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UNOFFICIAL COPY

THIS INSTRUMENT PREPARED BY
776 - B. JONES

WHEN RECORDED MAIL TO
HOME SAVINGS OF AMERICA
LOAN SERVICE CENTER
P.O. BOX 60015
CITY OF INDUSTRY, CALIFORNIA 91716-0015



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

Mortgage and Assignment of Rents
ADJUSTABLE INTEREST RATE LOAN LOAN NO. 1719382-2

This Mortgage, made this 30th day of AUGUST, 1994, between

ADRIAN WINICK, A MARRIED MAN

herein called BORROWER, whose address is 2001 BURR OAK

(number and street)

HIGHLAND PARK
(city)

IL
(state)

60035
(zip code)

, and

and HOME SAVINGS OF AMERICA, F.S.B. a corporation herein called LENDER, whose address is 4800 Rivergrade Road, Irwindale, California 91706

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

LOT 18 IN BLOCK 4 IN LINN AND SWAN'S SUBDIVISION OF THE WEST 1/2 OF LOT 18 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS 1144 WEST MONTANA STREET, CHICAGO, IL. 60614

PTN: 14 29 421 018

DEPT-01 RECORDING

\$27.50

THIS IS NOT HOMESTEAD PROPERTY.

T85555 TRAN 4296 08/31/94 14:22:00

#6239 JJ *-94-769743

COOK COUNTY RECORDER

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 \$ 265,000.00 with interest thereon, according to the terms of a promissory note of even date herewith and having a final maturity date of SEPTEMBER 5, 2034 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.

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FIRST AMERICAN TITLE INSURANCE #

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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, to pay when due all costs and liabilities incurred therefor, and not to permit any mechanic lien against such property, nor any stop notice against any loan proceeds. Borrower also agrees, anything in this Mortgage to the contrary notwithstanding (a) to promptly commence work and to complete the proposed improvements promptly (b) to complete same in accordance with plans and specifications as approved by Lender, (c) to allow Lender to inspect such property at all times during construction (d) to replace any work or materials unsatisfactory to Lender, within fifteen (15) days after written notice from Lender of such fact, which notice may be given to Borrower by certified mail, sent to his last known address, or by personal service of the same, and (e) to perform all other obligations of Borrower under any building loan agreement relating to such property.

(2) **Repair and Maintenance of Property.** To keep such property in good condition and repair, not to substantially alter, remove or demolish any buildings thereon, to restore promptly and in good workmanlike manner any buildings which may be damaged or destroyed including, but not limited to, damage from fires and earth movement, to pay when due all claims for labor performed and materials furnished in connection with such property and not to permit any mechanic lien against such property, to comply with all law affecting such property or requiring any alterations or improvements to be made thereon, not to commit or permit while the person, not to commit, suffer or permit any act upon such property in violation of law, to curtail, interrupt, fetter, terminate and to do all other acts that from the character or use of such property may be reasonably necessary to keep such property in the same condition (reasonable wear and tear excepted) as at the date of this Mortgage.

(3) **Fire and Casualty Insurance.** To 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 an amount, for a term and in form and content and by such companies as may be satisfactory to Lender, with loss payable to Lender, and shall be delivered to, and remain in possession of, Lender as further security for the faithful performance of these covenants. Borrower shall also furnish Lender with written evidence showing payment of all premiums therefor. At least thirty (30) days prior to the expiration of any insurance policy, a policy renewing or extending such existing insurance shall be delivered to Lender with written evidence showing payment of the premium therefor, and, in the event any such insurance policy and evidence of payment of the premium are not so delivered to Lender, Borrower by executing this Mortgage specifically releases Lender to obtain such insurance. Lender, but without obligation so to do, without notice to or demand upon Borrower, and without releasing Borrower from any obligation hereof, may obtain such insurance through or from any insurance agency or company acceptable to it, and pay the premium therefor. Lender shall not be chargeable with obtaining or maintaining such insurance or for the collection of any insurance or compensation or any other person, any information contained in or extracted from any insurance policy theretofore delivered to Lender pursuant hereto, and any information concerning the loan secured hereby. Borrower hereby assigns to Lender all unearned premiums on any such policy, and agrees that any and all unearned premiums shall inure to the benefit of, and pass to, the purchaser of the property conveyed at any sale held hereunder pursuant to the foreclosure of this Mortgage.

(4) **Life, Health or Accidental Insurance.** If Borrower shall maintain life, accident or health insurance and Lender shall be the owner or holder of any policy of such insurance, Lender may cause a further security hereunder. Lender may elect to pay any premiums thereon as to which Borrower shall be in default and an amount so paid may be secured hereby.

(5) **Taxes and Other Sums Due.** To pay, satisfy and discharge (a) at least ten (10) days before delinquency, all general and special taxes affecting such property, (b) when due, all special assessments for public improvements, (c) on demand of Lender but in no event later than the date such amounts become due, (1) all obligations, charges and liens, with interest, on such property, or any part thereof, which are, or appear to Lender to be, prior to, or superior hereof, (2) all costs, fees and expenses of this Mortgage whether or not described herein; (3) fees or charges for any statement, or any other document, required hereof, (4) such other charges as the Lender may deem reasonable for services rendered by Lender and furnished at the request of Borrower or his successor in interest under the terms of the instrument or a reassigned estate, all payments and obligations required of the Borrower or his successor in interest under the terms of the instrument or instruments creating such reassigned estate and obligations required of the owner of such property under any declaration of covenants or conditions or restrictions pertaining to such property or any modification thereof. Should Borrower fail to make any such payment, Lender without consulting the validity or amount, may elect to make or advance such payment, together with any costs, expenses, fees or charges relating thereto. Borrower agrees to notify Lender immediately upon receipt by Borrower of notice of any increase in the assessed value of such property. Borrower agrees to notify Lender and appropriate taxing authorities immediately upon the happening of any event which does or may affect the value of such property, the amount or basis of such property, or the availability of any exemption to which Borrower is or may be entitled.

(6) **Impoundment.** To pay to Lender, in addition to any other payments required hereunder, monthly advance installments, as estimated by Lender, for taxes, assessments, maintenance programs, ground rents or other obligations secured by this Mortgage hereinafter in this paragraph referred to as "such obligations" for the purpose of establishing a fund to insure payment when due, or before delinquency, of any or all of such obligations required to be paid as to such property. If the amounts paid to Lender under the provisions of this paragraph are insufficient to discharge the obligations of Borrower to pay such obligations as the same become due or delinquent, Borrower shall pay to Lender, upon its demand, such additional sums as may be necessary to discharge Borrower's obligation to pay such obligations. All monies paid to Lender under this paragraph may be retained with or without interest, and shall not bear interest, except as required by law. Lender may pay such obligations whether before or after they become due and payable in the event of a default in the payment of any monies due on the indebtedness secured hereby, default of any obligation secured hereby, or default in the performance of any of the covenants and obligations of this Mortgage, then any balance remaining from monies paid to Lender under the provisions of this paragraph may, at the option of Lender, be applied to the payment of principal, interest or other obligations secured hereby in lieu of being applied to any of the purposes for which the impound account is established. Lender will make such reports of impound as are required by law.

(7) **Condemnation and Injury to Property.** All sums due, paid or payable to Borrower or any successor in interest to Borrower of such property, whether by way of judgment, settlement or otherwise, (a) for injury or damage to such property, (b) in connection with any condemnation for public use or injury to such property, or any part thereof, are hereby assigned and shall be paid to Lender. All causes of action or claims for public use or injury to such property, whether accrued before or after the date of this Mortgage, for damage or injury to such property, or any part thereof, or in connection with the transaction financed by the funds loaned to Borrower by Lender, or in connection with the taking of any action arising in tort or contract and causes of action for fraud or concealment of material facts, are hereby assigned to Lender, and the proceeds thereof shall be paid to Lender who, after deducting therefrom all its expenses, including reasonable attorneys' fees, may apply such proceeds to the sums secured by this Mortgage, to any deficiency under this Mortgage or may release any monies so received by it or any part thereof, as Lender may elect. Lender may elect to foreclose in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Borrower agrees to execute any further assignments and other instruments as from time to time may be necessary to effectuate the foregoing provisions and as Lender shall request.

(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, for injury or damage to such property or in connection with the transaction financed by the loan secured hereby, at the option of Lender may be applied by Lender, to any indebtedness secured hereby and in such order as Lender may determine or without reducing the indebtedness secured hereby, may be used to replace, restore, or reconstruct such property, and Lender is hereby authorized, without obligation so to do, to prosecute or defend any and all damage to or destruction of such property, and Lender shall defend, without obligation so to do, to prosecute or defend any and all damage to or destruction of such property, whether brought by or against Borrower or against Lender, or with or without suit, to enforce any other right, remedy, or power available or contended hereunder, whether or not judgment be entered in any action or proceeding, and Lender may appear or intervene in any action or proceeding, and retain counsel thereon, and take such action thereon, as either may be deemed necessary or advisable, and may settle, compromise or pay the same or any other claims and, in so doing, may expand and advance such sums of money or other assets, including costs of evidence of title, in any such action or proceeding in which Lender may appear by virtue of being made a party defendant or otherwise, and irrespective of whether the interest of Lender in such property or other powers hereunder may be affected by such action, including, but not limited to, any action for the condemnation or partition of such property and any suit brought by Lender to foreclose this Mortgage.

(9) **Litigation.** Borrower shall defend this trust in any action or proceeding purporting to affect such property whether or not it affects the lien hereof, purporting to affect the lien hereof and shall file and prosecute all necessary claims and actions to prevent or recover for such action, whether brought by or against Borrower or against Lender, or with or without suit, to enforce any other right, remedy, or power available or contended hereunder, whether or not judgment be entered in any action or proceeding, and Lender may appear or intervene in any action or proceeding, and retain counsel thereon, and take such action thereon, as either may be deemed necessary or advisable, and may settle, compromise or pay the same or any other claims and, in so doing, may expand and advance such sums of money or other assets, including costs of evidence of title, in any such action or proceeding in which Lender may appear by virtue of being made a party defendant or otherwise, and irrespective of whether the interest of Lender in such property or other powers hereunder may be affected by such action, including, but not limited to, any action for the condemnation or partition of such property and any suit brought by Lender to foreclose this Mortgage.

(10) **Loan or Leasehold Estate.** If such property includes a leasehold estate, Borrower agrees to comply with all of the terms, conditions and provisions of the instrument or instruments creating such leasehold estate, and to defend and indemnify Lender and his heirs, assigns and successors in interest, or the terms on which he has such estate, or to agree to do so, without the written consent of Lender being obtained in respect of the instrument or instruments creating such leasehold estate. If such property includes a leasehold estate, Borrower agrees to comply with all of the terms, conditions and provisions of the instrument or instruments creating such leasehold estate, and to defend and indemnify Lender and his heirs, assigns and successors in interest, or the terms on which he has such estate, or to agree to do so, without the written consent of Lender being obtained in respect of the instrument or instruments creating such leasehold estate.

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(24) **Future Advances.** Upon request of Borrower, and 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, not including sums advanced in accordance herewith to protect the security of this Mortgage, exceed the original amount of the Note plus NONE.

(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.** This 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 banks. If any paragraph, clause or provision of this Mortgage or the note or any other notes or obligations secured by 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) **Offsets.** 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 crossclaim, 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 that, where cross 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 Nondisclosure.** Borrower has made certain written representations and disclosures in order to induce Lender to make this loan evidenced by the note or notes which this Mortgage secures, and in the event that Borrower has made any misrepresentation of 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.

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

Signature of Borrower

Adrian Winick
ADRIAN WINICK

State of Illinois

County ss:

Cook
Joyce Lane
ADRIAN WINICK, A MARRIED MAN

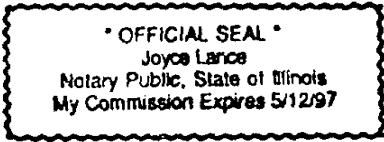
a notary public in and for said county and state, do hereby certify that

personally known to me to be the same person(s) whose name(s) IS subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that HE signed and delivered the same instrument as HIS free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this *30th* day of *August*, 19 *94*

My commission expires:

Joyce Lane
Notary Public



LOAN NO. 1719382-2

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