551

IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA, As Applicant, Plaintiff, VS. STEVEN SPEARS and DONNIE SUE SPEARS as record fee simple owners of certain designated real estate; and ANNETTE SKINNER, in her official capacity as Tax Collector of Shelby County, Alabama, Defendants.	CASE NO. 29-140

MOTION TO AMEND APPLICATION FOR ORDER OF CONDEMNATION

Comes now the plaintiff and moves this Honorable Court to allow it to amend the Application for Order of Condemnation herein as follows:

1. To add the United States of America as Defendant because the United States Department of Agriculture/Farmers Home Administration hold a mortgage on the property of the Co-defendants, fee simple property owners, Steven and Donnie Sue Spears, as recorded in the Office of the Probate Judge of Shelby County, Alabama, Real Volume 324, Page 893, dated August 25, 1972; and described as follows, to wit:

See Attachment Exhibit "A"

BOOK 309 PAGE 285

Respectfully submitted,

Helen Shores Lee
HELEN SHORES LEE
Attorney for Plaintiff

Pat

SERVICE REQUESTED BY CERTIFIED MAIL

This service by certified mail of this Notice is initiated upon the written request of the plaintiff pursuant to Rule 4.1(c) and 4.2(b)(1) of the Alabama Rules of Civil Procedure.

Date: ______________________________ ______________________________

RETURN ON SERVICE

Certified mail return receipt received in this office on the _______ day of __________________, 1990.

____

Exhibit A

USDA-FHA
Form FHA 427-1 Ala.
(Rev. 9-2-69)

REAL ESTATE MORTGAGE FOR ALABAMA
(INSURED LOANS TO INDIVIDUALS)

KNOW ALL MEN BY THESE PRESENTS, Dated August 25, 1972

WHEREAS, the undersigned Steven [illegible] Spears and wife, [illegible] Sue Spears [illegible]

residing in Shelby County, Alabama, whose post office address is Route 2, Box 78D, Montevallo, Alabama 35115, herein called "Borrower," are(is) justly indebted to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, herein called the "Government," as evidenced by one or more certain promissory note(s) or assumption agreement(s), herein called "note" (if more than one note is described below, the word "note" as used herein shall be construed as referring to each note singly or all notes collectively, as the context may require), said note being executed by Borrower, being payable to the order of the Government in installments as specified therein, authorizing acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and being further described as follows:

Date of Instrument	Principal Amount	Annual Rate of Interest	Due Date of Final Installment
August 25, 1972	$14,500.00	[illegible]	August 25, 2005

[illegible]

WHEREAS, the note evidences a loan to Borrower in the principal amount specified therein, made with the purpose and intention that the Government, at any time, may assign the note and insure the payment thereof pursuant to the Consolidated Farmers Home Administration Act of 1961, or Title V of the Housing Act of 1949; and

WHEREAS, when payment of the note is insured by the Government, it may be assigned from time to time and each holder of the insured note, in turn, will be the insured lender; and

WHEREAS, when payment of the note is insured by the Government, the Government will execute and deliver to the insured lender along with the note an insurance endorsement insuring the payment of all amounts payable to the insured lender in connection with the loan; and

WHEREAS, when payment of the note is insured by the Government, the Government by agreement with the insured lender set forth in the insurance endorsement may be entitled to a specified portion of the payments on the note, to be designated the "annual charge"; and

WHEREAS, a condition of the insurance of payment of the note will be that the holder will forego his rights and remedies against Borrower and any others in connection with the loan evidenced thereby, as well as any benefit of this instrument, and will accept the benefits of such insurance in lieu thereof, and upon the Government's request will assign the note to the Government; and

WHEREAS, it is the purpose and intent of this instrument that, among other things, at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the note, this instrument shall secure payment of the note; but when the note is held by an insured lender, this instrument shall not secure payment of the note or attach to the debt evidenced thereby, but as to the note and such debt shall constitute an indemnity mortgage to secure the Government against loss under its insurance endorsement by reason of any default by Borrower:

NOW, THEREFORE, in consideration of the loan(s) and (a) at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the payment of the note, to secure prompt payment of the note and any renewals and extensions thereof and any agreements contained therein, including any provision for the payment of an insurance or other charge, (b) at all times when the note is held by an insured lender, to secure performance of Borrower's agreement herein to indemnify and save harmless the Government against loss under its insurance endorsement by reason of any default by Borrower, and (c) in any event and at all times to secure the prompt payment of all advances and expenditures made by the Government, with interest, as hereinafter described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement, BORROWER DOES HEREBY GRANT, BARGAIN, SELL, CONVEY, AND ASSIGN UNTO THE GOVERNMENT, WITH GENERAL WARRANTY,

THE FOLLOWING PROPERTY SITUATED IN THE STATE OF ALABAMA, COUNTY(IES) OF [illegible]

[illegible] Shelby [illegible]

[illegible]

FHA 427-1 Ala. (Rev. [illegible])

324 PAGE 803

BOOK 309 PAGE 287

A lot situated in the West ½ of the SW¼ of Section 1, Township 24 North, Range 12 East, described as follows: Commence at the southwest corner of Section 1, Township 24 North, Range 12 East, thence run north along the west line of said Section 1 a distance of 2,463.00 feet to the south R/O/W line of Alabama State Highway 25; thence turn an angle of 88 deg. 23 min. to the right and run east along said R/O/W line a distance of 25.76 feet to the point of beginning; thence continue east along said R/O/W line a distance of 131.00 feet; thence turn an angle of 88 deg. 00 min. to the right and run a distance of 200.00 feet; thence turn an angle of 92 deg. 00 min. to the right and run a distance of 131.00 feet; thence turn an angle of 88 deg. 00 min. to the right and run a distance of 200.00 feet to the point of beginning; situated in the West ½ of the SW¼ of Section 1, Township 24 North, Range 12 East, Shelby County, Alabama.

TOGETHER WITH ALL RIGHTS, INTERESTS, EASEMENTS, HEREDITAMENTS AND APPURTENANCES THEREUNTO BELONGING, THE RENTS, ISSUES, AND PROFITS THEREOF AND REVENUES AND INCOME THEREFROM, ALL IMPROVEMENTS AND PERSONAL PROPERTY NOW OR LATER ATTACHED THERETO OR REASONABLY NECESSARY TO THE USE THEREOF, ALL WATER, WATER RIGHTS, AND WATER STOCK PERTAINING THERETO, AND ALL PAYMENTS AT ANY TIME OWING TO BORROWER BY VIRTUE OF ANY SALE, LEASE, TRANSFER, CONVEYANCE, OR CONDEMNATION OF ANY PART THEREOF OR INTEREST THEREIN—ALL OF WHICH ARE HEREIN CALLED "THE PROPERTY".

TO HAVE AND TO HOLD the property unto the Government and its assigns forever in fee simple.

BORROWER for himself, his heirs, executors, administrators, successors and assigns WARRANTS THE TITLE to the property to the Government against all lawful claims and demands whatsoever except any liens, encumbrances, easements, reservations, or conveyances specified hereinabove, and COVENANTS AND AGREES as follows:

(1) To pay promptly when due any indebtedness to the Government hereby secured and to indemnify and save harmless the Government against any loss under its insurance of payment of the note by reason of any default by Borrower. At all times when the note is held by an insured lender, Borrower shall continue to make payments on the note to the Government, as collection agent for the holder.

(2) To pay to the Government such fees and other charges as may now or hereafter be required by regulations of the Farmers Home Administration.

(3) At all times when the note is held by an insured lender, any amount due and unpaid under the terms of the note, less the amount of any annual charge, may be paid by the Government to the holder of the note as provided in the insurance endorsement for the account of Borrower. Any amount due and unpaid under the terms of the note, whether it is held by the Government or by an insured lender, may be credited by the Government on the note and thereupon shall constitute an advance by the Government for the account of Borrower. Any advance by the Government as described in this paragraph shall bear interest at the note rate from the date on which the amount of the advance was due to the date of payment to the Government.

(4) WHETHER OR NOT THE NOTE IS INSURED BY THE GOVERNMENT, THE GOVERNMENT MAY AT ANY TIME PAY ANY OTHER AMOUNTS REQUIRED HEREIN TO BE PAID BY BORROWER AND NOT PAID BY HIM WHEN DUE, AS WELL AS ANY COSTS AND EXPENSES FOR THE PRESERVATION, PROTECTION, OR ENFORCEMENT OF THIS LIEN, AS ADVANCES FOR THE ACCOUNT OF BORROWER. ALL SUCH ADVANCES SHALL BEAR INTEREST AT THE RATE BORNE BY THE NOTE WHICH HAS THE HIGHEST INTEREST RATE.

(5) ALL ADVANCES BY THE GOVERNMENT AS DESCRIBED IN THIS INSTRUMENT, WITH INTEREST, SHALL BE IMMEDIATELY DUE AND PAYABLE BY BORROWER TO THE GOVERNMENT WITHOUT DEMAND AT THE PLACE DESIGNATED IN THE LATEST NOTE AND SHALL BE SECURED HEREBY. No such advance by the Government shall relieve Borrower from breach of his covenant to pay. Such advances, with interest, shall be repaid from the first available collections received from Borrower. Otherwise, any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in any order the Government determines.

BOOK 309 PAGE 288

1.	Deed Tax	$
2.		10.00
3.		3.00
4.		
5.		1.00
6.		
Total		$ 14.00

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
90 SEP 11 PM 1:32