

PURCHASE MONEY SECOND MORTGAGE

~~NOT RECORDED~~

THE STATE OF ALABAMA

Shelby County

179

KNOW ALL MEN BY THESE PRESENTS: That whereas Patrick P. Phelps and wife, Joan Phelps become justly indebted to Priscilla L. Kelley

hereinafter called the mortgagee, in the principal sum of Twenty Five Thousand Fifty-three and 45/100-----
(\$ 25,053.45) Dollars

as evidenced by one installment negotiable note of even date herewith, payable according to the terms and provisions of said note except that the final payment of principal together with all accrued and unpaid interest due thereon shall become due and payable on July 1, 1992, if not sooner paid.

NOW, THEREFORE, in consideration of the premises and in order to secure the payment of said indebtedness and compliance with all the stipulations hereinafter contained, the said Patrick P. Phelps and wife, Joan Phelps

(hereinafter called Mortgagors)

do hereby grant, bargain, sell and convey unto the said Mortgagee the following described real estate situated in

Shelby County, State of Alabama, viz:

Lot 273, according to the Survey of Chandalar South, Sixth Sector as recorded in Map Book 7, Page 49, in the Office of the Judge of Probate of Shelby County, Alabama.

SUBJECT TO:

1. Ad valorem taxes for the current year, 1990.
2. 35 foot building set back line from Chandawood Drive as shown on recorded map.
3. 10 foot utility easement on Southwesterly side of said lot as shown on recorded map.
4. Restrictive covenants and conditions as recorded in Misc. Book 24, Page 886, in the Office of the Judge of Probate of Shelby County, Alabama.
5. Permit to Alabama Power Company as recorded in Deed Book 179, Page 375, in said Probate Office.
6. Agreement with Alabama Power Company as recorded in Misc. Book 25, Page 742, in said Probate Office.
7. Easements regarding underground cables as recorded in Misc. Book 25, Page 747, in said Probate Office.
8. Mortgage from Martin Douglas Parlato and wife, Linda K. Parlato to Real Estate Financing, Inc. dated July 14, 1980 recorded in Mortgage Book 404, Page 05, assigned to Federal National Mortgage Association by Assignment dated July 31, 1980 recorded in Misc. Book 36, Page 973, in said Probate Office.

THIS IS A PURCHASE MONEY SECOND MORTGAGE, given for the purpose of securing the balance due on the purchase price of the above described property.

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Corrected

together with all rents and other revenues thereof and all rights, privileges, tenements, interests, improvements and appurtenances thereunto belonging or in any wise appertaining, including any after-acquired title and easements and all rights, title and interest now or hereafter owned by the Mortgagors in and to all buildings and improvements, storm and screen windows and doors, gas, steam, electric and other heating, lighting, ventilating, air conditioning, refrigerating and cooking apparatus, elevators, plumbing and other equipment and fixtures attached or appertaining to said premises, all of which (hereinafter designated as the mortgaged property) shall be deemed realty and conveyed by this mortgage.

TO HAVE AND TO HOLD the same and every part thereof unto the Mortgagee

Priscilla L. Kelley, her heirs and assigns forever.

And for the purpose of further securing the payment of said indebtedness the Mortgagors covenant and agree as follows:

1. That they are lawfully seized in fee and possessed of said mortgaged property and have a good right to convey the same as aforesaid, that they will warrant and forever defend the title thereto against the lawful claims of all persons whomsoever, and that said property is free and clear of all encumbrances except as hereinabove noted and set out.

2. That they will pay all taxes, assessments, or other liens taking priority over this mortgage when imposed legally upon said mortgaged property and should default be made in the payment of same, or any part thereof, said Mortgagee may pay the same.

3. That they will keep the buildings on said premises continuously insured in such amounts, in such manner and in such companies as may be satisfactory to the Mortgagee against loss by fire and such other hazards as Mortgagee may specify, with loss, if any, payable to said Mortgagee, and will deposit with Mortgagee policies for such insurance and will pay the premium therefor as the same become due. If Mortgagors fail to keep said property insured as above specified, the Mortgagee may insure said property for its insurable value against loss by fire and other hazards for the benefit of the Mortgagee, the proceeds of such insurance, if collected, to be credited on the indebtedness secured by this Mortgage, less cost of collecting same, or to be used in repairing or reconstructing the premises as the Mortgagee may elect; all amounts so expended by said Mortgagee for insurance or for the payment of taxes, assessments or any other prior liens shall become a debt due said Mortgagee additional to the indebtedness herein described and at once payable without demand upon or notice to any person, and shall be secured by the lien of this mortgage and shall bear interest at the highest legal rate from date of payment by said Mortgagee and at the election of the Mortgagee and without notice to any person the Mortgagee may declare the entire indebtedness secured by this mortgage due and payable and this mortgage subject to foreclosure and same may be foreclosed as hereinafter provided.

4. To take good care of the mortgaged property above described and not to commit or permit any waste thereon, and to keep the same repaired and at all times to maintain the same in as good condition as it now is, reasonable wear and tear alone excepted.

5. That no delay or failure of the Mortgagee to exercise any option to declare the maturity of any debt secured by this mortgage shall be taken or deemed as a waiver of the right to exercise such option or to declare such forfeiture either as to past or present default on the part of the said Mortgagors, and that the procurement of insurance or payment of taxes by the Mortgagee shall not be taken or deemed as a waiver of the right to declare the maturity of the indebtedness hereby secured by reason of the failure of the Mortgagors to procure such insurance or to pay such taxes, it being agreed that no terms or conditions contained in this mortgage can be waived, altered, or changed except as evidenced in writing signed by the Mortgagors and by the Mortgagee.

6. That they will well and truly pay and discharge the indebtedness hereby secured as it shall become due and payable.

7. That after any default on the part of the Mortgagors the Mortgagee shall, upon bill filed or other proper legal proceedings being commenced for the foreclosure of this mortgage, be entitled as a matter of right to the appointment by any competent court or tribunal without notice to any party, of a receiver of the rents, issues and profits of said premises, with power to lease and control the said premises and with such other powers as may be deemed necessary, and that a reasonable attorney's fee shall, among other expenses and costs, be fixed, allowed and paid out of such rents, issues and profits or out of the proceeds or the sale of said mortgaged property.

8. That all covenants and agreements of the Mortgagors herein contained shall extend to and bind their heirs, executors, administrators, successors and assigns, and that such covenants and agreements and all options, rights, privileges and powers herein given, granted or secured to the Mortgagee shall inure to the benefit of the heirs, successors or assigns of the Mortgagee.

9. That the debt hereby secured shall at once become due and payable and this mortgage subject to foreclosure as herein provided at the option of the holder hereof when and if any statement of lien is filed under the statutes of Alabama relating to the liens of mechanics and materialmen, without regard to the form and contents of such statement and without regard to the existence or non existence of the debt or any part thereof, or of the lien on which such statement is based.

10. Plural or singular words used herein to designate the undersigned Mortgagors shall be construed to refer to the maker or makers of this mortgage, whether one or more persons or a corporation.

UPON CONDITION, HOWEVER, that if the Mortgagors shall well and truly pay and discharge the indebtedness hereby secured as it shall become due and payable and shall in all things do and perform all acts and agreements by them herein agreed to be done according to the tenor and effect hereof, then and in that event only this conveyance shall be and become null and void; but should default be made in the payment of the indebtedness hereby secured or any renewals or extensions thereof or any part thereof or should any interest thereon remain unpaid at maturity, or should default be made in the repayment of any sum expended by said Mortgagee under the authority of any of the provisions of this mortgage or should the interest of said Mortgagee in said property become endangered by reason of the enforcement of any prior lien or encumbrance thereon so as to endanger the debt hereby secured, or should any law, either federal or state, be passed imposing or authorizing the imposition of a specific tax upon this mortgage or the debt hereby secured, or permitting or authorizing the deduction of any such tax from the principal or interest secured by this mortgage or by virtue of which any tax or assessment upon the mortgaged premises shall be charged against the owner of this mortgage or should at any time any of the stipulations contained in this mortgage be declared invalid or inoperative by any court of competent jurisdiction or should the Mortgagors fail to do and perform any other act or thing herein required or agreed to be done, then in any of said events the whole of the indebtedness hereby secured, or any portion or part of same may not as of said date have been paid, with interest thereon, shall at once become due and payable and this mortgage subject to foreclosure at the option of the Mortgagee, notice of the exercise of such option being hereby expressly waived; and the Mortgagee shall have the right to enter upon and take possession of the property hereby conveyed and after or without taking such possession to sell the same before the County Court House door in the City of Columbiana,

Shelby County, Alabama at public outcry for cash, after first giving notice of the time, place and terms of such sale by publication once a week for three consecutive weeks prior to said sale in some newspaper published in said City, and upon the payment of the purchase money the Mortgagee, or owner of the debt and mortgage, or auctioneer, shall execute to the purchaser for and in the name of the Mortgagors a good and sufficient deed to the property sold; the Mortgagee shall apply the proceeds of said sale; First, to the expense of advertising, selling and conveying, including a reasonable attorney's fee; second, to the payment of any amounts that may have been expended or that may then be necessary to expend in paying insurance, taxes and other encumbrances, with interest thereon; third, to the payment in full of the principal indebtedness and interest thereon, whether the same shall or shall not have fully matured at the date of said sale, but no interest shall be collected beyond the date of sale; and fourth, the balance, if any, to be paid over to the said Mortgagors or to whomsoever then appears of record to be the owner of said property. The Mortgagee may bid and become the purchaser of the mortgaged property at any foreclosure sale thereunder.

Mortgagor hereby assigns to Mortgagee any and all awards or damages, actual and consequential, for the taking of any portion or all of the mortgaged premises, by the exercise of the right of eminent domain or condemnation, including but not limited to, damages or awards for changes to the grades of streets, or acquiring title to streets. The proceeds of such awards or damages, when received by Mortgagee, shall be applied at the option of Mortgagee either in reduction of the mortgage indebtedness or shall be paid to Mortgagor or Mortgagor's assigns. Notwithstanding that the assignment of awards referred to herein shall be deemed to be self-executing, the Mortgagor, after the allowance of a condemnation claim or award, and the ascertainment of the amount due thereon, and in the issuing of a warrant, by the condemnor, for the payment thereof, shall execute, at the Mortgagee's request, and forthwith deliver to Mortgagee, a valid assignment in recordable form, assigning all of such condemnation claims, awards or damages to the Mortgagee, but not in excess of an amount sufficient to pay, satisfy and discharge the principal sum of this mortgage then remaining unpaid, with interest thereon, at the rate specified herein, or in the note which this mortgage secures, to the date of payment, whether such remaining principal sum is then due or not by the terms of said note or of this mortgage, and also, together with any other indebtedness which the Mortgagor may owe to the Mortgagee.

All the terms, provisions and conditions contained in the Mortgage Note which is secured by this Second Mortgage are expressly incorporated herein by reference.

In the event of the future sale of the real property described herein, it is agreed that this Second Mortgage becomes due and shall be paid in full.

This Mortgage is second, subordinate and inferior to that certain mortgage executed by Martin Douglas Parlato and wife, Linda K. Parlato to Real Estate Financing, Inc. dated July 14, 1980 recorded in Mortgage Book 404, Page 05 assigned to Federal National Mortgage Association by Assignment dated July 31, 1980 recorded in Misc. Book 36, Page 973, in the Office of the Judge of Probate of Shelby County, Alabama.

Any default under the terms of that certain mortgage recorded in Mortgage Book 404, Page 05, in said Probate Office ("First Mortgage") or the obligation secured thereby, shall constitute a default of this Mortgage.

Anything to the contrary notwithstanding contained herein, the monthly installments of principal and interest provided for in the Mortgage Note secured hereby are based on a thirty (30) year amortization; however on July 1, 1992, unless the indebtedness evidenced by said Mortgage Note which same secures has been paid in full, the entire unpaid balance then due thereon together with all accrued and unpaid interest due thereon shall immediately become due and payable, resulting in a "balloon" payment of principal and interest due on the final payment date at the end of said two (2) year term (July 1, 1992).

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this the 29th day of June, 1990.

Patrick P. Phelps

Joan Phelps

(Seal)

(Seal)

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THE STATE OF ALABAMA,

JEFFERSON COUNTY.

I, the undersigned authority, a Notary Public in and for said County, in said State hereby certify that Patrick P. Phelps and wife, Joan Phelps whose name s are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this 29th day of June, 1990

E. Kay Wallace
My commission expires: 11-28-92 Notary Public

THE STATE OF ALABAMA,

COUNTY.

I, a Notary Public in and for said County, in said State hereby certify that whose name signed to the foregoing conveyance and who known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this day of, 19

Notary Public

THE STATE OF ALABAMA,

COUNTY.

I, a Notary Public in and for said County, in said State hereby certify that whose name as President of the, a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this day of, 19

Notary Public

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

90 JUL -3 AM 11:06

JUDGE OF PROBATE

THIS INSTRUMENT WAS PREPARED BY:

Mary Douglas Hawkins
CORRETTI & NEWSOM
1804 7th Avenue North
Birmingham, Alabama 35203
(205) 251-1164

1. Deed Tax	37.65
2. Mortgage Tax	10.00
3. Notary Fee	3.00
4. Recording Fee	1.00
Total	51.65

TO

MORTGAGE DEED

THE STATE OF ALABAMA,

COUNTY.

Office of the Judge of Probate.

I hereby certify that the within mortgage was filed

in this office for record on the

day of, 19

at o'clock M., and was duly recorded in

Volume of Mortgages, at page

and examined.

Judge of Probate.

LAW OFFICES OF
CORRETTI & NEWSOM
BIRMINGHAM, ALA.