

142934

BOOK 216 PAGE 962

FILED
SKAMANIA
BY SKAMANIA CO, WA

Nov 16 1 37 PM '01

GARY M. HENDERSON

Return Address

Columbia River Gorge NSA - Steve Saylor
Department of Community, Trade and Economic Development
128 10th Ave. SW
PO Box 42525
Olympia, WA 98504-2525

DEED OF TRUST

Indexing information required by the Washington State Auditor's Recorder's Office. (RCW 36.13 and RCW 65.04) 1.97.

Reference # (If applicable):

Grantor(s) (Borrower): (1) Richard L. Cochran, (2) Rhondel O. Cochran Add1 on pg. _____

Grantee(s) (Beneficiary/Trustee): (1) Department of Community, Trade and Economic Development

2) Skamania County Title Company Add1 on pg. _____ Abbreviated Legal Description: SW Lot 10 Stevenson Park

Add'l legal is on pg. _____ Assessor's Property tax Parcel/Account #: 3 75 36 3 281

THIS DEED OF TRUST, made this 14 day of Nov, 2001, between Richard L. Cochran and Rhondel O. Cochran (husband and wife), as GRANTORS, whose address is MP 25 Frank Johns Road, Stevenson, WA 98648 and Skamania County Title Company, a corporation, TRUSTEE, whose address is 43 Russell Street, Stevenson, WA 98648 and the Department of Community, Trade and Economic Development, BENEFICIARY, whose address is 128 10th Ave. SW, Olympia, WA 98504-2525.

WITNESSETH: Grantor hereby bargains, sells and conveys to Trustee in Trust, with power of sale, the following described real property in Skamania County, Washington:

Exhibit "A"
BEGINNING at the Southwest corner of Lot 10 of STEVENSON PARK ADDITION according to the official plat thereof on file and of record at Page 38 of Book A of Plats, Records of Skamania County, Washington; thence East 255 feet; thence North 30 degrees 49' West 70.3 feet; thence North 39 degrees 52' West 183.9 feet; thence North 08 degrees 18' East 40 feet to the initial point of the tract hereby described; thence North 48 degrees 07' East 181 feet; thence North 43 degrees 28' West 119.5 feet; thence North 88 degrees 40' West 93.9 feet to the center line of Strawberry Road; thence following the center line of said Strawberry Road South 02 degrees 21' West 225.1 feet to the intersection of said Strawberry Road with Frank Johns Road; thence South 44 degrees 04' East 22.1 feet along the center line of the said Frank Johns Road; thence North 48 degrees 07' East 46.7 feet to the initial point.

SUBJECT TO:

1. Rights of the Public in and to that portion lying within roads.

Situated in Skamania County, State of Washington.

This Deed of Trust is given to fulfill a condition in a Business Sale Agreement between Laurie Henderson as Buyer and Rhoni Cochran as Seller dated September 1, 2001 and to secure a Personal Guaranty given by Rhoni Cochran to Beneficiary in the amount of \$25,000 as security for a debt from Laurie Henderson to the Beneficiary.

which real property is not used principally for agricultural or farming purposes, together with all the tenements, hereditaments, and appurtenances now or hereafter thereunto belonging or in any wise appertaining, and the rents, issues and profits thereof.

This deed is for the purpose of securing performance of each agreement of grantor herein contained and payment of the sum of twenty five thousand dollars and 00/100 (\$25,000.00) with interest, in accordance with the terms of a promissory note of even date herewith, payable to Beneficiary or order, and made by Grantor, and all renewals, modifications and extensions thereof, and also such further sums as may be advanced or loaned by Beneficiary to Grantor, or any of their successors or assigns, together with interest thereon at such rate as shall be agreed upon.

To protect the security of this Deed of Trust, Grantor covenants and agrees:

1. To keep the property in good condition and repair; to permit no waste thereof; to complete any building, structure or improvement being built or about to be built thereon; to restore promptly any building, structure or improvement thereon which may be damaged or destroyed, and to comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property.
2. 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.
3. To keep all buildings now or hereafter erected on the property described herein continuously insured against loss by fire or other hazards in an amount not less than the total debt secured by this Deed of Trust. All policies shall be held by the Beneficiary, and be in such companies as the Beneficiary may approve and have loss payable first to the Beneficiary, as its interest may appear, and then to the Grantor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.
4. To defend any action or proceeding purporting to affect the security hereof or the right or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorney's fees in a reasonable amount, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.
5. To pay all costs, fees and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligation secured hereby and Trustee's and attorney's fees actually incurred, as provided by statute.
6. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances or other charges against the property hereinabove described, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the note secured hereby, shall be added to and become a part of the debt secured in this Deed of Trust.

IT IS MUTUALLY AGREED THAT:

1. In the event any portion of the property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured hereby, shall be paid to Beneficiary to be applied to said obligation.
2. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.
3. The Trustee shall reconvey all or any part of the property covered by this Deed of Trust to the person entitled thereto, on written request of the Grantor and the Beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.
4. Upon default by Grantor in the payment of any indebtedness secured hereby or in the performance of any agreement contained herein, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In such event and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (1) to the expense of the sale, including a reasonable Trustee's fee and attorney's fee; (2) to the obligation secured by this Deed of Trust; (3) the surplus, if any, shall be distributed to the persons entitled thereto.
5. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor had or had the power to convey at the time of his execution of this Deed of Trust, and such as he may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchaser and encumbrancers for value.
6. The power of sale conferred by this Deed of Trust and by the Deed of Trust Act of the State of Washington is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.
7. In the event of the death, incapacity, disability, or resignation of Trustee, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Trustee or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.
8. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors and assigns. The term Beneficiary shall mean the holder and owner of the note secured hereby, whether or not named as Beneficiary herein.

000084

STATE OF WASHINGTON
DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT
PERSONAL GUARANTY

Borrower: Lorie Henderson
Spar Tree Inn
47 Russell Street
Stevenson, WA 98648

Lender: Department of Community, Trade and
Economic Development
128 10th Ave. SW
Post Office Box 42525
Olympia, Washington 98504-2525

Guarantor: Rhodel Cochran
MP 25 Frank Johns Road
Stevenson, WA 98648

The principal amount of this Guaranty is twenty five thousand dollars (\$25,000.00).

For valuable consideration Guarantor unconditionally guarantees and promises to pay to Lender, its successors or assigns, on demand in lawful money of the United States of America, any and all indebtedness of Borrower to Lender, as follows:

1. **"Indebtedness" Defined.** The word "indebtedness" is used in this Guaranty in its most comprehensive sense and includes, but is not limited to, any and all advances, debts, obligations, and liabilities of Borrower, or any of them, including judgments against Borrower, heretofore, now, or hereafter made, incurred, or created, whether voluntarily or involuntarily and however arising, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, and whether Borrower may be liable individually or jointly with others, or primarily or secondarily, or as Guarantor, and whether recovery upon such indebtedness may be or hereafter may become barred by any statute of limitations, and whether such indebtedness may be or hereafter may become otherwise unenforceable, and whether such indebtedness arises from transactions which may be voidable on account of infancy, insanity, ultra vires, or otherwise.

2. **Maximum Liability.** The liability of Guarantor under this Guaranty shall not exceed at any one time the sum of the principal amount set forth above, plus all interest thereon and plus all of Lender's costs, expenses, and attorney fees, including any on appeals, in connection with the enforcement of this Guaranty, the collection of the indebtedness of Borrower, or with the collection or sale of any collateral, whether or not there is a lawsuit.

The above limitation on liability is not a restriction of the amount of the indebtedness of Borrower to Lender either in the aggregate or at any one time. If Lender presently holds one or more guaranties or hereafter receives additional guaranties from Guarantor of the indebtedness of Borrower, the rights of Lender under all guaranties shall be cumulative. This Guaranty shall not, unless herein provided, affect or invalidate any such other guaranties. The liability of Guarantor will be the aggregate liability of Guarantors under the terms of this Guaranty and any such other unexpired guaranties.

3. **Nature of Guaranty.** The liability of Guarantor shall be open and continuous for so long as this Guaranty is in force. Guarantor intends to guarantee at all times the performance of all obligations of Borrower to Lender within the limits of Section 2. Thus, no payments made upon Borrower's indebtedness will discharge or diminish the liability of Guarantor for any and all remaining and succeeding indebtedness of Borrower to Lender. The liability of Guarantor will be enforceable against both the separate and community property of Guarantor whether now owned or hereafter acquired.

4. **Duration of Guaranty.** This Guaranty will take effect when received by Lender, without the necessity of any acceptance by Lender, and will continue in full force until such time as Guarantor notifies Lender in writing of Guarantor's election to revoke this Guaranty. Guarantor's written notice of revocation must be delivered to Lender at the branch or office of Lender as listed above. Written revocation of this Guaranty shall apply only to advances or new indebtedness created after actual receipt by Lender of Guarantor's written revocation. This Guaranty will continue to bind Guarantor for all indebtedness incurred by Borrower or committed by Lender prior to receipt of Guarantor's written notice of revocation including any extension, renewal, or modification thereof. Renewals, extensions, and modifications of Borrower's indebtedness, granted after Guarantor's revocation, are contemplated hereunder and will specifically not be considered new indebtedness. This Guaranty shall bind the estate of Guarantor as to indebtedness created both before and after the death or incapacity of Guarantor, regardless of Lender's actual notice of Guarantor's death or incapacity, provided, that Guarantor's executor or administrator, or other legal representative may terminate this Guaranty in the same manner in which Guarantor might have terminated it and with the same effect. Termination of this Guaranty by one of the undersigned shall not affect the liability hereunder of the remaining of the undersigned.

It is anticipated that fluctuations may occur in the aggregate amount of indebtedness covered by this Guaranty and it is specifically acknowledged and agreed by Guarantor that reductions in the amount of indebtedness, even to zero (0) dollars, prior to written revocation of this Guaranty by Guarantor shall not constitute a termination of this Guaranty.


5. **Guarantor's Authorization to Lender.** Guarantor authorizes Lender, either before or after revocation hereof, without notice or demand and without affecting Guarantor's liability hereunder, from time to time to (a) make additional secured or unsecured loans to Borrower; (b) alter, compromise, renew, extend, accelerate, or otherwise change the time for payment of, or otherwise change the terms of the indebtedness or any part thereof, including an increase or decrease of the rate of interest thereon; (c) take and hold security for the payment of this Guaranty or the indebtedness guaranteed, and exchange, enforce, waive, and release any such security, with or without the substitution of new collateral; (d) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or other guarantors (including Guarantor under this Guaranty) on any terms or manner Lender chooses; (e) apply such security and direct the order or manner of sale thereof, including, without limitation, a nonjudicial sale permitted by the terms of the controlling security agreement or deed of trust, as Lender in its discretion may determine; and (f) assign this Guaranty in whole or in part without notice.
6. **Guarantor's Warranties.** Guarantor warrants that: (a) this Guaranty is executed at Borrower's request and not at the request of the Lender; (b) Guarantor has not and will not, without prior written consent of Lender, sell, lease, assign, encumber, hypothecate, transfer, or otherwise dispose of all or substantially all of Guarantor's assets, or any interest therein; (c) Guarantor has established adequate means of obtaining from Borrower on a continuing basis information regarding Borrower's financial condition; and (d) Lender has made no representation to Guarantor as to the credit worthiness of Borrower. Guarantor agrees to keep adequately informed from such means of any facts, events or circumstances which might in any way affect Guarantor's risks hereunder, and Guarantor further agrees that absent a request for information, Lender shall have no obligation to disclose to Guarantor information or material acquired in the course of Lender's relationship with Borrower.
7. **Guarantor's Waivers.** Guarantor waives any right to require Lender to (a) make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of Borrower's indebtedness or of any collateral thereto and notice of any action or nonaction on the part of Borrower, Lender, any surety, endorser, or other guarantor (including any Guarantor under this Guaranty) in connection with the indebtedness guaranteed hereunder, or in connection with the creation of new or additional indebtedness; (b) proceed directly or at once against any person, including Borrower; (c) proceed directly against or exhaust any collateral held from Borrower, any other guarantor (including any Guarantor under this Guaranty), or any other person; (d) give notice of the terms, time, and place of any public or private sale of personal property security held from Borrower or comply with any other applicable provisions of the Union Commercial Code; or (e) pursue any other remedy in Lender's power.
- Guarantor waives any rights or defenses arising by reason of (a) any law which may prevent Lender from bringing any action, including a claim for deficiency, against Guarantor, before or after Lender's commencement or completion of any foreclosure action, either judicial or by exercise of a power of sale; (b) any election of remedies by Lender which destroys Guarantor's subrogation rights or Guarantor's rights to proceed against Borrower for reimbursement, including without limitation any loss of rights Guarantor may suffer by reason of any law limiting, qualifying, or discharging Borrower's indebtedness; (c) any disability or other defense of Borrower, any other guarantor (including any Guarantor under this Guaranty), any other person, or by reason of the cessation from any cause whatsoever other than payment in full of the indebtedness of Borrower; (d) any statute of limitations, if at any time any action or suit brought by Lender against Guarantor is commenced there is outstanding an indebtedness of Borrower to Lender which is not barred by any applicable statute of limitations. If payment is made by Borrower on indebtedness guaranteed hereby and thereafter Lender is forced to remit the amount of that payment to Borrower's trustee in bankruptcy or similar person under any federal or state bankruptcy law or law for the relief of debtors, Borrower's indebtedness shall be considered unpaid for the purpose of enforcement of this Guaranty.
8. **Guarantor's Understanding With Respect to Waivers.** Guarantor warrants and agrees that each of the waivers set forth above is made with Guarantor's full knowledge of its significance and consequences, and that under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any of such waivers is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the extent permitted by law.
9. **Lender's Rights With Respect to Guarantor's Property In Possession of Lender.** In addition to all liens upon, and rights of setoff against the moneys, securities or other property of Guarantor given to Lender by law, Lender shall have a security interest in and a right of setoff against all moneys, securities, and other property of Guarantor now or hereafter in the possession of or on deposit with Lender, whether held in a general or special account or deposit, or for safekeeping or otherwise. Every such security interest and right of setoff may be exercised without demand upon or notice to Guarantor. No security interest or right of setoff shall be deemed to have been waived by any act or conduct on the part of Lender, or by any neglect to exercise such right of setoff or to enforce such security interest, or by any delay in so doing. Every right of setoff and security interest shall continue in full force and effect until such right of setoff or security interest is specifically waived or released by an instrument in writing executed by Lender.
10. **Subordination of Borrower's Debts to Guarantor.** Guarantor agrees that the indebtedness of Borrower to Lender, whether now existing or hereafter created, shall be prior to any claim that Guarantor may now have or hereafter acquire

against borrower, whether or not Borrower becomes insolvent. Guarantor hereby expressly subordinates any claim Guarantor may have against Borrower, upon any account whatsoever, to any claim that Lender may now or hereafter have against Borrower. In the event of insolvency and consequent liquidation of the assets of Borrower, through bankruptcy, by an assignment for the benefit of creditors, by voluntary liquidation, or otherwise, the assets of Borrower applicable to the payment of the claims of both Lender and Borrower shall be paid to Lender and shall be first applied by Lender to the indebtedness of Borrower to Lender. Guarantor does hereby assign to lender all claims which it may have or acquire against Borrower or any assignee or trustee in bankruptcy of Borrower; provided, that such assignment shall be effective only for the purpose of assuring to Lender full payment of all indebtedness of Borrower to Lender. Any notes now or hereafter evidencing such indebtedness of Borrower to Guarantor shall be marked with a legend that the same are subject to this Guaranty and, if Lender so requests, shall be delivered to Lender. Guarantor will, and Lender is hereby authorized, in the name of Guarantor from time to time to execute and file financing statements and continuation statements and execute such other documents and take such other action as Lender deems necessary or appropriate to perfect, preserve, and enforce its rights hereunder.

11. **Waiver of Authentication of Validity of Acts if Corporation, Partnership or Limited Liability Company.** If any one or more of Borrower or Guarantor are corporations or partnerships, it is not necessary for Lender to inquire into the powers of Borrower or Guarantor or the officers, directors, partners, or agents acting or purporting to act on their behalf, and any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder.
12. **Obligations of Married Persons.** Any married person who signs this Guaranty as the Guarantor hereby expressly agrees that recourse may be had against his or her separate property for all his or her obligations under this Guaranty.
13. **Application of Singular and Plural in Context and Construction.** In all cases where there are more than one Borrower or Guarantor, then all words used herein in the singular shall be deemed to have been used in the plural where the context and construction so require; and where there is more than one Borrower named herein, or when this Guaranty is executed by more than one Guarantor, the word "Borrower" and the word "Guarantor" respectively shall mean all and any one or more of them.
14. **Applicable Laws.** This Guaranty is governed by and construed in accordance with the laws of the state of Washington.

THIS GUARANTY IS EFFECTIVE UNTIL TERMINATED IN THE MANNER SET FORTH IN PARAGRAPH 4.

The undersigned Guarantor has executed this Guaranty on

11/14/01
 (Date)

 Rhondel Cochran

BOOK 216 PAGE 967

Witness the hand(s) of the Grantor(s) on the day and year first above written.

Richard L. Cochran
Richard L. Cochran

Rhondel Q. Cochran
Rhondel Q. Cochran

STATE OF WASHINGTON }
County of Skamania } SS. (INDIVIDUAL ACKNOWLEDGEMENT)

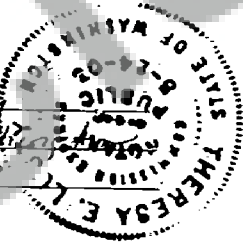
I certify that I know or have satisfactory evidence that Richard Cochran and Rhondel Q. Cochran are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the Instrument.

Dated this 15th day of November, 2001.

Print Name Theresa Lustig

Notary Public in and for the State of Washington

My appointment expires: 5/24/03



UNOFFICIAL COPY