

dot-17p

April 16, 1988

Mr. Anthony M. O'Connell
2337 South 13th St.
St. Louis, Mo. 63104

Re: O'Connell to Lynch Properties

Dear Mr. O'Connell,

Enclosed for your signature before a notary public is the original deed. Please date it on the first line and return it to me immediately by express mail.

Also enclosed for your review are copies of the note and deed of trust.

Sincerely,

Edward J. White

EJW/e
Encl.

DEED OF TRUST

THIS DEED OF TRUST made this 21st day of April, 1988, by and between E. W. LYNCH and WAYNE M. LYNCH, Trustees for LYNCH PROPERTIES LIMITED PARTNERSHIP, a Virginia limited Partnership, acting under a certain trust agreement recorded among the land records of Fairfax County in Deed Book 5605 at page 1400; hereinafter referred to as "Borrower"; and EDWARD J. WHITE of Alexandria and RICHARD G. WOHLTMAN of Fairfax County, either of whom may act, hereinafter referred to as "Trustees"; and the Beneficiaries, Jean Miner O'Connell; and Anthony M. O'Connell and Herbert A. Higham, Trustees under the trust established by the Will of Harold M. O'Connell; hereinafter collectively referred to as "Noteholder", provides:

Borrower, in consideration of the indebtedness recited herein and the trust created herein, irrevocably grants and conveys to the Trustees, IN TRUST, with general warranty, the following described property located in the County of Fairfax, Virginia:

Beginning at a point marking the intersection of the Easterly right-of-way line of Frontier Drive (Route #2677) and the Southerly right-of-way line of Franconia Road (Route #644), thence with the Southerly right-of-way line of Franconia Road S86° 51' 59" E, 369.48 feet, to a point marking a Northwesterly corner of the property of the County School Board of Fairfax County; thence with the boundary of said School Board S 00° 49' 33" W, 374.84 feet to a concrete monument; and N 89° 10' 27" W, 369.18 feet, to a point on the aforementioned right-of-way line of Frontier Drive; thence with said right-of-way line of Frontier Drive N 00° 49' 33" E, 389.72 feet to the point of beginning, containing 3.23987 acres of land.

which has the address of 6541 Franconia Road, Springfield, Va. 22150.

Together with all improvements and fixtures now or hereafter erected on the property, and all easements, rights and rent (subject however to the rights given to the Noteholder herein to collect and apply such rents) now or hereafter attached to the property ("the property"),

TO SECURE to the Noteholder the repayment of the indebtedness evidenced by Borrower's two notes dated April 21, 1988. Note No. 1 is in the principal sum of SIX HUNDRED TWENTY FIVE THOUSAND NINE HUNDRED FORTY and 86/100 Dollars (\$625,940.86) with interest thereon. Note No. 2 is in the principal sum of FIVE HUNDRED THIRTY FIVE THOUSAND THREE HUNDRED FORTY SIX and 51/100 Dollars (\$535,346.51) with interest thereon. Both of these notes provide for two annual payments of interest only, which payments shall be due on the first and second yearly anniversaries after the date of this instrument, with the balance due and payable thereafter in five equal annual payments of principal plus accrued interest thereon, the payment of all other sums, with interest thereon, advanced under the terms of this trust to protect the security of the trust; and the performance of the covenants and agreements of the Borrower.

This trust shall be due and payable in full with interest accrued on April 21, 1995.

Borrower covenants that he is lawfully seised of the property hereby conveyed and has the right to convey the property, that the property is unencumbered, and that the Borrower will warrant and defend the title to the property against all claims and demands, subject to any easements or restrictions of record listed in an any title insurance policy insuring Noteholder's interest.

The Borrower, for himself and his successors and assigns, covenants and agrees as follows:

1. **Payment.** That he will pay when due, the indebtedness secured hereby, and all taxes, assessments and charges relating to the property, and all other sums required to be paid by him under the terms of the note or this Deed of Trust, including costs, expenses and attorney's fees incurred by the Trustees or the Noteholder with respect to this trust, the note or the property herein described; and in the event of default of any payment, the Noteholder may pay the same and any sum so paid shall be added to the debt hereby secured, shall be payable on demand, and shall bear interest at the rate specified in the note secured hereby.

2. **Application of Payments.** All payments after the first two annual payments of interest, shall be applied first to the interest due and then to the principal of the note.

3. **Borrower not Released.** Extension of time for payment or modification of any amortization schedule to any successor in interest of Borrower shall not operate to release in any manner, the liability of the original Borrower or his successors in interest.

4. **Duties of Trustees.** The Trustees, without obtaining the prior consent of the Noteholder, shall upon request, release from this trust without curtailment and at no cost to Borrower, land to be dedicated to public use including, but not limited to: streets, public utilities, sanitary sewer, water, storm sewer, etc.; and in addition, the Trustees shall sign such plats of subdivision and resubdivisions as desired by Borrower as long as said subdivision and resubdivisions meet the requirements of Fairfax County.

5. **Successors and Assigns.** All terms herein shall be binding upon all of the respective successors and assigns of the Borrower and Noteholder.

6. **Preservation of Property.** That he will keep the property in as good order and condition as they are now and will not commit or permit any waste thereof, reasonable wear and tear excepted; and that he will not act or fail to act in any manner which will jeopardize the lien of the Deed of Trust. It is the intent of the Borrower to demolish the existing dwelling house on the property to enable Borrower to improve the property. If the property is a condominium or other property subject to Owner's Association covenants, regulations and by-laws, Borrower shall perform all obligations under such documents.

7. **Insurance.** That he will maintain liability insurance on the

property in the amount of \$1,000,000.00, and will pay, when due any premiums. All insurance shall be carried in companies reasonably approved by the Noteholder and the certificates of insurance shall be held by the Noteholder and shall contain loss payable clauses in favor of the Noteholder.

8. **Condemnation.** That the proceeds of any award or claim for damages in connection with any condemnation or other taking of the property, or part thereof, or for conveyance in lieu of condemnation are hereby assigned to the Noteholder.

In the event of a total taking of the property, the proceeds shall be applied to the indebtedness with any excess paid to the Borrower. In the event of a partial taking of the property, unless Borrower and Noteholder otherwise agree in writing, there shall be applied to the indebtedness such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this trust immediately prior to the date of taking bears to the fair market value of the property immediately prior to the date of taking with the balance of the proceeds paid to the Borrower.

Unless otherwise agreed in writing such application of condemnation proceeds to the sums due on this trust shall not extend the due date of payments or change the amount of such payments.

9. **Inspection.** Noteholder may make or cause to be made, reasonable inspections of the property upon prior notice to Borrower specifying the reasonable cause therefor.

10. **Assignment of Rents.** As additional security, Borrower hereby assigns to Noteholder the rents of the property, provided that Borrower, shall prior to acceleration or abandonment of the property, have the right to collect and retain such rents as become due and payable. Noteholder shall be liable to account only for those rents actually received.

11. **Transfer of Property; Assumption.** If all or any part of the property or an interest therein is sold or transferred by Borrower without Noteholder's prior written consent, excluding: (a) the creation of a lien subordinate to this trust, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant (d) the grant of a leasehold interest of three years or less not containing an option to purchase; (e) a transfer or sale to a partnership or joint venture in which borrower is a partner or joint venturer; Noteholder may at its option, declare all sums secured hereby immediately due and payable.

NOTICE; THE DEBT SECURED HEREBY IS SUBJECT TO CALL IN FULL OR THE TERMS THEREOF MODIFIED IN THE EVENT OF SALE OR CONVEYANCE OF THE PROPERTY CONVEYED. SUBJECT TO THE PROVISIONS ABOVE.

12. **Default and Foreclosure.** Failure by the Borrower to perform any of his obligations under this trust or under the note shall constitute a default and all indebtedness secured shall become immediately due and payable in full at the option of the Noteholder upon written notice to the Borrower of default and acceleration. Any time thereafter, at the request of the Noteholder, the Trustees shall sell the property at public auction, at such time and place and

upon such terms and conditions as the Trustees shall deem best for the interest of all concerned. Advertisement shall be for four successive weeks in a newspaper of general circulation in the county or the city in which the property is located. The Trustees may postpone the sale by public announcement at the time and place of any scheduled sale or by advertising the postponement for two successive weeks in a newspaper as defined above. In case of default by the purchaser, the Trustees shall resell upon such public notice as they shall determine. Upon compliance by the purchaser with the terms of sale, and upon judicial approval as may be required by law, the Trustees shall convey such land in fee simple with Special Warranty to the purchaser at his cost. The purchaser shall not be liable to see to the application of the purchase money.

From the proceeds of sale shall be paid: **FIRST**, all costs including but not limited to court costs, advertising costs, auctioneer's fees, title correction expenses, bond premiums and attorney's fees, and all monies advanced for taxes, assessments and insurance, with interest thereon at the rate specified in the note. The trustees shall be entitled to a commission of 5% of the sale price; **SECOND**, to pay the unpaid principal balance of the note, whether the same shall be due or not; **THIRD**, to pay in priority, liens of record against the property; **FOURTH**, to pay any sums of the sale proceeds as shall remain to the Borrower, his heirs and assigns.

If the property is advertised for sale and not sold, the Borrower shall pay all costs in connection therewith as such costs are delineated above, AND a Trustees' commission of 2 1/2% of the unpaid principal balance, and the same shall be secured in a like manner as other expenses relating to the execution of this trust and bear interest at the rate stated on the note. In no event shall the total commissions to the Trustees exceed 5% of the sale price of the property.

Upon a sale by the Trustees, a bidders deposit of 10% of the original indebtedness may be required.

13. **Forbearance by Noteholder not a Waiver.** Any forbearance by Noteholder in exercising any right or remedy shall not constitute of waiver of such rights or remedies.

14. **Remedies Cumulative.** All remedies herein provided are distinct and cumulative to any other right or remedy under this trust or afforded at law or in equity and may be exercised concurrently, independently or successively, including the right of the Noteholder to sue for a deficiency judgment after foreclosure in the event the debt is not satisfied therein.

15. **Substitution of Trustees.** The Noteholder may in its discretion remove the Trustees and appoint new Trustees according to law.

16. **Release.** Upon payment of all sums secured hereby, the Borrower shall be entitled to release of the lien of this Trust and return of any note. Borrower shall pay the Noteholder's fee for release and the recording fee for the release.

17. **Homestead Exemptions.** Borrower hereby waives the benefit of all Homestead Exemption laws to the extent that such laws may be waived.

18. **Construction.** In the construction of this instrument, when

reference is made to the parties herein, the singular shall encompass the plural, and the masculine gender shall encompass the feminine and partnerships, Trustees and corporations.

19. **Non Recourse Loan.** Notwithstanding anything herein to the contrary, Borrower and its partners shall have no personal liability for the payment of the Note, and Noteholder shall look solely to the property and other assets conveyed by this Deed of Trust and to the security provided by other instruments securing the Note and proceeds thereof for the payment of all indebtedness. However, the foregoing shall not be deemed to preclude an action for specific performance or injunctive relief, nor shall Noteholder be deemed prohibited from naming Borrower and/or its partners in any action to enforce its remedies hereunder (subject to the foregoing exculpation from personal liability).

The foregoing limitations of Borrower's and its partners' personal liability shall not impair the validity of the Note or the lien created hereby or the right of the Noteholder and the Trustees to foreclose and/or enforce rights with respect to the property and other assets encumbered hereby.

20. **Law Controlling.** This Deed of Trust shall be governed by the laws of the Commonwealth of Virginia.

WITNESS the following signature and seal:

LYNCH PROPERTIES LIMITED PARTNERSHIP

By E. W. Lynch, Jr., Trustee (SEAL)
E. W. Lynch, Jr. Trustee

By Wayne M. Lynch, Trustee (SEAL)
Wayne M. Lynch, Trustee

COMMONWEALTH OF VIRGINIA,
COUNTY FAIRFAX, to wit:

The foregoing Deed of Trust dated April 21, 1988 was acknowledged before me, a Notary Public, for the jurisdiction aforesaid, by E. W. Lynch, Jr., Trustee, on behalf of LYNCH PROPERTIES LIMITED PARTNERSHIP, this 21st day of April, 1988.

Diana A. Overton
Notary Public

My commission expires: 10-15-91

COMMONWEALTH OF VIRGINIA,
COUNTY FAIRFAX, to wit:

The foregoing Deed of Trust dated April 21, 1988 was acknowledged before me, a Notary Public, for the jurisdiction aforesaid, by Wayne. M. Lynch, Trustee, on behalf of LYNCH PROPERTIES LIMITED PARTNERSHIP, this 21st day of April, 1988.



Notary Public

My commission expires: 10-15-91

DEED OF TRUST NOTE No. 1

\$625,940.86

McLean, Virginia

April 21, 1988

FOR VALUE RECEIVED, the undersigned promises to pay to the order of JEAN MINER O'CONNELL the principal sum of SIX HUNDRED TWENTY FIVE THOUSAND NINE HUNDRED FORTY and 86/100 Dollars (\$625,940.86) with interest thereon computed at the rate of nine per cent (9%) per annum at such place and to such persons or entities, as the holder shall designate, in two annual payments of interest only, which payments shall be due on the first and second yearly anniversaries after the date of this instrument, and with the balance due and payable thereafter in five equal annual payments of principal plus accrued interest thereon, which payments shall be due and payable on the third, fourth, fifth, sixth and seventh anniversary dates thereafter.

The entire sum of principal and interest shall be due and payable in full on April 21, 1995.

If any installment of principal and/or interest under this note is not paid when due and remains unpaid after a date specified by notice to the borrower, the entire amount of principal and unpaid interest shall be due and payable in full at the option of the holder. The date specified shall not be less than thirty (30) days from the date the notice is mailed. In the event that suit is brought to collect this note, the holder shall be entitled to collect all the costs of such suit, including, but not limited to reasonable attorney's fees.

The borrower shall pay to the holder a late charge of 5% of any installment not received by the holder within 15 days of the date the installment is due.

The undersigned reserves the privilege of prepaying this Note in full or in part at any time without premium or fee for such prepayment.

Presentment, notice of dishonor, and protest are hereby waived by all makers, sureties, guarantors and endorsers hereof. This note shall be the joint and several obligation of all makers, sureties, guarantors and endorsers hereof and shall be binding upon them and their successors and assigns.

Notwithstanding any other provisions herein contained to the contrary, the undersigned shall have no personal liability for

payment of the principal or interest of this Note. This provision shall not release the undersigned from liability for the performance of its other obligations hereunder.

This Note shall be governed by the laws of the Commonwealth of Virginia.

LYNCH PROPERTIES LIMITED PARTNERSHIP

By E. W. Lynch, Jr. General Partner (SEAL)
E. W. Lynch, Jr., General Partner

By Wayne M. Lynch, General Partner (SEAL)
Wayne M. Lynch, General Partner

This is to certify that this is the Note described as Note No. 1, in a Deed of Trust dated April 21, 1988 on property located in Fairfax County, Virginia.

Lisa A. Dutton
Notary Public

My commission expires: 10-15-91

This is a certified true copy of the original Deed of Trust Note No. 1. Certified on this first day of October, 1991.

Theresa Ramsey-Else
Notary Public

My commission expires on: March 20, 1992.

DEED OF TRUST NOTE No. 2

\$535,346.51

McLean, Virginia

April 21, 1988

FOR VALUE RECEIVED, the undersigned promises to pay to the order of ANTHONY M. O'CONNELL AND HERBERT A. HIGHAM, Trustees under the trust established by the Will of Harold M. O'Connell; the principal sum of FIVE HUNDRED THIRTY FIVE THOUSAND THREE HUNDRED FORTY SIX and 51/100 Dollars (\$535,346.51) with interest thereon computed at the rate of nine per cent (9%) per annum at such place and to such persons or entities, as the holder shall designate, in two annual payments of interest only, which payments shall be due on the first and second yearly anniversaries after the date of this instrument, and with the balance due and payable thereafter in five equal annual payments of principal plus accrued interest thereon, which payments shall be due and payable on the third, fourth, fifth, sixth and seventh anniversary dates thereafter.

The entire sum of principal and interest shall be due and payable in full on April 21, 1995.

If any installment of principal and/or interest under this note is not paid when due and remains unpaid after a date specified by notice to the borrower, the entire amount of principal and unpaid interest shall be due and payable in full at the option of the holder. The date specified shall not be less than thirty (30) days from the date the notice is mailed. In the event that suit is brought to collect this note, the holder shall be entitled to collect all the costs of such suit, including, but not limited to reasonable attorney's fees.

The borrower shall pay to the holder a late charge of 5% of any installment not received by the holder within 15 days of the date the installment is due.

The undersigned reserves the privilege of prepaying this Note in full or in part at any time without premium or fee for such prepayment.

Presentment, notice of dishonor, and protest are hereby waived by all makers, sureties, guarantors and endorsers hereof. This note shall be the joint and several obligation of all makers, sureties, guarantors and endorsers hereof and shall be binding upon them and their successors and assigns.

Notwithstanding any other provisions herein contained to the

PAID IN FULL
Anthony M. O'Connell
Herbert A. Higham

contrary, the undersigned shall have no personal liability for payment of the principal or interest of this Note. This provision shall not release the undersigned from liability for the performance of its other obligations hereunder.

This Note shall be governed by the laws of the Commonwealth of Virginia.

LYNCH PROPERTIES LIMITED PARTNERSHIP

BY E. W. Lynch Jr. General Partner (SEAL)
E. W. Lynch, Jr., General Partner

BY Wayne M. Lynch, General Partner (SEAL)
Wayne M. Lynch, General Partner

This is to certify that this is the Note described as Note No. 2, in a Deed of Trust dated April 21, 1988 on property located in Fairfax County, Virginia.

Richard Overton
Notary Public

My commission expires: 10-15-91

PAID IN FULL
M. J. O'Connell,
Trustee

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314

TELEPHONE 836-5444

March 15, 1991

Mr. Anthony M. O'Connell
6541 Franconia Rd.
Springfield, Va. 22150

Dear Mr. O'Connell,

Subsequent to our telephone conversation this morning, I reviewed my files in the cases involving Mrs. O'Connell.

I find that I did indeed mail you a copy of the Limited Power of Attorney along with my letter to you of September 12, 1988. I am enclosing another copy of the Limited Power of Attorney and a copy of the letter I sent you. You may not have received it; however, it was not returned to me by the Post Office.

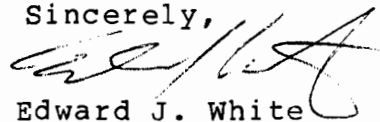
In regard to your inquiry as to why, in 1988, there came a time when I refused to deal with you on the sale, as I said, I recalled that a conceivably adverse relationship had developed between you and your mother concerning the sale. I call your attention to the sixth paragraph in your letter to her of December 8, 1987, a copy of which is enclosed.

As to your complaint that I did not share the sale documents with you, I call your attention to my letter to you of April 16, 1988 in which the deed, note and trust were sent to you. A copy of that letter is enclosed.

On April 19, 1988 you appeared in my office and stated that you refused to settle on the next day. We did not have a happy discourse. We did discuss the sale and I asked you if you had any other questions.

I am somewhat puzzled as to why all of this is re-surfacing and after reviewing my file and my notes, am not at all comfortable with continuing the dialogue.

Sincerely,



Edward J. White

EJW/e

Encl.

Copy to: Mrs. O'Connell

LYNCH PROPERTIES LIMITED PARTNERSHIP

4605-G PINECREST OFFICE PARK DRIVE

ALEXANDRIA, VIRGINIA 22312

(703) 642-2935

FAX: (703) 256-0735

November 15, 1994

Mr. Anthony O'Connell
6541 Franconia Road
Springfield, Virginia 22150

Dear Tony:

Pursuant to your November 2 letter, I reviewed our files to see if we had answers to any of your questions. Our files do not document any direct communication between Mr. White and our office before or during closing. Our only direct contact was in March 1992, with reference to paying off the note.

Closing was handled by Coldwell Banker Settlement and Title Services, and there must have been communications between the lawyers and the Title Company, but none of that appears in our files.

Sorry I can't be of more help.

Sincerely,

LYNCH PROPERTIES LIMITED PARTNERSHIP


Wayne M. Lynch

Anthony O'Connell
6541 Franconia Road
Springfield, Virginia 22150
{703} 971-2855
March 30, 1992

Mr. Ed White, Attorney
118 South Royal Street
Alexandria, Virginia 22314

Reference: Estate of Jean O'Connell

Dear Mr. White:

I have a few questions I hope you would be kind enough to answer.

1. As you know, the Lynch Limited Partnership plans to pay my Mother's estate \$545,820.43 on April 21, 1992. What is your best guess as to when and in what amount(s) you will make distribution(s) to the beneficiaries?

2. The license plates on my deceased Mother's Van expire in April of 1992. Virginia DMV requires a new title with the new owners name before they will issue new plates {The plates cannot be renewed by the co-executors signing for Jean O'Connell}. The bank will give the co-executors the title if you simply pay them the interest on the loan. I understand the principal on the loan has been paid and I am guessing that the interest is something in the range of \$1200 to \$1400. Would you please pay the bank the interest so they will give you the title? What is your decision as to who gets the van and how much will it cost?

3. What is your fee for being co-executor of my mother's estate?

Yours truly,

Anthony O'Connell

Copy to:

Ms. Jean O'Connell Nader
350 Fourth Avenue
New Kensington, Pennsylvania 15068

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314
—
TELEPHONE 836-5444

April 4, 1992

Mr. Anthony M. O'Connell
6541 Franconia Rd.
Springfield, Va. 22150

Re: Estate of Jean M. O'Connell

Dear Mr. O'Connell,

I have received your letter of March 30, 1992.

The answers are:

Question 1. As soon as the money is received, the tax liabilities evaluated and upon consultation with the Co-Executor.

Question 2. Paid. It is not my decision as to what it will cost you, though I have been informed that you know full well.

Question 3. 2 1/2% of the receipts into the probate estate if approved by the Commissioner of Accounts.

I would call to your attention that on two separate occasions I drove to Sovran and spent a lengthy period of time on the question of the car loan. I did this in person since: I knew that you had the vehicle, that your sisters wanted you to have it, that the insurance and tags were due to expire soon and I did not want you to be inconvenienced. I could have done all of this by mail and it probably would have taken about three months, knowing the nature of the loan problem. I assumed I was doing you a favor.

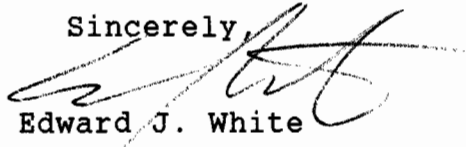
Now I receive your letter asking that I "simply pay them the interest" I paid the interest and principal in one check on March 12, received the title on March 22 and mailed it to Mrs. Nader to sign over to you on March 23. Have you any suggestions as to how it could have gone faster?

The information of the commission was given to you previously by Mrs. Nader.

I do not know what your problem is, but in the future, please address all correspondence to Mrs. Nader.

I am trying to be patient with you, but I find that this estate is time consuming enough without having to deal with letters such as the last two that I have received.

Sincerely,



Edward J. White

EJW/e

Copy to: Jean M. Nader

Jean Nader is used to make money disappear.

(1) I ask Edward White about a coming payment of \$545,820.43 to the Estate of Jean O'Connell [Our Mother] and he puts Jean Nader between himself and me.

Anthony O'Connell to Edward White:

"As you know, the Lynch Limited Partnership plans to pay my Mother's Estate **\$545,820.43** on April 21, 1992. What is your best guess as to when and in what amount(s) you will make distribution(s) to the beneficiaries?"

Edward White to Anthony O'Connell:

"As soon as the money is received, the tax liabilities evaluated and upon consultation with the Co-Executor."

"I do not know what your problem is, but in the future, please address all correspondence yo Mrs. Nader"

(2) \$545,820.43 is received but only \$26,917.17 is recorded.

(3) The difference of \$518,903.26 disappears.

Missing
\$ 518,903
April 21, 1992

$$\$545,820.43 - \$26,917.17 = \$518,903.26$$

A cash payment of \$545,820.43 is made to the Estate of Jean O'Connell [Our Mother'] on April 21, 1992, for the full payoff of the Lynch Note. But only the interest of \$26,917.17 is reported. The difference of \$518, 903.26 disappears into unmitigated secrecy.