

20041115000625540 Pg 1/10 137.00
Shelby Cnty Judge of Probate, AL
11/15/2004 12:07:00 FILED/CERTIFIED

Recording requested by and when recorded
return to:
2150 CABOT BLVD. WEST

LANGHORNE, PA 19047
ATTN: GROUP 9, INC.

This Instrument was prepared by:
ROBIN LAY
20816 44TH AVE WEST, BLDG B
LYNNWOOD, WA 98036



OPEN-END MORTGAGE

Loan Number: 0688826171

THIS MORTGAGE is from:
DEBORAH C. GIVENS AND RALPH E. GIVENS, MARRIED

whose address is:

4370 MILNER RD W BIRMINGHAM, AL 35242

("Borrower"); in favor of:

Washington Mutual Bank, FA, a federal association, which is organized and existing under the laws of the United States of America, and whose address is 400 E. Main Street, Stockton, CA 95290 ("Beneficiary") and its successors or assigns.

1. **Granting Clause.** Borrower hereby grants, bargains, sells, conveys and mortgages to Lender and its successors and assignees the real property in SHELBY County, Alabama, described below and all rights and interest in it Borrower ever gets: LYING AND BEING LOCATED IN THE UNINCORPORATED AREA, COUNTY OF SHELBY, STATE OF ALABAMA; ALL THAT CERTAIN PARCEL OR TRACT OF LAND KNOWN AS: LOT 99, ACCORDING TO THE SURVEY OF FINAL RECORD PLAT OF GREYSTONE FARMS MILNER'S CRESCENT SECTOR PHASE 3, AS RECORDED IN MAP BOOK 23, PAGE 71, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.

Tax Parcel Number: 038330009031000 together with all insurance and condemnation proceeds related to it; all income, rents and profits from it; all plumbing, lighting, air conditioning and heating apparatus and equipment; and all fencing, blinds, drapes, floor coverings, built-in appliances and other fixtures at any time installed on or in or used in connection with such real property, all of which at the option of Lender may be considered to be either personal property or to be part of the real estate.

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All of the property described above will be called the "Property". If any of the Property is subject to the Uniform Commercial Code, this Mortgage is also a Security Agreement which grants Lender, as secured party, a security interest in all such property.

2. Obligation Secured.

(a) This Mortgage is given to secure performance of each promise of Borrower contained herein or in a Home Equity Line of Credit Agreement and Disclosure with Lender with a maximum credit limit of \$66,000.00 (the "Credit Agreement"), including any extensions, renewals or modifications thereof, and repayment of all sums borrowed by Borrower under the Credit Agreement with interest from the date of each advance until paid at the rates provided therein. The Credit Agreement provides for variable and fixed rates of interest. Under the Credit Agreement, the Borrower may borrow, repay and re-borrow from time to time, up to the maximum credit limit stated above, and all such advances shall be secured by the lien of this Mortgage. This Mortgage also secures payment of certain fees and charges payable by Borrower under the Credit Agreement, certain fees and costs of Lender as provided in Section 9 of this Mortgage and repayment of money advanced by Lender to protect the Property or Lender's interest in the Property, including advances made pursuant to Section 6 below. The Credit Agreement provides that unless sooner repaid, the Debt is due and payable in full on 11/05/2034 (the "Maturity Date"). All of this money is called the "Debt".

(b) A copy of the Credit Agreement identified as Exhibit A is attached hereto and incorporated herein by reference.

3. Representations of Borrower. Borrower represents that:

(a) Borrower is the owner of the Property which is unencumbered except by easements, reservations and restrictions of record not inconsistent with the intended use of the Property and any existing first mortgage or mortgage given in good faith and for value, the existence of which has been disclosed in writing to Lender; and

(b) The Property is not used for any agricultural or farming purposes.

4. Promises of Borrower. Borrower promises:

(a) To keep the Property in good repair and not to remove, alter or demolish any of the improvements on the Property without first obtaining Lender's written consent;

(b) To allow representatives of Lender to inspect the Property at any reasonable hour and to comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property;

(c) To pay on time all lawful taxes and assessments on the Property;

(d) To perform on time all terms, covenants and conditions of any prior mortgage or deed of trust covering the Property or any part of it and pay all amounts due and owing thereunder in a timely manner;

(e) To see to it that this Mortgage remains a valid lien on the Property superior to all liens except those described in Section 3(a); and

(f) To keep the improvements on the Property insured by a company satisfactory to Lender against fire and extended coverage perils, and against such other risks as Lender may reasonably require, in an amount equal to the full insurable value of the improvements and to deliver evidence of such insurance coverage to Lender. Lender will be named as the loss payee on all such policies pursuant to a standard lender's loss payable clause. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in the same manner as payments under the Credit Agreement or, at Lender's sole option, released to Borrower. In the event of foreclosure or sale of the Property, all rights of the Borrower in insurance policies then in force shall pass to the Lender or purchaser of the Property.

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5. **Sale, Transfer or Further Encumbrance of Property.** The Loan is personal to Borrower and the entire Debt shall be accelerated and become immediately due and payable in full upon any sale or other transfer of the Property or any interest therein by Borrower including, without limit, further encumbrance of the Property. A sale or other transfer of the Property or any interest therein by Borrower without the full payment of the Debt shall constitute an event of default hereunder.

6. **Curing of Defaults.** If Borrower fails to comply with any of the covenants in Section 4, including all the terms of any prior mortgage or deed of trust, Lender may take any action required to comply with any such covenants without waiving any other right or remedy it may have for Borrower's failure to comply.

Repayment to Lender of all the money spent by Lender on behalf of Borrower shall be secured by this Mortgage. The amount spent shall bear interest at the rates from time to time applicable under the Credit Agreement and be repayable by Borrower on demand. Although Lender may take action under this paragraph, Lender is not obligated to do so.

7. **Remedies For Default.**

(a) Prompt performance under this Mortgage is essential. If Borrower does not pay any installment of the Debt on time, or any other event occurs that entitles Lender to declare the unpaid balance of the Debt due and payable in full under the Credit Agreement, the Debt and any other money whose repayment is secured by this Mortgage shall immediately become due and payable in full, at the option of the Lender, and the total amount owed by Borrower on the day repayment in full is demanded, including all unpaid interest, will thereafter bear interest at the rate specified in the Credit Agreement.

(b) If the Borrower is in default under this Mortgage, this Mortgage shall be subject to foreclosure, at the Lender's option. Notice of the exercise of such option is expressly waived by Borrower, and Lender shall have the right to enter upon and take possession of the Property, and after, or without taking possession of the Property, to sell the Property at the front or main door of the courthouse of the county where the Property is located, at public outcry for cash, after first giving notice of the description of the property to be sold and the time, place and terms of such sale by publication once a week for three consecutive weeks prior to the sale in a newspaper published in the county or counties in which the property to be sold is located. Borrower waives any requirement that the Property be sold in separate tracts and agrees that Lender may sell the Property en masse regardless of the number of parcels conveyed by this Mortgage. The power of sale granted to Lender is a continuing power of sale and shall not be fully exercised until all of the Property not previously sold is sold or all of the Obligations are satisfied in full. Upon the payment of the purchase price, Lender or the auctioneer conducting the sale is authorized to execute a deed to the property in Borrower's name and deliver the deed to the purchaser at the foreclosure sale. Lender, its successors, assigns, agents or attorneys may bid all or part of the Debt owed and become the purchaser of the property at any sale hereunder.

The proceeds from the sale of the Property shall be applied as follows: (i) to the expense of advertising, preparing, selling and conveying the Property for sale, including reasonable attorney fees incurred by Lender in the foreclosure action or any injunction proceeding, bankruptcy, appeal or other proceeding challenging the right of Lender to foreclose this Mortgage or sell any of the Property; (ii) to the payment of any amounts expended or that may be necessary to expend to pay insurance, taxes, assessments and other liens and mortgages; (iii) in full or partial payment of the Obligations secured by the Mortgage; and (iv) the balance, if any, to be paid in accordance with the requirements of law.

(c) The foreclosure of this Mortgage is not the exclusive remedy of Lender to collect the Debt. Lender may, upon the occurrence of a default as set forth in Section 7(a) above, institute any

other remedies available to a creditor under Alabama law. In connection with any portion of the Property which is personal property, Lender shall further be entitled to exercise the rights of a secured party under the Uniform Commercial Code as then in effect in the State of Alabama.

(d) By accepting payment of any sum secured by this Mortgage after its due date, Lender does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

8. **Condemnation; Eminent Domain.** In the event any portion of the Property is taken or damaged in an eminent domain proceeding, the entire amount of the award, or such portion as may be necessary to fully satisfy the obligation secured by this Mortgage, shall be paid to Lender to be applied to the obligation in the same manner as payments under the Credit Agreement.

9. **Fees and Costs.** Borrower shall pay Lender's reasonable cost of searching records, other reasonable expenses as allowed by law and reasonable attorney's fees in any lawsuit or other proceeding to foreclose this Mortgage, in any lawsuit or proceeding which Lender is obligated to prosecute or defend to protect the lien of this Mortgage, in any other action taken by Lender to collect the Debt, including without limitation any disposition of the Property under the Uniform Commercial Code, and any action taken in bankruptcy proceedings as well as any appellate proceedings.

10. **Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage. Borrower shall pay Lender a release fee, unless prohibited by law, and for all recordation costs of any satisfaction of this Mortgage.

11. **Payoff and Similar Statements.** Unless prohibited by law, Lender may collect a fee in the amount determined by Lender for furnishing a payoff demand statement or similar statement.

12. **Miscellaneous.** This Mortgage shall benefit and obligate the heirs, devisees, legatees, administrators, executors, successors and assigns of the parties hereto. The words used in this Mortgage referring to one person shall be read to refer to more than one person if two or more have signed this Mortgage or become responsible for doing the things this Mortgage requires. This Mortgage shall be governed by and construed in accordance with federal law and, to the extent federal law does not apply, the laws of the State of Alabama. **IN THE EVENT OF ANY ACTION HEREUNDER OR RELATED HERETO, AND SUBJECT TO APPLICABLE LAW, BORROWER HEREBY WAIVES ANY RIGHT TO A JURY TRIAL.** If any provision of this Mortgage is determined to be invalid under law, that fact shall not invalidate any other provision of this Mortgage, but the Mortgage shall be construed as if not containing the particular provision or provisions held to be invalid and all remaining rights and obligations of the parties shall be construed and enforced as though the invalid provision did not exist.

If this box is checked, _____ joins in the execution and delivery of this Mortgage to induce Lender to make the loan and to create a valid enforceable lien under Alabama law. _____ does not undertake any responsibility for payments of the Credit Agreement secured by this Mortgage but is jointly and severally responsible with the Borrower for the performance of all warranties, terms and conditions of the Mortgage.

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DATED at 5:elby City, Alabama this 1 day of November 2004.

BORROWER(S):

Ralph E. Givens
RALPH E GIVENS

Deborah C Givens
DEBORAH C GIVENS

STATE OF ALABAMA)
) SS
COUNTY OF Shelby)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that
RALPH E GIVENS and
DEBORAH C GIVENS and

_____ and
_____ and

whose name(s) ~~is~~ are signed to the foregoing instrument and who ~~is~~ are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, ~~he/she~~ they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 1st day of November, 2004.

Kimberly L. DeF
Notary Public
My Commission expires : 3-22-06

DG RG

Recording requested by Law, when recorded
return to:
2150 CABOT BLVD. WEST

LANGHORNE, PA 19047
ATTN: GROUP 9, INC.

This document was prepared by:
ROBIN LAY
WASHINGTON MUTUAL BANK, FA
20816 44TH AVE WEST, BLDG B
LYNNWOOD, WA 98036



PLANNED UNIT DEVELOPMENT RIDER

0688826171

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 29TH day of OCTOBER
2004, and is incorporated into and shall be deemed to amend and supplement the Mortgage,
Deed of Trust, or Security Deed (the "Security Instrument") of the same date, given by the
undersigned (the "Borrower") to secure Borrower's Note to _____

WASHINGTON MUTUAL BANK, FA

(the "Lender") of the same date and covering the Property described in the Security Instrument and
located at: 4370 MILNER RD W BIRMINGHAM, AL 35242
(Property Address)

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with
other such parcels and certain common areas and facilities, as described in the recorded CC&R's
(the "Declaration"). The Property is a part of a planned unit development known as:

GREYSTONE FARMS

(Name of Planned Unit Development)

(the "PUD"). The Property also includes Borrower's interest in the Homeowners' Association or
equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners'
Association") and the uses, benefits and proceeds of Borrower's interest.

PUD COVENANTS. In addition to the covenants and agreements made in the Security Instrument,
Borrower and Lender further covenant and agree as follows:

A. PUD Obligations. Borrower shall perform all of Borrower's obligations under the PUD's
Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of
incorporation, trust instrument or any equivalent document which creates the Owners' Association;
and (iii) any by-laws or other rules or regulations of the Owners' Association. Borrower shall
promptly pay, when due, all dues and assessments imposed pursuant to the Constituent
Documents.

B. Property Insurance. So long as the Owners' Association maintains, with a generally
accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is
satisfactory to Lender and which provides insurance coverage in the amounts (including deductible
levels) for the periods, and against loss by fire, hazards included within the term "extended
coverage" and any other hazards, including but not limited to earthquakes and floods, for which

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Lender requires insurance, then:

(i) Borrower's obligation under the Security Instrument to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners' Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

C. Public Liability Insurance. Borrower shall take such actions as may be reasonable to insure that the Owners' Association maintains a public liability insurance policy acceptable in form, amount and extent of coverage to Lender.

D. Condemnation. The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property, whether of the unit or of common elements or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided therein with the excess, if any, paid to Borrower.

E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to:

(i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender;

(iii) termination of professional management and assumption of self-management of the Owners' Association; or

(iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners' Association unacceptable to Lender.

F. Remedies. If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment unless otherwise prohibited by applicable law.

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BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions contained in this PUD Rider.



RALPH E GIVENS



DEBORAH C GIVENS

0688826171

STATE OF ALABAMA)
) SS
COUNTY OF Shelby)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that
RALPH E GIVENS and
DEBORAH C GIVENS and

_____ and
_____ and
_____ and
_____ and

whose name(s) ~~is~~ are signed to the foregoing instrument and who ~~is~~ are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, ~~he/she~~ they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 1st day of November, 2004.

Kimberly A. DeF
Notary Public
My Commission expires : 3-22-06

11/15/04
12:07:00
FILED/CERTIFIED

DG RG