

Del'd to  
Jack M.  
Phillips  
2/22/84

PRESERVATION OF HISTORIC  
TO :: DEED OF ASSUMPTION  
Jack M. Phillips, et al

No. 96

Tax\$187.50

BOOK 183 PAGE 412

THIS DEED OF ASSUMPTION, made and dated this 27th day of December, 1983, by and between PRESERVATION OF HISTORIC WINCHESTER, INC., a Virginia Corporation, party of the first part, hereinafter called the Grantor, and JACK M. PHILLIPS, and ELEANOR B. PHILLIPS, parties of the second part, hereinafter called the Grantees, and J. JUDSON MCKELLER, JR, and THOMAS D. WHITE, Trustees, parties of the third part, and VIRGINIA HOUSING DEVELOPMENT AUTHORITY, party of the fourth part, and ROBERT T. MITCHELL, JR., Trustee, party of the fifth part, and CITY OF WINCHESTER, VIRGINIA, COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, party of the sixth part.

WITNESSETH: That in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations paid the Grantor by the Grantees on or before the delivery of this Deed of Assumption, the receipt of all of which is hereby acknowledged, the Grantor hereby grants and conveys with general warranty, unto the Grantees in fee simple, as tenants by the entireties with common law right of survivorship, the following described real estate, together with all rights of way, privileges and appurtenances thereto belonging and subject to all easements and legally enforceable restrictions of record affecting such realty:

Those three certain parcels of land, with improvements thereon, fronting on South Kent Street in the City of Winchester, Virginia, designated as 301-303 South Kent Street, 305-307 South Kent Street, and 309-311 South Kent Street, and being more particularly described by the Plat of J.R. Nicely, C.L.S., dated August 25, 1981, recorded with the hereinafter described deed of trust at Deed Book 172 at Page 703; and being the same property conveyed to Preservation of Historic Winchester, Inc., by William B. Carper, et als., by Deed dated October 4, 1980, and recorded in the Office of the Clerk of the Circuit Court for the City of Winchester, Virginia, in Deed Book 166 at Page 357.

This conveyance is made subject to all legally enforceable restrictive covenants and easements of record affecting the aforesaid realty, including the following restrictive covenants, which shall run with the land and shall be binding forever:

HALL, MORAHAN, ENGLE  
MAHAN & MITCHELL  
ATTORNEYS AT LAW  
LEESBURG, VIRGINIA  
WINCHESTER, VIRGINIA

1. No construction, alteration, remodeling or destruction shall be permitted on or to the property which would affect any improvement to the property (including shrubbery and trees) visible from any street or would affect the exterior of any building, without written permission of PHW or unless permitted herein.
2. The property shall not be sold or otherwise transferred (except by gift) unless first offered in writing to PHW. If PHW does not accept such offer within thirty (30) days, the property may be sold within one (1) year thereafter upon and only upon the terms contained in the written offer to PHW. Thereafter, before the premises may be sold or transferred, it must first be reoffered to Preservation of Historic Winchester, Inc., as if the first offer had never been made.
3. Painting -- The exterior of any building and other improvements shall not be painted unless paint color combinations and the quality of the paint are approved by the PHW Steering Committee.
4. Repairing and replanting of damage to the presently existing house and lot resulting from fire or other casualty or from wear and tear shall be permitted, provided it is performed in a manner which would not alter the appearance of the house or lot as of this date.
5. At all times the property shall be maintained in good condition.
6. The property, including the buildings, shall be open at least one (1) day every five (5) years to the public from 10:00 a.m. to 5:00 p.m. on a single day to be selected by PHW, and consented to by the Grantees, which consent shall not unreasonably be withheld.
7. PHW may inspect the property at reasonable times upon giving reasonable notice.

8. Where permission is required to be obtained from PHW, the permission shall be valid only if signed by its President or the Chairman of its Steering Committee.

9. If any restrictive covenant is violated, PHW, after giving reasonable notice to the record owner of the property, may (a) institute a suit to enjoin by ex parte, temporary and/or permanent injunction such violation, to require the restoration of the premises to its prior condition, (b) may enter upon the premises, correct any such violation, and hold the record land-owner responsible for the cost thereof, and (c) may take any other legal action available to it.

10. PHW may convey the servitudes hereby conveyed to some other charitable organization for the same general purposes; however, that since it is the public policy of the Commonwealth of Virginia that such servitudes be perpetual, in no event shall the rights of PHW be conveyed in any way to the Grantees, their successors and assigns, nor may PHW or its successor quitclaim or in any way release the restriction hereby imposed.

If Preservation of Historic Winchester, Inc. (a) be dissolved or in any other way cease its corporate existence, or for any other reason be unable to act to enforce the restrictions provided for herein, or (b) acquire fee simple title to the land subject to this servitude, then all rights of Preservation of Historic Winchester, Inc., in the foregoing servitude shall automatically vest in the Virginia Historic Landmarks Commission.

The property herein conveyed is subject to a deed of trust dated November 13, 1981, to J. JUDSON MCKELLAR, Jr., and THOMAS D. WHITE, Trustees, either of whom may act, and recorded in the aforesaid Clerk's Office in Deed Book 171, at Page 605, to secure the payment of a certain bond in the amount of SEVENTY-EIGHT THOUSAND DOLLARS (\$78,000.00), payable to VIRGINIA HOUSING DEVELOPMENT AUTHORITY. The unpaid balance of said obligation,

including principal and interest, as of the 27<sup>th</sup> day of JANUARY, 1984, is \$ 75,061.72.

The property herein conveyed is also subject to a second deed of trust dated January 11, 1981, to ROBERT T. MITCHELL, JR., Trustee, and recorded in the aforesaid Clerk's Office in Deed Book 172, Page 703, to secure the payment of a certain bond in the amount of TWENTY-TWO THOUSAND EIGHT HUNDRED DOLLARS (\$22,800.00), payable to the City of Winchester, Virginia, Community Development Block Grant Program. The unpaid balance of said obligation, including principal and interest, as of the 27<sup>th</sup> day of JANUARY, 1984, is \$ 22,800<sup>00</sup>.

The Grantees herein, as evidenced by their joining in this instrument and as a part of the consideration for this conveyance, hereby agree to assume the payment and discharge of the aforementioned obligations, and to assume all of the obligations set forth in said deeds of trust.

The parties of the third part and the party of the fifth part, in their capacity as Trustees under the aforesaid deeds of trust, and the parties of fourth part and the parties of the sixth part, in their capacity as holders of the bonds secured by the said deeds of trust, do join in this Deed of Assumption to evidence their consent thereto.

The Grantor covenants that the right to convey the within described property; that the same is free from all liens and encumbrances except as may be hereinabove set forth, and that will forever warrant and defend the title thereto.

WITNESS the following signatures and seals:

PRESERVATION OF HISTORIC  
WINCHESTER, INC.

By Janis B. Ferkus (SEAL)  
President

Jack M. Phillips (SEAL)  
JACK M. PHILLIPS

Eleanor B. Phillips (SEAL)  
ELEANOR B. PHILLIPS

Cladon M. Kelzar (SEAL)  
J. JUDSON MCKELZAR, JR., TRUSTEE

Thomas D. White (SEAL)  
THOMAS D. WHITE, TRUSTEE

VIRGINIA HOUSING DEVELOPMENT  
AUTHORITY

By John Ritchie, Jr. (SEAL)  
JOHN RITCHIE, JR.  
EXECUTIVE DIRECTOR

Robert T. Mitchell, Jr. (SEAL)  
ROBERT T. MITCHELL, JR., TRUSTEE

CITY OF WINCHESTER, VIRGINIA COMMUNITY  
DEVELOPMENT BLOCK GRANT PROGRAM

By Wendell L. Seldon  
Wendell L. Seldon, City Manager

ATTEST:

STATE OF VIRGINIA,

COUNTY OF FREDERICK, to-wit:  
Commonwealth At. Large :

I, Agnes F. Geanious, a Notary Public

in and for the State and County aforesaid, do hereby certify that

Jane B. Yerkes, the President of PRESERVATION OF  
HISTORIC WINCHESTER, whose name is signed to the foregoing deed,  
bearing the date of 27th day of December, 1983, has personally  
appeared before me and acknowledged the same in my State and  
County aforesaid.

MALL, MOHANAN, ENGLE  
MAHAN & MITCHELL  
ATTORNEYS AT LAW  
LEESBURG, VIRGINIA  
WINCHESTER, VIRGINIA

Given under my hand this 27th day of January, 1984.

My Commission expires August 27, 1985.

Agnes F. Geanious  
Notary Public

STATE OF VIRGINIA,

COUNTY OF FREDERICK, to-wit:

Commonwealth At Large :

I, Agnes F. Geanious, a Notary Public

in and for the State and County aforesaid, do hereby certify that JACK M. PHILLIPS, and his wife, ELEANOR B. PHILLIPS, whose names are signed to the foregoing deed, bearing the date of 27th day of December, 1983, have personally appeared before me and acknowledged the same in my State and County aforesaid.

Given under my hand this 27th day of January, 1984.

My Commission expires August 27, 1985.

Agnes F. Geanious  
Notary Public

STATE OF VIRGINIA,

CITY OF RICHMOND to-wit:

I, Jeanne O. Barbour, a Notary Public

in and for the State and City aforesaid, do hereby certify that J. JUDSON MCKELLAR, JR., TRUSTEE, whose name is signed to the foregoing deed, bearing the date of 27th day of December, 1983, has personally appeared before me and acknowledged the same in my State and City aforesaid.

Given under my hand this 17th day of January, 1984.

My Commission expires February 27, 1984.

Jeanne O. Barbour  
Notary Public



HALL, MONAHAN, ENGLE  
MAHAN & MITCHELL  
ATTORNEYS AT LAW  
LEESBURG, VIRGINIA  
WINCHESTER, VIRGINIA

STATE OF VIRGINIA,

CITY OF RICHMOND, to-wit:

I, Jeanne O. Barbour, a Notary Public in and for the State and City aforesaid, do hereby certify that THOMAS D. WHITE, TRUSTEE, whose name is signed to the foregoing deed, bearing the date of 27th day of December, 1983, has personally appeared before me and acknowledged the same in my State and City aforesaid.

Given under my hand this 17th day of January, 1984.

My Commission expires February 27, 1984

Jeanne O. Barbour  
Notary Public

STATE OF VIRGINIA,

CITY OF RICHMOND, to-wit:

I, Cara J. Amburn, a Notary Public in and for the State and City aforesaid, do hereby certify that John Ritchie, Jr., Executive Director of VIRGINIA DEVELOPMENT HOUSING AUTHORITY, whose name is signed to the foregoing deed, bearing the date of 27th day of December, 1983, has personally appeared before me and acknowledged the same in my State and City aforesaid.

Given under my hand this 18th day of January, 1984.

My Commission expires January 26, 1987

Cara J. Amburn  
Notary Public

STATE OF VIRGINIA,

City of Winchester  
COUNTY OF FREDERICK, to-wit:

I, Kathleen Emerson, a Notary Public in and for the State and County aforesaid, do hereby certify that

HALL, MORAHAN, ENGLE  
MANAN & MITCHELL  
ATTORNEYS AT LAW  
LEESBURG, VIRGINIA  
WINCHESTER, VIRGINIA

ROBERT T. MITCHELL, JR., TRUSTEE, whose name is signed to the foregoing deed, bearing the date of 27th day of December, 1983, has personally appeared before me and acknowledged the same in my State and County aforesaid.

Given under my hand this 26<sup>th</sup> day of January, 1984.

My Commission expires July 19, 1986.

Kathleen Emerson  
Notary Public

STATE OF VIRGINIA,  
~~CITY OF WINCHESTER~~  
COUNTY OF FREDERICK, to-wit:

I, Jimmie L. Shipp, a Notary Public in and for the State and County aforesaid, do hereby certify that Wendell L. Selton, City Manager of the CITY OF WINCHESTER, VIRGINIA, COUNTY DEVELOPMENT BLOCK GRANT PROGRAM, whose name is signed to the foregoing deed, bearing the date of 27th day of December, 1983, has personally appeared before me and acknowledged the same in my State and County aforesaid.

Given under my hand this 23<sup>rd</sup> day of January, 1984.

My Commission expires \_\_\_\_\_.

Jimmie L. Shipp  
Notary Public

VIRGINIA CITY of WINCHESTER, SCT.  
This instrument of writing was produced to me on the 27<sup>th</sup> day of January, 1984 at 2:15 P.M. and with certificate of acknowledgment thereto annexed was admitted to record. Tax imposed by Sec. 58-54.1 of \$ 22.50 and 58-54 have been paid, if assessable.

Jessie W. Fletcher Clerk

HALL, MONAHAN, ENGLE  
MAHAN & MITCHELL  
ATTORNEYS AT LAW  
LEESBURG, VIRGINIA  
WINCHESTER, VIRGINIA