

OFFICIAL RECORD

Requested By:  
PORTER, SIMON & SHADEK

Douglas County - NV  
Karen Ellison - Recorder  
Page: 1 Of 9 Fee: 22.00  
BK-0209 PG- 698 RPTF: 0.00



Assessor's Parcel Number: 1413-34-601-005

Recording Requested By:

Name: Porter Simon + Shadek  
Address: 590 Lakeshoe Boulevard  
City/State/Zip: Incline Village, NV 89451

Mail Tax Statements to:

Name: Tri-Properties, Ltd.  
Address: 13455 Noel Road, 23rd Floor  
City/State/Zip: Dallas, Texas 75240

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)

Emily Hendricks  
Signature (Print name under signature)

legal assistant  
Title

Emily F. Hendricks

DEED OF TRUST AND ASSIGNMENT OF RENTS

(Title of Document)

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

Legal description obtained from: Deed of Trust (Document Title), Book: 1103 Page: 06432  
Document # 0596780 recorded November 14, 2008 (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 1413-34-601-005

RECORDING REQUESTED BY AND  
AFTER RECORDING RETURN TO:

Porter Simon + Shadek  
590 Lakeshore Boulevard  
Incline Village, Nevada 89451

MAIL TAX STATEMENTS TO:

Tri-Properties, Ltd.  
13455 Noel Road, 23<sup>rd</sup> Floor  
Galleria Tower Two  
Dallas, Texas 75240  
Attn: Controller

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEED OF TRUST AND ASSIGNMENT OF RENTS**

**Date:** December 31, 2008

**Trustor:** Roscoe F. White, III, an unmarried man

**Trustee:** TICOR TITLE OF NEVADA, INC.

**Trustee's Mailing Address:** 5441 Kietzke Lane Suite 100  
Reno, Nevada 89511

**Beneficiary:** Tri-Properties, Ltd., a Texas limited partnership

**Beneficiary's Mailing Address:** 13455 Noel Road, 23<sup>rd</sup> Floor  
Galleria Tower Two  
Dallas, Texas 75240  
Attn: Controller

**Note:**

Date:	December 30, 2006
Amount:	\$10,000,000.00
Maker:	Roscoe F. White, III
Payee:	Tri-Properties, Ltd.

DAL:0102143/00000:1826034v3

Final Maturity Date: December 30, 2010, provided that so long as there shall exist no uncured Event of Default (as defined in the Note) or any event which with the passage of time or the giving of notice would constitute an Event of Default, Maker may at his option extend such maturity date to December 30, 2015 by giving Beneficiary written notice thereof not later than December 30, 2010.

**Property:**

The property which this Deed of Trust encumbers is located at 1294 Hidden Woods Drive, Glenbrook, Douglas County, Nevada and is more particularly described in Exhibit A attached hereto and made a part hereof, together with all buildings, structures, other constructions and improvements now or hereafter located thereon, all replacements thereof and additions thereto, and all rights and appurtenances thereto.

**Prior Liens:**

Lien in favor of Washington Mutual Bank, FA, a federal association, granted by Trustor pursuant to that certain Deed of Trust dated February 15, 2006, recorded February 27, 2006 in Book 0206, Page 8737 of the Real Property Records of Douglas County, Nevada as Document No. 0668785, securing a loan to Trustor in the stated principal amount of \$2,340,000.00.

**Warranty:**

For value received and to secure payment of the Note, Trustor conveys the Property to Trustee IN TRUST, WITH POWER OF SALE. Trustor warrants and agrees to defend the title to the Property. If Trustor performs all the covenants and pays the Note according to its terms, this Deed of Trust shall have no further effect, and Beneficiary shall release it at Trustor's expense.

**Trustor's Obligations:**

Trustor agrees to:

1. keep the Property in good repair and condition;

2. pay all taxes and assessments on the Property and deliver to Beneficiary paid receipts or other written evidence satisfactory to Beneficiary of such payments not less than ten (10) business days in advance of their respective due dates;
3. preserve the lien's priority as it is established in this Deed of Trust;
4. maintain, in a form acceptable to Beneficiary, an insurance policy that:
  - a. covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
  - b. contains an 80% coinsurance clause;
  - c. provides fire and extended coverage, including windstorm coverage;
  - d. protects Beneficiary with a standard mortgagee clause;
  - e. provides flood insurance at any time the Property is in a flood hazard area; and
  - f. contains such other coverage as Beneficiary may reasonably require;
5. comply at all times with the requirements of the 80% coinsurance clause;
6. deliver the insurance policy to Beneficiary and deliver renewals to Beneficiary at least ten days before expiration;
7. keep any buildings occupied as required by the insurance policy; and
8. if this is not a first lien, pay all prior lien notes that Trustor is personally liable to pay and abide by all prior lien instruments.

**Beneficiary's Rights:**

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.
2. If the proceeds of the Note are used to pay any debt secured by prior liens, Beneficiary is subrogated to all of the rights and liens of the holders of any debt so paid.
3. Beneficiary may apply any proceeds received under the insurance policy either to reduce the Note or to repair or replace damaged or destroyed improvements covered by the policy.
4. If Trustor fails to perform any of Trustor's obligations, Beneficiary may perform those obligations and be reimbursed by Trustor on demand at the place where the Note is payable for any sums so paid, including attorney's fees, plus interest on those sums from

the dates of payment at the rate stated in the Note for matured, unpaid amounts. The sum to be reimbursed shall be secured by this Deed of Trust.

5. If Trustor defaults on the Note or fails to perform any of Trustor's obligations or if default occurs on a prior lien note or other instrument, and the default continues after Beneficiary gives Trustor notice of the default and the time within which it must be cured, if any, as may be required by law or by written agreement, then Beneficiary may:
  - a. declare the unpaid principal balance and earned interest on the Note immediately due;
  - b. request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Nevada Revised Statutes as then amended; and
  - c. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Note.

**Trustee's Duties:**

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. either personally or by agent give notice of the foreclosure sale as required by the Nevada Revised Statutes as then amended;
2. sell and convey all or part of the Property to the highest bidder for cash with a general warranty binding Trustor; and
3. from the proceeds of the sale, pay, in this order:
  - a. expenses of foreclosure;
  - b. to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
  - c. any amounts required by law to be paid before payment to Trustor; and
  - d. to Trustor, any balance.

**General Provisions:**

1. If any of the Property is sold under this Deed of Trust, Trustor shall immediately surrender possession to the purchaser. If Trustor fails to do so, Trustor shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals in any Trustee's deed conveying the Property will be presumed to be true.
3. Proceeding under this Deed of Trust, filing suit for foreclosure, or pursuing any other

remedy will not constitute an election of remedies.

4. This lien shall remain superior to liens later created even if the time of payment of all or part of the Note is extended or part of the Property is released.
5. If any portion of the Note cannot be lawfully secured by this Deed of Trust, payments shall be applied first to discharge that portion.
6. Trustor assigns to Beneficiary all sums payable to or received by Trustor from condemnation of all or part of the Property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses incurred, including attorney's fees, Beneficiary may release any remaining sums to Trustor or apply such sums to reduce the Note. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
7. Trustor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the Property. Leases are not assigned. Trustor warrants the validity and enforceability of the assignment. Trustor may as Beneficiary's licensee collect rent and other income and receipts as long as Trustor is not in default under the Note or this Deed of Trust. Trustor will apply all rent and other income and receipts to payment of the Note and performance of this Deed of Trust, but if the rent and other income and receipts exceed the amount due under the Note and Deed of Trust, Trustor may retain the excess. If Trustor defaults in payment of the Note or performance of this Deed of Trust, Beneficiary may terminate Trustor's license to collect and then as Trustor's agent may rent the Property if it is vacant and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the Property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to Trustor's obligations under the Note and this Deed of Trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph, and acting under this paragraph does not waive any of Beneficiary's other rights or remedies.
8. The obligations under this Deed of Trust shall be determined under Nevada law. The venue for enforcement of this Deed of Trust shall be Douglas County, Nevada.
9. When the context requires, singular nouns and pronouns include the plural.
10. The term Note includes all sums secured by this Deed of Trust.
11. This Deed of Trust shall bind, inure to the benefit of, and be exercised by successors in interest of all parties.


12. If Trustor and Maker are not the same person, the term Trustor shall include Maker.
13. Trustor agrees that if, without the prior written consent of Beneficiary, any part of the Property or any interest in the Property shall be directly or indirectly transferred, conveyed or mortgaged, voluntarily or involuntarily, absolutely or as security, Beneficiary shall have the right and option to declare the Note immediately due and payable in full. Trustor further agrees that the Note is not assumable without the Beneficiary's prior written consent, and that such consent may be withheld in Beneficiary's sole and absolute discretion.
14. The following covenants: Nos. 1, 2, 3, 4 (interest 10%), 5, 6, 7, 8 and 9 of Nevada Revised Statutes 107.030, when not inconsistent with other covenants and provisions herein contained, are hereby adopted and made a part of this Deed of Trust.
15. Trustor covenants and agrees to comply strictly and in all respects with the requirements of all applicable laws, statutes, ordinances, permits, decrees, guidelines, rules, regulations and orders pertaining to Trustor's use of the Property, including any and all such legal requirements that pertain to health or the environment (collectively, the "Applicable Environmental Laws"). Trustor shall not cause or permit any Hazardous Materials (as hereinafter defined) to be generated, treated, stored, used, installed or disposed in, on, under or about the Property. Trustor represents, warrants, covenants and agrees that Trustor is not and will not become involved in operations at the Property or at other locations which could lead to the imposition on Beneficiary of liability under any of the Applicable Environmental Laws. Trustor does hereby, for itself and its heirs, legal representatives, successors, assigns and grantees, agree to and hereby does indemnify, defend and hold harmless Beneficiaries, and its heirs, legal representatives, successors, assigns and grantees, of and from any and all liabilities, assessments, suits, damages, costs and expenses, attorneys' fees and judgments related to or arising out of (a) the breach of any of the agreements of Trustor under this Section 14, (b) the handling, installation, storage, use generation, treatment or disposal of Hazardous Materials, including any cleanup, remedial, removal, or restoration work required by the Applicable Environmental Laws, or (c) the assertion of any lien or claim imposed against the Property or any portion thereof or Beneficiary pursuant to the Applicable Environmental Laws. The covenants and agreements of this Section shall survive this Deed of Trust. As used herein, the term "Hazardous Materials" shall mean any flammables, explosives, radioactive materials, asbestos containing materials, petroleum products, the group of organic compounds known as polychlorinated biphenyls and other hazardous waste, toxic substances or related materials.

**Subordination of Lien:**

The lien created by this Deed of Trust is expressly subordinated to the first and prior debt and lien in favor of Washington Mutual Bank, FA, a federal association, granted by Trustor pursuant to that certain Deed of Trust dated February 15, 2006, recorded February 27, 2006 in Book 0206, Page 8737 of the Real Property Records of Douglas County, Nevada as Document No. 0668785, securing a loan to Trustor in the stated principal amount of \$2,340,000.00.

EXECUTED this 31 day of December, 2008.

**TRUSTOR:**



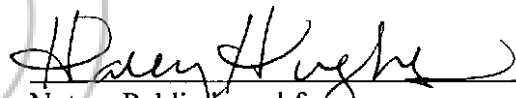
Roscoe F. White, III

Trustor's Address:

7177 Fisher Road  
Dallas, Texas 75214

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on December 31, 2008, by Roscoe F. White, III.

  
Notary Public in and for  
the State of Texas

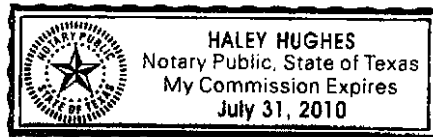


Exhibit A - Property



**EXHIBIT A**

**Property**

**APN: 1413-34-601-005**

**LOCATED IN DOUGLAS COUNTY, NEVADA**

**COMMENCING AT THE ONE-QUARTER CORNER COMMON TO SECTIONS 27 AND 34, TOWNSHIP 14 NORTH, RANGE 18 EAST, M.D.M., THENCE SOUTHERLY ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 34, SOUTH 00°28'58" WEST 2162.69 FEET; THENCE SOUTH 89°52'48" EAST 250.02 FEET; THENCE SOUTH 04°30'00" EAST 300.98 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 89°52'40" EAST 85.02 FEET; THENCE ALONG A CURVE CONCAVE TO THE NORTHEAST WITH A RADIUS OF 45.00 FEET, A CENTRAL ANGLE OF 94°37'12" AND AN ARE LENGTH OF 74.31 FEET; THENCE SOUTH 04°30'00" EAST 103.16 FEET; THENCE NORTH 89°52'38" WEST 130.02 FEET; THENCE NORTH 04°30'00" WEST 148.15 FEET TO THE TRUE POINT OF BEGINNING.**

**NOTE: THE ABOVE METES AND BOUND DESCRIPTION APPEARED PREVIOUSLY IN THAT CERTAIN DOCUMENT RECORDED NOVEMBER 14, 2003, IN BOOK 1103, PAGE 06432, AS INSTRUMENT NO. 0596780.**

**EXHIBIT A – Page 1 of 1**

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