

TS

80053

TRUST DEED

VOL 80

Page 1931

310 2 THIS TRUST DEED, made this 24th day of October, 1979, between
 TUESDAYS Sherry A. Curran and Yvonne R. M. Powell, as Grantor,
 TUESDAY FIRST AMERICAN TITLE INSURANCE COMPANY OF OREGON, as Trustee,
 and Frank J. Gaigano, as Beneficiary.

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in ELY LAKE, ELY LAKE COUNTY, OREGON, described as:

The following described real property situate in Klamath County, Oregon:

Those portions of Block 18 of Oregon Pines, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, described as follows: Lot 14 and that portion of Lot 36 more particularly described as follows: Beginning at the Northwest corner of Lot 14 thence South 28°32'10" East 640 feet thence South 61°27'50" West 300 feet, more or less, to a point in the Westerly line of Lot 64 thence North 25°11'50" West 300 feet more or less, to the most Northerly corner of Lot 64 thence North 13°05'40" West 239.82 feet thence North 35°55'48" West 103 feet more or less to the most northerly corner of Lot 67 thence in a Northeasterly direction 260 feet more or less to the true point of beginning.

tion with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of Four thousand four hundred ninety and no/100 Dollars, with interest thereon according to the terms of a promissory note of even date herewith payable to beneficiary or order and made by grantor, the final payment of principal and interest hereof, if not sooner paid, to be due and payable February 24, 1992.

The date of maturity of the debt secured by this instrument is the date stated above, on which the final installment of said note becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned, or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, herein, shall become immediately due and payable.

The above described real property is not currently used for agricultural, timber or grazing purposes.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain said property in good condition and repair, not to remove or demolish any building or improvement thereon, nor to commit or permit any waste of said property;

2. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therewith;

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require, and to pay for filing 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 beneficiary;

4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the said premises against loss or damage by fire and such other hazards as the beneficiary may from time to time require, in an amount not less than \$100,000.00, written in companies acceptable to the beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to the beneficiary as soon as insured, if the grantor shall fail for any reason to procure any such insurance and to deliver said policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary, or, at option of beneficiary the entire amount so collected, or any part thereof, may be released to grantor. Such application or release shall act done pursuant to notice;

5. To keep said premises free from construction loans and to pay all taxes, assessments and other charges that may be levied or assessed upon or against said property before any part of such taxes, assessments and other charges become past due, delinquent and promptly deliver receipts therefor to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof; and, for such payments, with interest as aforesaid, with property hereof described, as well as, the grantor shall be bound to title to the extent that they are bound for the payment of the obligation hereof, all such payment shall be immediately due and payable without notice and the nonpayment thereof shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable, and constitute a breach of this trust deed;

6. To pay all costs, fees and expenses of this trust including the cost of title search as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's and attorney's fees actually incurred;

7. To appear in and defend any action or proceeding, purporting to affect the security rights or powers of beneficiary or trustee, and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed, to pay all costs and expenses, including evidence of title, and the beneficiary's or trustee's attorney's fees, the amount of attorney's fees mentioned in this paragraph 7, in all cases shall be fixed by the trial court and in the event of an appeal, by judgment of the appellate court, shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

It is mutually agreed that:

In the event that any portion or all of said property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the damages payable as compensation for such taking, which are in excess of the amounts paid or incurred by grantor in such proceedings, shall be paid to beneficiary and both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and grantor will, at its own expense, take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyance, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, or title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, or the United States or any agency thereof.

(a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereon; (d) reconvey, without warranty, all or a part of the property. The language in any reconveyance may be described as "the person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may, at any time without notice, either in person, by agent or by a receiver, to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. The holding upon and taking possession of said property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof, as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured hereby or in his performance of any obligation hereunder, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event and if the above described real property is currently used for agricultural, timber or grazing purposes, the beneficiary may proceed to foreclose this trust deed in equity, as a mortgage in the manner provided by law for mortgage foreclosures. However, if said real property is not so currently used, the beneficiary, at his election, may proceed to foreclose this trust deed by advertisement and sale. In the latter event the beneficiary or the trustee shall execute and cause to be recorded his written notice of default and his election to sell the said described real property to satisfy the obligations secured hereby, whereupon the trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.740 and 86.795.

13. Should the beneficiary elect to foreclose by advertisement and sale then after default at any time prior to five days before the date set by the trustee for the trustee's sale, the grantor or other person so privileged by ORS 86.760, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the trust deed and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of the obligation and trustee's and attorney's fees not exceeding \$50 each) other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default, in which event all foreclosure proceedings shall be dismissed by the trustee.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale. The trustee may sell or propriece either one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matter of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

15. When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds received to payment of (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney, (2) to the obligations created by the trust deed, (3) to all persons having record title subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority and (4) the surplus, if any, to the grantor or to his successors in interest entitled to such surplus.

16. For any reason permitted by law beneficiary may from time to time appoint a successor to any trustee herein or to any successor trustee appointed hereunder. Upon such appointment and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by beneficiary, containing reference to this trust deed and its place of record which, when recorded in the office of the County Clerk of Recorders of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

1982

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto.

The grantor, warrants, that the proceeds of the loan represented by the above described note and this trust deed are:

- primarily for his personal, family, household or agricultural purposes (see Important Notice below);
- for an organization or even if grantor is a natural person are for business or commercial purposes other than agricultural.

This deed applies to, mutes to the benefit of and binds all parties hereto their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term "beneficiary" shall mean the holder and owner, including pledgee, of the instrument secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

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

***IMPORTANT NOTICE:** Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor or such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulations by making required disclosures for this purpose if this instrument is to be a FIRST lien to finance the purchase of a dwelling, use Stevens-Ness Form No. 1305 or equivalent.

If this instrument is NOT to be a first lien, use Stevens-Ness Form No. 1306, or equivalent. If compliance with the Act is not required disregard this notice.

If the signor of the above is a corporation, partnership or joint venture and uses the form of "acknowledgment" opposite, the corporate seal must be used in lieu of the signatures of the officers. (OJO 93-4900)

STATE OF OREGON, County of _____, ss.

County of Multnomah

October 24, 1979

Personally appeared the above named

Sherry A. Curran and

Yvonne R. M. Powell

and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me,

Official Notary Public for Oregon

My commission expires:

June 14, 1983

My commission expires:

REQUEST FOR FULL RECONVEYANCE

100 cords of dressed timber is to be paid to me only when obligations have been paid.

I do hereby recollect of this trust deed executed 45 days ago.

REQUEST FOR FULL RECONVEYANCE

**(OFFICIAL
SEAL)**

Personally appeared Sherry A. Curran and Yvonne R. M. Powell, each for himself and not one for the other, did say that the former is the president of the company and the latter is the president and that the latter is the secretary of the company.

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and each of them acknowledged said instrument to be its voluntary act and deed.

Before me, this day of December, one thousand nine hundred and eighty three, in the city of Portland, county of Multnomah, state of Oregon.

TO: I do hereby warrant and declare that the foregoing instrument contains no covenants, conditions, stipulations or provisions which may be construed as purporting to limit or restrain my right to sell, transfer, lease or otherwise dispose of the same, and that I do not, nor have I at any time heretofore, given or agreed to any person or persons, to do anything which would violate the terms of the instrument, or any of the conditions contained therein, except as set forth in the instrument.

RECORD OF MORTGAGE

Beneficiary

TRUST DEED

(Form No. 881)

STEVENS-NESS LAW-PUB. CO., PORTLAND, ORE.

SHERRY A. CURRAN &
YVONNE R. M. POWELL

Grantor

FRANK J. GALCANO

Customer Relationship Manager, DPT

First American Title Insurance
310 S. 1st, 4th Avenue
Portland, Oregon 97204

STATE OF OREGON

{ ss.

County of Klamath

I certify that the within instrument was received for record on the

30th day of January, 1980, at 3:30 o'clock P.M., and recorded

in book M80 on page 1931 or

as file/reel number 80053.

Record of Mortgages of said County.

Witness my hand and seal of

County affixed

CITY OF PORTLAND, OREGON

Wm. D. Milne

Oxford County Clerk

By Bernadine Phelan, Deputy