

OFFICIAL RECORD

Requested By:

MARVIN W MURPHY

Assessor's Parcel Number: 1418-15-511-012

Recording Requested By:

Name: Michael C. Madsen

Address: P.O. Box 11831

City/State/Zip: Reno, NV 89510

Douglas County - NV
Werner Christen - Recorder

Page: 1 of 12 Fee: 25.00
BK-0408 PG- 2141 RPTT: 0.00



Mail Tax Statements to:

Name: Gerald R. Novotny, SR.

Address: 17 Kelly Circle

City/State/Zip: Glenbrook, NV 89413

Please complete Affirmation Statement below:

I the undersigned hereby affirm that this document submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

-OR-

I the undersigned hereby affirm that this document submitted for recording contains the social security number of a person or persons as required by law: _____ (state specific law)

Marvin W. Murphy
Signature (Print name under signature)

Attorney
Title

DEED OF TRUST WITH ASSIGNMENT OF RENTS

(Title of Document)

If legal description is a metes & bounds description furnish the following information:

Legal description obtained from: _____ (Document Title), Book: _____ Page: _____

Document # _____ recorded _____ (Date) in the Douglas County Recorders Office.

-OR-

If Surveyor, please provide name and address:

This page added to provide additional information required by NRS 111.312 Sections 1-4.

(Additional recording fees apply)

APN: 1418-15-511-012

When Recorded Mail To:

MICHAEL C. MADSEN
P.O. Box 11831
Reno, Nevada 89510

SEND TAX STATEMENTS TO:

GERALD R. NOVOTNY, SR.
17 Kelly Circle
Glenbrook, Nevada 89413

Space Above This Line For Recorder's Use Only

DEED OF TRUST WITH ASSIGNMENT OF RENTS

THIS DEED OF TRUST is executed by GERALD R. NOVOTNY, SR., who took title to the real property described herein as an unmarried man, whose mailing address is 17 Kelly Circle, Glenbrook, Nevada 89413 ("Trustor"), to FIRST AMERICAN TITLE INSURANCE COMPANY, 5310 Kietzke Lane, Reno, Nevada 89511 ("Trustee") for the benefit of MICHAEL C. MADSEN, TRUSTEE OF THE MICHAEL C. MADSEN FAMILY TRUST, AS RESTATED, whose mailing address is P.O. Box 11831, Reno, Nevada 89510 ("Beneficiary").

I

CONVEYANCE AND PROPERTY DESCRIPTION

GERALD R. NOVOTNY, SR. hereby irrevocably grants, conveys, and assigns to Trustee, in trust, with power of sale, all right, title and interest in and to the real property located in Douglas County, Nevada, commonly known as 17 Kelly Circle, Glenbrook, Nevada 89413 and more particularly described on Exhibit "A" attached hereto and, by reference, made a part hereof ("Real Property"), including, without limitation:

A. All right, title, and interest to which Trustor now has or may hereafter acquire to such property; all easements and rights-of-way appurtenant to such property; all water and water rights and shares of stock pertaining to such water and water rights, ownership of which affects such property; all minerals, oil, gas, and other hydrocarbon substances and rights thereto in, on, under, or upon such property, and all royalties and profits from any such rights or shares of stock; all adjacent lands within enclosures or

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occupied by buildings partly situated on such property; and any other tenements, hereditaments, and appurtenances of the above-described property.

B. All of Trustor's right, title, and interest in and to any award, remuneration, settlement, or compensation heretofore made or hereafter to be made by any governmental entity to Trustor, including those for any vacation of, or a change of grade in, any streets affecting the above-described real property.

II

OBLIGATION SECURED

This Deed of Trust secures the following obligations of Trustor to Beneficiary:

A. Payment of the indebtedness evidenced by a Promissory Note of even date herewith, together with all modifications, extension, and renewals thereof (the "Note"), in the original principal amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), together with Interest thereon as provided by the Note.

B. The performance of each obligation, covenant, and agreement of Trustor contained in the Note and this Deed of Trust.

III

ASSIGNMENT OF RENTS AND PROFITS

Trustor further irrevocably grants, transfers, and assigns to Beneficiary the rents, income, issues, and profits from the Real Property, absolutely and unconditionally, and not merely as additional security for the indebtedness secured by this Deed of Trust. Prior to the occurrence of an event of default under this Deed of Trust, Beneficiary grants permission to Trustor to collect and retain the rent, income, issues, and profits of the Real Property as they become due and payable. In the event of a default under the Note or this Deed of Trust, Beneficiary shall have the right, with or without taking possession of the Real Property, to collect all rents, issues, royalties, and profits, and shall be entitled either personally or by attorney or agent, without bringing any action or proceeding, or by a receiver to be appointed by the court, to enter into possession, and hold, occupy, possess, and enjoy the Real Property, make, cancel, enforce, and modify leases, obtain and eject tenants, and set and modify rents and terms of rent. Beneficiary shall have the further right to sue, and to take, receive, and collect all or any part of the rents, issues, royalties, and profits of the Real Property, and after paying all costs of maintenance, operation, and collection, including reasonable attorneys' fees, as Beneficiary may deem proper, to apply



the balance upon the entire indebtedness then secured by this Deed of Trust. The receipt and application by the Beneficiary of such rents, issues, and profits, after execution and delivery of the Notice of Default and Election to Sell or during the pendency of the Trustee's sales proceedings under this Deed of Trust, shall not cure such breach or default nor affect the sale proceedings, or any sale made pursuant to this Deed of Trust. All such rents, issues, and profits, less the costs of operation, maintenance, collection and reasonable attorneys' fees, when received by Beneficiary, shall be applied in reduction of the entire indebtedness from time to time outstanding secured by this Deed of Trust, in such order as Beneficiary may determine.

If the rents of the Real Property are not sufficient to satisfy the costs, if any, of taking control of and managing the Real Property and collecting the rents thereof, any funds expended by Beneficiary for such purposes shall become indebtedness of the Trustor to Beneficiary and shall be secured by this Deed of Trust. Such amounts shall be repayable to Beneficiary upon demand and shall bear interest from the date of the disbursement at the rate of eighteen percent (18%) per annum.

IV

COVENANTS OF TRUSTOR

Trustor agrees as follows:

A. **Repair, Maintenance and Preservation of the Real Property.** During the term of this Deed of Trust, Trustor covenants and agrees to do the following:

1. To maintain the Real Property in good, safe, and insurable condition and repair, subject to ordinary wear and tear, and not to commit or suffer waste;
2. To not remove or demolish any of the Real Property or improvements thereon without Beneficiary's prior written consent;
3. To complete or restore promptly in a good workmanlike manner any of the Real Property which may be damaged or destroyed or which may be affected by any condemnation or eminent domain proceeding;
4. To comply with all (i) laws, ordinances, regulations, and standards applicable to the Real Property, (ii) covenants, conditions, restrictions and equitable servitudes, whether public or private, of every kind and character which are applicable to the Real Property; and (iii) all requirements of insurance companies for insurability of the Real Property and Trustor's use thereof.

5. To not alter the use of all or any portion of the Real Property without the prior written consent of the Beneficiary;

6. To not abandon the Real Property except in exigent circumstances which make occupancy of the Real Property impossible; and

7. To refrain from impairing or diminishing the value of the Real Property or the security of this Deed of Trust.

B. Real Property Taxes and Assessments. Trustor agrees to pay, not later than the due date and before any penalty or interest attaches, an amount equal to the percentage ownership interest of Trustor in and to the Real Property of all general taxes and all special taxes, special assessments, water, drainage and sewer charges and all other charges, of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed or imposed on or against the Real Property and, upon the request of Beneficiary, to exhibit to Beneficiary all official receipts evidencing such payments; provided, however, that in the case of any special assessment (or other imposition in the nature of a special assessment) payable in installments, each installment thereof shall be paid prior to the date on which each such installment becomes due and payable; provided further that upon posting a bond in an amount satisfactory to Beneficiary, or, if consented to by Beneficiary, upon establishing adequate reserves in an amount satisfactory to Beneficiary, Trustor may contest the validity of such taxes, in good faith and at Trustor's expense.

C. Repair and Restoration of Improvements. If any building or other improvement now or hereafter erected on the Real Property shall be destroyed or damaged, Beneficiary shall have the right to require Trustor to restore or rebuild such building or other improvement with materials and workmanship of as good quality as existed before such damage and destruction to substantially their former state, commencing the work of restoration or rebuilding as soon as possible and proceeding diligently with it until completion.

D. Compliance With Laws. Trustor will comply in all material respects with all restrictions affecting the Real Property and with all laws, ordinances, acts, rules, regulations and orders of any legislative, executive, administrative or judicial body, commission or officer (whether federal, state or local) exercising any power of regulation or supervision over Trustor, or any part of the Real Property, whether the same be directed to the repair thereof, manner of use thereof, structural alteration of buildings located thereon or otherwise.

E. Indemnification. Trustor agrees to indemnify Beneficiary from all loss, damage and expense, including reasonable attorneys' and paralegal's fees and expenses and the costs of any settlement or judgment, incurred in connection with any breach by Trustor of any representation, warranty, or covenant contained in this Deed of Trust. This

indemnification shall be a personal obligation of the Trustor and shall survive any foreclosure sale of the Real Property conducted pursuant to the terms of this Deed of Trust. Notwithstanding the foregoing, this indemnity shall not apply if the event otherwise giving rise thereto is caused by the negligent or intentional acts or omissions of Beneficiary.

F. Condemnation. Trustor hereby assigns to Beneficiary, as additional security, all awards of damage resulting from condemnation proceedings or the taking of or injury to the Real Property for public use, and Trustor agrees that the proceeds of all such awards shall be paid to Beneficiary or Trustee and shall be applied by Beneficiary or Trustee to the reduction of the obligations secured hereby. The balance of any such award, after payment of the expenses and obligations hereby secured shall be payable to Trustor, or to any persons claiming by, through or under Trustor.

G. Reconveyance Fees. Trustor covenants and agrees to pay all reconveyance fees charged by Trustee at the time the lien of this Deed of Trust is conveyed.

H. Statutory Covenants. To the extent not inconsistent with the express provisions of this Deed of Trust, the following covenants of Section 107.030 of the Nevada Revised Statutes are hereby adopted and made a part of this Deed of Trust: Covenant No. 3, Covenant No. 4 (interest, as set forth in the Note), Covenant No. 5, Covenant No. 6, Covenant No. 7 (attorneys' fees, reasonable), Covenant No. 8, and Covenant No. 9.

I. Acceleration. At such time as all or any portion or interest in the real property encumbered by this Deed of Trust is sold, transferred, conveyed or assigned by deed, contract of sale, assignment, execution, or other instrument or otherwise, whether voluntarily or involuntarily, which results in a divestiture of Trustor's interest or title to the real property encumbered by this Deed of Trust, without the prior written consent of the Beneficiary hereof, then Beneficiary shall have the right, at Beneficiary's option, to declare the entire principal sum, or any unpaid balance thereof, with unpaid interest due thereon, forthwith due and payable. For purposes herein, the term "sale" shall refer to the occurrence of any of the foregoing events. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions.

V

DEFAULT AND REMEDIES

A. Default. The occurrence of any of the following events shall constitute a default by the Trustor under this Deed of Trust:

1. The failure by the Trustor to pay or perform any obligations secured by the terms of this Deed of Trust within fifteen (15) days of the date the payment was due or the obligation was otherwise required to be performed.

2. The breach of any representation, warranty, or covenant of Trustor set forth in this Deed of Trust.

3. The filing of a petition by, on behalf of or against the Trustor, any bankruptcy, reorganization, insolvency, or moratorium, law, or any other law or laws for the relief of, or relating to debtors, any assignment by the Trustor for the benefit of creditors, or the appointment of a custodian, receiver, or Trustee to take possession, custody, or control of the Real Property except as otherwise provided by the Bankruptcy Code and Regulations.

4. Any default under that certain deed of trust dated January 25, 2008 wherein Gerald R. Novotny, Sr. is identified as "Borrower" in favor of First Federal Bank of California, recorded January 30, 2008, as document number 0717153, Official Records of the County Recorder of Douglas County, Nevada (the "First Deed of Trust"), to which this Deed of Trust is subject and subordinate.

B. Remedies. Upon the occurrence of an event of default, Beneficiary may exercise all rights and remedies provided by law on the date of the default, including, but not limited to, the following:

1. Acceleration. Upon the occurrence of an event of default, Beneficiary may, at Beneficiary's option, declare immediately due and payable the obligations of Trustor to Beneficiary secured hereby, and, to the extent permitted by law, the same shall, upon notice to or demand on Trustor, become immediately due and payable.

2. Foreclosure and Sale. Beneficiary may request that Trustee sell the Real Property pursuant to the power of sale granted Trustee herein in accordance with the laws of the State of Nevada or Beneficiary may foreclose this Deed of Trust by judicial action pursuant to the laws of the State of Nevada.

3. Right to Deficiency. In the event that the proceeds of any foreclosure sale conducted pursuant to the provisions of this Deed of Trust are not sufficient to satisfy all obligations and indebtedness to Beneficiary secured hereby, Beneficiary shall be entitled to recover such deficiency from the Trustor.

4. Remedies Cumulative. Each and every remedy provided to Beneficiary by the terms of this Deed of Trust or by law is separate and distinct and is cumulative to all other rights and remedies provided by this Deed of Trust or by law, and each remedy may be exercised concurrently, independently, or successively, in any order. The exercise of any one or more such rights or remedies by Beneficiary, or by the Trustee

at the direction of Beneficiary, shall not be construed to be an election of remedies nor a waiver of any other right or remedy which Beneficiary may have.

VI

TRUSTEE'S POWER AND ACCEPTANCE

A. **Acceptance By Trustee.** The Trustee shall be deemed to have accepted the terms of this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee shall not be obligated to notify any party thereto of any pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee is a party, unless such sale relates to or reasonably might affect the Real Property, this Deed of Trust, Beneficiary's security for the performance of Trustor's obligations under the Note, or the rights or powers of Beneficiary or Trustee under the Note or this Deed of Trust, or unless such action or proceeding has been instituted by Trustee against the Real Property, Trustor, or Beneficiary.

B. **Reconveyance.** Upon written request of Beneficiary reciting that all sums secured by this Deed of Trust have been paid, and payment by Trustor of any reconveyance fees customarily charged by Trustee, Trustee shall reconvey, without warranty, the Real Property then held by Trustee under this Deed of Trust. The recitals in such reconveyance of any matters of fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto". Such request and reconveyance shall operate as a reassignment of the rents, income, issues, and profits assigned in this Deed of Trust.

C. **Substitution of Trustee.** Beneficiary, at Beneficiary's option, may from time to time, by written instrument, substitute a successor or successors to any Trustee named in this Deed of Trust or acting under this Deed of Trust, which instrument, when executed and acknowledged by Beneficiary and recorded in the office of the recorder of the county or counties in which the Real Property is located, shall constitute conclusive proof of the proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the predecessor Trustee, succeed to all right, title, estate, powers, and duties of such predecessor Trustee, including, without limitation, the power to reconvey the Real Property. To be effective, such instrument must contain the name of the original Trustor, Trustee, and Beneficiary under this Deed of Trust, the book and page at which, and the county or counties in which, this Deed of Trust is recorded, and the name and address of the substitute Trustee. If any notice of default has been recorded under this Deed of Trust, this power of substitution cannot be exercised until all costs, fees, and expenses of the then acting Trustee shall endorse receipt thereof upon the instrument of substitution. The

procedure in this Deed of Trust for substitution of Trustees shall not be exclusive of other provisions for substitution provided by applicable law.

VII

MISCELLANEOUS

A. Notices. All notices, consents, approvals, or instruments required or permitted to be given in connection with this Deed of Trust shall be in writing and shall be deemed served, delivered, or given at the time of mailing such notice by certified or registered mail, postage prepaid, receipt for delivery requested, addressed to the party to be served at the addresses set forth in this Deed of Trust and properly deposited in the United States Mail. Any change in the address of any party shall be given by the party having such change to the parties in the manner provided above. Thereafter, all notices shall be given in accordance with the notice of change of address. Notices given before actual receipt of the notice of change of address shall not be invalidated by the change of address.

B. Effect of Modifications or Extension. Trustor agrees that, without affecting the liability of any person for payment of the liabilities secured hereby or affecting the lien of this Deed of Trust upon the Real Property or any part thereof (other than persons or property explicitly released as a result of the exercise by Beneficiary of its rights and privileges hereunder), Beneficiary may at any time and from time to time, on request of the Trustor, without notice to any person liable for payment of any liabilities secured hereby, extend the time, or agree to modify the terms of payment of such liabilities.

C. Consent and Approval. Whenever the consent and approval of the Beneficiary is specified as a condition of any provision of this Deed of Trust, such consent or approval by the Beneficiary shall not be effective unless such consent or approval is in writing, signed by the Beneficiary.

D. Application of Payment. Except as otherwise expressly provided by applicable law or any other provision of this Deed of Trust, if applicable, all payments received by Beneficiary from Trustor shall be applied by Beneficiary to accrued interest, and next, to principal.

E. Time of the Essence. Time is of the essence of this Deed of Trust.

F. Waiver. The waiver of the time for performing any act shall not constitute a waiver of the time for performing any other act or of an identical act required to be performed at a later time. The exercise of any remedy provided for in this Deed of Trust shall not constitute a waiver of any other remedy.

G. Severability. The unenforceability, invalidity, or illegality of any provision of this Deed of Trust shall not render any other provision unenforceable, invalid, or illegal.

H. Choice of Law. This Deed of Trust shall be governed by and interpreted under the laws of the State of Nevada in force from time to time.

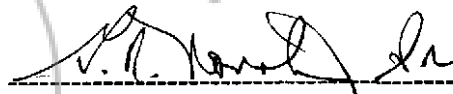
I. Gender and Number. As used in this Deed of Trust, the masculine, feminine, or neuter gender, and the singular or plural number, shall each be considered to include the others whenever the context so indicates.

J. Binding Effect. This Deed of Trust shall inure to the benefit of, and be binding upon, the heirs, assigns, transferees, personal representatives, and successors in interest of the parties hereto.

K. Captions. The captions in this Deed of Trust shall have no effect on its interpretation.

EXECUTED this 19 day of MAR, 2008.

TRUSTOR:



GERALD R. NOVOTNY, SR.

STATE OF NEVADA)
) ss.
COUNTY OF DOUGLAS)

This instrument was acknowledged before me on March 19,
2008, by GERALD R. NOVOTNY, SR.

Julia Blair
NOTARY PUBLIC



EXHIBIT "A"

Legal Description of Real Property

PARCEL 1A

Lot 17, as shown on the map of the eleventh amended plat of UPPAWAY SUBDIVISION filed in the office of the recorder of Douglas County on January 23, 1990 in Book 190, Page 3308, as Document No. 218688 of Official Records.

PARCEL 1B

An easement granted to Edward J. King, Jr., and Carolyn G. King by Document recorded August 2, 1990 in Book 890, Page 166, as Document No. 231527 of Official Records and as recorded August 6, 1990 in Book 890, Page 704, as Document No. 231766 of Official Records.

APN: 1418-15-511-012

