


STATE OF ALABAMA}
JEFFERSON COUNTY}


20050811000412860 1/7 \$30.00
Shelby Cnty Judge of Probate, AL
08/11/2005 12:47:22PM FILED/CERT

JUNIOR MORTGAGE

This indenture is made and entered into this 7 day of July, 2005 by and between James T. Shirley and wife, Holly G. Hart (hereinafter called "Mortgagors") and Jefferson County, a county corporation organized and existing under the laws of the State of Alabama (hereinafter called "Mortgagee").

WHEREAS, Mortgagors is justly indebted to the Mortgagee in the amount of One Hundred Thousand and no/100 dollars (\$100,000.00) as evidenced by that certain promissory note in favor of the Mortgagee dated of even date herewith, which note bears interest as provided therein and has a final maturity date of August 1, 2015.

NOW, THEREFORE, in consideration of the premises, and to secure the payment of the debt evidenced by said note and any and all extensions and renewals therefore, or of any part thereof, and all interest payable on all of said debt and on any and all such extension and renewals (the aggregate amount of such debt and interest thereon, including any extensions and renewals and the interest thereon, is hereinafter collectively called "Debt") and the compliance with all the stipulations herein contained, the Mortgagors does hereby grant, bargain, sell and convey unto the and assigns a security interest in the real property and it's land described more particularly in Exhibit A attached hereto (said real estate being hereinafter called "Real Estate"):

Together with all the rights, privileges, tenements, appurtenances and fixtures appertaining to the Real Estate, all of which shall be deemed Real Estate and conveyed by this mortgage.

To have and to hold the Real Estate unto the Mortgagee, its successors and assigns forever. The Mortgagors covenants with the Mortgagee that the Mortgagors is lawfully seized in fee simple of the Real Estate and has a good right to sell and convey the Real Estate as aforesaid; that the Real Estate is free of all encumbrances, except as otherwise set forth herein, and the Mortgagors will warrant and forever defend the title to the Real Estate unto the Mortgagee, against the lawful claims of all persons.

This mortgage is subordinate to the following:

That certain mortgage by James T. Shirley and Holly G. Hart to NexStar Financial Corporation in the amount of \$142,000.00 dated October 1, 2003 and recorded in Instrument No. 20031013000685690.

The Mortgagors hereby authorizes the holder of a prior mortgage encumbering the Real Estate to disclose to the Mortgagee the following information: (1) the amount of indebtedness secured by such mortgage; (2) the amount of such indebtedness that is unpaid; (3) whether any amount owed on such indebtedness is or has been in arrears; (4) whether there is or has been any default with respect to such mortgage or the

indebtedness secured thereby; and (5) any other information regarding such mortgage or the indebtedness secured thereby which the Mortgagee may request from time to time.

The Mortgagors expressly agrees that if default should be made in the payment of principal, interest or any other sum payable under the terms and provisions of any prior mortgage the Mortgagee may, but shall not be obligated to, cure such default, without notice to anyone, by paying whatever amounts may be due under the terms of such prior mortgage so as to put the same in good standing; and any and all payments so made, together with interest thereon at the rate of 6% per annum, shall be added to the indebtedness secured by this mortgage. Any such amount paid by Mortgagee, with interest thereon, shall be immediately due and payable; and, if such amount is not paid in full immediately by Mortgagors, then, at the option of mortgagee, this mortgage shall be in default and subject to immediate foreclosure in all respects as provided by law and by the provisions hereto.

For the purpose of further securing the payment of the Debt, the Mortgagors agrees to : (1) pay all taxes, assessments, and other liens taking priority over this mortgage (hereinafter jointly called "Liens"), and if default is made in the payment of the same; (2) keep the Real Estate continuously insured, in such manner and with such companies as may be satisfactory to the other perils usually covered by a fire insurance policy with standard extended coverage endorsement, with loss, if any payable in an amount at least equal to the full insurable value of the improvements located on the Real Estate unless the Mortgagee agrees in writing that such insurance may be in a lesser amount. A certificate of insurance shall be delivered to and held by the Mortgagee until the Debt is paid in full. The insurance policy must provide that it may not be cancelled without the insurer giving at least fifteen days prior written notice of such cancellation to the Mortgage at the following address:

Jefferson County
c/o Director, Department of Economic Development
716 Richard Arrington Blvd Suite B-210
Birmingham, Alabama 35203

Subject to the rights of holders of the prior mortgages set forth above, the Mortgagors hereby assigns and pledges to the Mortgagee as further security for the payment of the Debt each and every policy of hazard insurance now or hereafter in effect which insures said improvements, or any part thereof, together with all the right, title and interest of the Mortgagors in and to each and every such policy, including but not limited to all of the Mortgagors' right, title and interest in and to any premiums paid on such hazard insurance, including all rights to return premiums. If the Mortgagors fails to keep the Real Estate insured as specified above then, at the election of the Mortgagee and without notice to any person, the Mortgagee may declare the entire Debt due and payable and this mortgage subject to foreclosure, and this mortgage may be foreclosed as hereinafter provided; and, regardless of whether the Mortgagee declares the entire Debt due and payable and not be obligated to, insure the Real Estate for its full insurable value (or for such lesser amount as the Mortgagee may wish) against such risk of loss, for its own benefit, the proceeds from such insurance (less the cost of collecting same), if collected, to be credited against the Debt, or, at the election of the Mortgagee, such proceeds may be used in repairing or reconstructing the improvements located on the

Real Estate. All amounts spent by the Mortgagee for insurance or for the payment of Liens shall become a debt due by the Mortgagors and at once payable without demand upon or notice to the Mortgagors and shall be secured by the lien of this mortgage, and shall bear interest from date of payment by the Mortgagee until paid at the rate of 6% per annum.

Subject to the rights of the holders of the prior mortgages set forth above, the Mortgagors hereby assigns and pledges to the Mortgagee the following property, rights, claims, rents, profits, issues and revenues:

1. all rents, profits, issues, and revenues of the Real Estate from time to time accruing, whether under leases or tenancies now existing or hereafter created reserving to the Mortgagors, so long as the Mortgagors is not in default hereunder, the right to receive and retain such rents, profits, issues and revenues;
2. all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Real Estate, or any part thereof, or to any rights appurtenant thereto, including any award for change of grade of streets, and all payments made for the voluntary sale of the Real Estate, or any part thereof, in lieu of the exercise of the power of eminent domain. The Mortgagors is hereby authorized on behalf of, and in the name of, the Mortgagors to execute and deliver valid acquittances for, and appeal from, any such judgments or awards. The Mortgagee may apply all such sums so received, or any part thereof, after payment of all the Mortgagee's expenses, including court costs and attorneys' fees, on the Debt in such manner as the Mortgagee elects, or at the Mortgagee's option, the entire amount or any part thereof so received may be released or may be used to rebuild, repair or restore any or all of the improvements located on the Real Estate.

The Mortgagors agrees to take good care of the Real Estate and all improvements located thereon and not to commit or permit any waste thereon and at all times to maintain such improvements in as good condition as they now are, reasonable wear and tear accepted.

Notwithstanding any other provision of this mortgage or the note or notes evidencing the Debt, if the Real Estate, or any part thereof, or any interest therein, is sold, conveyed or transferred, without the Mortgagee's prior written consent, the Mortgagee may, at its sole option, (a) declare the Debt immediately due and payable or (b) require the payment of a higher rate of interest on the unpaid principal portion of the Debt as a condition to not exercising such option to accelerate the Debt, whether such rights be exercised by the Mortgage in order to obtain a higher rate of interest on the Debt or the protect the security of this mortgage.

The Mortgagors agrees that no delay or failure of the Mortgagee to exercise any option to declare the Debt due and payable shall be deemed a waiver of the Mortgagee's rights to exercise such option, either as to any past or present default, and it is agreed that no terms or conditions contained in this mortgage may be waived, altered or changed

except by a written instrument signed by the Mortgagors and signed on behalf of the Mortgagee by one of its officers.

After default on the part of the Mortgagors, the Mortgagee, upon bill filed or other proper legal proceeding being commenced for the foreclosure of this mortgage, shall be entitled to the appointment by any competent court, without notice to any party, of a receiver for the rents, issues and profits of the Real Estate, with power to lease and control the Real Estate, and with such other powers as may be deemed necessary.

Upon condition, however, that if the Mortgagors pays the Debt (which Debt includes the indebtedness evidenced by the promissory note referred to herein before and any and all extensions and renewals thereof and all interest on said indebtedness and on any and all such extensions and renewals) and reimburses the Mortgagee for any amounts the Mortgagee has paid in payment of Liens or insurance premiums, and interest thereon, and fulfills all of its obligations under this mortgage, this conveyance shall be null and void. But if: (1) any warranty or representation made in this mortgage is breached or proves false in any material respect; (2) default is made in the due performance of any covenant or agreement of the Mortgagors under this mortgage; (3) default is made in the payment to the Mortgagee of any sum paid by the Mortgagee under the authority of any provision of this mortgage; (4) the Debt, or any part thereof, remains unpaid at maturity; (5) the interest of the Mortgagee in the Real Estate becomes endangered by reason of the enforcement of any prior lien or encumbrance thereon; (6) any statement of lien is filed against the Real Estate, or any part thereof, under the statutes of Alabama relating to the liens of mechanics and material men (without regard to the existence or nonexistence of the debt or the lien on which such statement is based); (7) any law is passed imposing or authorizing the imposition of any specific tax upon this mortgage or the Debt or permitting or authorizing the deduction of any such tax from the principal or interest of the Debt, or by virtue of which any tax, lien of assessment upon the Real Estate shall be chargeable against the owner of this mortgage; (8) any of the stipulations contained in this mortgage is declared invalid or inoperative by any court of competent jurisdiction; (9) Mortgagors, or any of them (a) shall apply for or consent to the appointment of a receiver, trustee or liquidator thereof or of the Real Estate or of all or a substantial part of such Mortgagors' assets, (b) be adjudicated bankrupt or insolvent or file a voluntary petition in bankruptcy, (c) fail, or admit in writing such Mortgagors' inability generally to pay such Mortgagors' debt as they become due, (d) make a general assignment for the benefit of creditors, (e) file a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law, or (f) file an answer admitting the material allegations of, or consent to or default in answering, a petition filed against such Mortgagors in any bankruptcy, reorganization or insolvency proceedings or (g) an order for relief or other judgment or decree shall be entered by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Mortgagors; then upon the happening of any one or more of said events, at the option of the Mortgagee, the unpaid balance of the Debt (which includes principal and accrued interest) shall at once become due and payable and this mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages; and the Mortgagee shall be authorized to take possession of the Real Estate and, after giving at least twenty-one days notice of the time, place and terms of sale by publication once a week for three consecutive weeks in some newspaper published in the county in which the Real Estate is located, to sell the Real Estate in front of the

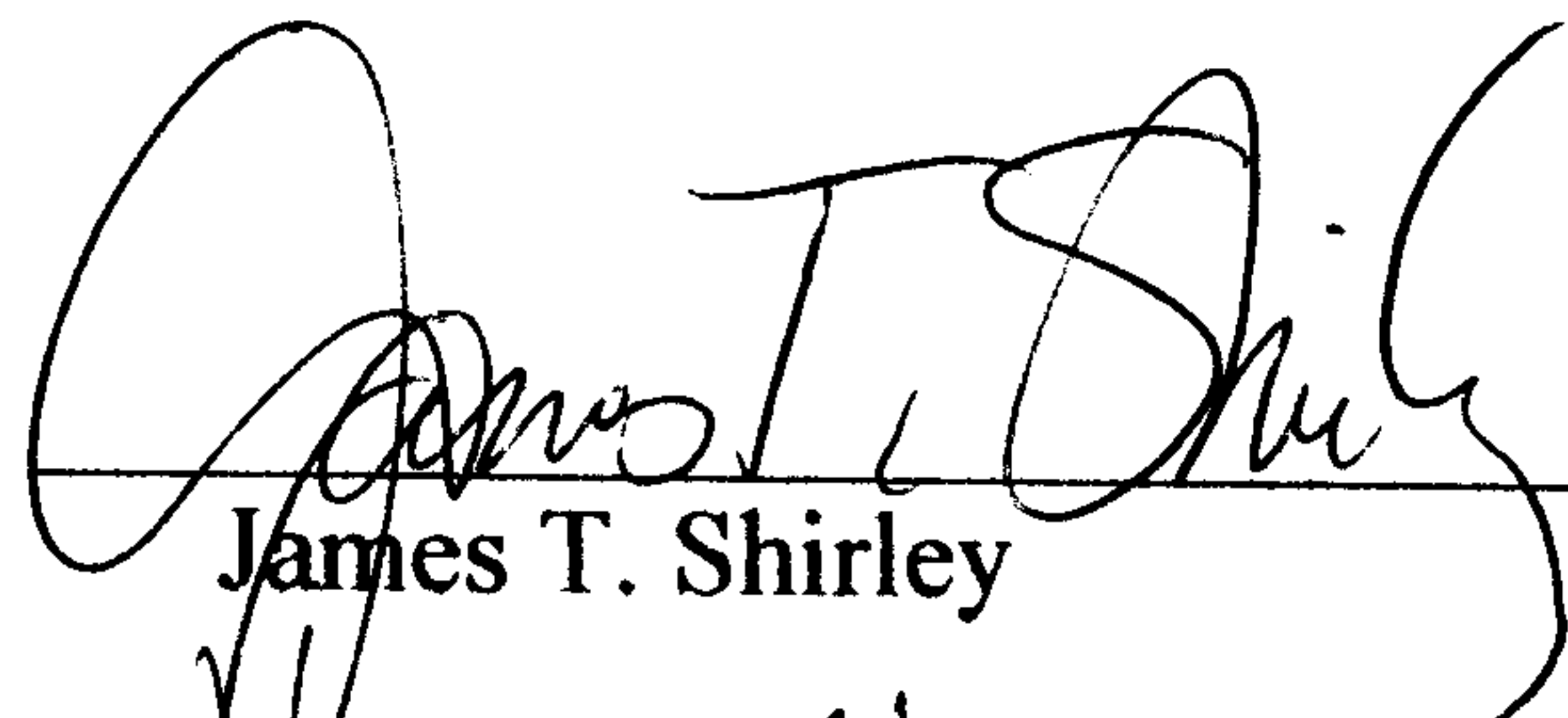
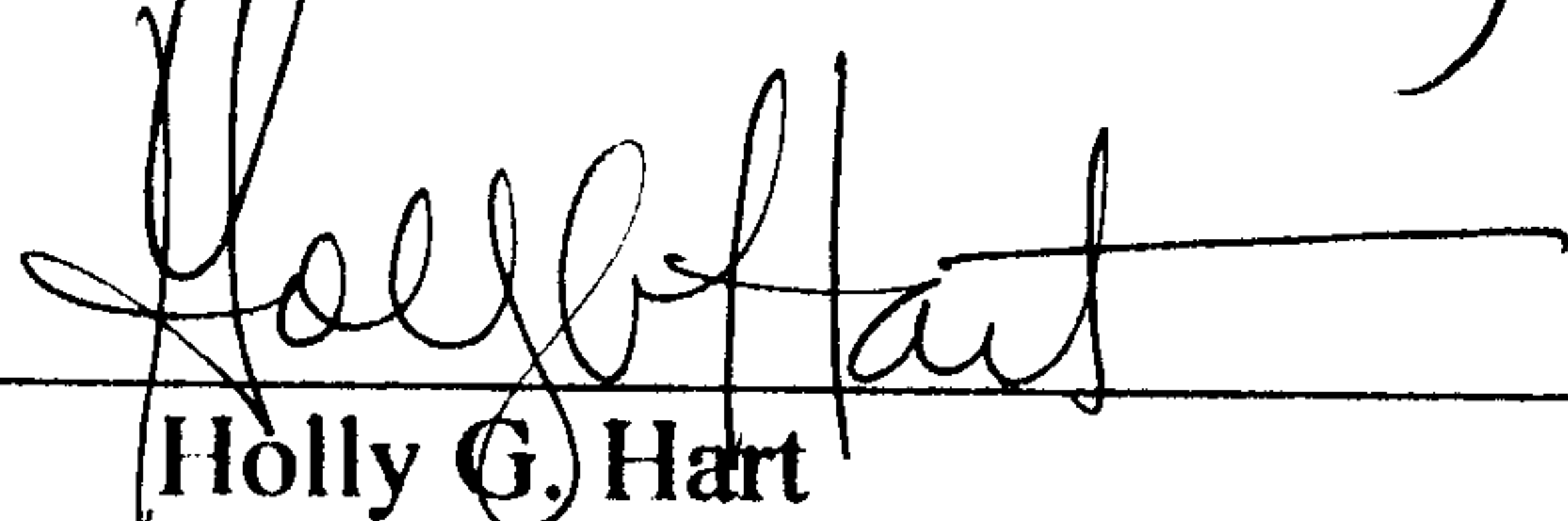
courthouse door of said county, at public outcry, to the highest bidder for cash, and to apply the proceeds of said sale as follows: **first**, to the expense of advertising, selling and conveying the Real Estate and foreclosing this mortgage, including a reasonable attorney's fees (provided, however that such attorney's fees shall not exceed 15% of the unpaid Debt after default and referral to an attorney not a salaried employee of the Mortgagee and no such attorney's fees shall be collectible if the original principal amount or the original amount financed does not exceed \$300.00); **second**, to the payment of any amounts that have been spent, or that it may then be necessary to spend, in paying insurance premiums, Liens or other encumbrances, with interest thereon; **third**, to the payment in full of the balance of the Debt (which includes principal and accrued interest) whether the same shall or shall not have fully matured at the date of said sale, but no interest shall be collected beyond the day of the sale; and, **fourth**, the balance, if any, to be paid to the party or parties appearing of record to be the owner of the Real Estate at the time of the sale, after deducting the cost of ascertaining who is such owner. The Mortgagors agrees that the Mortgagee may be at a sale had under the terms of this mortgage and may purchase the Real Estate if the highest bidder thereof. At the foreclosure sale the Real Estate may be offered for sale and sold as a whole without first offering it in any other manner or it may be offered for sale and sold in any other manner the Mortgagee may elect.

The Mortgagors agrees to pay all costs, including reasonable attorney's fees (not exceeding 15% of the unpaid Debt after default and referral to an attorney not a salaried employee of the Mortgagee; provided, however that no such attorney's fees shall be collectible if the original principal amount or original amount financed does not exceed \$300.00) incurred by the Mortgage in collecting or securing or attempting to collect or secure the Debt, or any part thereof, or in defending or attempting to defend the priority of this mortgage against any lien or encumbrance on the Real Estate, unless this mortgage, either under the power of sale contained herein, or by virtue of the decree of any court of competent jurisdiction. The full amount of such costs incurred by this Mortgage shall be a part of the Debt and shall be secured by this Mortgage. The purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money. In the event of a sale hereunder, the Mortgagee, or the owner of the Debt and mortgage, or auctioneer, shall execute to the purchaser, for and in the name of the Mortgagors, a deed to the Real Estate.

Plural or singular words used herein to designate the undersigned shall be construed to refer to the maker or makers of this mortgage, whether one or more natural persons, corporations, associations, partnerships or other entities. All covenants and agreements herein made by the undersigned shall bind the heirs of the undersigned; and every option, right and privilege herein reserved or secured to the Mortgagee shall inure to benefit of the Mortgagee's successors and assigns.

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Shelby Cnty Judge of Probate, AL
08/11/2005 12:47:22PM FILED/CERT

IN WITNESS WHEREOF, this mortgage has been executed or caused to be executed by the undersigned on the day and year first written above.

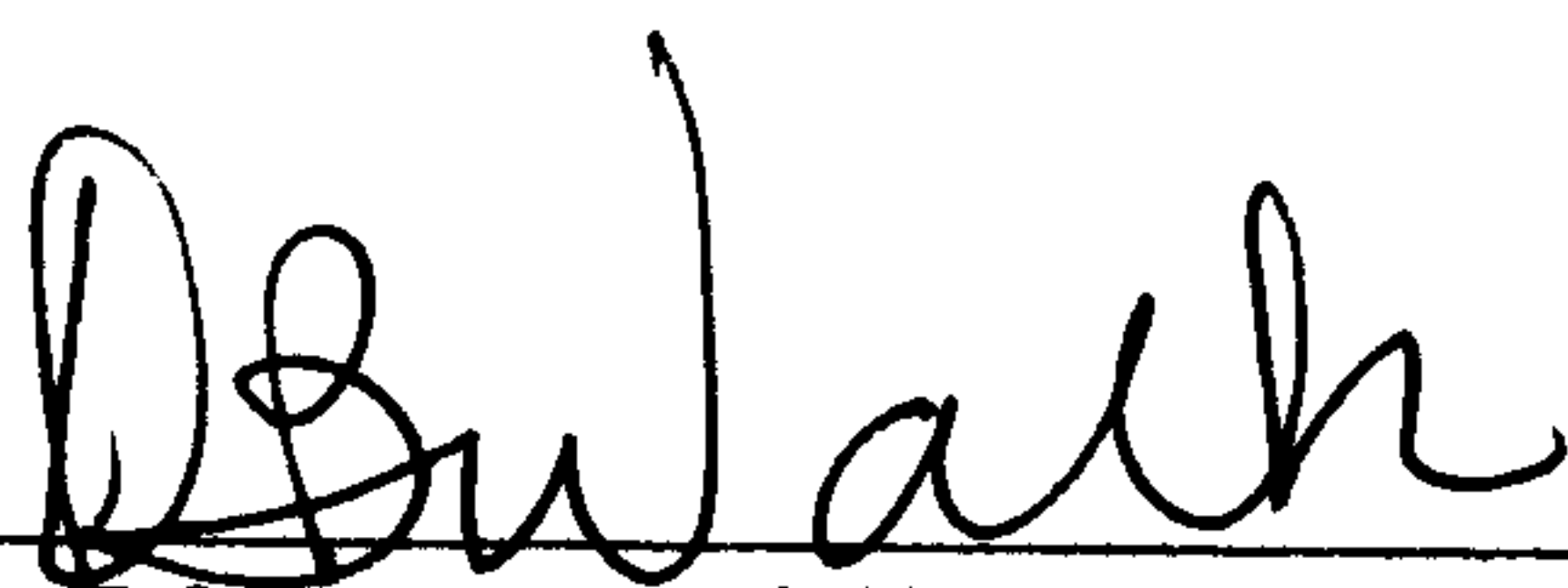

James T. Shirley

Holly G. Hart

ACKNOWLEDGEMENT

STATE OF ALABAMA}
JEFFERSON COUNTY}

I, the undersigned Notary Public in and for said County, in said State, hereby certify that James T. Shirley and wife, Holly G. Hart whose names 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 that same bears date.

Given under my hand and official seal this 7 day of July 2005.


Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF ALABAMA AT-LARGE
MY COMMISSION EXPIRES: Aug 25, 2007
~~BOUND THRU NOTARY PUBLIC UNDERWRITER~~

This instrument was prepared by:

Deborah B. Walker, Esq.
1201 19th Street North
Birmingham, Alabama 35234



20050811000412860 7/7 \$30.00
Shelby Cnty Judge of Probate, AL
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EXHIBIT A

Description of Real Estate

Lot 7 and the Northeasterly .55 of Lot 8, according to the Survey of Meadow Brook Townhomes, as recorded in Map Book 10, Page 2, in the Probate Office of SHELBY County, Alabama