

UNOFFICIAL COPY

THIS INSTRUMENT PREPARED BY:

18.4 OFFICE 8
WHEN RECORDED MAIL TO:
HOME SAVINGS OF AMERICA
P.O. BOX 7075
PASADENA, CALIFORNIA 91109-7075

3544968

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

Mortgage and Assignment of Rents
ADJUSTABLE INTEREST RATE LOAN LOAN NO. 680707-7

This Mortgage, made this 28th day of AUGUST, 1986, between
ROLANDO CAPUA AND WANDA P. CAPUA, HUSBAND AND WIFE

herein called BORROWER, whose address is 8916 ODELL AVENUE
(number and street)

MORTON GROVE IL (state) 60053 (zip code)

and

and HOME SAVINGS OF AMERICA, F.A., a corporation herein called LENDER, whose address is P.O. Box 7075, Pasadena, California 91109-7075.

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

LOT 29 IN ROBBIN'S MEADOW LANE UNIT NUMBER 4, A SUBDIVISION OF PART OF THE NORTH 660.77 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 IN SECTION 13, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS 8916 ODELL AVENUE, MORTON GROVE, IL. 60053

PTN: 09-13-421-011

NOTE IDENTIFIED

017459
20/2
slip

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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: (a) 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 \$ 101,700.00 with interest thereon, according to the terms of a promissory note of even date herewith and having a final maturity date of SEPTEMBER 10, 2026 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 loans 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.

(1) CONSTRUCTION OR IMPROVEMENTS. TO COMPLETE IN GOOD AND WORKMANLIKE MANNER ANY BUILDING OR IMPROVEMENT OR REPAIR... (2) REPAIR AND MAINTENANCE OF PROPERTY. TO KEEP SUCH PROPERTY IN GOOD CONDITION AND REPAIR, NOT TO ABANDON... (3) FIRE AND CASUALTY INSURANCE. TO PROVIDE AND MAINTAIN IN FORCE AT ALL TIMES LIFE AND OTHER TYPES OF INSURANCE... (4) LIFE, HEALTH OR ACCIDENT INSURANCE. IF BORROWER SHALL MAINTAIN LIFE, ACCIDENT OR HEALTH INSURANCE... (5) TAXES AND OTHER SUMS DUE. TO PAY, SATISFY AND DISCHARGE: (A) AT LEAST TEN (10) DAYS BEFORE DELINQUENCY, ALL GENERAL AND SPECIAL TAXES... (6) MORTGAGE PAYMENTS. TO PAY TO LENDER THE PRINCIPAL AND INTEREST ON SUCH MORTGAGE... (7) CONDEMNATION AND INJURY TO PROPERTY. ALL SUMS DUE, PAID OR PAYABLE TO BORROWER OR ANY SUCCESSOR IN INTEREST... (8) IMPROVEMENTS. TO PAY TO LENDER, FOR TAXES, ASSESSMENTS, INSURANCE PREMIUMS, GROUND RENTS OR OTHER OBLIGATIONS... (9) LITIGATION. BORROWER SHALL DEFEND THIS TRUST IN ANY ACTION OR PROCEEDING PURSUING TO AFFIRM, ENFORCE, PROTECT... (10) LOAN ON LEASEHOLD ESTATE. IF SUCH PROPERTY INCLUDES A LEASEHOLD ESTATE, BORROWER AGREES TO COMPLY WITH ALL OF THE TERMS, CONDITIONS...

TO PROTECT THE SECURITY OF THIS MORTGAGE, BORROWER AGREES:

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(11) **Prepayment Charge.** Should any note or obligation secured hereby provide any fee for prepayment of any of the indebtedness secured hereby, to pay said fee notwithstanding, Borrower shall have immediately due and payable...

(12) **Failure of Borrower to Perform Obligations Secured by this Mortgage.** Should Borrower fail to make any payment, or fail to do any act required in this Mortgage, or fail to perform any obligation secured by this Mortgage, or do any act which is a violation of any of the terms, covenants, conditions, and provisions of this Mortgage...

(13) **Sum Assessed to Bear Interest and To Be Added to Indebtedness.** To pay immediately upon demand any sums advanced or paid by Lender or Borrower under any clause or provision of this Mortgage, any such sum, until so repaid, shall be secured hereon and bear interest from the date it was advanced or paid at the same interest rate, as may be indicated from time to time, as such indebtedness, and shall be added to the principal amount of the unpaid sums and interest thereon by this Mortgage...

(14) **Application of Funds.** Lender shall have the right at its sole discretion to direct the various items constituting Borrower's indebtedness or obligations secured hereby to be applied upon or allocated among the various items constituting the indebtedness of Borrower in the order and priority herein provided. Lender shall have the right to apply the proceeds of any sale, payment, or other receipt of money to the payment of the principal of the indebtedness, to the payment of the interest thereon, to the payment of the taxes, to the payment of the costs and charges of the sale, and to the payment of the costs and charges of the collection and enforcement of the indebtedness...

(15) **Acceleration Clause; Right of Lender to Declare All Sums Due on any Transfer, Etc.** Lender shall have the right, at its option, to declare any indebtedness secured hereby, irrespective of the maturity date specified in any note or agreement evidencing the same due and payable within 30 days after such declaration if: (a) Borrower or any successor or assignor of Borrower or such property sells, conveys or otherwise disposes of all or any part thereof, or of the whole or any part thereof, or of the interest therein, or of the right to use, lease, leasehold, or otherwise dispose of the whole or any part thereof, or of the interest therein, or of the right to use, lease, leasehold, or otherwise dispose of the whole or any part thereof, or of the interest therein, or of the right to use, lease, leasehold, or otherwise dispose of the whole or any part thereof, or of the interest therein...

(16) **Obligation of Borrower Joint and Several.** If more than one person is named as Borrower, each obligation of Borrower shall be the joint and several obligation of each such person.

(17) **No Waivers by Lender.** No waiver by Lender of any right under this Mortgage shall be effective unless in writing, by Lender or its authorized agent, and such waiver shall not constitute a precedent or binding agreement for the purpose of this Mortgage. No waiver shall constitute a waiver of any other rights or remedies available to Lender under this Mortgage...

(18) **Right to Collect and Receive Rent and Profits.** Notwithstanding any other provisions hereof, Lender hereby grants permission to Borrower to collect and receive 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 notice by Lender or its authorized agent, either before, contemporaneously with, or after any Mortgage 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...

(19) **Medication in Writing.** This Mortgage cannot be changed or modified except as otherwise provided in this Mortgage or by agreement in writing signed by Borrower and Lender. Any successor or assignor of Borrower, and Lender, in order to assure the definiteness and certainty of the rights and obligations herein provided, Borrower waives any and all rights of defense or set-off which Borrower now or hereafter may have against Lender, or of claims or offsets made by Lender which shall not constitute a waiver of any other rights or remedies available to Lender under this Mortgage...

(20) **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 Lender or its authorized agent, either before, contemporaneously with, or after any Mortgage 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...

(21) **Appointment of Receiver.** Upon or at any time after the filing of a complaint to foreclose this Mortgage the court in which such complaint is filed may appoint a receiver of the property or may appoint Lender as Mortgagee in possession at the time of application for such receiver, or of the property of the same shall be the same as that 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, Lender, or any other person or persons, if any, liable for the payment of the indebtedness secured hereby and without regard to the value of the property...

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(24) Future Advances. Upon request of Borrower, Lender at Lender's option prior to maturity 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 79,100.00

(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 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 the 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 on 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 HIM AT HIS ADDRESS HEREIN ABOVE SET FORTH.

Signature of Borrower

x Rolando Capua
ROLANDO CAPUA

Wanda P. Capua
WANDA P. CAPUA

State of Illinois Cook County ss:

I, the undersigned, ROLANDO CAPUA AND WANDA P. CAPUA, HUSBAND AND WIFE 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) ARE subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that THEY signed and delivered the same instrument as THEIR free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 28th day of August, 1986

My commission expires: 12-17-88

Lynn C. Robertson
Notary Public

REAL ESTATE INDEX GROUP
1820 RIDGE AVE.
EVANSTON, IL 60201
FBI TITLE AGENCY ORDER # C-19459

Submitted by
Address
Precinct
Date
Aug 27 12 33 PM '86
3544968
R.A.H.

IN DUPLICATION 3544968
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