



UNOFFICIAL COPY REAL ESTATE CONTRACT



00688301

WHEN EXECUTED BY ALL PARTIES THIS WILL BECOME A LEGALLY BINDING AND ENFORCEABLE CONTRACT

To: Owner(s) of Record

Date: April 16, 2000

OFFER OF PURCHASE: (Buyer/Purchaser) offer to purchase the real estate known as:
115 DeWinds Winnetka Cook IL 60093
Street City County State Zip

Legally described on exhibit A, if any. Lot also commonly known as 216x230x202x230
Together with improvements thereon.

INCLUSIONS: The following shall be included; personal property, if any, located on the real estate as of the date hereof, for which a bill of sale will be given; screens, storm windows and doors, shades, window blinds; drapery, roller, curtain rods, radiators, ceiling fans, lighting, central cooling, ventilation, heating and plumbing fixtures attached to the premises; interior appliances, fixtures and accessories; swimming pool, deck, patio, porch, shed, detached garage, door openers and vacuum cleaners; attached (detachable) awnings, umbrellas; detectors; as well as the following specific items:

EXCLUSIONS: The following shall be excluded: Kitchen light fixture, SINKS, BATHROOM, YELLOW(S) FAMILY RUG(S)

1. PRICE: Purchase Price of 10,000 (Ten thousand dollars) in the form of CASH money, cashed 4-16-00 payable to JURR. Upon acceptance of this offer, said check shall be properly endorsed by payee and deposited by the party designated in Paragraph 7. The earnest money shall be increased to 10,000 upon acceptance of this offer. Seller's acceptance hereof. Said (type) earnest money shall be returned, and this offer shall be void if not accepted on or before April 17, 2000.

2. FINANCING: This contract is contingent upon the ability of Purchaser to secure within _____ days after Seller's acceptance, a commitment for a loan in the amount of _____ to be financed by a mortgage or trust deed on the real estate in the amount of _____, at an adjustable rate loan with initial interest rate not to exceed _____%, adjustment cap not to exceed _____% and the term cap not to exceed _____ years, with a loan service charge not to exceed _____% or other financing as provided in Finance Rider.

3. PURCHASER'S OBLIGATION: Purchaser shall be obligated to obtain a commitment for a mortgage loan as contemplated herein, and shall notify Seller in writing within _____ days after the date hereof. If Seller is not so notified within such time period, PURCHASER SHALL FOR ALL PURPOSES BE DEEMED TO HAVE AGREED TO PURCHASE THE REAL ESTATE WITHOUT MORTGAGE FINANCING OR BASED UPON THE MORTGAGE COMMITMENT CONTAINED HEREIN. If Seller is so notified, Seller may, at Seller's option, within _____ days after notification, either: (a) accept purchase money financing or actual cash payment; or (b) require Purchaser to obtain a mortgage loan from a lender approved by Seller. If Seller is so notified, Seller shall be obligated to provide a copy of the mortgage commitment to the lender within _____ days after the date hereof. If Seller is so notified, Seller shall be obligated to provide a copy of the mortgage commitment to the lender within _____ days after the date hereof. If Seller is so notified, Seller shall be obligated to provide a copy of the mortgage commitment to the lender within _____ days after the date hereof. If Seller is so notified, Seller shall be obligated to provide a copy of the mortgage commitment to the lender within _____ days after the date hereof.

4. PAYMENT METHOD: The purchase price shall be paid, subject to financing, in full cash by cashier's check or certified check of 10,000 on 4-16-00.

5. DELIVERY OF DEED: Seller shall execute and deliver to Purchaser, by conveyance, a deed in fee simple, subject to the mortgage or trust deed, together with a copy of the deed, to be held by the lender until the mortgage or trust deed is paid in full.

6. INSURANCE: Seller shall maintain and pay for fire and theft insurance on the real estate until closing. Seller shall also maintain and pay for title insurance for the benefit of Purchaser. Seller shall also maintain and pay for title insurance for the benefit of Purchaser.

7. EARNEST MONEY: Earnest money and this contract shall be held by JURR for the benefit of the parties herein. Purchaser agrees that said earnest money is to be held in a federally insured money market deposit account (a "pool" account) designated by the Listing Broker. All interest earned on the earnest money is to accrue to Purchaser and is to be paid to Purchaser at the time of closing or upon termination of this contract.

8. ATTORNEY APPROVAL: This contract is contingent upon the approval hereof as to form by the attorneys for Purchaser and Seller within _____ days after Seller's acceptance of this contract. Notice shall be given pursuant to Paragraph 14 on the reverse side hereof.

9. INSPECTION: Purchaser may secure at Purchaser's expense (unless otherwise provided by governmental regulation) a home inspection, and/or wood infestation inspection(s) of the real estate by a professional inspection service(s). Purchaser shall have notice upon Seller of any defects, disclosed by any inspection(s), which are unacceptable to the Purchaser, together with a copy of the report(s) within _____ days after acceptance of this contract. IN THE ABSENCE OF NOTICE WITHIN THE TIME SPECIFIED, THIS PROVISION SHALL BE DEEMED WAIVED BY PARTIES AND THIS CONTRACT SHALL REMAIN IN FULL FORCE AND EFFECT. If within the (5) business days after receipt of such notice and report(s), agreement cannot be reached by the parties to the contract, the contract shall be null and void and earnest money refunded to purchaser upon written notice by either party to the other party and this contract shall be null and void and earnest money refunded to purchaser upon written notice by either party to the other party.

10. LEAD BASED PAINT TESTING CONTINGENCY: This contract is contingent upon an inspection or risk assessment of the property for the presence of lead based paint and/or lead based paint hazards. This inspection or risk assessment shall be conducted by an independent contractor (licensed as required by law at Purchaser's expense) within 10 calendar days of acceptance of this contract by Seller. This contingency shall be deemed waived unless Purchaser delivers to Seller written notice of specific testing deficiencies, together with a copy of the inspection and/or risk assessment report, Seller may, at Seller's option, within 2 days after delivery of said notice from Purchaser, elect to correct or NOT correct the deficiencies prior to closing and give written notice of such election to Purchaser. If Seller elects to correct such deficiencies, Seller shall deliver to Seller within 2 days after delivery of Seller's election not to correct, may declare this contract, void or may elect to purchase the property subject to the said notice. Purchaser may remove the contingency at any time without cause. Purchaser shall indemnify Seller from and against any loss or damage to the real estate caused by the presence of lead based paint or lead based paint hazards.

11. DISCLOSURE: Seller shall provide to Purchaser access to property records.

12. ACCEPTANCE OF DEED BY BUYER: This is to be held in a federally insured money market deposit account (a "pool" account) designated by the Listing Broker.

13. PURCHASER'S NAME (Type of Firm): Stephanie Andersen-Fornals, Tom Fornals

14. PURCHASER'S ADDRESS: 1215 Chestnut Ave Winnetka

15. PURCHASER'S CITY, STATE AND ZIP: Winnetka IL 60093

16. SELLER'S NAME (Type of Firm): J. Frank S. Burke, James P. Burke

17. SELLER'S ADDRESS: 115 DeWinds

18. SELLER'S CITY, STATE AND ZIP: Winnetka IL 60093

19. THE PROVISIONS APPEARING ON THE REVERSE SIDE HEREOF ARE AN INTEGRAL PART OF THIS CONTRACT.

20. BUYER'S SIGNATURE: [Signature]

21. SELLER'S SIGNATURE: [Signature]

22. WITNESSES: [Signatures]

23. DATE: April 16, 2000

24. LISTING BROKER'S SIGNATURE: [Signature]

25. LISTING BROKER'S ADDRESS: 115 DeWinds

26. LISTING BROKER'S CITY, STATE AND ZIP: Winnetka IL 60093

27. REALTOR ASSOCIATION: North Shore - Barrington Association of REALTORS

28. REALTOR ID NUMBER: 290 46300

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5824/0076 53 001 Page 1 of 6
2000-09-06 16:01:07
Cook County Recorder

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MAIL TO
A. Fencil
Arlene M. & Gary
105 Winnetka #3800
Chicago, IL 60606

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110 11-TITLE COMMITMENT: (a) Seller shall deliver or cause to be delivered to Purchaser or Purchaser's agent, not less than five days prior
 111 to the time of closing, a title commitment for an owner's title insurance policy issued by a title insurance company licensed to do business
 112 in the State of Illinois, in the amount of the purchase price, covering title to the real estate on or after the date hereof, showing title in the
 113 intended grantor subject only to (1) the conditions and stipulations and standard or general exceptions contained in the owner's policy issued
 114 by that company, (2) the title exceptions set forth above, in Paragraph 4 (a) & (b), and (3) title exceptions which may be removed by the
 115 payment of money at the time of closing and which the Seller may so remove at that time by using the funds to be paid upon the delivery
 116 of the deed. Delay in delivery by Seller of Commitment for Title Insurance due to delay by Purchaser's mortgage in recording mortgage
 117 and bringing down title shall not be a default of this paragraph. Any title commitment furnished by the Seller hereunder shall be conclusive
 118 evidence of good title as therein shown, subject only to exceptions as therein stated. As to all or any part of said real estate which, on the
 119 date of this contract, was registered in the Office of the Registrar of Titles of Cook County, the Seller shall (1) tender the title commitment
 120 herein required, (2) deliver the Owner's duplicate certificate of title at closing, and (3) timely file all notices and take all necessary steps to
 121 assure the deregistration of the real estate and recording of the deed at closing.
 122 (b) If the title commitment discloses exceptions relating to title other than those referred to in Paragraph 11 (a), Seller shall have 30 days
 123 from the date of the delivery to Purchaser thereof to have these exceptions removed from the commitment. If Seller fails to have these
 124 exceptions removed within such time, Purchaser may terminate this contract or may elect, upon notice to Seller within 10 days after the
 125 expiration of the 30-day period, to take title as it then is with the right to deduct from the purchase price here or encumbrances of a definite
 126 or ascertainable amount. If Purchaser does not so elect, this contract shall become null and void without further action of the parties, and
 127 the earnest money shall be returned to the Purchaser.
 128

129 12-DEFAULT: If the Purchaser defaults, earnest money shall be forfeited and applied to payment of broker's commission and any expenses
 130 incurred, and balance paid to Seller. At Seller's election such forfeiture may be in full settlement of all damages. If Seller defaults, earnest
 131 money, at option of Purchaser shall be refunded to Purchaser, but such refunding shall not release Seller from its obligations under this
 132 contract. In the event of a dispute as to who is entitled to the earnest money, the escrowee may deposit the escrow funds with the Clerk
 133 of the Circuit Court. The parties agree to indemnify and hold the escrowee harmless from any and all claims and demands, including the
 134 payment of reasonable attorney's fees, costs and expenses arising out of such claims and demands, said amounts to be borne equally by
 135 both seller and purchaser. *If Seller defaults Seller will release the earnest money and pay a 300,000.00 penalty to the purchaser.*

136 13-SELLER REPRESENTATION: Notwithstanding anything to the contrary contained in this contract, Seller represents that to the best
 137 of Seller's knowledge, all heating, central cooling, ventilating, electrical and plumbing fixtures and systems on the real estate and all
 138 appliances to be transferred to Purchaser pursuant to this contract are in working order and will be so at the time of closing.
 139
 140

141 14-NOTICES: All notices or other communications which may be required or made under the terms of this Contract shall be in writing and
 142 shall be made to the parties hereto at the addresses which appear after their names, or at such address or to such person as each may by
 143 written notice to the other designate, by personal delivery, certified or registered mail, or by facsimile transmission. In case of mailing, such
 144 notice shall be deemed to be given as of the date notice is placed in the United States mail, postage paid.
 145 For the purpose of Paragraphs 8 and 9 of this contract, if written notice of disapproval is given within the time period specified, this contract
 146 shall be null and void and the earnest money shall be returned to Purchaser. Notice of disapproval may be given by either party hereto or
 147 by their respective attorneys. If written notice of disapproval is NOT given within the time period specified, this contingency shall be deemed
 148 waived and the contract shall remain in full force and effect.
 149

150 15-GENERAL CONDITIONS: (a) If prior to closing, improvements on the real estate are destroyed or materially damaged by fire or other
 151 casualty, this contract at option of Purchaser shall become a null and void or Purchaser may elect to take an assignment of Seller's insurance
 152 proceeds.
 153 (b) Prior to closing, Seller shall furnish at Seller's expense a survey done not more than 6 months prior to closing and acceptance by a licensed
 154 land surveyor showing the location of the improvements thereon (including fences separating the real estate from adjoining properties) and
 155 showing all encroachments, if any. If the survey discloses improper location of improvements or encroachments and Seller is unable to obtain
 156 title insurance protection for the benefit of Purchaser against loss resulting from such improper location or encroachments, Purchaser may,
 157 at his option, declare this contract to be null and void. Providing all existing improvements (including fences) and encroachments, if any,
 158 appear on the survey thus furnished, Purchaser shall bear the cost of any later survey which may be required by Purchaser's mortgagee
 159 or desired by Purchaser.
 160 (c) Existing mortgage and lien indebtedness may be paid out of sale proceeds. Purchaser may place a mortgage on the real estate and
 161 apply proceeds on purchase.
 162 (d) All of the items of personal property shall be transferred to Purchaser by delivery at closing of a customary Bill of Sale without warranty
 163 of merchantability or fitness for particular purpose. Seller also shall furnish Purchaser an All Risk of Fire covering the time of closing, subject
 164 only to the title exceptions permitted by this contract and shall sign customary ALTA forms.
 165 (e) Purchaser acknowledges for the benefit of Seller and for the benefit of third parties that Purchaser has had complete access to the real
 166 estate, its improvements and included personal property, as well as the public records related to the property, and is satisfied as to the physical
 167 and other condition of the real estate, improvements and included personal property.
 168 (f) Seller shall remove all debris from the real estate and improvements at date of possession. Purchaser shall have the right to inspect
 169 the real estate and improvements during the 48-hour period immediately prior to closing to verify that the real estate, improvements and
 170 included personal property are in substantially the same condition, as of the date of Seller's acceptance of this contract, normal wear and
 171 tear excepted.
 172 (g) The Seller warrants that neither Seller nor Seller's agent has received notice of any dwelling code violation which exists on the date
 173 of this contract from any city, village, or other governmental authority.
 174 (h) Seller and Purchaser shall execute all documents and provide all information so that any Federal Lender can issue its commitment
 175 and close the transaction in accordance with the requirements of the Real Estate Settlement Procedures Act of 1974.
 176 (i) Seller shall comply with the terms of any municipal ordinance relating to the transaction contemplated herein for the municipality in which
 177 the real estate is located and shall provide to Purchaser at closing evidence of compliance with such ordinance. Transfer taxes required
 178 by local ordinance shall be paid by the party designated in such ordinance. Seller shall pay any transfer tax imposed by state law.
 179 (j) Any facsimile transmission of any documents relating to this contract shall be considered to have the same legal effect as the original
 180 document and shall be treated in all manner and respects as the original document.
 181 (k) Purchaser shall furnish flood insurance required by lender and shall pay any usual and customary processing costs or charges required
 182 by lender.
 183 (l) Time is of the essence, provided that Seller and Purchaser may change any time or time limit set forth herein by a written agreement
 184 executed by Seller and Purchaser or their authorized agents.
 185 (m) This contract and the transaction described herein may be subject to the provisions of the Foreign Investment in Real Property Tax
 186 Act of 1980 and all amendments thereto (the "Act"). Seller and Purchaser shall execute or cause to be executed all documents and take
 187 or cause to be taken all actions necessary in order that Purchaser shall have no liability, either actual or potential under the Act.
 188 (n) Seller agrees to provide the Internal Revenue Service with the Sale of Real Estate 1099 form as required by law.
 189 (o) Captions are not intended to limit the terms contained after said caption and are not part of this Contract.

This contract is provided as a courtesy by the North Shore - Barrington Association of REALTORS®, which assumes no responsibility for its legal sufficiency or contents.

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FROM : KEARNEY & PHELAN

PHONE NO. : 312 263 6465

Aug. 19 2000 12:03PM P1

AUG-18-2000 19:24

P.05

00688301

WRITER'S DIRECT DIAL
312 263 6465
JPH@K&P.COM

August 18, 2000

VIA FACSIMILE (312/263-6465)Michael J. Phelan, Esq.
Kearney & Phelan Ltd.
221 North LaSalle Street, Suite 2404
Chicago, IL 60601

Re: Real Estate Contract dated April 16, 2000 and accepted August 10, 2000 (the "Contract") by and between Stephanie Andersen-Formolo and Tom Formolo (collectively, "Purchaser") and Jeanne S. Burke and James P. Burke (collectively, "Seller") for the purchase and sale of 115 DeWindt, Winnetka, Illinois (the "Property")

Dear Mr. Phelan:

This office represents the Purchaser in the above-referenced transaction. Pursuant to the attorney approval provision set forth in Section 8 of the Contract, we submit to you modifications to the Contract that we deem appropriate for this transaction. Please be advised that we, as Purchaser's attorneys, approve of the form of the Contract subject to the changes detailed below.

1. For clarification purposes in Subparagraph 4(a), the closing shall occur on February 1, 2001 or such earlier date as may be mutually agreed between the parties.
2. Subparagraph 4(b) of the Contract is modified as follows: (a) in line 45, the year "1998" shall be changed to the year "2000"; (b) in line 47, after the word "ordinances" insert the phrase, "provided that none of the foregoing have been violated by the existing improvements at the Property"; (c) in line 47, after the word "occupancy", insert the phrase, "provided that none of the foregoing underlie the existing improvements located at the Property or prohibit or restrict the use of the Property as a single family residence"; (d) in lines 47 and 48, delete the phrase "party wall rights and agreements"; and (e) in line 48, delete the phrase "existing leases and tenancies in real estate with multiple units".
3. Notwithstanding anything to the contrary contained in Section 4 of the Contract, the closing shall take place at the downtown Chicago offices of Chicago Title Insurance Company.
4. Paragraph 5 of the Contract is modified by adding the following to the end of the paragraph:

"The general real estate taxes for the Property for 1998 were \$27,246.95, and, except for the customary reassessment of the Property in 2001, Seller and Seller's agents have received no notice of, and have no knowledge of, any pending or proposed increase of the assessment of the Property or the imposition of any special governmental taxes or assessments for improvements not yet completed or unconfirmed special governmental taxes or assessments. In the event that prior to closing, Seller receives any such notice or obtains knowledge of the foregoing matters, Seller shall promptly notify Purchaser thereof."

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Michael J. Phelan, Esq.
August 18, 2000
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5. In Paragraph 9 of the Contract, the handwritten sentence at the end of such paragraph shall be amended to read as follows: "Seller shall provide Purchaser and Purchaser's representatives access to the Property once in the month of August, 2000 and up to two (2) times per calendar month thereafter upon 72 hours prior verbal notice to Seller."
6. In Paragraph 10 of the Contract, line 92, the date shall remain April 16, 2000 notwithstanding the strike-through.
7. Paragraph 11 of the Contract is modified as follows: (a) by deleting the words "five days" in line 111 and replacing such word with "thirty days"; (b) by deleting the word "may" from line 114 and replacing it with the word "shall"; (c) by deleting the word "may" from line 115 and replacing it with the word "shall"; and (d) by adding the following to the end of the paragraph:

"At the closing, Seller shall deliver to Purchaser an ALTA title policy or marked up title commitment (with an original paid-for title policy to follow within a reasonable period of time thereafter) in the amount of the purchase price, with extended coverage over the so-called general exceptions and otherwise in accordance with Paragraph 11, dated as of the date of the recording of the Warranty Deed and showing title in the name of Purchaser."
8. In Paragraph 12, the first three sentences and the handwritten sentence at the end shall be deleted in their entirety and replaced with the following:

"In the event that Purchaser breaches its obligations under this Contract, then Seller, as its sole and exclusive remedy, may terminate this Contract by notifying Purchaser thereof and receive the earnest money deposited with the listing broker as liquidated damages. The parties agree that Seller will suffer damages in the event of Purchaser's default and although the amount of such damages is difficult or impossible to determine, the parties agree that the amount of the earnest money is a reasonable estimate of Seller's loss. Thus, Seller shall accept and retain the earnest money as liquidated damages and not as a penalty. In the event that Seller breaches its obligations under this Contract, all earnest money deposited with the listing broker shall immediately be returned to Purchaser, together with all interest accrued thereon and Purchaser shall retain and may pursue all rights and remedies available to it at law or in equity, including, without limitation, the right to pursue specific performance of this Contract."
9. Paragraph 14 of the Contract is modified by adding the phrase "or their respective attorneys" after the phrase "to the parties hereto" in Line 142.
10. Subparagraph 15(b) of the Contract is modified as follows: (a) by adding the words "At least thirty (30) days" before the word "Prior" in line 153; (b) by adding the words "dated not more than 3 months prior to closing" after the word "survey" in line 153; and (c) by adding the following phrase in line 155 after the words "encroachments, if any": ", all easements, rights of way, and building lines affecting the Property, and the means of access to the Property."

In the event that the parties mutually agree to close the sale transaction prior to February 1, 2001 and there is insufficient time for Seller to provide the survey to Purchaser at least thirty (30) days prior to the new closing date, then Seller shall deliver the survey as soon as is reasonably practicable, but in no event later than five (5) business days prior to the new closing.

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FROM: KEARNEY & PHELAN

PHONE NO. 312 263 5465

Aug. 19 2000 12:05PM P3 P.07

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Michael J. Phelan, Esq.
August 18, 2000
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- 11. Seller acknowledges that Seller is presently in the process of repairing a water leak from a bathtub in the second floor bathroom directly above the first floor foyer, as well as the resulting water damage to the wall in the second floor bathroom and the ceiling in the first floor foyer. Prior to closing, Seller agrees that the repairs to ~~to repair~~ the bathtub in the second floor bathroom so that it is in good working order and the repair of the plaster on the wall of the second floor bathroom and the ceiling of the first floor foyer shall be completed to the condition existing prior to closing such water leak.
- 12. Seller agrees to deliver to Purchaser within five (5) business days following the date of this letter agreement, ~~the three (3) sets~~ one complete set of original plans for relative to the Property and the improvements located thereon so that Purchaser may have such plans reproduced. Purchaser agrees to return the original plans to Seller promptly upon completing the reproduction.
- 13. At closing, Seller shall deliver to Purchaser all keys used in connection with any improvement or personal property located on the Property and any electronic garage door openers and combinations or codes to any locks or alarm systems.
- 14. To the extent there is any inconsistency or conflict between the terms and provisions of this letter and the terms and provisions of the Contract, the terms and provisions of this letter shall govern to the extent necessary to resolve such inconsistency or conflict.
- 15. All agreements, representations, and warranties made in this letter agreement or in the Contract shall be deemed to be remade upon and after the closing, shall survive the closing and shall not merge with the deed.

The modifications set forth above are proposals and are not intended to constitute a counteroffer to the Contract. If the above modifications are agreeable to you and your client, please have the Seller indicate its approval by signing this letter below and returning the letter to this office via facsimile as soon as possible. If this letter is signed by attorneys on behalf of their respective clients, then the attorney represents that he or she has the authority to bind the respective clients.

If you have any questions, please do not hesitate to contact me. I look forward to working with you on this matter.

Very truly yours,

Marjorie Zensar
Marjorie J. Zensar
For ALTHEIMER & GRAY

cc: Tom and Stephanie Formole
S. Michael Peck

ACCEPTED AND AGREED TO THIS
18TH DAY OF AUGUST, 2000

Jeanne S. Burke
Jeanne S. Burke
James P. Burke

TOTAL P. 07

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Legal Description:

LOT 2 IN CHARLES H. SHAW'S RESUBDIVISION OF LOT 'C' IN DAUGHADAYS RESUBDIVISION OF LOTS 8 TO 14 INCLUSIVE IN DAUGHADAYS ACRES BEING A SUBDIVISION OF THE NORTH 1/2 OF THE SOUTH EAST 1/4 OF THE SOUTHWEST 1/4 (EXCEPT THE EAST 100 FEET THEREOF) AND THE SOUTHWEST 1/4 OF THE SOUTH EAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN WINNETKA ACCORDING TO THE PLAT THEREOF RECORDED APRIL 5, 1929 AS DOCUMENT 10330520 IN COOK COUNTY, ILLINOIS

PIN: 05-20-349-032

PROPERTY: 115 Dewindt, WINNETKA, IL

Property of Cook County Clerk's Office