

86457

08-22-94P03:46 RCVD

Vol. 94 Page 26043

87

JOINT VENTURE AGREEMENT

This agreement is made this 17th day of August, 1994 by and between John Morris, hereinafter ("Morris") and Country Mobilhome Center, Inc, an Oregon Corporation. hereinafter ("CMC").

RECITALS

- A. The parties hereby create a joint venture to develop, subdivide and market real property located in Klamath County, Oregon. The venture shall consist of four (4) phases. A ~~map~~ ^{Legal Description} of the proposed venture is attached to this agreement as Exhibit "A". The first phase is Flint Street, ~~lots on both sides of the street.~~ ^{WEST SIDE} Expenditures on this phase are not to exceed One hundred thousand dollars (\$100,000.00). The second phase is Granite street, both sides of the street. The third phase is Helm Street, both sides of the street. The fourth phase is Iron Street, the east side of the street only.
- B. The name of the venture is Tamarack Meadows. In this agreement it shall be referred to as "the venture".
- C. CMC shall have a Sixty percent (60%) interest in the venture. Morris shall have a Forty percent (40%) interest in the venture.
- D. After Klamath County and/or the City of Klamath Falls approve building permits for the venture, Morris shall fund construction costs, recording costs, closing costs, engineering costs and all other necessary costs to complete phase one of the venture. All funds advanced by Morris shall be loans to the joint venture and shall be repaid before any profits are distributed to the parties.
- E. The parties agree to complete phase one. Phases two, three and four shall be completed at the option of Morris. Morris shall notify CMC in writing, within one hundred eighty (180) days after the completion of each phase of his decision as to whether he wishes to proceed to the next phase.
- F. The venture shall carry at all times liability insurance with an insurance company reasonably satisfactory to both parties with minimum coverage of One Million Dollars (\$1,000,000.00).
- G. No party shall enter into any contract or agreement with third parties without the express written consent of the other party.
- H. No profits shall be disbursed to either party until Phase 2 of the venture is completed, except upon the express written consent of both parties.

I. John Morris shall be deeded a forty percent (40%) interest in all real property involved in the venture prior to funding phase 1.

J. All expenses of the venture shall be made through the Venture's bank account which shall be set up according to section 11 of this agreement, below. Each party shall be entitled to keep a copy of all receipts for the expenses of the venture.

K. John Morris shall be the General Contractor for all construction. On any work performed by Morris in Lieu of same being done by Sub Contractors, Morris shall be entitled to charge the venture for all overhead charges plus a reasonable profit.

The parties desire to provide herein for the uninterrupted operation of the venture and to promote their ownership interests by imposing certain restrictions and obligations on themselves.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed as follows:

1. INCORPORATION OF RECITALS.

The recitals herein set forth are hereby incorporated herein by this reference.

2. RESTRICTION OF TRANSFER.

No party shall transfer his interest in the venture except as provided in this agreement and any attempted transfer except as provided herein shall be void. "Transfer" as used in this agreement is defined to include a voluntary or involuntary sale, transfer, assignment, grant of a security interest, hypothecation, pledge, mortgage, alienation, encumbrance, gift or other disposition of a party's interest in the venture.

3. SALE.

Before any party shall transfer his interest in the venture, such interest of the transferring party shall first be offered to the other party in the following manner:

A. OPTION NOTICE.

The transferring party desiring to transfer his interest (the "Selling Party") shall deliver a notice in writing (the "Option Notice") by certified mail to the other party, specifying the terms of the proposed transfer, including the price and the name of the proposed transferee.

B. PARTY'S OPTION.

The non-selling Party shall have the option to purchase all or any portion of the selling Party's offered interest and upon the exercise of such option the selling Party shall have the obligation to sell all or such portion of the offered interest at the same price and on the same terms as are specified in sections 6 and 7 of this agreement.

C. EXERCISE OF OPTION.

The option granted above shall be exercised by the non selling Party (or his duly authorized agent) if at all, by executing a written notice setting forth the intention to exercise the option together with the price and terms of such exercise and such notice shall be delivered forthwith to the selling Party or his executor, administrator or personal representative. The offered interest shall be transferred concurrently with the purchase price paid pursuant to the terms of this agreement.

D. FAILURE TO EXERCISE.

In the event that the non-selling Party does not exercise his option in Forty-five (45) days, the selling Party may sell his interest, but only to the person and upon the terms set forth in the option notice. Such transferee shall receive and hold the interest subject to all the provisions and restrictions of this agreement.

4. TRANSFER UPON DEATH.

Upon the death of Morris, CMC shall have the obligation to purchase from Morris' estate or personal representative all of the interest of Morris and Morris' estate or personal representative shall have the obligation to sell all of such interest within one hundred and twenty (120) days following appointment of Morris' legal representative. Such purchase shall be made for the price and terms set forth in sections 6 and 7 of this agreement.

5. INVOLUNTARY TRANSFERS.

A party's interest in the venture shall not be assignable or transferable by operations of law except as subject to the provisions of this agreement. In the event either party is adjudicated bankrupt or is insolvent or makes an assignment for the benefit of creditors or if a writ of attachment is exercised or any other charging order be levied on the ownership interest of a party and not be released or satisfied within ninety (90) days

thereafter, or if a receiver, trustee, conservator, or any other person in a representative capacity be appointed in a proceeding or action against the party with authority to take possession or control of his interest and such authority is not revoked within ninety (90) days, or if any part of a party's interest is awarded to a spouse in a divorce settlement, such events or any of them shall entitle the other party to exercise the option herein above provided in section 3(B) and 3(C) of this agreement as if such party were voluntarily selling his interest in the venture at the price and upon the terms set forth in sections 6 and 7.

6. PURCHASE PRICE.

The purchase price to be paid for a party's interest in the venture shall be equivalent to the party's percentage of ownership times the fair market value of the venture at the time of a proposed sale or buy out. The parties shall mutually agree upon the fair market value of the venture at such time. If the parties cannot agree, then the parties shall submit the dispute to binding arbitration wherein each party shall pick an independent real estate broker. Thereafter the two real estate brokers shall pick a third independent real estate broker. In the event that the three Brokers cannot agree as to the fair market value of the business, the opinion of two of the three shall prevail. Each party shall bear the financial burden of this arbitration procedure equally.

7. TERMS OF PAYMENT.

The terms of any purchase or sale pursuant to this agreement shall be as follows: at least twenty percent (20%) of the purchase price shall be paid in cash within ninety (90) days of the event giving rise to the purchase or after the date on which the notice of exercise or notice of intention to purchase is deemed to be, whichever is later. The balance of the purchase price shall be evidenced by an installment promissory note. Such promissory note shall provide for payment of principal and interest in not more than thirty-six (36) equal monthly installments. Such note shall bear interest on the unpaid balance at the rate of ten percent (10%) per annum. Such note shall provide full privilege of prepayment of all or any part of the unpaid principal at any time without penalty and shall further provide that in the case of default (after ten (10) day grace period) at the election of the holder thereof, the entire sum of principal and interest accrued to date, shall immediately become due and payable. The note shall further provide for the payment by the maker of reasonable attorney's fees to the holder in the event that suit is commenced because of default. The note shall be secured by the real property owned by Morris and CMC.

\\

\\

9. NOTICES.

All notices given hereunder shall be transmitted to the address below:

CMC: 2230 SE 7th
Gresham Oreg 97080

Morris: 16016 SE Division #201
Portland Oregon 97236

All notices shall be deemed to have been given on the first business day after the day of mailing, when sent by certified or registered mail, postage prepaid, or in the case of telegraphic notice, when delivered to the telegraphic office, charges prepaid, or in the case of personal delivery, upon delivery.

11. BANK ACCOUNT.

A joint bank account shall be established for the venture in a bank suitable to both parties. All checks shall require the signatures of both parties.

12. PROFESSIONALS.

The parties shall select, accountants, bookkeepers and insurance agents that are mutually acceptable. Each party shall be represented by their own attorneys.

14. LEGAL FEES.

In the event that an attorney is retained to enforce this agreement, or a suit or action is enforced to enforce any of its terms, the prevailing party shall be paid reasonable attorney fees, costs of investigation, costs of collection and all appeal costs and expenses.

15. TERMINATION OF AGREEMENT.

This agreement shall terminate on the written agreement of all the parties hereto and/or the mutual bankruptcy of the parties.

16. COUNTERPARTS.

This agreement may be executed in counterparts, each of which when executed shall be deemed an original and said counterparts, when considered and construed together, shall constitute one and the same instrument.

\\

17. INUREMENT.

This agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns, provided that no benefit shall inure to any person acquiring any interest in violation of sections (2) and (5), above.

18. AGREEMENT TO PERFORM NECESSARY ACTS.

Each party agrees to perform any further acts and execute and deliver any documents which may be reasonable and necessary to carry out the provisions of this agreement.

19. AMENDMENTS.

This agreement may be amended at any time by written agreement of all the parties hereto.

21. APPLICABLE LAW.

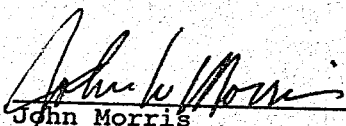
This agreement shall be governed by and construed under the laws of the State of Oregon.


22. ENTIRE AGREEMENT.

This agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous representations and understandings of the parties.

23. SIGNATURES.

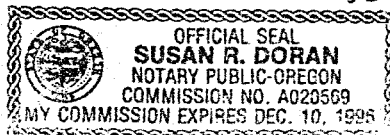
IN WITNESS WHEREOF, the parties have signed this agreement on the date first above written.


John Morris


Country Mobilhome Center, Inc.
By: Mary E. Phelps, President

On August 2, 1994 Mary E Phelps personally appeared before a notary public of Oregon.

Joint Venture Agreement Page 6



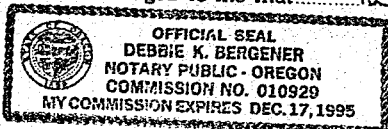
STATE OF OREGON,

County of Klamath } ss.

BE IT REMEMBERED, That on this 4th day of August, 19 94, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named John Morris

known to me to be the identical individual..... described in and who executed the within instrument and acknowledged to me that he..... 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.



Debbie K. Bergener
Notary Public for Oregon.
My Commission expires 12-17-95

PARCEL 1:

Lots 60, 69, 70, 71, 72, 73, 74, 75, 76, 77, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, and 129, CREGAN PARK, in the County of Klamath, State of Oregon. AND Lots 147 thru 162 of vacated CREGAN PARK in the SW 1/4 NW 1/4 Section 7, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon.

PARCEL 2:

Lots 52 to and including Lot 59; Lots 61 to and including Lot 68; Lots 78 to and including Lot 85; Lots 95 to and including Lot 98; Lots 101 and 102 and Lots 120 to and including Lot 128, All in CREGAN PARK, in the County of Klamath, State of Oregon. Lots 138 to and including Lot 146; Lots 163 to and including Lot 171 of vacated CREGAN PARK in the SW 1/4 NW 1/4 of Section 7, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon.

CODE 7 MAP 3909-7BC TL 500
CODE 7 MAP 3909-7BC TL 1300
CODE 7 MAP 3909-7BC TL 2000
CODE 7 MAP 3909-7BC TL 2202
CODE 7 MAP 3909-7BC TL 2203
CODE 7 MAP 3909-7BC TL 400
CODE 7 MAP 3909-7BC TL 1100
CODE 7 MAP 3909-7BC TL 2200

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title Co the 22nd day
of Aug A.D., 19 94 at 3:46 o'clock P M., and duly recorded in Vol. M94
of Deeds on Page 26043

FEE \$40.00

Evelyn Biehn County Clerk

By Pauline Mullins

Return: Aspen Title Co