

K-31912

68508

MORTGAGE

Vol. <sup>m</sup> 79 Page 13212

June 5, 1979

1 BERNARD SPERA, hereinafter called Mortgagor, hereby  
2 mortgages to MARION APARTMENTS, a partnership consisting of FRANK  
3 R. BOGATAY and JOANN HENZEL, hereinafter called Mortgagee, its  
4 heirs, executors, administrators and assigns, that certain real  
5 property situated in Klamath County, Oregon, described as follows:  
6 Lots 5 and 6 in Block 10 of Original Town of Linkville, now City  
7 of Klamath Falls, Oregon, according to the official plat thereof  
8 on file in the office of the County Clerk of Klamath County, Oregon.  
9

10 Together with all appurtenances, tenements, hereditaments,  
11 rents, issues, profits, water rights, easements or privileges now or  
12 hereafter belonging to, derived from or in anywise appertaining  
13 to the above described premises.  
14

15 This mortgage is intended to secure the payment of a  
16 promissory note, described as follows: See attached Exhibit "A".  
17

18 The final payment of principal and interest thereon,  
19 if not sooner paid, is due and payable on March 1, 2010.  
20

21 Mortgagor covenants to and with the Mortgagee that he  
22 is lawfully seized in fee simple of said premises and has a valid,  
23 unencumbered title thereto, except  
24

25 1. Assessments and charges of the City of Klamath Falls  
26 for monthly water and/or sewer service.  
27

28 2. Contracts and leases with Klamath Housing Authority  
regarding Charles Porter, Anna Ambord and Iris Greenwood.  
3

4 3. Any existing leases with tenants.  
5

6 4. Reservations, restrictions, rights-of-way, easements  
7 of record and those apparent upon the land,  
8

After  
recording  
return  
to

HENDERSON  
& MOLATORE  
ATTORNEYS AT LAW  
426 MAIN STREET  
KLAMATH FALLS,  
OREGON 97601  
TELEPHONES  
(503) 884-7731  
884-2030

MORTGAGE-Page 1

1 and will warrant and forever defend the same against all persons.

2 Mortgagor agrees (1) that he will pay said note according  
3 to the terms thereof; (2) that he will pay all taxes, assessments  
4 and other charges which may be levied or assessed against said  
5 property when due; (3) that he will promptly discharge any liens  
6 against said property which are superior to the lien of this mort-  
7 gage; (4) that he will keep the buildings now on or which may here-  
8 after be erected on the premises insured in favor of the Mortgagee  
9 against loss or damage by fire, with extended coverage, in the sum  
10 of \$289,000.00, in a company acceptable to the Mortgagee, and  
11 will name Mortgagee as an additional insured as Mortgagee's in-  
12 terest may appear; (5) that he will keep the building and improve-  
13 ments on said premises in good repair and will not commit or suffer  
14 any waste of the premises.

15 If the Mortgagor shall keep and perform the covenants  
16 herein contained and shall pay said note according to its terms,  
17 this conveyance shall be void; otherwise, it shall remain in full  
18 force as a mortgage to secure the performance of all of the cov-  
19 enants herein and the payment of said note. Time is of the  
20 essence hereof, and if Mortgagor fails to perform any covenant  
21 herein, or to pay said note according to its terms, Mortgagee shall  
22 have the option to declare the whole amount unpaid on the note  
23 immediately due and payable, and this mortgage may be foreclosed  
24 at any time thereafter. In the event of any suit or action being  
25 instituted to foreclose this mortgage, Mortgagor agrees to pay  
26 all reasonable costs incurred by Mortgagee for title search and  
27 reports and such further sum as the trial court may adjudge  
28 reasonable as Mortgagee's attorney's fees in said suit or action,

1 and any appellate court on appeal of such suit or action, all of  
2 said sums to be secured by the lien of this mortgage.

3 All of the covenants and agreements herein shall apply  
4 to and bind the heirs, executors, administrators, successors and  
5 assigns of the Mortgagor and Mortgagee, respectively.

6 Wherever the context so requires, the masculine includes  
7 the feminine and/or neuter, and the singular includes the plural.

8 In the event Mortgagor fails to make any payments re-  
9 quired under the terms of this mortgage or to perform any of the  
10 acts required of him by this mortgage, Mortgagee shall have the  
11 option of making said payments or performing said acts and adding  
12 the amount thereof to the principal balance due under this mort-  
13 gage, to bear interest at the rate of Ten percent per annum and  
14 to be secured by this mortgage.

15 This mortgage shall also secure the payment of such  
16 additional money, if any, as may be loaned hereafter by the Mortgag-  
17 ee to the Mortgagor or others having an interest in the above des-  
18 cribed property as may be evidenced by a note or notes.

19 This mortgage shall also include all lighting, heating,  
20 ventilating, airconditioning, refrigerating, watering and irrigation  
21 apparatus, equipment and fixtures, together with all awnings,  
22 venetian blinds, floor coverings in place such as wall-to-wall  
23 carpeting and linoleum, shades, ranges, dishwashers, refrigerators  
24 and furniture now or hereafter installed or used in connection  
25 with the above described premises. Upon request of the Mortgagor,  
26 Mortgagee shall join with the Mortgagor in executing one or more  
27 financing statements pursuant to the Uniform Commercial Code, in  
28 a form satisfactory to the Mortgagee.

1 In the event that all or any portion of said property  
2 shall be taken by eminent domain, the Mortgagee shall have the  
3 right to require that all or any portion of the moneys payable as  
4 compensation for such taking, in excess of the amount required to  
5 pay reasonable costs and attorney's fees incurred by the Mortgagor  
6 in such proceedings, shall be paid to the Mortgagee and applied  
7 by it first to any costs and expenses necessarily paid or incurred  
8 by the Mortgagee in such proceedings, and the balance shall be  
9 applied to the note secured hereby against the payments last be-  
10 coming due thereon.

11 As additional security, Mortgagor hereby assigns to  
12 Mortgagee all rents, royalties and other payments, including pay-  
13 ments on contracts of sale, arising from said property and, if in-  
14 cluded in such rent, royalty or other payment, from any personal  
15 property located thereon. Until Mortgagor shall default in the  
16 payment of the note secured hereby, Mortgagor shall have the right  
17 to collect all such rents, royalties and other payments earned  
18 prior to default as they become due. Upon default, the Mortgagee  
19 may at any time without notice, either in person or by agent and  
20 without regard to the adequacy of the security for said note, enter  
21 upon and take possession of said property and sue for or otherwise  
22 collect the rents, royalties and other payments and apply the same,  
23 less costs and expenses of operation and collection, including  
24 reasonable attorney's fees, upon the note secured hereby.

25 In the event a suit is instituted to foreclose this  
26 mortgage, Mortgagor consents to the appointment by the court of  
27 a receiver to collect the rents, royalties and other payments due  
28 with respect to said property, without notice to the Mortgagor,

1 upon the giving of such receiver's bond and upon such terms and  
2 conditions as may be fixed by the court.

3 The Mortgagor agrees that failure of the Mortgagee at  
4 any time to require performance by the Mortgagor of any provision  
5 of this mortgage or said note, shall in no way affect Mortgagee's  
6 right hereunder to enforce the same, nor shall any waiver by the  
7 Mortgagee of any breach of any provision hereof be held to be a  
8 waiver of any succeeding breach of any such provision, or as a  
9 waiver of the provision itself.

10 The rights and obligations of Mortgagor hereunder shall  
11 not be assigned or assumed without prior written permission of  
12 Mortgagee hereunder, provided further that said permission shall  
13 not be unreasonably withheld.

14 IN WITNESS WHEREOF, Mortgagor has hereunto set his hand  
15 all on the day and year first above written.

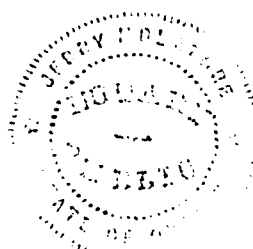
16  
17 Bernard Spira  
18 BERNARD SPERA

19 STATE OF OREGON )  
20 County of Klamath ) ss.  
21 June 5, 1979

22 Personally appeared the above named BERNARD SPERA and  
23 acknowledged the foregoing instrument to be his voluntary act  
24 and deed.

25 Before me:

26 Notary Public for Oregon  
27 My commission expires: 11/3/80  
28



HENDERSON  
& MOLATORE  
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MORTGAGE-Page 5

1 \$289,000.00

Exhibit "A"

June 5, 1979

13217

2 FOR VALUE RECEIVED, I promise to pay to the order of  
3 MARION APARTMENTS, a partnership consisting of FRANK R. BOGATAY  
4 and JOANN HENZEL, at Klamath Falls, Oregon, the sum of Two  
5 Hundred Eighty Nine Thousand and no/100 Dollars (\$289,000.00),  
6 in lawful money of the United States, with interest thereon at  
7 the rate of Ten percent (10%) per annum from date until paid, as  
8 follows: Monthly payments of not less than Two Thousand Two Hun-  
9 dred Fifty and no/100 Dollars (\$2,250.00), including interest  
10 at the rate of Ten percent (10%). the first payment to be made on  
11 the first day of July, 1979, and a like payment to be made on the  
12 first day of each month thereafter, to and including the first  
13 day of June, 1982; a payment of Two Thousand Five Hundred Thirty  
14 Six and .18/100 Dollars (\$2,536.18) on the first day of July, 1982,  
15 and a payment of Two Thousand Five Hundred Thirty Six and .18/100  
16 Dollars (\$2,536.18) on the first day of each and every month  
17 thereafter, said payments to include interest, until the whole  
18 sum, principal and interest, has been paid. The payments from  
19 July, 1979, until June, 1982, in the amount of Two Thousand Two  
20 Hundred Fifty and no/100 Dollars (\$2,250.00) are insufficient  
21 to pay the interest due on the unpaid balance. Therefore, in  
22 addition to the above payments there shall be a payment made on  
23 or before July 1st, 1982, in the amount of Twelve Thousand and  
24 no/100 Dollars (\$12,000.00). If said payment is made July 1st,  
25 1982, the Twelve Thousand and no/100 Dollars (\$12,000.00) shall  
26 consist of Eight Thousand One Hundred Eight and .33/100 Dollars  
27 (\$8,108.33) interest and Three Thousand Eight Hundred Ninety One  
28 and .67/100 Dollars (\$3,891.67) principal, leaving a principal

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NOTE-Page 1

1 amount due and owing as of July 1, 1982, in the amount of Two **13218**  
2 Hundred Eighty Five Thousand One Hundred Eight and .33/100 Dollars  
3 (\$285,108.33).

4 If any installment is not so paid, the whole sum of prin-  
5 cipal and interest shall become immediately due and collectible at  
6 the option of the holder of this note. In case suit or action is  
7 instituted to collect this note, I promise to pay such additional  
8 sum as the trial court may adjudge reasonable as attorney's fees  
9 in said suit or action, and any appellate court upon appeal of  
10 such suit or action.

11 This obligation is secured by a real estate mortgage  
12 with power of sale, of even date herewith, and is subject to all  
13 of the terms and conditions of such mortgage.

14 If this note is placed in the hands of an attorney for  
15 collection, I agree to pay the reasonable fee and expenses of  
16 such attorney even though no suit or action is instituted or no sale  
17 of the property has been directed under the terms of the real estate  
18 mortgage securing this obligation. Such fees and costs may, at  
19 the option of the holder, be added to the principal balance of  
20 this note.

21 Nothing to the contrary herein notwithstanding, no part  
22 of this note may be prepaid prior to July 1, 1982.

23 All persons liable either now or hereafter for the  
24 payment of this note, severally waive presentment, demand for  
25 payment and notice of nonpayment thereof.

26 Failure to exercise any option to declare a default or  
27 accelerate the balance due hereon shall not constitute a waiver  
28 of the right to exercise the same in the event of any subsequent



13219

1 default. Modification of the terms of payment of this note made  
2 at the request of any person liable thereon shall in nowise impair  
3 their liability or the liability of any other person now or  
4 hereafter liable for the payment hereof.

5  
6 /s/ Bernard Spera  
7 BERNARD SPERA  
8  
9

10  
11  
12 STATE OF OREGON; COUNTY OF KLAMATH; ss.

13 Filed for record at request of Klamath County Title Co.

14 this 6th day of June A. D. 1979 at 11:16 o'clock A. M., of

15 duly recorded in Vol. 1179, of Mortgages on Page 13212

16 Wm D. MILNE, County Clerk.

17 By Bernard Spera  
18 Fee \$24.00  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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& MOLATORE  
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NOTE-Page 3