T/A 38-15804-6

16873

THIRD MORTGAGE—One Page Long Form (Truth-in-Lending Series).

FORM No. 925

TC

52725

Vol. M78 Page

THIS MORTGAGE, Made this 2nd day of August, 1978, by RUSSELL D. FITZGERALD and ALISSA K. FITZGERALD, as tenants by the entirety, Mortgagor, to BILLY J. MAHURIN and JANICE L. MAHURIN, as tenants by the entirety, Mortgagee,

WITNESSETH, That said mortgagor, in consideration of Eleven Thousand Five Hundred Fifty and no/100 ($11,550.00) Dollars, to him paid by said mortgagee, does hereby grant, bargain, sell and convey unto said mortgagee, his heirs, executors, administrators and assigns, that certain real property situated in Klamath County, State of Oregon, bounded and described as follows, to-wit:

Governemt Lots 17, 18, 23, 24, 25, 26, 31 and 32 of Section 13 and the Northeast quarter of Section 24, all in Township 36 South, Range 10 East of the Willamette Meridian, in the County of Klamath, State of Oregon, being more particularly described as follows:

The East half of the Southeast quarter (E½SE¼) of Section 24, Township 36 South, Range 10 East of the Willamette Meridian; EXCEPTING however, the following described triangular portion in the SE¼SE¼; Beginning at the Southeast corner of Section 24, Township 36 South, Range 10 East of the Willamette Meridian; thence North along said Section line 841.5 feet (51 rods); thence in a Southwesterly direction to theSouthwest corner of the SE¼SE¼ of said Section; thence East along the South line of said Section to the point of beginning.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and which may hereafter thereto belong or appertain, and the rents, issues and profits therefrom, and any and all fixtures upon said premises at the time of the execution of this mortgage or at any time during the term of this mortgage.

TO HAVE AND TO HOLD the said premises with the appurtenances unto the said mortgagee, his heirs, executors, administrators and assigns forever.

This mortgage is intended to secure the payment of installment note, of which the following is a substantial copy:

$ 11,550.00 Klamath Falls, Oregon, , 19 78

I (or if more than one maker) we, jointly and severally, promise to pay to the order of Billy J. Mahurin and Janice L. Mahurin, 6-32 West Lake Arrowhead, Wichita Falls Texas 76301 at Eleven Thousand Five Hundred Fifty and no/100 ($11,550.00) DOLLARS, with interest thereon at the rate of 7.5 percent per annum from August 1, 1978 until paid, payable in annual installments of not less than $ 1,682.32 in any one payment; interest shall be paid annually and * in addition to the minimum payments above required; the first payment to be made on the 1st day of October, 19 79, and a like payment on the 1st day of October thereafter, until the whole sum, principal and interest has been paid; if any of said installments is not so paid, all principal and interest to become immediately due and collectible at the option of the holder of this note. If this note is placed in the hands of an attorney for collection, I/we promise and agree to pay holder's reasonable attorney's fees and collection costs, even though no suit or action is filed hereon; however, if a suit or an action is filed, the amount of such reasonable attorney's fees shall be fixed by the court, or courts in which the suit or action, including any appeal therein, is tried, heard or decided.

* Strike words not applicable.

COPY

Russell D. Fitzgerald

Alissa K. Fitzgerald

FORM No. 217—INSTALLMENT NOTE.

SN Stevens-Ness Law Publishing Co., Portland, Ore.

The mortgagor warrants that the proceeds of the loan represented by the above described note and this mortgage are: (a)* primarily for mortgagor's personal, family, household or agricultural purposes (see Important Notice below), purposes.

SEE ATTACHED EXHIBIT "A" for Prior Mortgages

The mortgagor covenants to and with the mortgagee, his heirs, executors, administrators and assigns, that he is lawfully seized in fee simple of said premises; that the same are free from all encumbrances except said first mortgage and further except easements or restrictions of record, common to the area or apparent on the face of the land and that he will warrant and forever defend the same against all persons; further, that he will do and perform all things required of him and pay all obligations due or to become due under the terms of said first mortgage as well as the note secured hereby, principal and interest, according to the terms thereof; that while any part of the note secured hereby remains unpaid he will pay all taxes, assessments and other charges of every nature which may be levied or assessed against said property, or this mortgage or the note secured hereby, when due and payable and before the same become delinquent; that he will promptly pay and satisfy any and all liens or encumbrances that are or may become liens on the premises or any part thereof superior to the lien of this mortgage; that he will keep the buildings now on or which hereafter may be erected on the said premises continuously insured against loss or damage by fire

16874

and such other hazards as the mortgagee may from time to time require, in an amount not less than $ full insurable coverage in a company or companies acceptable to the mortgagee herein, with loss payable, first to the holder of the said first mortgage; second, to the mortgagee named herein and then to the mortgagor as their respective interests may appear; all policies of insurance shall be delivered to the holder of the said first mortgage as soon as insured and a certificate of insurance executed by the company in which said insurance is written, showing the amount of said coverage, shall be delivered to the mortgagee named in this instrument. Now if the mortgagor shall fail for any reason to procure any such insurance and to deliver said policies as aforesaid at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, the mortgagee may procure the same at mortgagor's expense; that the mortgagor will keep the buildings and improvements on said premises in good repair and will not commit or suffer any waste of said premises. In the event any personal property is part of the security for this mortgage, then at the request of the mortgagee, the mortgagor shall join with the mortgagee in executing one or more financing statements pursuant to the Uniform Commercial Code, in form satisfactory to the mortgagee, and will pay for filing the same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the mortgagee.

Now, therefore, if said mortgagor shall keep and perform the covenants herein contained and shall pay all obligations secured by said first mortgage as well as the note secured hereby according to its terms, this conveyance shall be void, but otherwise shall remain in full force as a mortgage to secure the performance of all of said covenants and the payments of the note secured hereby; it being agreed that a failure to perform any covenant herein, or if a proceeding of any kind be taken to foreclose any lien on said premises or any part thereof, the mortgagee shall have the option to declare the whole amount unpaid on said note or on this mortgage at once due and payable, and this mortgage may be foreclosed at any time thereafter. And if the mortgagor shall fail to pay any taxes or charges or any lien, encumbrance or insurance premium as above provided for, or fail to do or perform anything required of him by said first mortgage, the mortgagee herein, at his option, shall have the right to make such payments and to do and perform the acts required of the mortgagor under said first mortgage; and any payment so made, together with the cost of such performance shall be added to and become a part of the debt secured by this mortgage, and shall bear interest at the same rate as the note secured hereby without waiver, however, of any right arising to the mortgagee for breach of covenant. And this mortgage may be foreclosed for principal, interest and all sums paid by the mortgagee at any time while the mortgagor neglects to repay any sums so paid by the mortgagee. In the event of any suit or action being instituted to foreclose this mortgage, the mortgagor agrees to pay all reasonable costs incurred by the mortgagee for title reports and title search, all statutory costs and disbursements and such further sum as the trial court may adjudge reasonable as plaintiff's attorney's fees in such suit or action, and if an appeal is taken from any judgment or decree entered therein, mortgagor further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiff's attorney's fees on such appeal, all such sums to be secured by the lien of this mortgage and included in the decree of foreclosure.

Each and all of the covenants and agreements herein contained shall apply to and bind the heirs, executors, administrators and assigns of said mortgagor and of said mortgagee respectively.

In case suit or action is commenced to foreclose this mortgage, the Court may, upon motion of the mortgagee, appoint a receiver to collect the rents and profits arising out of said premises during the pendency of such foreclosure, and apply the same, after first deducting all of said receiver's proper charges and expenses, to the payment of the amount due under this mortgage.

In construing this mortgage, it is understood that the mortgagor or mortgagee may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

*IN WITNESS WHEREOF*, said mortgagor has hereunto set his hand the day and year first above written.

Russell D. Fitzgerald
RUSSELL D. FITZGERALD
Alissa K. Fitzgerald
ALISSA K. FITZGERALD

*IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable. If warranty (a) is applicable and if the mortgagee is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the mortgagee MUST comply with the Act and Regulation by making required disclosures; for this purpose, use Stevens-Ness Form No. 1306 or similar.

STATE OF OREGON,
County of Klamath } ss.

*BE IT REMEMBERED*, That on this 2nd day of August, 19 78, before me, the undersigned, a notary public in and for said county and state, personally appeared the within named Russell D. and Alissa K. Fitzgerald

known to me to be the identical individual s described in and who executed the within instrument and acknowledged to me that their executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public for Oregon.
My Commission expires 4-5-82

THIRD ~~SECOND~~
# MORTGAGE
(FORM No. 925)
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

Russell D. Fitzgerald
Alissa K. Fitzgerald
TO
Billy J. Mahurin
Janice L. Mahurin

AFTER RECORDING RETURN TO
T/A Ssn

SPACE RESERVED FOR RECORDER'S USE

STATE OF OREGON,
County of ........ } ss.

I certify that the within instrument was received for record on the ...... day of ......, 19......, at ...... o'clock ...... M., and recorded in book ...... on page ...... or as file/reel number ......, Record of Mortgages of said County.

Witness my hand and seal of County affixed.

...... Title.

By ...... Deputy

EXHIBIT "A"

16875

This Mortgage is inferior, third and made subject to prior mortgages on the above described real estate made by BILLY J. MAHURIN and JANCIE L. MAHURIN, as tenants by the entirety to STATE OF OREGON, represented and acting by the DIRECTOR OF VETERAN'S AFFAIRS, dated July 20, 1977, and recorded in the mortgage records of the above named county in book M-77, at page 12884 thereof, reference to said mortgage records hereby being made; the said first mortgage was given to secure a note for the principal sum of $125,000.00; the unpaid principal balance thereof on the date of the execution of this instrument is $ 133,235.79 and no more: interest thereon is paid to 1st day of August, 1978; said prior mortgage and the obligations secured thereby hereinafter, for brevity, are called simply "first mortgage."

This Mortgage is inferior, third and made subject to prior mortgages on the above described real estate made by BILLY J. MAHURIN and JANCIE L. MAHURIN, as tenants by the entirety to UNITED STATES OF AMERICA, acting through the FARMERS HOME ADMINISTRATION, UNITED STATES DEPARTMENT of AGRICULTURE, dated January 19, 1978, and recorded in the mortgage records of the above named county in book M-78, at page 1241 thereof, reference to said mortage records hereby being made; the said second mortgage was given to secure a note for the principal sum of $30,000.00; the unpaid principal balance thereof on the date of the execution of this instrument is $ 30,000.00 and no more; interest thereon is paid to 1st day of August, 1978; said prior mortgage and the obligations secured thereby hereinafter, for brevity, are called simply "Second mortgage."

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 2nd day of August A.D., 19 78 at 3:32 o'clock P M., and duly recorded in Vol M78, of Mortgages on Page 16873.

FEE 9.00

WM. D. MILNE, County Clerk

By [signature] Deputy