

*Don Miller*

JUN 5 3 38 PM '97

INST. NO 97

021687

\$20.50

9715356

BLOCK  
CODE  
*KNH*  
CHECKED  
ENTERED  
EDITED

**DEED OF TRUST**

THIS DEED OF TRUST, is made as of the 2nd day of June, 1997, by and among the Trustor, **TWENTY-TWENTY PROPERTIES, A NEBRASKA GENERAL PARTNERSHIP**, (herein "Borrower"), the Trustee, **National Bank of Commerce Trust and Savings Association** (herein "Trustee"), and the Beneficiary, **National Bank of Commerce Trust and Savings Association** (herein "Lender").

FOR VALUABLE CONSIDERATION, including the indebtedness identified herein and the trust herein created, the receipt of which is hereby acknowledged, Borrower hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Lender, under and subject to the terms and conditions hereinafter set forth, the real property, described as follows:

**LOT 9, BLOCK 24, KNOB HILL ADDITION, LINCOLN, LANCASTER COUNTY, NEBRASKA**

Together with all buildings, improvements, fixtures, streets, alleys, passageways, easements, rights, privileges and appurtenances located thereon or in anywise pertaining thereto, and the rents, issues and profits, reversions and remainders thereof; including, but not limited to, heating and cooling equipment and such personal property that is attached to the improvements so as to constitute a fixture; all of which, including replacements and additions thereto, is hereby declared to be a part of the real estate secured by the lien of this Deed of Trust and all of the foregoing being referred to herein as the "Property".

This Deed of Trust shall secure (a) the payment of the principal sum and interests evidenced by Borrower's note dated June 2, 1997, having a maturity date of June 10, 2007, in the original principal amount of \$ 94,000.00 and any and all modifications, extensions and renewals thereof or thereto (herein called "Note"); (b) the payment of other sums advanced by Lender to protect the security of this Deed of Trust, with interest thereon as provided in the Note; and (c) the performance of all covenants and agreement to Borrower set forth herein.

Borrower, to protect the security of this Deed of Trust, covenants and agrees with Lender as follows:

- 1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal of and interest on, and any fees or charges provided in, the Note or in this Deed of Trust.
- 2. **Title.** Borrower is the owner of the Property, has the right and authority to convey the Property, and warrants that the lien created hereby is a first and prior lien on the Property, except as may otherwise be set forth herein, and the execution and delivery of this Deed of Trust does not violate any contract or other obligation to which Borrower is subject.
- 3. **Taxes, Assessments.** To pay when due all taxes, special assessments and all other charges against the Property and, upon written demand by Lender, to pay to Lender such amount as may be sufficient to enable the Lender to pay such taxes, assessments or other charges as they become due.
- 4. **Insurance.** To keep the Property insured against damage by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require, in amounts and with companies acceptable to the Lender, and with loss payable to the Lender. In case of loss under such policies, the Lender is authorized to adjust, collect and compromise, all claims thereunder and shall have the option of applying all or part of the insurance proceeds (i) to any indebtedness secured hereby and in such order as Lender may determine, (ii) to the Borrower to be used for the repair or restoration of the Property or (iii) for any other purpose or object satisfactory to Lender without affecting the lien of this Deed of Trust for the full amount secured hereby before such payment ever took place. Any application of proceeds to indebtedness shall not extend or postpone the due date of any payments under the Note, or cure any default thereunder or hereunder.

**5. Maintenance Repairs and Compliance with Laws.** Borrower shall keep the Property in good condition and repair; shall promptly repair, or replace any improvement which may be damaged or destroyed; shall not remove, demolish or substantially alter any of the improvements on the Property; shall not commit, suffer or permit any act to be done in or upon the Property in violation of any law, ordinance, or regulation; and shall pay and promptly discharge at Borrower's cost and expense all liens, encumbrances and charges levied, imposed or assessed against the Property or any part thereof.

**6. Eminent Domain.** Lender is hereby assigned all compensation, awards, damages and other payments or relief (hereinafter "Proceeds") in connection with condemnation or other taking of the Property or part thereof, or for conveyance in lieu of condemnation. Lender shall be entitled at its option to commence, appear in and prosecute in its own name any action or proceedings, and shall also be entitled to make any compromise or settlement in connection with such taking or damage. In the event any portion of the Property is so taken or damaged, Lender shall have the option, in its sole and absolute discretion, to apply all such Proceeds, after deducting therefrom all costs and expenses incurred by it in connection with such Proceeds, upon any indebtedness secured hereby and in such order as Lender may determine, or to apply all such Proceeds, after such deductions, to the restoration of the Property upon such conditions as Lender may determine. Any application of Proceeds to indebtedness shall not extend or postpone the due date of any payments under the Note, or cure any default thereunder or hereunder.

**7. Performance by Lender.** In the event of Borrower's failure to perform any of the covenants herein or make any payments required hereby, or if any act is taken or legal proceeding commenced which materially affects Lender's interest in the Property, Lender may in its own discretion, but without obligation to do so, and without notice to or demand upon Borrower and without releasing Borrower from any obligation, do any act which the Borrower has agreed but fails to do and may also do any other act it deems necessary to protect the security hereof. Borrower shall, immediately upon demand therefore by Lender, pay to Lender all costs and expenses incurred and sums expended by Lender in connection with the exercise by Lender of the foregoing rights, together with interest thereon at the rate provided in the Note, which shall be added to the indebtedness secured hereby. Lender shall not incur any personal liability because of anything it may do or omit to do hereunder.

**8. Events of Default.** The following shall constitute an event of default under this Deed of Trust:

- (a) Failure to pay any installment of principal or interest or any other sum secured hereby when due, or failure to pay when due any other indebtedness of Borrower to Lender;
- (b) A breach of or default under any provision contained in the Note, this Deed of Trust, any document which secures the Note, and any other encumbrance upon the Property;
- (c) A writ of execution or attachment or any similar process shall be entered against Borrower which shall become a lien on the Property or any portion thereof or interest therein;
- (d) There shall be filed by or against Borrower an action under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or there shall be appointed any trustee, receiver or liquidator of Borrower or of all or any part of the Property, or the rents, issues or profits thereof, or Borrower shall make any general assignment for the benefit of creditors;
- (e) The sale, transfer, assignment, conveyance or further encumbrance of all or any part of or any interest in the Property, either voluntarily or involuntarily, without the express written consent of Lender.

**9. Remedies; Acceleration Upon Default.** In the event of any Event of Default Lender may declare all indebtedness secured hereby to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter Lender may:

- (a) Demand that Trustee exercise the POWER OF SALE granted herein, and Trustee shall thereafter cause Borrower's interest in the Property to be sold and the proceeds to be distributed, all in the manner provided in the Nebraska Trust Deeds Act;
- (b) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Property, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, or part thereof of interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Property, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorneys' fees, upon any indebtedness secured hereby, all in such order as Lender may determine. The entering upon and taking possession of the Property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Property or the collection, receipt and application of rents, issues or profits, Trustee or Lender shall be entitled to exercise every right provided for in any of the Loan Instruments or by law upon occurrence of any event of default, including the right to exercise the power of sale; and
- (c) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

No remedy herein conferred upon or reserved to Trustee of Lender is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative, shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised concurrently, independently or successively.

**10. Trustee.** The Trustee may resign at any time without cause, and Lender may at any time and without cause appoint a successor or substitute Trustee. Trustee shall not be liable for any loss or damage unless due to actionable negligence or willful misconduct, and shall not be required to take any action in connection with the enforcement of this Deed of Trust unless indemnified, in writing, for all costs, compensation or expenses which may be associated therewith. In addition, Trustee may become a purchaser at any sale of the Property (judicial or under the power of sale granted herein); postpone the sale of all or any portion of the Property, as provided by law; or sell the Property as a whole, or in separate parcels or lots.

11. Miscellaneous Provisions.

(a) Borrower Not Released. Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Lender 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 Deed of Trust by reason of any demand made by the original Borrower and Borrower's successors in interest.

(b) Lender's Powers. Without affecting the liability of any other person liable for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Property not then or theretofore released as security for the full amount of all unpaid obligations, Lender may, from time to time and without notice (i) release any person so liable, (ii) extend the maturity or alter any of the terms of any such obligations, (iii) grant other indulgences, (iv) release or reconvey, or cause to be released or reconveyed at any time at Lender's options any parcel, portion or all of the Property, (v) take or release any other or additional security for any obligation herein mentioned, or (vi) make compositions or other arrangements with debtors in relation thereto.

(c) Forbearance by Lender Not a Waiver. 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. The procurement of insurance of the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Deed of Trust.

(d) Successors and Assigns Bound; Joint and Several Liability; Captions. 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 8(e) hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

(e) Request for Notices. The parties hereby request that a copy of any notice of default hereunder and a copy of any notice of sale hereunder be mailed to each party to this Deed of Trust at the address set forth below in the manner prescribed by applicable law. Except for any other notice required under applicable law to be given in another manner, any notice provided for in this Deed of Trust shall be given by mailing such notice by certified mail addressed as follows, or at such other address as shall be designated in writing to the other parties, as provided herein:

Borrower MICHAEL H. JENKINS  
2419 BRADFIELD DRIVE  
LINCOLN, NE 68502

WILLIAM B. FLORY  
5821 WOODSTOCK AVENUE

Lender LINCOLN, NE 68512

TWENTY-TWENTY PROPERTIES,  
A NEBRASKA GENERAL PARTNERSHIP  
2419 BRADFIELD DRIVE  
LINCOLN NE 68502

**National Bank of Commerce Trust and Savings  
Association  
P.O. Box 82408  
Lincoln, NE 68501**

Trustee

**National Bank of Commerce Trust and Savings  
Association  
P.O. Box 82408  
Lincoln, NE 68501**

Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

(f) Inspection. Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.

(g) Reconveyance. Upon payment of all sums secured by this Deed of Trust, Lender shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all notes evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.

(h) Personal Property, Security Agreement. As additional security for the payment of the Note all fixtures, equipment, and other personal property used in connection with the real estate or improvements located thereon, and not otherwise declared or deemed to be a part of the real estate secured hereby, shall be subject to a security interest in favor of the Lender under the Nebraska Uniform Commercial Code. This instrument shall be construed as a Security Agreement under said Code, and the Lender shall have all the rights and remedies of a secured party under said Code in addition to the rights and remedies created and accorded the Lender pursuant to this Deed of Trust.

(i) Severability. In the event that any provision of this Deed of Trust or the Note conflict with applicable law or are declared invalid or otherwise unenforceable, such conflict or invalidity shall not affect the other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust and the Note are declared to be severable.

Borrower has executed this Deed of Trust the date written above.

**TWENTY-TWENTY PROPERTIES,  
A NEBRASKA GENERAL PARTNERSHIP**

Michael H Jenkins  
Borrower **MICHAEL H. JENKINS, GENERAL PARTNER**

William B Flory  
Borrower **WILLIAM B. FLORY, GENERAL PARTNER**

STATE OF NEBRASKA }  
COUNTY OF LANCASTER } ss:

The foregoing instrument was acknowledged before me this 2nd day of June, 1997, by MICHAEL H. JENKINS AND WILLIAM B. FLORY GENERAL PARTNERS OF TWENTY-TWENTY PROPERTIES, A NEBRASKA GENERAL PARTNERSHIP.



Gary S. Carbaugh  
Notary Public

STATE OF }  
COUNTY OF } ss:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_

\_\_\_\_\_  
Notary Public

*Handwritten initials*