Book 2006 Page 3342

Document 2006 3342 Type 04 001 Pages 3
Date 9/11/2006 Time 8:58:13AM
Rec Amt $27.00

DEBORAH L. PEYTON, RECORDER/REGISTRA
DELAWARE COUNTY IOWA

(X) Prepared by/Return to: Lisa Boyd Loan Number: 13510664-EH
University of Iowa Community Credit Union, 500 Iowa Avenue P.O.Box 2240 Iowa City, Iowa 52244-2240, (319) 339-1010.
Address Tax Statement: Scott A Zebuhr and Kristine A Zebuhr
203 Bailey Drive,Manchester,IA 52057

IOWA MORTGAGE **OPEN END - SECOND MORTGAGE**

THIS INDENTURE made this 01st day of September ,2006 , between Scott A Zebuhr and Kristine A Zebuhr, Husband and Wife Mortgagor(s), whose address is: 203 Bailey Drive,Manchester,IA 52057 and the UNIVERSITY OF IOWA COMMUNITY CREDIT UNION, a/k/a U OF I COMMUNITY CREDIT UNION, Mortgagee, having its principal place of business at 500 Iowa Avenue, Iowa City, Iowa, WITNESSETH:

That the said Mortgagor(s) in consideration of Thirty Thousand Two Hundred DOLLARS ($ 30,200.00) loaned by Mortgagee, received by Mortgagor(s) and evidenced by the promissory note(s) hereinafter referred to, do, by these presents SELL, CONVEY, AND MORTGAGE, unto the said Mortgagee the following described real estat situated in the County of Delaware , State of Iowa, to-wit:

41-43

Lot Two (2) of W. C. Mawe Subdivision, a Subdivision of Part of the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) of Section Thirty Two (32) and of Part of the West one-half (W1/2) of the Northwest Quarter (NW1/4) of Section Thirty Three (33), all in Township Eighty Nine North (T89N), Range Five West (R5W) of the Fifth P.M., City of Manchester, Delaware County, Iowa, according to plat recorded in Book 4 Plats, Page 144, except that part of said Lot Two (2) described as commencing at the Southwest corner of said Lot Two (2), thence Northerly along the West line of said Lot Two (2) a distance of fifteen (15) feet, thence Easterly to the Southeast corner of said Lot Two (2) thence Westerly along the South line of said Lot Two (2) to the point of beginning; also that part of the Northwest Quarter (NW1/4) of Section Thirty Three (33), Township Eighty Nine (89) North, Range Five (5), West of the Fifth P.M. described as commencing at the Northwest corner of said Lot Two (2), thence North 1 59' 30" East fifteen (15) feet, thence Easterly to the Northeast corner of said Lot Two (2), thence Westerly along the North line of said Lot Two (2) to the point of beginning.

which has the address of 203 Bailey Drive (Street) Manchester (City) Iowa (State) 52057 (Zip)

together with all personal property that may integrally belong to, or be, or hereafter become an integral part of said real estate, and whether attached or detached, and hereby granting, conveying, and mortgaging also all of the easements, servient estates appurtenant thereto, rents, issues, uses, profits, and right of possession of said real estate, and all crops raised thereon from now until the debt secured thereby shall be paid in full. As to any such personal property or fixtures, or both, a Security Interest hereby attaches thereto, as provided by the Uniform Commercial Code.

This Mortgage is subject only to a prior mortgage from Scott A Zebuhr and Kristine A Zebuhr to Community Savings Bank dated January 14, 2002 recorded on January 18, 2002 , in Book 2002 , Page 254 , of the Records of the Delaware County Recorder.

Said Mortgagor(s) hereby covenant with Mortgagee, or successor in interest, that said Mortgagor(s) hold said real estate by title in fee simple; that they have good and lawful authority to sell, convey, and mortgage the same; that said premises are Free and Clear of all Liens and Encumbrances whatsoever except as may be above stated; and said Mortgagor(s) Covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever, except as may be above stated.

Each of the undersigned hereby relinquishes all rights of dower, homestead, and distributive share in and to the above-described premises, and waives any rights of exemption, as to any of said property.

CONDITIONED, HOWEVER, that if Mortgagor(s) shall pay, or cause to be paid to U of I Community Credit Union, 500 Iowa Avenue/P.O. Box 2240, Iowa City, Iowa 52244, its successors or assigns, at such place as designated by the promissory note(s), of even date herewith, given by Mortgagor(s) to U of I Community Credit Union, of Iowa City, Iowa, or at such place as the owner of such promissory note(s) shall designate from time to time, payment in legal tender of all debts and dues, public and private, at the time of payment payable, as provided in said promissory note(s), with final payment due thereon, on or before the Fifteenth day of September , 2011 , unless otherwise extended with interest as provided therein, and shall perform the other provisions hereof and all other obligations secured as set forth in Paragraph 1 below, then this Mortgage will be void, and Mortgagee shall release said real estate at the expense of the Mortgagor(s), otherwise to remain in full force and effect. All payments received by the Mortgagee shall first be applied to credit insurance (if any), then finance charges, and lastly, the amount of unpaid principal.

1. **OPEN-END FEATURE:** This mortgage shall secure the payment and performance of the mortgage note, and for any and all future and additional advances made to the Mortgagor(s) or any of them, by the Mortgagee in such amount or amounts so that the total of such future additional advances outstanding and unpaid at any one time shall not exceed Thirty Thousand Two Hundred DOLLARS ($ 30,200.00). This mortgage shall also secure all of the covenants, agreements and indebtedness of Mortgagor(s) to Mortgagee, whether existing now or in the future, of all kinds, and whether such indebtedness is reduced and increased thereafter, or entirely extinguished and reincurred later. THIS PARAGRAPH SHALL NOT CONSTITUTE A COMMITMENT TO MAKE ADDITIONAL LOANS IN ANY AMOUNT.

2. **NOTICE:** This mortgage secures credit in the amount of $ 30,200.00 . Loan and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

3. **TAXES:** Mortgagor(s) shall pay each installment of all taxes and special assessments of every kind, now or hereafter levied against said property, or any part thereof, before same become delinquent, without notice or demand; and shall procure and deliver to said Mortgagee, on or before the fifteenth day following due date of each installment, duplicate receipts of the proper officers for the payment of all such taxes and assessments then due.

4. **INSURANCE:** Mortgagor(s) shall keep in force insurance, premiums therefor to be prepaid without notice of demand, against loss by fire, tornado, and other hazards, casualties, and contingencies as Mortgagee may require on personal property, as herein referred to and on all buildings and improvements on said premises in companies to be approved by Mortgagee in an amount not less than the full insurable value of such personal property and improvements, or not less than the unpaid balance herein, whichever amount is smaller, with such insurance payable to Mortgagor(s) and Mortgagee, as their interests may appear. In the event of a loss, Mortgagor(s) will give immediate notice by mail to the Mortgagee, who may make proof of loss to the insurance company, and the insurance proceeds, at the option of the Mortgagee, shall be received by Mortgagee and applied towards payment of this mortgage. Mortgagor(s) shall promptly deposit such policies with proper riders with the Mortgagee. Also, if required, the Mortgagor(s) agree to secure and maintain the maximum amount of flood insurance required in compliance with the Flood Disaster Protection Act of 1973, and to furnish such policies to the Mortgagee with the insurance payable to the Mortgagee.

5. **REPAIRS TO PROPERTY:** Mortgagor(s) shall keep the buildings and other improvements on said premises in as good repair and condition, as same may now be, or are hereafter placed, ordinary wear and tear only excepted; and shall not suffer or commit waste on or to said security.

6. **COMPLIANCE WITH LAW:** Mortgagor(s) shall comply with all present and future laws, regulations, and ordinances affecting the mortgaged property.

7. **CONDEMNATION:** All compensation awarded for any damages in connection with a condemnation proceeding for any part of the mortgaged property shall be paid directly to the Mortgagee and applied to the mortgage note.

8. **JOINT AND SEVERAL LIABILITY:** Mortgagor(s) agree to be jointly and severally liable for the indebtedness evidenced by the mortgage note and secured by this mortgage. The signing of this mortgage and the mortgage note by the spouse of the owner is not only for the purpose of releasing dower or distributive share but also for the express purpose of creating personal liability of the spouse for the indebtedness.

9. **PRINCIPAL RESIDENCE:** Mortgagor(s) agree that the paragraph of the Promissory Note(s) of even date herewith, given by the Mortgagor(s) to the University of Iowa Community Credit Union, regarding the use of property which is the subject of this Mortgage as a principal residence, is incorporated into this Mortgage. A breach of the said paragraph of said Note(s) constitutes a default of this Mortgage, that shall entitle the Mortgagee, its successors or assigns, to exercise the remedies as set forth in paragraph No. 14 of this Mortgage. Th Note and Mortgage may be amended by mutual consent of Mortgagor(s) and Mortgagee.

10. **RESTRICTIONS ON TRANSFER:** Mortgagor(s) agree that in the event they shall in any manner transfer the title to any portio of the mortgaged premises, whether by deed, real estate contract, or otherwise, or in the event any interest in it is sold or transferred (or if beneficial interest in Mortgagor(s) is sold or transferred and Mortgagor is not a natural person), that the whole unpaid balance of the obligation secured hereby shall become immediately due and payable at the option of Mortgagees;and, Mortgagor(s) agree that they shall give Mortgagee no less than ten (10) days' advance written notice prior to making any such transfer. If Mortgagee exercises the option to require immediate payment in full, Mortgagee shall give Mortgagor(s) notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is delivered or mailed within which Mortgagor(s) must pay all sums secured by this Mortgage. I Mortgagor(s) fails to pay these sums prior to the expiration of this period, Mortgagee may invoke any remedies permitted by this mortgage without further notice or demand on Mortgagor(s).

11. **ENFORCEABILITY:** If any term in this mortgage or the mortgage note secured hereby violates any law or for some reason is not enforceable, that term will not be a part of this mortgage. However, the other terms of this mortgage will remain effective. If enactment o expiration of applicable laws has the effect of rendering any provision of this mortgage or the mortgage note seucred hereby unenforceable according to its terms, Mortgagee, at its option, may require immediate payment in full of all sums secured by this mortgage and may invoke any remedies permitted by this mortgage. If Mortgagee exercises the option to require immediate payment in full, Mortgagee shall give Mortgagor notice of acceleration, in the manner described in Paragraph 9.

12. **NON-WAIVER:** Any forbearance by Mortgagee in exercising any right or remedy allowed for by the mortgage or mortgage note secured hereby shall not be a waiver of or preclude the exercise of any right or remedy.

13. **ADVANCES OPTIONAL WITH MORTGAGEE:** It is expressly understood and agreed that if the insurance above provided for is not promptly effected, or if the taxes or special assessments assessed against said property shall become delinquent, Mortgagee (whether electing to declare the whole mortgage due and collectible or not), may (but need not) effect the insurance above provided for, and need not, but may and is hereby authorized to pay said taxes and special assessments (irregularities in the levy or assessment of said taxe being expressly waived), and all such payments with interest thereon at the highest legal rate applicable to a natural person (or, if the Mortgagor is a corporation, then at the default rate provided in the note seucred hereby) from time of payment shall be a lien against said premises.

14. **ACCELERATION OF MATURITY AND RECEIVERSHIP:** And it is agreed that if default shall be made in the payment of said note(s), or any part of the interest thereon, or any other advance or obligation which may be secured hereby or any agreed protective disbursement, such as taxes, special assessments, insurance, and repairs, or if Mortgagor(s) shall suffer or commit waste on or to said security, or if there shall be a failure to comply with any and every condition of this mortgage, then at the option of the Mortgagee, said note and the whole of the indebtedness secured by this mortgage, including all payments for taxes, assessments, or insurance premiums, shall become due and shall become collectible by foreclosure or otherwise after such default or failure, Mortgagee shall give notice to Mortgagor(s) prior to acceleration (except for acceleration under paragraphs Nos. 9 or 10). The notice shall specify (a) default; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date the notice is given to Mortgagor(s), by which the defau must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by the Mortgage, foreclosure by judicial proceeding and sale of the property. If the default is not cured by the date specified in the notice, Mortgagee, at its option, may require immediate payment in full of all sums secured by this mortgage without further demand and may collect the sums by foreclosing this mortgage by judicial proceeding or otherwise. Mortgagee shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph. Mortgagor consents to the appointment of a receiver for the property, at the option of the Mortgagee.

15. **ATTORNEY'S FEES:** In case of any action, or in any proceedings in any court, to collect any sums payable or secured by this Mortgage, to protect the lien of title herein of the Mortgagee, or in any other case permitted by law in which attorney fees may be collected from the Mortgagor(s), or charged upon the above-described property, Mortgagor(s) agree to pay reasonable attorney fees.

16. **CONTINUATION OF ABSTRACT:** In event of any default herein by Mortgagor(s), Mortgagee may, at the expense of Mortgagor(s), procure an abstract of title, or continuation thereof, for said premises, and charge and add to the mortgage debt the cost of such abstract or continuation with interest upon such expense at the highest legal rate applicable to a natural person; or if the Mortgagor is a corporation, then at the default rate provided in the note secured hereby.

17. **SHORTENED REDEMPTION PERIOD:** It is further agreed that in the event of judicial foreclosure of this Mortgage, the Mortgagor may, at its sole discretion, elect to:

A. Reduce the period of redemption after judicial sale to six (6) months, if the property is less than ten (10) acres in size and Mortgagee waives in any foreclosure proceeding any right to a deficiency judgment against Mortgagor(s), pursuant to Iowa Code Section 628.26, or

B. Reduce the period of redemption after judicial sale to sixty (60) days, if the property is less than ten (10) acres in size, Mortgagee waives in any foreclosre proceedings any right to a deficiency judgment against Mortgagor(s), and the court finds that the property has been abandoned by Mortgagor(s), pursuant to Iowa Code Section 628.27, or

C. Reduce the period of redemption after judicial sale to the time period set forth in Iowa Code Section 628.28 or any other Iowa Code Section to reduce the period of redemption after judicial sale to such time as may be then applicable or provided by law, or

D. Foreclose without redemption after judicial sale if the property is not used for an agricultural purpose, pursuant to Iowa Code Section 654.20.

18. **HAZARDOUS SUBSTANCES:** Mortgagor(s) shall not allow the presence, use, disposal, storage or release on or in the property of any substance which has been defined by any federal, state, or local law or regulation as a toxic or hazardous substance, which includes, but is not limited to: gasoline, kerosene, flammable or toxic petroleum products, pesticides, herbicides, solvents, asbestos, formaldehyde, and radioactive materials. Mortgagor(s) shall promptly give Mortgagee written notice of any investigation, action, or claim which involves the property and any toxic or hazardous substance or federal, state, or local law or regulation which relates to health, safety or environmental protection. Upon notice that remediation or removal of a toxic or hazardous substance is necessary, Mortgagor(s) shall promptly take all necessary remedial action. The Mortgagor(s) may use or store on the property small quantities of hazardous substances which are generally and reasonably recognized to be appropriate to normal residential use and maintenance of the property.

19. **NOTICES:** Any notice to Mortgagor(s) provided for in this Mortgage may be given when delivered or mailed by first class mail. The notice shall be directed to the address of the Mortgagor(s) stated on the face of this mortgage, unless Mortgagor(s) has designated a different address by notice to Mortgagee. Any notice to Mortgagee shall be given by first class mail to University of Iowa Community Credit Union, 500 Iowa Avenue/P.O. Box 2240, Iowa City, Iowa 52244, unless Mortgagee has designated a different address by notice to Mortgagor(s).

20. **DEFINITION OF TERMS:** Unless otherwise expressly stated the word "Mortgagor(s)", as used herein, includes successors in interest of such "Mortgagor(s)"; the "Mortgagee", as used herein, unless otherwise expressly stated, includes the successors in interest o such "Mortgagee". All words referring to "Mortgagor" or "Mortgagee" shall be construed to be of the appropriate gender and number, according to the context. This construction shall include the acknowledgment hereof.

21. **WAIVER:** I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALE AND BY SIGNING THIS CONTRACT I VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION WITH THE RESPECT TO CLAIMS BASED UPON THIS CONTRACT.

Scott A Zebuhr 9-1-06 Date

Kristine A Zebuhr 9-1-06 Date

22. **RIDERS TO THIS MORTGAGE:** If one or more riders are executed by Mortgagor(s) and recorded together with this Mortgage the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider(s) were a part of this Mortgage.

[Check applicable space(s)].

_X_ Variable Rate Rider ____ Condominium Rider

____ Other:_____

IN WITNESS WHEREOF, said Mortgagor(s) have hereunto set their hands the day and year first written.

MORTGAGOR Scott A Zebuhr

MORTGAGOR Kristine A Zebuhr

STATE OF IOWA)
) ss:
COUNTY OF ~~JOHNSON~~ Poweshiek)

On this First day of September 2006, before me, the undersigned a Notary Public in and for the State of Iowa, personally appeared Scott A Zebuhr and Kristine A Zebuhr to me known to be the identical person named and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in and for the State of Iowa

Commission Expires: _____

CHRIS L. CHRISTINSON
Commission Number 164239
My Commission Expires
3-8-07