

# UNOFFICIAL COPY

MAIL TO:  
Household Finance Corporation III  
c/o First Interstate Services  
1000 Lakes Drive  
Wood Dale, Illinois 60191

3792598

This instrument was prepared by:  
VEENA M. MASUR  
100 MITTEL DRIVE  
WOODDALE, IL 60191  
(Address)

## MORTGAGE

IF CHECKED, THIS MORTGAGE SECURES FUTURE ADVANCES

THE MORTGAGE is made this 28th day of April, 19 89  
between the Mortgagor, GEARY J. BANIAK AND DIENSE S. BANIAK, HIS WIFE, IN JOINT TENANCY (herein "Borrower"), and the Mortgagee, HOUSEHOLD FINANCE CORPORATION III, a corporation organized and existing under the laws of DELAWARE, whose address is 1105 MOUNT PROSPECT PLAZA, MOUNT PROSPECT, IL 60056 (herein "Lender").

The following paragraph preceded by a checked box is applicable:

WHEREAS, Borrower is indebted to Lender in the principal sum of U.S. \$ NA which indebtedness is evidenced by Borrower's Loan Repayment and Security Agreement dated NA and extensions and renewals thereof (herein "Note"), providing for monthly installments of principal and interest at the rate specified in the Note (herein "contract rate") (including any adjustments to the amount of payment or the contract rate if that rate is variable) and other charges payable at Lender's address stated above, with the balance of the indebtedness, if not sooner paid, due and payable on NA.

WHEREAS, Borrower is indebted to Lender in the principal sum of \$36,100.00 or as much thereof as may be advanced pursuant to Borrower's Revolving Loan Agreement dated 4/28/89 and extensions and renewals thereof (herein "Note"), providing for payment of principal and interest at the rate specified in the Note (herein "contract rate") including any adjustments to the amount of payment or the contract rate if that rate is variable, providing for a credit limit of \$36,100.00 and an initial advance of \$36,100.00.

TO SECURE to Lender the repayment of the indebtedness, including any future advances, evidenced by the Note, with interest thereon at the applicable contract rate (including any adjustments to the amount of payment or the contract rate if that rate is variable) and other charges; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of COOK, State of ILLINOIS:

PERMANENT PARCEL NUMBER: 73-56-303-000

LOT 55 IN UNIT 1 IN JOSEPH H. ANDERSON'S CRAIG PARK,  
RE: SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF THE  
SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 42 NORTH, RANGE  
11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO  
THE PLAN THEREOF REGISTERED ON JUNE 25, 1959, AS  
BOOK NO. 186975B, IN COOK COUNTY, ILLINOIS

which has the address of 717 THERESE TERRACE DES PLAINES  
60016 (herein "Property Address") and is the Borrower's address.

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and parts, all of which shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property."

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

NOTE REFERRED TO 7/89

3792598

UNOFFICIAL COPY

NO DUPLICATE

7/10/83

3792598

CAROL MOSEL BY GRAN REGISTRAR

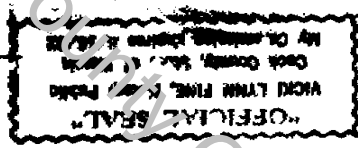
1988 MAY - 5 AM 11:53

3792598

Submitted by \_\_\_\_\_  
 Address \_\_\_\_\_  
 Property \_\_\_\_\_  
 Deed or other \_\_\_\_\_  
 A.C. No. \_\_\_\_\_  
 District \_\_\_\_\_  
 Address \_\_\_\_\_  
 Mailed \_\_\_\_\_

Property of Cook County

(Space Below This Line Reserved For Lender and Recorder)



My Commission expires:

Given under my hand and official seal this 28th day of April, 1987  
 \_\_\_\_\_  
 Notary Public

appeared before me this day in person, and acknowledged that he is the owner and delivered the instrument as THEIR free voluntary act, for the use and purpose therein set forth.  
 personally known to me to be the same person(s) whose name(s) ARE subscribed to the foregoing instrument.

GEARY J. BANIAK AND DIENSE S. BANIAK, HIS WIFE, IN JOINT TENANCY  
 I, Victor Lynn Fine a Notary Public in and for said county and state, do hereby certify that

STATE OF ILLINOIS

Cook

County of:

DIENSE S. BANIAK - Borrower  
GEARY J. BANIAK  
Victor Lynn Fine  
 IN WITNESS WHEREOF, Borrower has executed this Mortgage

20. Release. Upon payment of all sums secured by this mortgage, Lender shall release this mortgage without charge; Borrower shall pay all costs of recording, if any.  
 21. Waiver of Homestead. Borrower hereby waives all right of homestead exemption in the Property under state or Federal law.

H 2c  
 NOT MY PROPERTY PLZ  
 W. Prospect IL 60055

11. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 16 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Note, (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Property to Lender under the terms of this Mortgage, (b) is not personally liable on the Note or under the Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Note without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

12. **Notice.** Except for any notice required under applicable law to be given in another manner, (1) any notice to Borrower provided for in this Mortgage shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (2) any notice to Lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

13. **Governing Law; Severability.** The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Mortgage. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

14. **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recording hereof.

15. **Rehabilitation Loan Agreement.** Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

16. **Transfer of the Property.** If Borrower sells or transfers all or any part of the Property or an interest therein, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) a transfer by devise, descent, or by operation of law upon the death of a joint tenant, (c) the grant of any leasehold interest of three years or less not containing an option to purchase, (d) the creation of a purchase money security interest for household appliances, (e) a transfer to a relative resulting from the death of a Borrower, (f) a transfer where the spouse or children of the Borrower become an owner of the property, (g) a transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the Borrower becomes an owner of the property, (h) a transfer into an inter vivos trust in which the Borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property, or (i) any other transfer or disposition described in regulations prescribed by the Federal Home Loan Bank Board, Borrower shall cause to be submitted information required by Lender to evaluate the transferee as if a new loan were being made to the transferee. Borrower will continue to be obligated under the Note and this Mortgage unless Lender releases Borrower in writing.

If Lender does not agree to such sale or transfer, Lender may declare all of the sums secured by this Mortgage to be immediately due and payable. If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 12 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed or delivered within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 17 hereof.

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

17. **Acceleration; Remedies.** Except as provided in paragraph 16 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender prior to acceleration shall give notice to Borrower as provided in paragraph 12 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding, and sale of the Property. The notice shall further inform Borrower of the right to reinstatement after acceleration and the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Borrower to acceleration and foreclosure. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees and costs of documentary evidence, abstracts and title reports.

18. **Borrower's Right to Reinstatement.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Borrower pays Lender all sums which would be then due under this Mortgage and the Note had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage, and in enforcing Lender's remedies as provided in paragraph 17 hereof, including, but not limited to, reasonable attorneys' fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

19. **Assignment of Rents; Appointment of Receiver.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 17 hereof, in abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 7 hereof or abandonment of the Property, Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

5792599

UNIFORM COVENANTS, Borrower and Lender covenant and agree as follows:

1. Payment of Principal and Interest at Variable Rate. This mortgage secures all payments of principal and interest due on a variable rate loan. The contract rate of interest and payment amounts may be subject to change as provided in the Note. Borrower shall promptly pay when due all amounts required by the Note.

2. Funds for Taxes and Insurance. Subject to applicable law or waiver by Lender, Borrower shall pay to Lender on the day monthly payments of principal and interest are payable under the Note, until the Note is paid in full, a sum (within "Funds") equal to one-twelfth of the yearly taxes and assessments (including condominium and parking unit development assessments, if any) which may attach priority over this mortgage and ground rent on the Property, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Borrower shall not be obligated to make such payments of Funds to Lender to the extent that Borrower makes such payments to the holder of a prior mortgage or deed of trust if such holder is an institutional lender.

If Borrower pays Funds to Lender, the Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rent. Lender may not charge for so holding and applying the Funds, analyzing said account or verifying said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits for the Funds and the purpose for which each debt to the Funds was made. The Funds are pledged as additional security for the sums secured by this mortgage.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rent, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rent as they fall due, such excess shall be, at Borrower's option, either properly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rent as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as Lender may require. Upon payment in full of all sums secured by this mortgage, Lender shall promptly return to Borrower any funds held by Lender. Under paragraph 1 hereof, the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this mortgage.

3. Application of Payments. All payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraph 2 hereof, then to interest, and then to the principal.

4. Prior Mortgages and Deed of Trust Closes Last. Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this mortgage, deed of trust or other security agreement with a lien which has priority over this mortgage, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this mortgage.

5. Hazard Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require. The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender, provided that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender will have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this mortgage.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefit, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this mortgage.

6. Preservation and Maintenance of Property. Lender, as trustee, shall keep the Property in good repair and shall not commit waste or permit temporary or permanent deterioration of the Property and shall comply with the provisions of any lease if this mortgage is in a leasehold. If this mortgage is in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenant creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents. If Borrower fails to perform the covenants and agreements contained in this mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such applications, deposits such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest.

Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, at the contract rate, shall become additional indebtedness of Borrower secured by this mortgage. Lender and Borrower agree to other terms of payment, the paragraph 7 shall require Lender to incur any expense or take any action hereunder. If, in respect to the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

9. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this mortgage.

16. Borrower Not Released; Forfeiture By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this mortgage, granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or other wise modify amortization of the sums secured by this mortgage 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 hereunder, or otherwise afforded by applicable law, shall not be a waiver of or provide a basis for any such demand.

86262623