

COT 37537

DEED OF TRUST

Effective Date:

April 1, 1994

Grantor:

TIMOTHY A. CORNER
STARR LEE CORNER,
husband and wife
.02R Arabian Lane
Carson, WA 98610

Trustee:

JOHN P. HAGENSEN
Attorney at Law
335 N.E. 5th Avenue
Camas, WA 98607

Beneficiary:

JAMES DENNY,
a single man
P. O. Box 870
Carson, WA 98610

FILED FOR RECORD
SKAMANIA CO. WASH
BY CLARK COUNTY TITLE

MAR 29 2 03 PM '94

P. Johnson

AUDITOR

GARY H. OLSON

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Grantor, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants, conveys and assigns to Trustee, in trust, with power of sale, that property situate in the County of Skamania, State of Washington, and described as follows:

A tract of land located in the Northeast quarter of the Northeast quarter of Section 29, Township 3 North, Range 8 East of the Willamette Meridian, Skamania County, Washington, described as follows:

Beginning at a point 842 feet South and 30 feet East of the Northwest corner of the Northeast quarter of the Northeast quarter of the said Section 29; thence North 100 feet; thence East 100 feet; thence South 200 feet; thence North 45° West to the point of beginning;

EXCEPT that portion thereof acquired by Skamania County for right of way for county road 2135 designated as the Wind River Road.

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Grantor to collect and apply such rents, issues and profits prior to any default hereunder, and including all buildings, fixtures and improvements now or hereafter placed thereon, and all tenements, hereditaments and appurtenances, now or hereafter thereunto belonging or in any wise appertaining, being hereby declared to be, for all purposes of this Deed of Trust, a part of the realty; and all estate, interest or other claim or demand including insurance,

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Deed of Trust

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in law as well as in equity, which Grantor now has or may hereafter acquire, in and to the aforesaid property, and any specific enumerations herein not excluding the general.

The Grantor hereby warrants that said Grantor is the owner in fee simple absolute of the above-described property and every part thereof and the same is free from all liens and encumbrances. Grantor will defend the title hereby granted to and in favor of Trustee and Beneficiary as against all and every person claiming or to claim and shall defend, indemnify, including attorney's fees, and hold harmless Beneficiary with respect to any claim or liability arising therefrom.

This Deed of Trust is made for the purpose of securing, in such order of priority as Beneficiary may elect, payment of (a) the indebtedness in the sum of Eighty-Five Thousand and No/100 Dollars (\$85,000.00) evidenced by that certain Promissory Note of even date herewith made by Grantor, delivered to Beneficiary and payable to his order, and any and all modifications, extensions, renewals, amendments and replacements thereof; (b) interest on said indebtedness according to the terms of said Promissory Note; (c) all other sums, with interest as herein provided, becoming due and payable under the provisions hereof to Grantor or Beneficiary; (d) performance of each and every condition, obligation, covenant, promise or agreement contained herein, or in said Promissory Note, or in any loan agreement relative to any indebtedness evidenced by said Promissory Note, or in any security agreement or assignment of rents and appointment of receiver at any time given to secure any indebtedness hereby secured or any part thereof; (e) such additional sums with interest thereon as may be hereafter borrowed from the Beneficiary, his successors or assigns, by the then recorded owner or owners of the property described herein, when evidenced by another Promissory Note or Notes which are by the terms thereof secured by this Deed of Trust; (f) all sums advanced by Beneficiary for preservation of his interest in the real property and personal property collateral pursuant to Paragraph 6; and (g) Beneficiary's personal guaranty to pay the purchase price of \$35,000.00 pursuant to the terms of a Contract of Sale and Security Agreement between The Bungalow Tavern, Inc., as Seller, and Starr, Inc., as Purchaser.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, GRANTOR AGREES:

1. **Preservation and Maintenance of Property:** To keep said property in good condition and repair; not to permit or suffer any extraordinary repairs or removal or demolition of, or a structural change in any building or other improvement on said property except with the written consent of Beneficiary, which consent shall not be unreasonably withheld so long as the improvement will not decrease

the value of said property; to comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property or requiring any alteration or improvements to be made thereon; not to commit or permit waste thereon; not to commit, suffer or permit any act upon said property in violation of law.

2. **Use of Property:** Unless required by applicable law, or unless Beneficiary has otherwise consented in writing, which consent shall not be unreasonably withheld, Grantor shall not allow changes in the nature of the occupancy for which the property was intended at the time this Deed of Trust was executed. Grantor shall not initiate or acquiesce in any change in the zoning classification of the property without Beneficiary's written consent.

3. **Hazard Insurance:** To keep the buildings and improvements now and/or hereafter placed upon the said premises unceasingly insured against loss by fire and other hazards in an amount not less than the balance owing on the obligations secured hereby, the insurance to be payable in case of loss to the Beneficiary as his interest may appear and proof of all renewal policies to be delivered to the Beneficiary at least ten (10) days prior to the expiration of the policy or policies renewed. All insurance policies covering any structure upon said premises, regardless of amount, shall be payable as aforesaid, shall be carried in companies approved by Beneficiary, and delivered to the Beneficiary. Beneficiary, in case of loss, may make proof of claim. The amount collected under any fire or other insurance policy may be applied by the Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, without regard to whether or not his security is impaired, or at the sole and absolute option of Beneficiary the entire amount so collected or any part thereof may be released to Grantor, but in any event Beneficiary may deduct and retain from the proceeds of such insurance the amount of all expenses including attorney's fees incurred by him in connection with any such settlement. Such application or release shall not cure or waive any default or notice of default hereunder or validate any act done pursuant to such notice.

4. **Litigation:** To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding, or appeal therefrom, in which Beneficiary or Trustee may appear.

5. **Taxes:** To pay, before delinquent, all lawful taxes and assessments upon the property; to keep the property free and clear

of all other charges, liens, or encumbrances impairing the security of this Deed of Trust or the debt secured thereby and to deliver to Beneficiary upon request the official receipt or receipts showing payment thereof, all costs, fees and expenses of this trust.

6. Protection of Security: Should Grantor fail to make any payment or to do any act as provided for in this Deed of Trust, the Beneficiary, without obligation so to do and without notice to or demand upon Grantor and without releasing Grantor from any obligation hereof, may make or do the same in such manner and to such extent as he may deem necessary to protect the security hereof, Beneficiary being authorized to enter upon said property for such purpose. The Beneficiary may at any time, prior to full payment of all sums secured by this Deed of Trust, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any power conferred by this Deed of Trust, pay necessary expenses, employ counsel and pay reasonable fees. Grantor agrees to repay, immediately and without demand all sums so expended by Beneficiary or Trustee including attorney's fees with interest from the date of expenditure at the rate provided in the Promissory Note.

IT IS MUTUALLY AGREED THAT:

7. Condemnation: The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary.

In the event of a total taking of the property, the proceeds shall be applied to the sum secured by this Deed of Trust, whether or not then due, with any excess paid to Grantor. In the event of a partial taking of the property, unless Beneficiary and Grantor otherwise agree in writing, the sum secured by this Deed of Trust shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sum secured remaining unpaid immediately before the taking, divided by (b) the fair market value of the property immediately before the taking. Any balance shall be paid to Grantor.

Unless Grantor and Beneficiary otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of any monthly payments referred to herein nor change the amount of such payments.

8. Forbearance: By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare defaults for failure so to pay.

9. Grantor and Lien Not Released: At any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said Promissory Note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may reconvey all or any part of said property.

10. Reconveyance: Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and Promissory Note to Trustee for cancellation and retention and upon payment of his fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matter or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

11. Successor Trustee: The Beneficiary may from time to time appoint another Trustee or Trustees to execute the trusts hereby created, such appointment to be written and acknowledged and filed in the office of the County Auditor where this Deed of Trust is filed or recorded. Any Trustee or Trustees so appointed shall be vested with all the title and powers and subject to all the trusts conferred hereby.

12. Events of Default: Time is material and of the essence hereof. If Grantor does not pay the secured indebtedness as provided, or if Grantor does not comply with the terms and conditions of this Deed of Trust, or if a proceeding under any bankruptcy, receivership or insolvency laws be instituted by or against Grantor, or if the Grantor makes an assignment for the benefit of creditors, this Deed of Trust shall be in default. Any default under this Deed of Trust shall constitute a default under the Promissory Note which it secures.

13. Remedies: Upon the happening of any of the foregoing events of default, Beneficiary shall have, in addition to all other rights and remedies at law or in equity, the following rights and remedies: (a) to declare any and all indebtedness secured by this Deed of Trust to be immediately due and payable provided, a 30-day demand has been given in writing by Beneficiary to Grantor and the default remains uncured after such notice; (b) to apply for, with or without notice to Grantor, upon filing a suit to enforce

or preserve his rights under this Deed of Trust, the appointment of a receiver, without bond, to take possession of the property and the rents, issues, profits and proceeds affecting the property; (c) to cause foreclosure of this Deed of Trust (i) non-judicially or judicially under the State of Washington statutes; and (d) all other rights and remedies provided for in this Deed of Trust. All rights and remedies of Beneficiary provided for in this Deed of Trust are intended to be cumulative and not in substitution for any right or remedy otherwise available to Beneficiary. Grantor hereby waives any right to require Beneficiary to marshal, or to foreclose in the inverse order of alienation, any of the above-described property or any other collateral securing Grantor's indebtedness to Beneficiary.

14. **Binding Effect:** This deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgee, of the Promissory Note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

15. **Transfer of Property:**

- (a) This loan is personal to Grantor and not assignable. In making it, the Beneficiary has relied on Grantor's credit, Grantor's interest in the trust property, and financial and market conditions at the time this loan is made. During the term of this Deed of Trust, if the Grantor sells, transfers, attempts to assign part or any interest in the real property which is the security for the Promissory Note, or contracts to transfer title to all or a part of the real property which is the security for the Promissory Note by deed, contract of sale, assignment, mortgage, or similar agreement, whether voluntarily or by operation of law or otherwise, without the prior written consent of Beneficiary, the entire principal balance plus accrued interest shall, at the option of Beneficiary, become immediately due and payable without notice.

16. **Late Charge:** If any payment is not paid within fifteen (15) days of the due date thereof, Grantor shall pay a "late charge" equal to five (5%) percent of any installment to cover the extra expense involved in handling delinquent payments.

17. Proceeds: Grantor, for themselves, and for all persons hereafter claiming through or under them or who may at any time hereafter become holders of liens junior to the lien of this Deed of Trust, hereby expressly waives and releases all rights to direct the order in which any of the property shall be sold in the event of any sale or sales pursuant hereto and to have any of said property and/or other property now or hereafter constituting security for any of the indebtedness secured hereby marshalled upon any foreclosure of this Deed of Trust or of any other security for any of said indebtedness.

18. Severability: In the event any one or more of the provisions contained in this Deed of Trust shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Deed of Trust, but this Deed of Trust shall be construed as if such invalid, illegal or unenforceable provision has never been contained herein.

19. Washington Law: This Deed of Trust is to be construed and enforced according to and governed by the laws of the State of Washington.

20. Assignment of Rent: Grantor hereby transfers, assigns and sets over to Beneficiary, his successors and assigns, from and after the date hereof, all of Grantor's right, title and interest in and to (a) all leases, subleases, licenses, rental contracts, now existing or hereafter entered into and affecting the real property described herein together with all guarantees, modifications, extensions and renewals thereof which now exist or may hereafter be made, and (b) all rents, issues, profits, income and proceeds to become due from tenants of the property together with all deposits and security deposits now or hereafter held by Grantor. Upon default by Grantor, Beneficiary shall have the right to notify any and all tenants and other obligors on leases that the same have been assigned to Beneficiary and that all rents are to be made directly to Beneficiary whether or not Beneficiary shall have foreclosed or commenced foreclosure proceedings and whether or not Beneficiary has taken possession of the property. Beneficiary shall further have the right to enforce payment of rents, to enter upon, take possession of and operate the property and to lease all or any part of the property. Beneficiary shall have the right to apply any rents received to the payment of any and all costs and expenses incurred in connection with enforcing or defending the terms of this assignment and for the operation and maintenance of the property and the payment of all costs and expenses in connection therewith. The entering upon and taking possession of the property, collection of rents,

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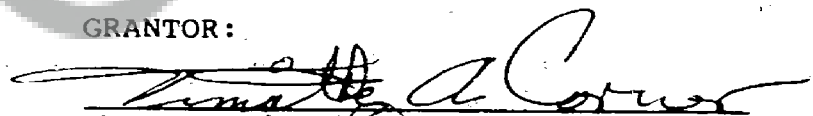
issues and profits and the application thereof, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

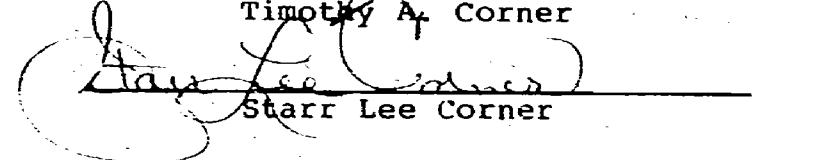
21. **Receiver:** In the event of the filing of any complaint or other proceedings wherein it is alleged that a default has occurred under the terms of the Promissory Note and Deed of Trust hereinabove referenced, Beneficiary may apply for and shall be entitled, as a matter of right, without consideration of the value of the premises or the solvency of any person or persons bound, to the appointment of a receiver to take possession of the property and/or to collect the rents, issues and profits therefrom.

It is understood that this assignment shall not operate to place responsibility for the control, care, management or repair of said premises upon Beneficiary, nor for the carrying out of any of the terms and conditions of said leases or agreements which shall be and remain the sole responsibility of the Grantor; nor shall it operate to make the beneficiary responsible or liable for any waste committed on the property by the tenants or any other parties, or for any dangerous or defective conditions of the premises, or for the management, upkeep, repair or control of said premises resulting in loss or injury or death of any tenant, licensee, employee or stranger.

22. **Assignment of Note and Beneficial Interest Under Deed of Trust:** Before accepting any offer by any third person to purchase the promissory note secured by this Deed of Trust and the beneficial interest under this Deed of Trust, the holder of the note and of the beneficial interest under this Deed of Trust shall first give written notice to Grantor of the price and terms offered for such purchase. Grantor shall then have thirty (30) days after such notice to match the offer in writing, and should they fail to do so, then Beneficiary shall be at liberty to sell said promissory note and assign said Deed of Trust to others.

GRANTOR:


Timothy A. Corner


Starr Lee Corner

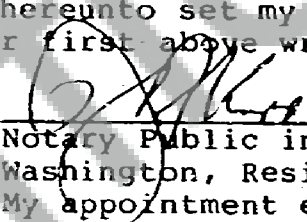
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STATE OF WASHINGTON)
) ss.
COUNTY OF CLARK)

On this 22nd day of MARCH, 1994, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared TIMOTHY A. CORNER and STARR LEE CORNER, husband and wife, to me known to be the individuals that executed the within and foregoing instrument, and acknowledged said instrument to be their free and voluntary act for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.


Notary Public in and for the State of
Washington, Residing at Camas
My appointment expires: 10-12-97

