

RELEASED 12-20-00 SEE
Deed RECORD 64 PAGE 404

Compare

FILED NO. 2358
BOOK 55 PAGE 89
89 JUN -1 PH 1:31

ASSIGNMENT OF REAL ESTATE CONTRACT
AS COLLATERAL FOR BANK LOAN

MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA
Fee \$35.00

In consideration for any loan or loans which may be made by Farmers & Merchants State Bank of Winterset, Iowa, hereinafter referred to as "the Bank" to Stephen Zahn and Jo Ann Zahn, husband and wife, hereinafter referred to as "Assignors", and to secure and to provide for the payment of any and all such loans, and any and all notes which may be issued to evidence any such loan or loans, the Assignors hereby assign, transfer and set over to the Bank, all of their right, title and interest in a certain Real Estate Contract between Stephen Zahn and Jo Ann Zahn, as Sellers, and Robert Pierson and Joan Pierson, as Buyers, together with all sums due and to become due thereon. See copy of said Contract attached hereto. Robert Pierson and Joan Pierson, the Buyers under said Real Estate Contract, will hereinafter be referred to as "Buyers".

1. Payments on Contract. It is understood that Buyers will make all payments due on the said Real Estate Contract with Assignors to the Bank at its office in Winterset, Iowa. The Bank, in its discretion, may take any action or proceeding, either in its own name or in the names of the Assignors, or otherwise, which the Bank may deem necessary or advisable under the circumstances. It is expressly understood and agreed, however, that the Bank shall not be required or obliged in any manner to make any demand, or to make any inquiry as to the nature or sufficiency of any payment received by it, or to present, or to file any claims or to take any other action to collect or enforce the payment of any amount or amounts which may be or become due or payable under the above-described Real Estate Contract.

2. Application of Monies Received by Assignee. The Assignors agree that any and all monies received by the Bank from either the Buyers, the Assignors, or anyone else, by virtue of this Assignment, may be applied by the Bank toward the payment of any and all loans and any and all obligations that the Assignors have to the Bank. Application of amounts between principal and interest and between particular obligations is to be in the absolute discretion of the Bank. Any residue of such payments which remains after the payment in full of all such obligations, indebtednesses, and liabilities of the Assignors to the Bank, shall be paid by the Bank to the Assignors.

3. Further Assurances. The Assignors further agree that they will, at any time, upon the request of the Bank, execute and deliver such further documents and do such other acts and things as the Bank may specify for the purpose of further assurances, or effecting the purposes of this assignment, and otherwise do any and all things and acts which the Bank may request in order to perfect this assignment.

4. Warranties. The Assignors hereby warrant that they are legally competent to make this assignment, that they have not transferred, or assigned or encumbered the said Real Estate contract or any rights or interest therein, or any monies due or to become due or payable thereunder, and that no proceedings in bankruptcy or insolvency or otherwise at law and equity, which would affect their rights under the said Real Estate Contract, are pending against them.

5. Benefits. The covenants and warranties that the Assignors set forth herein shall inure to the benefit not only of the Bank, but of its successors and assigns.

6. Remedies. The rights and remedies of the Bank hereunder are cumulative, and are not in lieu of, but are in addition to, any other rights and remedies which the Bank may have under the provisions of any promissory note or

agreement, or otherwise.

7. Contract. A copy of the Real Estate Contract assigned herein is marked Exhibit "A", attached hereto, and incorporated herein by this reference.

Dated this 27th day of May, 1989.

Stephen Zahn
Stephen Zahn
Jo Ann Zahn
Jo Ann Zahn

STATE OF IOWA :
:ss
MADISON COUNTY:

On this 27th day of May, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared Stephen Zahn and Jo Ann Zahn, to me personally known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

John L. Cimello Notary
Notary Public in and for the State of Iowa



Comm. Expires
9-17-1990

THE IOWA STATE BAR ASSOCIATION

FOR THE LEGAL EFFECT OF THIS FORM, CONSULT YOUR LAWYER

km



REAL ESTATE CONTRACT (SHORT FORM)

IT IS AGREED between STEPHEN ZAHN and JO ANN ZAHN, husband and wife,

Sellers, and ROBERT PIERSON and JOAN PIERSON

Buyers:

Sellers agree to sell and Buyers agree to buy real estate in Madison County, Iowa, described as:

Lot Eleven (11) of Helen McCall Huntoon Addition - Plat No. 3 to the City of Winterset, Madison County, Iowa,

together with all of the equipment, furniture, fixtures and other tangible personal property used in connection with the operation of the motel located on said premises,

with any easements and appurtenant servient estates, but subject to the following:

- a. any zoning and other ordinances,
b. any covenants of record;
c. any easements of record for public utilities, roads and highways; and
d. (Consider: liens; mineral rights; other easements; interests of others.)

designated the Real Estate, upon the following terms:

1. PRICE. The total purchase price for the real estate is Two Hundred Sixty-five Thousand Dollars (\$265,000.00)

of which Five Thousand Dollars (\$5,000.00) has been paid. Buyers shall pay the balance to Sellers at their address, or as directed by Sellers, as follows:

\$70,000.00 at the time Buyers take possession. \$1,834.00 or more per month beginning 30 days after date of possession and continuing on the same day of each month thereafter until all sums are paid in full. Said monthly payments shall be applied first to the interest then unpaid and next upon the balance of the principal.

2. INTEREST. Buyers shall pay interest from date of possession upon the unpaid balance, at the rate of 10 percent per annum, payable monthly as set forth above.

Buyers shall also pay interest at the rate of 10 percent per annum on all delinquent amounts and any sum reasonably advanced by Sellers to protect their interest in this contract, computed from the date of the delinquency or advance.

3. REAL ESTATE TAXES. Sellers shall pay 1/6 of the taxes assessed against said real estate payable in the fiscal year beginning July 1, 1987.

and any unpaid real estate taxes payable in prior years. Buyers shall pay all subsequent real estate taxes. Sellers shall pay said taxes owing by them to the Madison County Treasurer prior to the time that any payment owing for said taxes becomes delinquent.

4. SPECIAL ASSESSMENTS. Sellers shall pay all special assessments which are a lien on the Real Estate as of the date of this contract or All other special assessments shall be paid by Buyers.

5. POSSESSION. Sellers shall give Buyers possession of the Real Estate on September 1, 1986.

6. INSURANCE. Sellers shall maintain existing insurance upon the Real Estate until the date of possession. Buyers shall accept insurance proceeds instead of Sellers replacing or repairing damaged improvements. After possession and until full payment of the purchase price, Buyers shall keep the improvements on the Real Estate insured against loss by fire, tornado, and extended coverage for a sum not less than 80 percent of full insurable value payable to the Sellers and Buyers as their interests may appear. Buyers shall provide Sellers with evidence of such insurance.

ZAHN-PIERSON REAL ESTATE CONTRACT

ADDITIONAL PROVISIONS

1. The sale by Sellers to Buyers does not include any cash on hand or accounts receivable which shall be retained by Sellers.
2. Buyers shall make all payments due on this Contract to Sellers through Union State Bank of Winterset, Iowa. Union State Bank shall be authorized to pay the monthly payments owing on a Promissory Note made and executed by Sellers to Union State Bank which is secured by a mortgage upon the above-described real estate. Any and all sums in excess of the amount of payments due on said Promissory Note shall be paid to Sellers by Union State Bank. Sellers shall not be required to obtain a release of said mortgage at this time but shall only be required to make timely payments as called for in said note and mortgage.
3. Until Buyers take possession, Sellers shall preserve the business as a going business, shall not enter into any Contracts relating to the business other than such as are incidental to its normal current operation and shall not dispose of any part of the assets used in connection with the operation of Village View Motel. Provided, however, Sellers shall continue to retain any profits or suffer any losses of said business until Buyers take possession.
4. Buyers shall obtain all necessary licenses for the operation of the motel herein sold so as to fully comply with all governmental regulations in connection with the operation of said motel.
5. Sellers hereby grant Buyers the right to the use of the name Village View Motel and Sellers shall, on the date of possession, terminate any trade name filing under Chapter 547 of the Code of Iowa pertaining to the name Village View Motel. Buyers shall, promptly after taking possession, file a verified statement of trade name in accordance with Chapter 547 of the Code of Iowa showing the Buyers to be the owners of and the persons conducting the business known as Village View Motel.
6. Concurrently with the execution of this Contract, Sellers shall execute a Warranty Deed and a Bill of Sale in conformance with the provisions of this Contract, which Deed and Bill of Sale shall be held in escrow by Union State Bank, Winterset, Iowa, delivered according to the terms of this Contract. Sellers shall pay all fees or expenses of the escrow agent and hold the Buyers harmless therefrom. The parties shall execute a standard escrow agreement directing the escrow agent that if all sums of money and interest are paid by the Buyers during the life of this Contract, and all other agreements for performance by Buyers have been complied with, the escrow agent shall deliver to Buyers the Warranty Deed and Bill of Sale held in escrow so as to convey the real estate and personal property pursuant to and in conformity with this Contract.
7. As additional security for the payment of the sums due under this Contract, Buyers shall execute and deliver to Sellers a security agreement granting to Sellers a security interest in and to all tangible personal property being sold by Sellers to Buyers pursuant to this Contract. Buyers shall also execute financing statements covering said property. In the event of Buyers' default, Sellers shall have, in addition to the other remedies of Sellers pursuant to the terms of this Contract, all the rights and remedies granted secured parties under the Uniform Commercial Code of Iowa.
8. Any motel unit rental payments made in advance shall be prorated between Sellers and Buyers as of the date of possession.
9. In case of the assignment of this Contract by either of the parties, prompt notice shall be given to the other party, who shall at the time of such notice be furnished with a duplicate of such assignment by the assignor. Any such assignment shall not terminate the liability of

EXHIBIT "A"

the assignor to perform, unless a specific release in writing is given and signed by the other party to this Contract. In addition, in the event Buyers shall sell the above-described real estate and other assets which are the subject matter of this Contract, whether by assignment of this Contract or not, prompt notice shall be given to the Sellers herein, which said notice shall contain the name or names of the then Buyers, and the current address of the Buyers herein. Any such sale shall not terminate the liability of the Buyers to perform under the terms of this Contract unless a specific release in writing is given.

10. Sellers warrant and represent that there are no known structural or mechanical defects in the property unrevealed to the Buyers, and that all equipment will be in working order on the date of possession. However, Buyers understand that they are buying said property in it's "as is" condition on date of possession.
11. Sellers warrant room income from property for the 12 months ending June 30, 1986, to be at least Eighty-five Thousand Dollars (\$85,000.00).