action, counterclaim or part of any claim, cause of action, counterclaim or cross-claim, whether liquidated or unliquidated, which Borrower now or hereafter may have or may claim to have against Lender, and, in respect to the indebtedness now or hereafter secured hereby, Borrower waives, to the fullest extent permitted by law, any and all rights of offset which Borrower now or hereafter may have or claim to have in respect to all or part of the indebtedness secured hereby, and further waives the benefits of any applicable law, regulation or procedure which provides or substantially provides for cross-default demands for money have existed between persons at any point in time when neither demand was barred by the applicable statute of limitations, and an action is thereafter commenced by one such person, the other person may assert in his answer the defense of payment in that the two demands are compensated so far as they equal each other, notwithstanding that an independent action asserting his claim would at the time of filing his answer be barred by the applicable statute of limitations.
(28) Misrepresentation or Non-disclosure. Borrower has made certain written representations and disclosures in order to induce 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 material fact or failed to disclose any material fact, Lender, at its option and without prior notice, shall have the right to declare the indebtedness secured by this Mortgage, irrespective of the maturity date specified in the note or notes, immediately due and payable.
(29) Waiver of Homestead. Borrower hereby waives all right of homestead exemption in such property.
(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 mail, 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.
(31) General Provisions. (a) This Mortgage applies to, inures to the benefit of, and binds, all parties hereto, their heirs, legatees, devisees, administrators, executors, successors 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) Wherever the context so requires, the masculine gender includes the feminine and neuter, the singular number 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.
(32) Adjustable Rate Mortgage Provisions. The Note which this Mortgage secures is an adjustable mortgage loan on which the 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. From time to time the monthly installment payments due under said Note may not be sufficient to pay all interest due in which case unpaid interest will be added to principal, in no case shall the unpaid interest added to the principal exceed 150% of the original principal indebtedness.
(33) Waiver of Right of Redemption. Borrower has been directed by its beneficiary to and hereby does waive any and all rights of redemption from sale under any order of foreclosure of this Mortgage on its behalf and on behalf of each and every person, except decrease or judgment creditors of the Borrower acquiring an interest in or title to the Property subsequent to the date of this Mortgage. This Mortgage is executed by

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ATTACHED MORTGAGE EXONERATION RIDER IS INCORPORATED HEREIN

2023-066

MORTGAGE EXONERATION RIDER

MORTGAGE is executed by First Chicago Trust Company of Illinois, not personally but as Trustee as aforesaid in the exercise of the power hereby conferred upon vested in it as such Trustee and said First Chicago Trust Company of Illinois, hereby warrants that its possessors full power to execute this instrument, and it is expressly understood and agreed that nothing herein or in said Note contained shall be construed to constitute, in any way, any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, or on account of any right or security hereunder, and that so far as the Trustee and its successors and said First Chicago Trust Company of Illinois, personally or jointly, are liable for the payment thereof, by the enforcement of the lien hereby created, in the manner herein and in said Note, provided or by action to enforce the same, the liability of the guarantor, if any, shall not be affected.

ATTACHED MORTGAGE EXONERATION RIDER IS INCORPORATED HEREIN

Property of Cook County Clerk's Office

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