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2001-08-07 14:49:27

Cook County Recorder 39.50

This information drafted by ~~me~~
when recorded should be returned to:



McDermott, Will & Emery
227 West Monroe Street
Chicago, Illinois 60606-5096
Attention: Elizabeth L. Majers, Esq.

INSTRUMENT OF ACCESSION AND ASSUMPTION

This **INSTRUMENT OF ACCESSION AND ASSUMPTION** dated July 6, 2001, made by Bevbook, LLC, a Delaware limited liability company (the "Transferee") and DB Beverly, L.L.C., an Illinois limited liability company (the "Transferor") in favor of the Wilmington Trust Company, as Owner Trustee, its successors and assigns (the "Lender").

WHEREAS, the Lender and the Transferor entered into that certain Project Loan Agreement dated as of February 2, 2001 (the "Project Loan Agreement"), concerning the extension by the Lender to the Transferor of a loan in the principal amount of \$3,903,926.05 (the "Project Loan").

WHEREAS, the obligation of the Project Loan is evidenced by that certain Project Note dated as of as of February 2, 2001 (the "Project Note"), executed by the Transferor in favor of the Lender in the original principal amount of \$3,903,926.05.

WHEREAS, the Project Note was secured by, among other things, that certain Mortgage and Security Agreement dated as of February 2, 2001 (the "Mortgage"), executed by the Transferor in favor of the Lender and recorded in the Cook County Recorder's office on February 13, 2001, Document Number 0010115000, which encumbers that Property attached hereto on Exhibit A (the "Property") and that certain Assignment of Leases and Rents dated as of February 2, 2001 (the "Assignment of Leases") and recorded in the Cook County Recorder's office on February 13, 2001, Document Number 0010115001. The Project Loan Agreement, the Project Note, the Assignment of Leases and the Mortgage, and all other documents and instruments from time to time evidencing or securing the Project Loan, shall collectively be referred to herein as the "Project Loan Documents."

WHEREAS, pursuant to that certain Collateral Assignment of Project Loan Documentation dated as of February 2, 2001, that certain Reassignment of Leases and Rents dated as of February 2, 2001 and recorded in the Cook County Recorder's office on February 13, 2001, Document Number 0010115003 and that certain Assignment of Mortgage dated as of February 2, 2001 and recorded in the Cook County Recorder's office on February 13, 2001, Document Number 0010115002, the Lender has heretofore assigned, transferred, granted, set

01671403 ②

RETURN DOCUMENTS TO:
Law Title - National Division
120 E. Railroad St., Ste. B
Sandwich, IL 60548

over and conveyed all of the Lender's interest in the Project Loan Documents to First Security Bank, N.A., as Collateral Trustee, now known as Wells Fargo Bank Northwest, N.A..

WHEREAS, pursuant to Section 6.4(c) of the Project Loan Agreement, the Transferor desires to sell to the Transferee and the Transferee desires to purchase from the Transferor the Property (the "Transfer").

NOW, THEREFORE, in consideration of and for the mutual benefit of the parties hereto, each of the undersigned does hereby agree as follows:

Section 1. Assumption. The Transferee hereby expressly assumes and agrees, with effect from and after the date hereof, to perform and observe each and every one of the covenants, conditions, obligations, indemnities, duties and liabilities applicable to the Transferor under the Project Loan Documents, including without limitation the Mortgage, the Assignment of Leases, the Project Loan Agreement and the Project Loan Note. All references to any "Maker," "Mortgagor", "Assignor" and "Borrower" in any Project Loan Document shall be deemed to be and include references to the Transferee.

Section 2. Representations of the Transferor. The Transferor represents and warrants to the parties hereto that:

(a) As of the date of closing of the Transfer, the requirements set forth in Section 6.4(c) of the Project Loan Agreement have been satisfied in regard to the obligations of the Transferor.

(b) To the knowledge of the Transferor, as of the date hereof and after giving effect to the Transfer, there exists no Default or Event of Default and no default or event of default under any Project Loan Document.

(c) The Transfer is permitted by the organizational documents of the Transferor.

(d) The Transferor has paid to the Lender all of the Lender's costs and expenses incurred in connection with the Transfer and the non-refundable assumption fee all as set forth in Section 6.4(c) of the Project Loan Agreement.

Section 3. Representations of the Transferee. The Transferee represents and warrants to the parties hereto that:

(a) The requirements set forth in Sections 6.4(c) of the Project Loan Agreement are satisfied after giving effect to the contemplated Transfer.

(b) The Transfer is permitted by the organizational documents of the Transferee.

Section 4. Information. Any notices and other information, heretofore provided to the Transferor under any of the Project Loan Documents, including the Mortgage and the Assignment of Leases, shall hereafter be provided to the Transferee at the following address:

Transferee:

Address: c/o Kin Properties
77 Tarrytown Road, White Plains, New York 10607
Telephone: (914) 683-8080
Facsimile: (914) 683-8088

Section 5. Counterparts. This Instrument of Accession and Assumption may be executed in any number of counterparts all of which together shall constitute but one instrument.

Section 6. Governing Law. THIS INSTRUMENT OF ACCESSION AND ASSUMPTION SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND THE RIGHTS OF THE PARTIES SHALL BE GOVERNED BY, THE LAW OF THE STATE OF ILLINOIS, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PROVISIONS THEREOF. TO THE FULLEST EXTENT PERMITTED BY LAW, THE PARTIES HERETO HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVE ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS INSTRUMENT OF ACCESSION AND ASSUMPTION.

IN WITNESS WHEREOF, the respective parties hereto have caused this Instrument of Accession and Assumption to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

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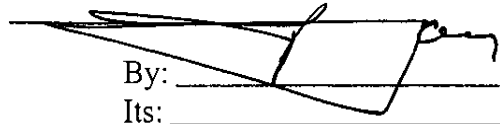
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Transferor:

DB Beverly, L.L.C., an Illinois limited liability company

By: DB Beverly, Inc., an Illinois corporation


Its: Managing Member

By: 
Its: _____

STATE OF Illinois
COUNTY OF Cook) SS.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Patrick F. Daly, the managing member of DB Beverly, L.L.C., personally known to me to be the President of DB-Beverly, Inc., an Illinois corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such _____, he/she signed, sealed and delivered said instrument as _____ of said corporation, pursuant to authority, given by the Board of Directors of said corporation as his/her free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

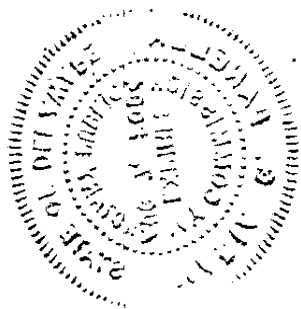
Given under my hand and official seal, this 27 day of June, 2001.

 "OFFICIAL SEAL" MARK A. DELAFIELD Notary Public, State of Illinois My Commission Exp. 10/30/2001

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7-26-2004

Property of Cook County Clerk's Office



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EXHIBIT A

Legal Description

Property of Cook County Clerk's Office

UNOFFICIAL COPY*Beverly*

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FIDELITY NATIONAL TITLE INSURANCE COMPANY OF NEW YORK

Policy No.: Pro Forma
File No.: NYN01-5562IL(B)
Order No.: 01LT1403

EXHIBIT "A"
Legal Description

PARCEL 1:

The South 50 feet of the North 150 feet of Lot 79 in Chamber's Subdivision of the West ½ of the Southwest ¼ of Section 6, Township 37 North, Range 14 East of the Third Principal Meridian, (except therefrom that portion of said Lot 79, falling in the schoolhouse lot, and except also the West 33 feet of said Lot 79 and except also that portion of Lot 79 lying South of a line 54 feet North of and parallel with the South line of said Section 6; conveyed to the City of Chicago by Quit Claim Deed dated October 15, 1930 and recorded November 10, 1930 as Document Number 10786683 in Book 28900, Page 276) all in Cook County, Illinois.

PARCEL 2:

Lot 79 (except the North 150 feet) in Chamber's Subdivision of the West ½ of the Southwest ¼ of Section 6, Township 37 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois, (except therefrom that portion of said Lot 79 falling in school house lot and excepting also the West 33 feet of said Lot 79 and excepting also that portion of Lot 79 lying South of a line 54 feet North of and parallel with the South line of said Section 6 and conveyed to City of Chicago by Quit Claim Deed dated October 15, 1930 and recorded November 10, 1930 as Document 10786683 in Book 28900 Page 276 East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 3:

The North 154 feet of the South 208 feet of the West 175 feet of the East 208 feet of the West ½ of the Southwest ¼ of Section 6, Township 37 North, Range 14 (otherwise described as Lot 81 of George A. Chamber's Subdivision of the West ½ of the Southwest ¼ of Section 6, Township 37 North, Range 14) East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 4:

Lot 41 (except the East 93 feet of said Lot 41) and except that part of said Lot 41 lying South of a line 54 feet North of and parallel with the South line of Section 6 in George A. Chamber's Subdivision of the West ½ of the Southwest ¼ of Section 6, Township 37 North, Range 14 in Cook County, Illinois.

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FIDELITY NATIONAL TITLE INSURANCE COMPANY OF NEW YORK

Policy No.: Pro Forma
File No.: NYN01-5562IL(B)
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EXHIBIT "A"
Legal Description
(continued)

PARCEL 5:

East 93 feet of Lot 41 (except East 33 feet of said Lot 41) and except that part of Lot 41 lying South of a line 54 feet North of and parallel with South line of Section 6 in George A. Chambers Subdivision of West L ½ of Southwest 1/4 of Section 6, Township 37 North, Range 14 in Cook County, Illinois.

PARCEL 6:

The West ½ of that part of South Bell Avenue vacated by City of Chicago Ordinance enacted January 14, 1998, recorded April 9, 1998 as Document No. 98282079, being the East 33 feet of the part of Lot 41 lying North of the North line of West 95th Street as widened by Cook County Court Judgment entered July 9, 1941 as General Number 49438 in George A. Chambers Subdivision of the West Half of the Southwest Quarter of Section 6, Township 37 North, Range 14 East of the Third Principal Meridian in Cook County, Illinois.

PARCEL 7:

The East ½ of that part of South Bell Avenue vacated by City of Chicago Ordinance enacted January 14, 1998 recorded April 9, 1998 as Document No. 98282079, being the West 33 feet of Lot 79 lying South of the Easterly extension of the North line of Lot 41 and North of the North line of West 95th Street as widened by Cook County Court Judgment entered July 9, 1941 as General Number 49438, in George A. Chambers Subdivision of the West Half of the Southwest Quarter of Section 6, Township 37 North, Range 14 East of the Third Principal Meridian in Cook County, Illinois.

The above parcels are also described as follows:

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FIDELITY NATIONAL TITLE INSURANCE COMPANY OF NEW YORK

Policy No.: Pro Forma
File No.: NYN01-5562IL(B)
Order No.: 01LT1403

EXHIBIT "A"
Legal Description
(continued)

Part of Lots 41, 79 and 81 in George A. Chamber's Subdivision of the West Half of the Southwest Quarter of Section 6, Township 37 North, Range 14 East of the Third Principal Meridian, and the adjacent portion of vacated South Bell Avenue, City of Chicago, Cook County, Illinois, being more particularly described as follows:

COMMENCING at the Southwest Corner of Lot 41;

THENCE North 00 degrees 11 minutes 00 seconds West 21.00 feet to an "X" set in the concrete sidewalk at the North Line of 95th Street at the Point of Beginning;

THENCE North 00 degrees 11 minutes 00 seconds West, 105.37 feet to a Set "X" in the concrete sidewalk;

THENCE North 89 degrees 59 minutes 43 seconds East, 329.25 feet to a set 3/4 inch steel rebar;

THENCE North 00 degrees 09 minutes 10 seconds West, 20.47 feet to a set 3/4 inch steel rebar;

THENCE North 89 degrees 59 minutes 25 seconds East, 88.57 feet to a set 3/4 inch steel rebar;

THENCE North 00 degrees 09 minutes 29 seconds West, 22.71 feet to a set 3/4 inch steel rebar;

THENCE North 89 degrees 59 minutes 39 seconds East, 174.53 feet being previously recorded as 175.00 feet to a set 3/4 inch steel rebar;

THENCE South 00 degrees 09 minutes 56 seconds East, 154.61 feet;

THENCE North 90 degrees 00 minutes 00 seconds West, 529.33 feet to an "X" set in the concrete sidewalk at the Point of Beginning.