

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No. 04-33248-GFK
Chapter 13

Tauni B. Jansen

Debtor(s).

**NOTICE OF HEARING AND
MOTION FOR RELIEF FROM STAY**

TO: Debtor(s) and Attorney for Debtor(s); Chapter 13 Trustee; U.S. Trustee; and other parties in interest.

TCF Mortgage Corporation secured creditor of Debtor(s), by its undersigned attorney, moves the Court for the relief requested below, and gives notice of hearing herewith.

1. The Court will hold a hearing on this motion at 10:30 a.m. on Tuesday, October 19, 2004, before the Honorable Gregory F. Kishel in Courtroom No. 228B, United States Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101 or as soon thereafter as counsel can be heard.

2. Any objection to the relief requested herein must be filed and delivered not later than October 14, 2004, which three (3) days before the time set for the hearing (excluding Saturdays, Sundays and holidays), or filed and served by mail not later than October 7, 2004, which is seven (7) days before the time set for the hearing, (excluding Saturdays, Sundays and holidays). **UNLESS A WRITTEN RESPONSE IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

3. This motion is filed pursuant to Bankruptcy Rule 4001 and TCF Mortgage Corporation seeks relief from the automatic stay of 11 U.S.C. § 362 with respect to certain real property owned by Debtor(s).

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed.R.Bankr.P.5005, 11 U.S.C. §362(d), Local Rule 1070-1 and applicable rules. This is a core proceeding. The petition commencing this Chapter 13 case was filed June 1, 2004. The case is now pending in this Court.

5. By mortgage dated July 14, 1997, in the original principal amount of \$85,000.00 (the "Mortgage"), TCF Mortgage Corporation holds a mortgagee's interest in the following real property (the "Property"):

Lot Five (5), block One (1), Swager Bros. 4th Addition, according to the Plat thereof on file and of record in the Office of the Registrar of Titles in and for Washington County, Minnesota

Property Address: 5603 O'Brien Avenue North, Oak Park Heights, Minnesota 55082

The Mortgage was filed in the offices of such County. A copy of the Mortgage is attached hereto as Exhibit A.

6. Presently, there is a post-petition delinquency under the terms of the note secured by the Mortgage with respect to monthly payments due for the months of July 2004, through September 2004, in a total amount \$2,383.68 plus interest, late charges, attorneys' fees and costs. The outstanding balance due TCF Mortgage Corporation under the terms of the note is \$79,031.82, plus interest, late fees, attorneys' fees and costs.

7. TCF Mortgage Corporation does not have adequate protection of its interest in the Property, which constitutes cause, within the meaning of 11 U.S.C. § 362(d) (1), entitling TCF Mortgage Corporation, to relief from the automatic stay. In addition, TCF Mortgage Corporation requests that the stay imposed by Rule 4001(a) (3) of the Federal Rules of Bankruptcy Procedure be held not applicable so that TCF Mortgage Corporation may immediately enforce and implement this Order granting relief from the automatic stay.

8. If testimony is necessary as to any facts relevant to this motion J. McCall will testify on behalf of TCF Mortgage Corporation.

9. THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

WHEREFORE, TCF Mortgage Corporation respectfully moves the Court for an order modifying the automatic stay of 11 U.S.C. § 362 so as to permit TCF Mortgage Corporation to foreclose the Mortgage on the Property and for such other relief as may be just and equitable.

Dated: September 23, 2004

MACKALL, CROUNSE & MOORE, PLC

By: /e/Andrew P. Moratzka
Andrew P. Moratzka (# 0322131)
Attorneys for Movant
1400 AT&T Tower
Minneapolis, MN 55402
Ph. (612) 305-1400

RECORD AND RETURN TO:
CENTRAL BANK
3670 EAST COUNTY LINE ROAD
WHITE BEAR LAKE, MINNESOTA 55110

OFFICE OF
COUNTY RECORDER
WASHINGTON COUNTY, MN
RECORDS CN

AUG 26 3 52 PM '97

1062735
50777
BOOK 162 PAGE 16
COUNTY JOSEPH MANAGER
OF TITLES 7/S/LB

TI 7016
522 So. 4th St.
Stillwater, MN 55082
(attest)

(Space Above This Line For Recording Data)

MORTGAGE

50477

THIS MORTGAGE ("Security Instrument") is given on JULY 14, 1997. The mortgagor is TAUNI B. BRANDL, A SINGLE PERSON

("Borrower"). This Security Instrument is given to

CENTRAL BANK

which is organized and existing under the laws of THE STATE OF MINNESOTA, and whose address is 2270 FRONTAGE ROAD WEST, STILLWATER, MINNESOTA 55082

("Lender"). Borrower owes Lender the principal sum of

EIGHTY FIVE THOUSAND AND 00/100

Dollars (U.S. \$ 85,000.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on AUGUST 01, 2027 and for interest at the yearly rate of SIX AND 750/1000 percent. This

Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender, with power of sale, the following described property located in: WASHINGTON County, Minnesota: LOT FIVE (5), BLOCK ONE (1), SWAGER BROS. 4TH ADDITION, ACCORDING TO THE PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE REGISTRAR OF TITLES II: AND FOR WASHINGTON COUNTY, MINNESOTA.

31-Jul-97 WASHINGTON COUNTY No. 68177
Registration tax hereon of \$195.50 Paid
MN Conservation Fund N.S. 473H \$5.00 Paid
R.N. STAFFORD, Auditor-Treasurer by DW SIMONET

which has the address of 5603 OBRIEN AVENUE NORTH

OAK PARK HEIGHTS

Minnesota

55082

("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

MINNESOTA - Single Family

Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 3024 6/90

EXHIBIT

A

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal and Interest; Prepayment and Late Charges. Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. Funds for Taxes and Insurance. Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum of Funds for: (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items." Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. § 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender may agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify Borrower in writing, and, in such case, Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If, under paragraph 21, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to any prepayment charges due under the Note; second, to amounts payable under paragraph 2; third, to interest due; fourth, to principal due; and last, to any late charges due under the Note.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, (a) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (b) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. Hazard or Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within a term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier or provider of the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

7. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

8. Mortgage Insurance. If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Lender, if mortgage insurance coverage (in the amount and for the period that Lender requires) provided by an insurer approved by Lender again becomes available and is obtained. Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Borrower and Lender or applicable law.

9. Inspection. Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

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10. 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 Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Borrower and Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

11. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

13. Loan Charges. If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

14. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

15. Governing Law; Severability. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

16. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

17. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that: Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 17.

19. Sale of Note; Change of Loan Servicer. The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with paragraph 14 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

20. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 20, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 20, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

21. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 21, including, but not limited to, reasonable attorneys' fees.

If Lender invokes the power of sale, Lender shall cause a copy of a notice of sale to be served upon any person in possession of the Property. Lender shall publish a notice of sale, and the Property shall be sold at public auction in the manner prescribed by applicable law. Lender or its designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

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22. Release. Upon payment of all sums secured by this Security Instrument, Lender shall discharge this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.

23. Waiver of Homestead. Borrower waives all right of homestead exemption in the Property.

24. Interest on Advances. The interest rate on advances made by Lender under paragraph 7 shall not exceed the maximum rate allowed by applicable law.

25. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. (Check applicable box(es))

- | | | |
|--------------------------------------------------|---------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> 1-4 Family Rider |
| <input type="checkbox"/> Graduated Payment Rider | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Biweekly Payment Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Rate Improvement Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Other(s) [specify] | | |

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

_____ Tauni B Brandl (Seal)
 TAUNI B. BRANDL -Borrower

_____ (Seal)
 -Borrower

_____ (Seal)
 -Borrower

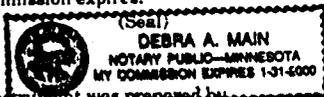
_____ (Seal)
 -Borrower

(Space Below This Line For Acknowledgment)

STATE OF MINNESOTA, WASHINGTON County ss:
 On this 14TH day of JULY, 1997, before me appeared TAUNI B. BRANDL a single person

known to be the person(s) described in and who executed the foregoing instrument and acknowledged that executed the same as free act and deed. , to me personally

My commission expires:



Debra A. Main
 Notary Public

This instrument was prepared by
 CENTRAL BANK
 2270 FRONTAGE ROAD WEST
 STILLWATER, MINNESOTA 55082

Prepared by:

Central Bank
2270 Frontage Road West
Stillwater, MN 55082

Corporation Assignment of Real Estate Mortgage

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to MINNESOTA HOUSING FINANCE AGENCY, its Successors and Assigns all the rights, title and interest of undersigned in and to that certain Real Estate Mortgage dated JULY 14, 1997 executed by TAUNI B. BRANDL, A SINGLE PERSON to CENTRAL BANK, a corporation organized under the laws of Minnesota, and whose principal place of business is 2270 Frontage Road West, Stillwater, Minnesota, 55082, and recorded in Liber _____, page(s) _____, as Document number _____, WASHINGTON County Records. State of MINNESOTA described hereinafter as follows:

LOT FIVE (5), BLOCK ONE (1), SWAGER BROS. 4TH ADDITION, ACCORDING TO THE PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE REGISTER OF TITLES IN AND FOR WASHINGTON COUNTY, MINNESOTA.

TOGETHER with the note of notes therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Real Estate Mortgage.

Property Address: 5603 O'BRIEN AVENUE NORTH,
OAK PARK HEIGHTS, MINNESOTA 55082

STATE OF MINNESOTA
COUNTY OF

On July 14, 1997 before me, the undersigned, a Notary Public in and for said County and State, personally appeared Jean M. Schultz, known to me to be the Vice President, and Kathleen M. Dickson, known to me to be the Assistant Vice President of Central Bank, the corporation herein which executed the within instrument, that the seal affixed to said instrument is the corporate seal of said corporation; that said instrument was signed and sealed on behalf of said corporation pursuant to its by-laws or a resolution of its Board of Directors and that he/she acknowledges said instrument to be the free act and deed of said corporation.

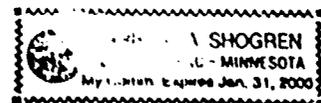
By: Jean M. Schultz
Its: Vice President

By: Kathleen M. Dickson
Its: Assistant Vice President

Barbara A. Shogren

Notary Public

County,
My Commission Expires January 31, 2000



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: Tauni B Jansen
TCFMC #60620238

Bky 04-33248

Debtor(s).

Chapter 13

UNSWORN DECLARATION

I, Janice McCall of TCF Mortgage Corporation declare under penalty of perjury that the facts contained herein are true and correct to the best of my knowledge, information and belief:

1. I am an employee of TCF Mortgage Corporation and have personal knowledge of the facts set forth herein.

2. Attached hereto is a true and correct copy of the mortgage made by Debtor(s) (the "Mortgage").

3. Minnesota Housing Finance Agency is the present holder of the Mortgage.

4. July 2004 through September 2004 are the months that remain unpaid post petition pursuant to the note secured by the Mortgage (the "Note").

5. \$0.00 is the outstanding *pre-petition* delinquency under the Note.

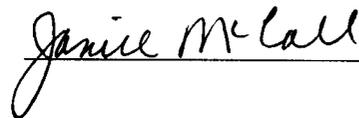
6. \$2,383.68 is the outstanding *post-petition* delinquency under the Note.

7. \$79,031.82 is the outstanding balance due under the Note.

8. \$98,000.00 is the approximate fair market value of the property described in the Mortgage.

9. \$0.00 Other defaults exist as follows:

Date: September 22, 2004





UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No. 04-33248-GFK
Chapter 13

Tauni B. Jansen

Debtor(s).

**MEMORANDUM IN SUPPORT OF
MOTION FOR RELIEF FROM STAY**

TCF Mortgage Corporation submits this memorandum of law in support of its motion for relief from the stay in the above-entitled matter.

FACTS

TCF Mortgage Corporation holds a valid, duly perfected mortgage on real property owned by Debtor(s). Presently, there is a post-petition delinquency under the terms of the note secured by the Mortgage with respect to monthly payments due for the months of July 2004, through September 2004, in a total amount \$2,383.68 plus interest, late charges, attorneys' fees and costs. The outstanding balance due TCF Mortgage Corporation under the terms of the note is \$79,031.82, plus interest, late fees, attorneys' fees and costs.

ARGUMENT

Pursuant to Section 362(d)(1) of the Bankruptcy Code, relief from the automatic stay shall be granted upon request of a creditor "for cause, including the lack of adequate protection of an interest in property of such [creditor]." 11 U.S.C. § 362(d)(1). The Bankruptcy Code states that adequate protection may be provided by requiring cash payments from the trustee to the entity seeking relief, by providing the entity seeking relief a replacement lien, or granting the entity seeking relief the indubitable equivalent of their interest. 11 U.S.C. § 361. Here, Debtor(s)

failed to make the payments required by the note and mortgage for the months of July 2004, through September 2004, post-petition. Because the validity of the mortgage has not been challenged, the default by the debtor has not been disputed, and the trustee has not opposed lifting the automatic stay, the default alone entitles TCF Mortgage Corporation relief from the automatic stay. *See In re Elicker*, 100 B.R. 180, 183 (Bkrtcy.M.D.Pa. 1989). Furthermore, there has been no attempt by Debtor(s) to otherwise provide TCF Mortgage Corporation with adequate protection of its interest in the property. Such circumstances constitute cause, within the meaning of Section 362(d)(1), justifying relief from the stay.

Accordingly, TCF Mortgage Corporation is entitled to an order terminating the stay and authorizing it to foreclose its mortgage on the property. In addition, TCF Mortgage Corporation requests that the stay imposed by Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure be held not applicable so that TCF Mortgage Corporation may immediately enforce and implement this Order granting relief from the automatic stay.

Dated: September 23, 2004

MACKALL, CROUNSE & MOORE, PLC

By /e/Andrew P. Moratzka
Andrew P. Moratzka (# 0322131)
Attorneys for Movant
1400 AT&T Tower
Minneapolis, MN 55402
Ph. (612) 305-1400

U.S. BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No. 04-33248-GFK
Chapter 13

Tauni B. Jansen

Debtor(s)

UNSWORN DECLARATION
FOR PROOF OF SERVICE

Amy J. Ditty, employed by Mackall, Crouse & Moore, attorney(s) licensed to practice law in this court, with office address of 1400 AT&T Tower, 901 Marquette Avenue, Minneapolis, MN 55402-2859, declares that on the date set forth below, I served the annexed **Notice of Hearing and Motion for Relief from Stay, Memorandum in Support of Motion, and proposed Order** upon each of the entities named below by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at Minneapolis, Minnesota addressed to each of them as follows:

United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

(Trustee)
Jasmine Keller
12 South 6th Street
Suite 310
Minneapolis, MN 55402

(Debtor(s))
Tauni B. Jansen
5603 O'Brien Avenue N.
Oak Park Heights, MN 55082

(Attorney for Debtor(s))
Ronald Lindquist
10 South 5th Street
Suite 700
Minneapolis, MN 55402

(Co-Debtor(s))

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: September 23, 2004

Signed: /e/Amy J. Ditty

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No. 04-33248-GFK
Chapter 13

Tauni B. Jansen

Debtor(s).

**ORDER GRANTING
MOTION FOR RELIEF FROM STAY**

The above-entitled matter came before the Court for hearing on October 19, 2004, at the motion of TCF Mortgage Corporation seeking relief from the automatic stay of 11 U.S.C. § 362 of the Bankruptcy Code. Appearances were noted in the Court's record. Based upon the proceedings had on said date, the statements of counsel, and all of the files and records herein, the Court now finds that cause exists entitling TCF Mortgage Corporation to the relief requested.

NOW, THEREFORE, IT IS HEREBY ORDERED that the automatic stay of 11 U.S.C. § 362 of the Bankruptcy Code is immediately terminated and TCF Mortgage Corporation and/or its assignees and/or successors in interest, is hereby authorized to foreclose its mortgage on the following property:

Lot Five (5), block One (1), Swager Bros. 4th Addition, according to the Plat thereof on file and of record in the Office of the Registrar of Titles in and for Washington County, Minnesota

Property Address: 5603 O'Brien Avenue North, Oak Park Heights, Minnesota 55082

Notwithstanding Federal Rule of Bankruptcy Procedure 4001(a) (3), this order is effective immediately.

Dated: _____

Gregory F. Kishel
United States Bankruptcy Judge