Abstract Co.

DELAWARE COUNTY IOWA
FILED
2002 AUG 21 AM 9:12
RECORDER
DELAWARE CO RECORDER
2002 2970
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Prepared by Deb Martin

HOME EQUITY LINE OF CREDIT

COMMUNITY CHOICE CREDIT UNION
COMMUNITY CHOICE CREDIT UNION
P.O. Box 4885
Des Moines, Iowa 50306-4885

13150004
Account Number

This is a Future Advance Mortgage

THIS MORTGAGE is made this 12th Day of August, 2002,

Between the Mortgagor, Richard L Beaudine and Marilyn I. Beaudine Husband and Wife
Whose address is 18850 173rd Ave Manchester, IA 52057

(herein "Borrower), and Mortgagee, Community Choice Credit Union, a State Chartered Credit Union, organized under the laws of the State of Iowa (herein "Lender"), whose address is 700 E Lyon Street, Des Moines, Iowa 50309.

WHEREAS, Borrower is or may become indebted to Lender, which indebtedness is evidenced by Borrower's Home Equity Line of Credit Agreement dated August 7, 2002 (herein "Agreement"), such Agreement providing for a line of credit.

824-401

NOTICE: This Mortgage secures credit in the amount of $40,000.00 Loans and advances up to this amount, together with interest are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

TO SECURE to Lender the repayment of all sums now or hereafter owing under the Agreement, regardless of when advanced to Borrower, with interest thereon; the payment of all other sums with interest thereon, advanced in accordance herewith to protect the security of this Mortgage and performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender, with power of sale, the following described property located in the County of Delaware, State of Iowa:

Lots Sixteen (16) and Seventeen (17), Block One (1), Sunset Beach, a Subdivision of parts of Sections Seventeen (17), Eighteen (18) and Twenty (20), Township Eighty Nine (89) North, Range Five (5), West of the Fifth P.M., according to plat recorded in Book 2 Plats, Page 20, said lots being a part of the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) of said Section Seventeen (17); excepting rights of flowage.

Which has the address of 18850 173rd Ave (Street)
(herein "Property Address");
Manchester (City) Iowa (State) 52057 (Zip Code)

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property."

Borrower covenants that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, and the Property is unencumbered, except for encumbrances of record. Borrower covenants the Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

MORTGAGE COVENANTS. Borrower and Lender covenants and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Agreement and late charges as provided in the Agreement. Borrower will timely perform all other obligations of Borrower under the Obligations.

2. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Agreement and paragraph I hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraphs 3,4,5 and 6 hereof, then to late charges, interest payable on the Agreement and then to the principal of the Agreement.

3. **Prior and Future Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage, including Borrower's covenants to make payments when due.

Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this mortgage, and leasehold payments or ground rents, if any. Borrower shall not increase, extend, or in any other fashion amend any mortgage or deed of trust which has priority over this Mortgage without Lender's written consent. Borrower also shall not, without Lender's written consent, enter into any future mortgage or deed of trust unless such mortgage or deed of trust specifically states that all sums owing thereunder are subordinate to all sums that are or may become secured by this Mortgage. In the event Borrower fails to make payment or otherwise fails to perform any obligation required by this paragraph 3, Lender shall have the right to make required payments or remedy such failure to perform in the place of Borrower. Lender shall also have the right to acquire, reinstate, and/or pay in full the indebtedness of the holder of any right, title, interest or lien which is superior to this Mortgage. The amount of any and all such payments plus the costs to Lender of such remedial performance including, but not limited to, reasonable attorney fees, shall be added to the principal amount due under the Agreement together with interest thereon charged at the highest rate charged by Lender to Borrower on any indebtedness secured hereby.

4. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the property insured against loss by fire, hazards, included within the term "extended coverage", and such other hazards as Lender may require and Borrower subject to approval by Lender; provided that such approval shall not be unreasonable withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of any mortgage deed of trust or other security agreement with a lien which has priority this Mortgage. In the event of loss Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. If the property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days form the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage. In the event that Borrower fails to make payment or otherwise fails to perform any obligation required by this paragraph 4, Lender shall have the right to make required payments or remedy such failure to perform in place of Borrower. The amounts of any and all such payments and the costs to Lender of such remedial performance including, but not limited to, reasonable attorney fees, shall be added to the principal amount due under the Agreement together with interest thereon charged at the highest rate charged by Lender to Borrower on any indebtedness secured hereby.

5. **Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of the Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents. In the event that Borrower fails to make payment or otherwise fails to perform any obligation required by this paragraph 5, Lender shall have the right to make required payments or remedy such failure to perform in the place of Borrower. The amounts of any and all such payments and the costs to Lender of such remedial performance including, but not limited to, reasonable attorney fees, shall be added to the principal amount due under the Agreement together with the interest thereon charged at the highest rate charged by Lender to Borrower on any indebtedness secured hereby.

6. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage or if Borrower fails to make payments for taxes or insurance on the Property when due, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorney fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law. Any amounts disbursed by Lender pursuant to this paragraph 6, with interest thereon, at the Agreement rate, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 6 shall require Lender to incur any expense or take any action hereunder.

7. **Inspection.** Lender may make or cause to be made reasonable entries upon and inspection of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the real property.

8. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust of other security agreement with a lien which has priority over this Mortgage.

9. **Borrower Not Released; Forbearance by Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to Borrower or to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

10. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 14 hereof. All covenants and agreements of Borrower, shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Agreement, (a) is co-signing this Mortgage only to mortgage, grant and covey that Borrower's interest in the Property to Lender under the terms of this Mortgage, (b) is not personally liable on the Agreement or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage of the Agreement without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

11. **Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for this Mortgage shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

12. **Governing Law; Severability.** The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Mortgage. In the event that any provision or clause of this Mortgage or the Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Agreement which can be given effect without the conflicting provision to this end the provisions of this Mortgage and the Agreement are declared to be severable. As used herein, "costs", "expenses", and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

13. **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Agreement and of this Mortgage at the time of execution or after recordation thereof.

14. **Transfer of the Property; Assumption.** If all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent, excluding (a) The creation of a lien or other encumbrance subordinate to Lender's security instrument which does not relate to a transfer of rights of occupancy in the property; (b) The creation of a purchase money security interest for household appliances; (c) A transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer, Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Lender and that the interest payable on the sums secured by this Mortgage shall be at such rate as Lender shall request. If Lender has waived the option to accelerate provided in this paragraph 14, and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender may, but shall have no obligation to, release Borrower from all obligations under this Mortgage and Agreement. If Lender exercises such option accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 11 hereof. Such notice shall provide a period of not less than 10 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 16 hereof.

15. **Events of Default.** Each of the following occurrences shall constitute an event of default hereunder ("Event of Default"):
    a. Borrower shall default in the due observance or performance of or breach its agreement contained in paragraph 1 hereof or shall default in due observance or performance or breach any other covenant, condition or agreement contained on its part to be observed or performed pursuant to the terms of this Mortgage.
    b. Borrower shall make an assignment for the benefits of its creditors, or a petition shall be filed by or against the Borrower under the United States Bankruptcy Code or Borrower shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties or of the Mortgaged Property or shall not, within 30 days after the appointment of a trustee, receiver or liquidator of any material part of its properties or of the Mortgaged Property, have such appointment vacated.
    c. A judgment, writ or warrant of attachment or execution, or similar process shall be entered and become a lien on or be issued or levied against the Mortgaged Property or any part thereof which is not released, vacated or fully bonded within 30 days after its entry, issue or levy.
    d. An event of default, however defined, shall occur under any other mortgage, assignment or other security document constituting a lien on the Mortgaged Property or any part thereof.
    e. A breach pursuant to the Credit Agreement and Disclosure Statement between the parties of even date herewith.
    f. Borrowers shall be considered in default it they no longer occupy the home as their primary residence.

16. Acceleration; Foreclosure. Upon the occurrence of any Event of Default and at any time thereafter while such Event of Default exists, Lender may, at its option, after such notice as may be required by law, exercise one or more of the following rights and remedies (and any other rights and remedies available to it):
    a. Lender may declare immediately due and payable all Obligations secured by this Mortgage, and the same shall thereupon be immediately due and payable, without further notice or demand.
    b. Lender shall have and may exercise with respect to the Personal Property, all the rights and remedies accorded upon default to a secured party under the Iowa Uniform Commercial Code. If notice to Borrower of intended disposition of such Mortgaged Property is required by law in a particular instance, such notice

shall be deemed commercially reasonable if given to Borrower at least 10 days prior to the date of intended disposition.

c. Lender may (and is hereby authorized and empowered to) foreclose this Mortgage in accordance with the law of the State of Iowa, and at any time after the commencement of an action in foreclosure, or during the period of redemption, the court having jurisdiction of the case shall at the request of Lender appoint a receiver to take immediate possession of the Mortgaged Property and of the Revenues and Income accruing therefrom, and to rent or cultivate the same as he/she may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Borrower only for the net profits, after application of rents, issues and profits upon the costs and expenses of the receivership and foreclosure and upon the Obligations.

17. **Redemption.** It is agreed that if this Mortgage covers less than ten acres of land, and in the event of foreclosure of this Mortgage and sale of the Property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statues of the State of Iowa shall be reduced to 6 months provided the Lender, in such action files an election to waive any deficiency judgment against Borrower which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first 3 months after sale such right of redemption shall be exclusive to the Borrower, and the time periods in Section 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four months. It is further agreed that the period of redemption after a foreclosure of this Mortgage shall be reduced to 60 days if all of the three following contingencies develop: (1) The real estate is less than ten acres in size; (2) the Court finds affirmatively that the said real estate has been abandoned by the owners and those persons personally liable under this Mortgage at the time of such foreclosure; and (3) Lender in such action files an election to waive any deficiency judgment against Borrower or their successors in interest in such action. If the redemption period is so reduced, Borrower or their successors in interest or the owner shall have the exclusive right to redeem for the first 30 days after such sale, and the time provided for redemption by creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to 40 days. Entry of appearance by pleading or docket entry by or on behalf of Borrower shall be a presumption that the property is not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be constructed to limit or otherwise affect any other redemption provisions contained in chapter 628 of the Iowa Code.

18. **Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Mortgaged Property and waives all rights of exemption as to any of the Mortgaged Property.

19. **Acknowledgment of Receipt of Copies of Debt Instrument.** Borrower hereby acknowledge the receipt of a copy of this Mortgage **together** with a copy of each promissory note secured hereby.

20. **Additional Provisions.** Add Addendum Page.

I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALE; AND THAT BY SIGNING THIS MORTGAGE, I VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS MORTGAGED PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS MORTGAGE.

Dated:: August 12, 2002

Richard L. Beaudine
Richard L Beaudine , Borrower

Marilyn I. Beaudine
Marilyn I. Beaudine , Borrower

State of IOWA
County of

On this 12 day of August, 2002 before me, a Notary Public in the State of Iowa, personally appeared them, to me personally known to be the person(s) named in and who executed the foregoing instrument, and acknowledged that they, executed the same as their, voluntary act and deed.

NOTARIAL SEAL IOWA
SHELIA D. SMITH
Commission Number 196196
My Comm. Exp. 5-4-04

Shelia D. Smith
Notary Public in and for said County