Book 2005 Page 3980
Document 2005 3980 Type 05 010 Pages 4
Date 11/03/2005 Time 10:36 AM
Rec Amt $22.00

DEBORAH L. PEYTON, RECORDER/REGISTRA
DELAWARE COUNTY IOWA

(x) EW

Prepared by Jeffrey L. Walters, 2080 Southpark Court, Dubuque, IA 52003 (563) 582-2926

ASSIGNMENT OF RENTS AGREEMENT

THIS AGREEMENT, entered into this 31ST day of October, 2005, between ACQUISITION INVESTMENTS OF MANCHESTER, L.L.C., an Iowa limited liability company, (hereinafter referred to as OWNERS), and E.C.I.A. BUSINESS GROWTH INC., an Iowa corporation, Dubuque, Iowa, (hereinafter referred to as LENDER), WITNESSETH:

WHEREAS, OWNER is the present owner in fee simple of the following described real estate, to-wit:

> Parcel P in the SW 1/4 - SE 1/4 Section 32 - T89N - R5W City of Manchester, Delaware County, Iowa, according to plat recorded in Book 2004, Page 4504; AND,
>
> Lot Two (2) of Lot Thirteen (13) of the Sub-Division of Section 32-89-5 in Delaware County, Iowa, according to plat recorded in Book 2 Plats, Page 96 ½, except that part conveyed to the State of Iowa by Easement recorded in Book 91 L.D., Page 403, and also except that part conveyed to the City of Manchester, Iowa, by Quit Claim Deed recorded in Book 125, L.D., Page 322,

and LENDER is the owner and holder of a mortgage note and mortgage covering the said premises, which note and mortgage is in the principal sum of $864,000.00 made by ACQUISITION INVESTMENTS OF MANCHESTER, L.L.C, as Borrower and RANDALL L. SMEDSTAD, MARK S. HOLLINRAKE, MART E. WARD, HENDERSON ENTERPRISES, INC. HENDERSON MANUFACTURING, INC. and HENDERSON TRUCK EQUIPMENT, L.L.C., as Guarantors, to E.C.I.A BUSINESS GROWTH INC. under date of OCTOBER 31, 2005, and;

WHEREAS, LENDER, as a condition to granting the aforesaid mortgage loan, has required the execution of this assignment of any rentals of the mortgaged premises, as well as the assignment of Housing Assistance Payments Contract, by OWNER.

NOW, THEREFORE, in order further to secure the payment of the indebtedness of OWNER to LENDER, and in consideration of the making of the loan represented by the aforesaid mortgage and the note secured thereby, and in further consideration of the sum of One Dollar paid by LENDER to OWNER, the receipt of which is hereby acknowledged, OWNER does hereby sell, assign, transfer, and set over unto LENDER all of the rents, issues and profits of the aforesaid mortgaged premises, this assignment to become operative upon any default being made by OWNER under the terms of the aforesaid mortgage or the note secured thereby, and to remain in full force and effect so long as any default continues to exist in the matter of the making of any of the payments or the performance of any of the covenants set forth in the aforesaid mortgage or the note secured thereby.

1. In the furtherance of the foregoing assignment, OWNER hereby authorizes LENDER, by its employees or agents, at its option, whether in default or otherwise, to enter upon the mortgaged premises and to collect, in the name of OWNER or in its own name as assignee, the rents accrued but unpaid and in arrears at the date of such entry, as well as the rents thereafter accruing and becoming payable during the period of the continuance of the said entry or any other default; and to this end, OWNER further agrees that they will facilitate in all reasonable ways LENDER'S collection of said rents, and will, upon request by LENDER, execute a written notice to each tenant directing the tenant to pay rent to LENDER.

2. OWNER also hereby authorizes LENDER upon such entry, at its option, to take over and assume the management, operation and maintenance of the said mortgaged premises and to perform all acts necessary and proper and to expend such sums out of the income of the mortgaged premises as may be needful in connection therewith, in the same manner and to the same extent as OWNER theretofore might do, including the right to effect new leases, to cancel or surrender existing leases, to alter or amend the terms of existing leases, to renew existing leases, or to make concessions to tenants; OWNER hereby releasing all claims against LENDER arising out of such management, operation and maintenance, excepting the liability of LENDER to account as hereinafter set forth.

3. LENDER shall, after payment of all proper charges and expenses, including reasonable compensation to such Managing Agent as it shall select and employ, and after the accumulation of a reserve to meet taxes, assessments, water, sewer, and utility expense and fire and liability insurance in requisite amounts, credit the net amount of income received by it from the mortgaged premises by virtue of this assignment, to any amounts due and owing to it by OWNER under the terms of mortgage and the note secured thereby, but the manner of the application of such net income and what items shall be credited, shall be determined in the sole discretion of LENDER. LENDER shall not be accountable for more moneys than it actually received from the mortgaged premises; nor shall it be liable for failure to collect rents. LENDER shall make reasonable effort to collect rents, reserving, however, within its own discretion, the right to determine the method of collection and the extent to which enforcement of collection of delinquent rents shall be prosecuted.

4. OWNER hereby covenants and warrants to LENDER that neither they nor any previous owner has executed any prior assignment or pledge of the rentals of the mortgaged premises, nor any prior assignment or pledge of his landlord's interest in any lease of the whole or any part of the mortgaged premises. OWNER also hereby covenants and agrees not to collect the rents of the said mortgaged premises in advance, other than as required to be paid in advance by the terms of any rental agreement, and further agrees not to do any other act which would destroy or impair the benefits of LENDER of this assignment.

5. It is not the intention of the parties hereto that any entry by LENDER upon the mortgaged premises under the terms of this instrument shall constitute LENDER a "mortgagee in possession" in contemplation of law, except at the option of LENDER.

6. This assignment shall remain in full force and effect as long as the mortgage debt to LENDER remains unpaid in whole or in part.

7. The provisions of this instrument shall be binding upon OWNER and their legal representatives, successors or assigns and upon LENDER and its successors or assigns. The word "OWNER" shall be construed to mean any one or more persons or parties who are holders of the legal title or equity of redemption to or in the aforesaid mortgage premises. The word "note" shall be construed to mean the instrument, whether note or bond, given to evidence the indebtedness held by LENDER against the mortgaged premises; and the word "mortgage" shall be construed to mean the instrument securing the said indebtedness, owned and held by LENDER, whether such instrument be mortgage, loan deed, trust deed, vendor's lien or otherwise.

It is understood and agreed that a full and complete release of the aforesaid mortgage shall operate as a full and complete release of all LENDER'S rights and interest hereunder, and that after said mortgage has been fully released this instrument shall be void and of no further effect.

IN WITNESS WHEREOF, OWNER has executed this agreement the day and year first above stated.

ACQUISITION INVESTMENTS OF MANCHESTER, L.L.C.

By _____
RANDALL L. SMEDSTAD, MEMBER

STATE OF IOWA)
COUNTY OF DUBUQUE) ss:

On this 31ST day of October, 2005, before me, a Notary Public in and for the State of Iowa, personally appeared RANDALL L. SMEDSTAD, to me personally known, who being by me duly sworn did say that he is the Managing Member of said limited liability company, that no seal has been procured by the said limited liability company and that said instrument was signed on behalf of said limited liability company by authority of its managers and the said RANDALL L. SMEDSTAD acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it voluntarily executed.

Notary Public in and for
State of Iowa

JEFFREY L. WALTER
Commission Number 142...
My Comm. Exp. 11/19...

S:\wp\CASES\ECIA Business Growth, Inc\Acquisition Investments of Manchester, L.L.C\Assignment of Rents Agreement.wpd