



20030627000405930 Pg 1/5 23.00
Shelby Cnty Judge of Probate, AL
06/27/2003 15:47:00 FILED/CERTIFIED

SUBORDINATION AND LIEN PRIORITY AGREEMENT

STATE OF ALABAMA)
SHELBY COUNTY)

This Subordination and Lien Priority Agreement (the Agreement) is made this 26 day of June, 2003 by and between Union State Bank (Bank) and Creed Development LLC (Creed).

Whereas, Bank is the mortgagee of those certain instruments recorded in Instrument Number 1993-20129, Instrument Number 1993-38933, Instrument Number 1996-31307, Instrument Number 1997-8870, Instrument Number 1998-29426, Instrument Number 1998-44629, Instrument Number 2000-44680, Instrument Number 2001-36290, Office of the Judge of Probate, Shelby County, Alabama (herein collectively the USB First) being all of the Bank liens comprising the USB First; and,

Whereas, the USB First secures a debt from Randall H. Goggans (Goggans) in the principal amount of \$1,249,900.00; and,

Whereas, Creed is the mortgagee in that certain mortgage recorded in Instrument Number 20020625000299380, Office of Judge of Probate, Shelby County, Alabama (the Creed Second); and,

Whereas, Bank is the mortgagee in that certain mortgage recorded in Instrument Number 20030604000346130, Office of Judge of Probate, Shelby County, Alabama (the USB Second); the USB Second is third in lien priority behind the USB First and Creed Second. The real property described in the USB Second is referred to herein as the House Property; and,

Whereas, Goggans and his wife (Holly H. Goggans) are the owners of the real property (the Property) described in USB First, the Creed Second and the USB Second provided, however, that the USB Second encumbers only the House Property which is a portion of a larger tract that is the Development (defined below); and,

Whereas, Goggans is in the process of developing the Property into a subdivision (the Development) known as Mountain Crest Estates pursuant to Plat approved by Shelby County Alabama and to be recorded in the Office of the Judge of Probate, Shelby County, Alabama. Goggans has contracts (the Contracts) to sell all of the lots to be located in the Development except for the House Property. The lots located in the Development (except the House Property) are collectively referred to herein as the Lots; and,

Whereas, in order to pay a portion of the costs of the Development, Bank has agreed to loan Goggans \$251,098.50 (the Development Loan) which Development Loan is to be secured by a future advance mortgage (the Development Mortgage) and Bank requires that the Development Mortgage have priority over the Creed Second; and,

Whereas, the total cost of the Development is fixed at \$450,000.00 (the Development Costs) and

Bank additionally requires that the Creed Second be subordinate to the balance of the Development Costs after application of the Development Loan, which balance is capped at \$200,000.00 (the Balance), which Balance is to be paid from the proceeds of the closing of the sale of the Lots.

Now, therefore, in consideration of the premises, the covenants contained herein and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Creed Second is hereby expressly declared subordinate to the Development Mortgage and the Balance; provided, however, that the foregoing subordination is expressly limited to the amount of \$451,098.50.
2. The Development Mortgage is recorded in Instrument Number 20030627000405920 Office of the Judge of Probate, Shelby County, Alabama.
3. From the proceeds of the sale of the Lots, the following obligations shall be paid in the following order:
 - a. First to the outstanding principal and interest on the USB First;
 - b. Second to the outstanding principal and interest on the Development Loan;
 - c. Third to the Balance in an amount not to exceed \$200,000.00;
 - d. Fourth to the outstanding principal and interest on the Creed Second.
4. The parties contemplate at the conclusion of the closing of the sale of all of the Lots that the House Property will be then encumbered first by the Creed Second as a first mortgage lien and followed by the USB Second as a second mortgage lien. The parties will execute all reasonable documentation to achieve the lien priority stated in this paragraph; it being understood that the USB First and the Development Mortgage will be fully released at the closing of the sale of all of the Lots.
5. Bank and Goggans agree that no advances shall be made to Goggans except for the Development Loan which shall not exceed \$251,098.50.
6. Bank and Goggans warrant and agree that all proceeds of the Balance and the Development Loan shall be applied to and/or funded to pay for the costs of the Development and not for any other cost or expense.

Done the date and year first above written.

Union State Bank

By: R. V. Alexander
Its: Pres.

Creed Development, LLC

By: W. Larry Clayton
Its: Manager

Goggans, and wife, Holly H. Goggans, further enters herein to acknowledge, consent and agree to the foregoing.

Randall H. Goggans
Randall H. Goggans

Holly H. Goggans
Holly H. Goggans

STATE OF ALABAMA)

Jefferson COUNTY)

CORPORATION ACKNOWLEDGMENT

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

Given under my hand and official seal this 27 day of JUN, 2003.

[Signature]
Notary Public

My Commission Exp. 3-1-06

STATE OF ALABAMA)

_____ COUNTY)

LLC ACKNOWLEDGMENT

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that W. Larry Clayton as Manager of Creed Development, LLC, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he, in their capacity as such member, executed the same voluntarily, for and as the act of said limited liability company.

Given under my hand and official seal this ____ day of _____, 2003.

Notary Public

My Commission Expires: _____

Goggans, and wife, Holly H. Goggans, further enters herein to acknowledge, consent and agree to the foregoing.

Randall H. Goggans

STATE OF ALABAMA)

COUNTY)

CORPORATION ACKNOWLEDGMENT

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

Given under my hand and official seal this _____ day of _____, 2003.

Notary Public

My Commission Exp. _____

STATE OF ALABAMA)

COUNTY)

LLC ACKNOWLEDGMENT

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that W. Larry Clayton as Manager of Creed Development, LLC, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he, in their capacity as such member, executed the same voluntarily, for and as the act of said limited liability company.

Given under my hand and official seal this 26th day of June, 2003.

Carolyn C. Lawrence
Notary Public

My Commission Expires: 5-27-07

20030627000405930 Pg 5/5 23:00
Shelby Cnty Judge of Probate, AL
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STATE OF ALABAMA)
Jeffery COUNTY)

I, the undersigned, a Notary Public for the State of Alabama at Large do hereby certify that Randall H. Goggans and wife, Holly H. Goggans, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me this day that, being informed of the contents of said conveyance, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 26 day of June, 2003.

[Signature]
Notary Public
My Commission Exp. 3-1-06