

RIGHT OF FIRST OFFER FOR FINANCING

This Right of First Offer For Financing is granted this 21st day of April, 1987 by DJ-II INVESTMENTS, LTD., an Alabama limited partnership ("Owner") in favor of BALCOR MORTGAGE ADVISORS, INC., an Illinois corporation ("Balcors").

RECITALS

Owner holds fee simple title to certain vacant real estate legally described in Exhibit A attached hereto in Birmingham, Shelby County, Alabama (the "Undeveloped Parcel").

The Undeveloped Parcel is adjacent to an apartment project commonly known as Shoal Run Apartments (the "Shoal Run Property") which is also owned in fee simple by Owner.

Owner is about to enter into a loan transaction with Balcors in accordance with the terms of a certain Commitment dated October 25, 1985 between them (the "Commitment") relating to the Shoal Run Property. As an inducement to Balcors to issue the Commitment and to consummate the transaction contemplated thereby, Owner agreed to grant Balcors the rights created by this agreement.

Accordingly, Owner declares as follows:

1. Grant of Right of First Offer. At such time as Owner decides to obtain permanent financing (a "Financing") in connection with the development of the Undeveloped Parcel and before accepting a Financing for the Undeveloped Parcel from any other person or entity or listing the Undeveloped Parcel with any real estate mortgage brokerage company, Owner shall notify Balcors in writing ("Owner's Notice") which shall also set forth Owner's good faith request of terms for the Financing. Concurrently with the delivery of Owner's Notice, Owner shall deliver to Balcors copies of development proposals, pro forma operating budgets, financial statements and title evidence relating to the Undeveloped Parcel (collectively, the "Property Documents").

2. Exercise of Right of First Offer by Balcors. After receipt of Owner's Notice, Balcors may request that Owner deliver such additional documentation relating to the Undeveloped Parcel as Balcors would customarily review in connection with the possible Financing of similar property which shall constitute part of the Property Documents and Owner shall promptly deliver such documents. Within sixty (60) days of the receipt of the last of Owner's Notice or all of the Property Documents, Balcors shall respond to Owner either by submitting to Owner a commitment to provide the Financing or by advising Owner that it does not desire to provide Financing. Balcors agrees that if Owner and Balcors cannot agree after negotiating in good faith on terms for a Financing within the time period specified above, then Balcors's rights with respect to the Undeveloped Parcel shall expire, subject to renewal as provided in Paragraph 3 below.

3. Continuation of Right. If Balcors and Owner cannot agree on terms, and Owner does not consummate a Financing with another lender within nine (9) months of Owner's Notice, then Owner shall again offer the opportunity to Balcors to do a Financing with

Land Title

respect to the Undeveloped Parcel in accordance with the provisions of Paragraph 1 hereof.

4. Expiration of Right of First Offer. Balcor shall have no rights with respect to the Undeveloped Parcel arising hereunder after Owner conveys the Undeveloped Parcel to an unaffiliated third party in a bona fide transaction and Balcor will upon written request, so confirm in writing.

5. Notice. Every provision for notice, demand or request required by their Other Agreements or by applicable law shall be deemed fulfilled by written notice, demand or request personally served on (or mailed to, as hereinafter provided) the party entitled thereto or on its successors or assigns. If mailed, such notice, demand or request shall be made by certified or registered mail, and deposited in any post office station or letter-box, enclosed in a postage paid envelope addressed to such party at its address set forth below or to such other address as either party hereto shall direct by like written notice and shall be deemed to have been made on the fifth (5th) day after posting as aforesaid. If sent by commercial courier which guarantees next day delivery, such notice, demand or request shall be deemed to have been made on the first (1st) business day after delivery to the courier. For the purposes herein, notices shall be sent to Borrower and Lender as follows:

If to Lender:

Balcor Mortgage Advisors, Inc.
4849 Golf Road
Skokie, Illinois 60077
Attention: Robert C. Fliss

- with a copy to -

Schwartz & Freeman
401 North Michigan Avenue
Suite 3400
Chicago, Illinois 60611
Attention: Joy S. Goldman

If to Borrower:

DJ-II Investments, Ltd.
c/o Durham & Associates
530 Beacon Parkway West
Suite 900
Birmingham, Alabama 35209
Attention: Ronald O. Durham

- with a copy to -

John C. Coggin III
500 Bank for Savings Building
Birmingham, Alabama 35203

or to such other person or such other place as any party shall designate in writing pursuant hereto.

6. Miscellaneous. This Agreement shall be binding upon and inure to the benefit of Balcor and Owner and their respective successors and assigns. Owner acknowledges that Balcor may assign its rights hereunder to any affiliated or related entity. This Agreement may not be modified except in writing signed by

Owner and Balcor and shall be construed in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, Owner has executed this Agreement as of the day first above written.

DJ-II Investments, Ltd., an Alabama limited partnership, by its general partners

Joy S. Goldman
Witness

Joy S. Goldman
Witness

By: Ronald O. Durham

By: John R. Johnston

Accepted and Agreed to:

BALCOR MORTGAGE ADVISORS, INC.,
an Illinois corporation

By: Lawrence Hermalyn
Its Authorized Representative

Joy S. Goldman
Witness

THIS DOCUMENT PREPARED BY:

J. S. Goldman to:

Joy S. Goldman
SCHWARTZ & FREEMAN
401 North Michigan Avenue
Suite 3400
Chicago, Illinois 60611
(312) 222-0800

EXHIBIT A

Legal Description of Undeveloped Parcel

Lot 1, according to the Survey of Shoal Run as recorded in Map
Book 9, Page 130 in the Probate Office of Shelby County, Alabama.

STATE OF ILLINOIS)
COUNTY OF COOK) SS.

I, Karen W. Epton, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Ronald O. Durham and John R. Johnston, personally known to me to be the general partners of DJ-II Investments, Ltd., an Alabama limited partnership, whose names are subscribed to the within instrument, appeared before me this day in person and acknowledged that as such partners, they signed and delivered the within instrument as such officer of said partnership and executed the same as their free and voluntary act and as the free and voluntary act and deed of said partnership, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 21st day of April, 1987.

Karen W. Epton
Notary Public

SEAL



My Commission Expires:

9-6-87

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Karen W. Epton, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Lawrence L. Hermalyn, personally known to me to be the Authorized Representative of Balcor Mortgage Advisors, Inc., an Illinois corporation, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as such authorized representative, he signed and delivered the within instrument as such authorized representative of said corporation and executed the same as his free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 21st day of April, 1987.

Karen W. Epton
Notary Public

SEAL

My Commission Expires:

9-6-87

BOOK 126 PAGE 493

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1987 APR 22 PM 12:56

Thomas A. Snowden, Jr.
JUDGE OF PROBATE

| | |
|------------------|--------------|
| 1. Deed Tax | \$ _____ |
| 2. Mtg. Tax | _____ |
| 3. Recording Fee | <u>15.00</u> |
| 4. Indexing Fee | <u>1.00</u> |
| TOTAL | <u>16.00</u> |