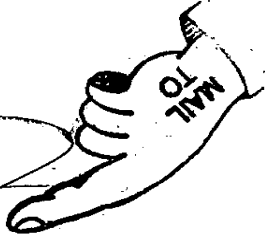


UNOFFICIAL COPY

4351/0063 21 001 Page 1 of 6
1999-04-13 13:16:15
Cook County Recorder 31.00



MAIL TO:
Box 259



PREPARED BY:
After recordation return to:
James B. Nutter & Company
4153 Broadway
Kansas City, Missouri 64111

[Space Above This Line For Recording Data]

State of Illinois
83326
3653-98

MORTGAGE

FHA Case No.
131-9501080-703 203b

THIS MORTGAGE ("Security Instrument") is given on MARCH 19, 1999 . The Mortgagor is DEWITT TOLBERT AND RUTH TOLBERT , HUSBAND AND WIFE ("Borrower").

This Security Instrument is given to James B. Nutter & Company, which is organized and existing under the laws of the State of Missouri, and whose address is 4153 Broadway, Kansas City, Missouri 64111 ("Lender"). Borrower owes Lender the principal sum of

ONE HUNDRED ONE THOUSAND THREE HUNDRED TWENTY NINE & 00/100 Dollars (U.S. \$ 101,329.00). 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 APRIL 1, 2029 . 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 the Lender the following described property located in COOK County, Illinois:

LOT 2 (EXCEPT THE NORTH 16 FEET AND EXCEPT THE SOUTH 1.1 FEET) IN BLOCK 5 IN FOWLER AND CARNEY'S ADDITION TO EVANSTON A SUBDIVISION OF THE NORTH WEST QUARTER OF THE SOUTH WEST QUARTER OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. COMMONLY KNOWN AS 1538 PITNER, EVANSTON, ILLINOIS.

10-13-305-01E

SUBJECT TO ALL RESTRICTIONS, RESERVATIONS & EASEMENTS NOW OF RECORD, IF ANY.

which has the address of 1538 PITNER AVENUE, EVANSTON, Illinois 60201 (Zip Code) ("Property Address");

(Street, City),

VO6D699

Page 1 of 6

FHA Illinois Mortgage - 4/96
Initials: JT, PA

place of condemnation, are hereby assigned and shall be paid to Lender to the extent of the full amount of the indebtedness that remains unpaid under the Note and this Security Instrument. Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in paragraph 3, and then to prepayment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments, which are referred to in paragraph 2, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

7. Charges to Borrower and Protection of Lender's Rights in the Property. Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments or the payments required by paragraph 2, or fails to perform any other 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, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in paragraph 2.

Any amounts disbursed by Lender under this paragraph shall become an additional debt of Borrower

noting the borrower and require borrower to make up the shortage as permitted by RESPA. The Escrow Funds are pledged as additional security for all sums secured by this Security Instrument. If Borrower tenders to Lender the full payment of all such sums, Borrower's account shall be credited with the balance remaining for all installment items (a), (b), and (c) and any mortgage insurance premium installment that Lender has not become obligated to pay to the Secretary, and Lender shall promptly refund any excess funds to Borrower. Immediately prior to a foreclosure sale of the Property or its acquisition by Lender, Borrower's account shall be credited with any balance remaining for all installment items (a), (b), and (c).
3. Application of Payments. All payments under paragraphs 1 and 2 shall be applied by Lender as follows:
First, to the mortgage insurance premium to be paid by Lender to the Secretary or to the monthly charge by the Secretary instead of the monthly mortgage insurance premium;
Second, to any taxes, special assessments, leasehold payments or ground rents, and fire, flood and other hazard insurance premiums, as required;
Third, to interest due under the Note;
Fourth, to amortization of the principal of the Note; and
Fifth, to late charges due under the Note.
4. Fire, Flood and Other Hazard Insurance. Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property.

or modification of amortization of the sums secured by this Security Instrument granted by Lender to
11. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time of payment by this Security Instrument
different grounds in the future, or (iii) reinstatement will not adversely affect the priority of the lien created
commencement of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on
after the commencement of foreclosure proceedings within two years immediately preceding the
full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement
obligations that it secures shall remain in effect as if Lender had not required immediate payment in
the foreclosure proceeding. Upon reinstatement by Borrower, this Security Instrument and the
foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with
Instrument, Borrower shall tender in a lump sum all amounts required to bring Borrower's account
current including, to the extent they are obligations of Borrower under this Security Instrument,
foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with
this right applies even after foreclosure proceedings are instituted. To reinstate the Security
Instrument, Borrower shall tender in a lump sum all amounts required to bring Borrower's account
in full because of Borrower's failure to pay an amount due under the Note or this Security Instrument.
10. Reinstatement. Borrower has a right to be reinstated if Lender has required immediate payment
is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.
the foregoing, this option may not be exercised by Lender when the unavailability of insurance
Instrument and the Note, shall be deemed conclusive proof of such ineligibility. Notwithstanding
Secretary dated subsequent to 60 days from the date hereof, declining to insure this Security
secured by this Security Instrument. A written statement of any authorized agent of the
the date hereof, Lender may, at its option, require immediate payment in full of all sums
not determined to be eligible for insurance under the National Housing Act within 60 days from
(e) **Mortgage Not Insured.** Borrower agrees that if this Security Instrument and the Note are
foreclosure, it is not permitted by regulations of the Secretary.
and foreclosure if not paid. This Security Instrument does not authorize acceleration or
with Lender's rights, in the case of payment defaults, to require immediate payment in full
in full of all sums secured by this Security Instrument.
(u) **Regulations of HUD Secretary.** In many circumstances regulations issued by the Secretary
respect to subsequent events.
in full, but Lender does not require such payments, Lender does not waive its rights with
(c) **No Waiver.** If circumstances occur that would permit Lender to require immediate payment
not been approved in accordance with the requirements of the Secretary.
residence, or the purchaser or grantee does so occupy the Property but his or her credit has
Property, is sold or otherwise transferred (other than by devise or descent), and
Property, is sold or otherwise transferred (other than by devise or descent), and
by this Security Instrument if:
(i) All or part of the Property, or a beneficial interest in a trust owning all or part of the
341(d) of the Garn-St. Germain Depository Institutions Act of 1982, 12 U.S.C. 1701j-3(d) and
(b) **Sale Without Credit Approval.** Lender shall, if permitted by applicable law (including Section
contained in this Security Instrument.
(iii) Borrower defaults by failing, for a period of thirty days, to perform any other obligations
Instrument prior to or on the due date of the next monthly payment, or
(ii) Borrower defaults by failing to pay in full any monthly payment required by this Security
Instrument if:
(a) **Default.** Lender may, except as limited by regulations issued by the Secretary, in the case
of payment defaults, require immediate payment in full of all sums secured by this Security
9. Grounds for Acceleration of Debt.
8. Fees. Lender may collect fees and charges authorized by the Secretary.
of the giving of notice.
lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days
may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the
this Security Instrument. If Lender determines that any part of the Property is subject to a lien which
(c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to
in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or
acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien
Lender in writing to the payment of the principal of the loan secured by the lien in a manner

any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successor 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 9(b). 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.

13. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

14. Governing Law; Severability. This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

15. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

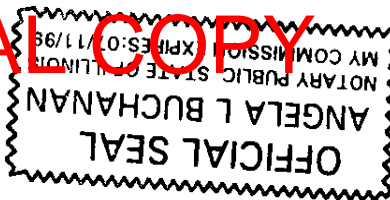
16. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substances affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 16, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 16, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

17. Assignment of Rents. Borrower unconditionally assigns and transfers to Lender all the rents and revenues of the Property. Borrower authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay the rents to Lender or Lender's agents. However, prior to Lender's notice to Borrower of Borrower's breach of any covenant or agreement in the Security Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower. This assignment of rents constitutes an absolute assignment and not an assignment for additional security only.



Initials: _____

My Commission Expires: _____

Notary Public
Angela L. Buchanan

Given under my hand and official seal, this 19th day of MARCH, 1999.

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

hereby certify that DEWITT TOLBERT AND RUTH TOLBERT, a Notary Public in and for said county and state do

STATE OF ILLINOIS, COOK County ss:

- Borrower (Seal)

RUTH TOLBERT - Borrower (Seal)

DEWITT TOLBERT - Borrower (Seal)

Witnesses: *Angela L. Buchanan*

Instrument and in any rider(s) executed by Borrower and recorded with it.
BY SIGNING BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.
 Condominium Rider
 Planned Unit Development Rider
 Graded Payment Rider
 Growing Equity Rider
 Other [specify]

were a part of this Security Instrument. [Check applicable box(es)].
shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) together with this Security Instrument, the covenants of each such rider shall be incorporated into and

21. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument. [Check applicable box(es)].
20. Waiver of Homestead. Borrower waives all right of homestead exemption in the Property.
19. 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 recording costs.

Secretary of any rights otherwise available to a Lender under this Paragraph 18 or applicable law.
to sell the Property as provided in the Act. Nothing in the preceding sentence shall deprive the of sale provided in the Single Family Mortgage Foreclosure Act of 1994 ("Act"), 112 U.S.C. 3751 et seq.) by requesting a foreclosure commissioner designated under the Act to commence foreclosure and requires immediate payment in full under Paragraph 9, the Secretary may invoke the nonjudicial power If the Lender's interest in this Security Instrument is held by the Secretary and the Secretary to, reasonable attorneys' fees and costs of the evidence.

18. Foreclosure Procedure. If Lender requires immediate payment in full under paragraph 9, Lender 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 18, including, but not limited to, reasonable attorneys' fees and costs of the evidence.

17. Lender shall not be required to enter upon, take control of or maintain the Property before or after giving notice of breach to Borrower. However, Lender or a judicially appointed receiver may do so at any time there is a breach. Any application of rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of rents of the Property shall terminate when the debt secured by the Security Instrument is paid in full.

16. Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this paragraph 17.
Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and received all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

15. If Lender gives notice of breach to Borrower: (a) all rents received by Borrower shall be held by Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and received all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

14. Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this paragraph 17.
Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and received all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

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Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and received all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.