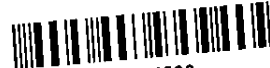


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2001-12-03 15:03:11
Cook County Recorder-Deputy 91.50



ASSUMPTION AGREEMENT

THIS ASSUMPTION AGREEMENT (the "Agreement"), executed as of November 26, 2001, but to be effective as of October 8, 2001, is made by and among D&K ELK GROVE INDUSTRIAL I, LLC, a Delaware limited liability company, and D&K ELK GROVE INDUSTRIAL EXCHANGE, LLC, a Delaware limited liability company (collectively, "Original Borrower"), D&K ELK GROVE INDUSTRIAL I, LLC, in its own capacity ("New Borrower"), DRAPER AND KRAMER, INCORPORATED, an Illinois corporation ("Guarantor"), and COLUMN FINANCIAL, INC., a Delaware corporation ("Lender").

WITNESSETH:

WHEREAS, Lender made a loan (the "Loan") to Original Borrower on June 7, 2001, in the principal amount of EIGHTEEN MILLION NINE HUNDRED TWENTY FOUR THOUSAND DOLLARS (\$18,924,000.00); and

WHEREAS, Original Borrower executed and delivered to Lender that certain Promissory Note (the "Note") dated June 6, 2001, payable to the order of Lender in the amount of and evidencing the Loan; and

WHEREAS, Original Borrower executed and delivered that certain Mortgage, Security Agreement and Fixture Filing (as amended, the "Mortgage") dated of even date with the Note, for the benefit of the Lender, recorded June 11, 2001 as document number 0010505580, in the Recorder's Office of Cook County, Illinois, covering the real property described in Exhibit A attached hereto and incorporated herein for all purposes, together with all improvements, appurtenances, other properties (whether real or personal), rights and interests described in and encumbered by the Mortgage (the "Property"), to secure the payment of the Note and performance by Original Borrower of the other obligations set forth in the Loan Documents (as herein defined); and

WHEREAS, Original Borrower caused to be issued by First American Title Insurance Company (the "Title Company") that certain Policy of Title Insurance (the "Policy") dated June 11, 2001, in the amount of the Note, insuring the dignity and priority of the lien created and evidenced by the Mortgage; and

WHEREAS, the Original Borrower caused Guarantor to execute and deliver to Lender that certain Indemnity and Guaranty Agreement and that certain Hazardous Substances Indemnity Agreement (each individually, and collectively, a "Guaranty") both dated of even date with the Note guaranteeing certain obligations of the Original Borrower as set forth in the Loan Documents and performance by Original Borrower of certain obligations as set forth in the Loan Documents; and

CC 200077. B C-16
59 Sale
AMERICAN TITLE order #

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WHEREAS, Lender has been asked to consent to the transfer of the Property to New Borrower and the assumption of the obligations of Original Borrower by New Borrower under the Note, Mortgage, Guaranty and other related documents executed by Original Borrower or third parties pertaining to, evidencing or securing the Loan (collectively, the "Loan Documents"); and

WHEREAS, Lender has agreed to consent to the transfer of the Property and the assumption of the Loan subject to the terms and conditions stated below.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, Original Borrower, New Borrower and Guarantor hereby agree as follows:

1. Assumption of Original Borrower's Obligations. New Borrower agrees to ASSUME AND DOES HEREBY ASSUME all of the payment and performance obligations of Original Borrower set forth in the Note, Mortgage, Guaranty and the other Loan Documents in accordance with their respective terms and conditions, including without limitation, the obligation of payment of all sums due under the Note. New Borrower further agrees to abide by and be bound by all of the terms of the Loan Documents, all as though each of the Loan Documents had been made, executed and delivered solely by New Borrower.

2. Assumption of Guarantor's Obligations. Guarantor hereby affirms its assumption of all of the payment and performance obligations of Guarantor set forth in the Guaranty in accordance with the terms and conditions thereof, including without limitation, the obligation of payment of all "Costs" (as defined in the Guaranty) due under the Guaranty. Guarantor further agrees to abide by and be bound by all of the terms of the Guaranty.

3. Consent to Transfer. Lender, by acceptance hereof, hereby consents to the transfer of the Property and to the assumption by New Borrower of all of the obligations of Original Borrower under the Loan Documents, subject to the terms and conditions set forth in this Agreement. Lender's consent to the transfer of the Property to New Borrower is not intended to be and shall not be construed as a consent to any subsequent transfer or conveyance which requires the Lender's consent pursuant to the terms of the Mortgage.

4. Release and Discharge. In consideration of the assumption of all of Original Borrower's obligations set forth in the Note, Mortgage, Guaranty and the other Loan Documents by New Borrower and the affirmation of all of Guarantor's obligations set forth in the Guaranty by Guarantor, and provided that no Bankruptcy Event (as hereinafter defined) has occurred on or before the date that is 370 days after the effective date hereof (the "Release Date"), Lender hereby agrees to RELEASE and DISCHARGE D&K Elk Grove Industrial Exchange, LLC ("Exchange Party") from and against any and all recourse liability pursuant to the Loan Documents (except as provided in Section 8 below), which release and discharge shall be effective as of the Release Date. For purposes of this Agreement, a "Bankruptcy Event" shall mean any of the following events with

respect to Exchange Party or any managing member of Exchange Party (individually, an "Obligated Party" and collectively, the "Obligated Parties") which occurs prior to the Release Date: (i) any Obligated Party files any voluntary petition under any chapter of the Bankruptcy Code, Title 11 U.S.C.A. (hereinafter referred to as the "Bankruptcy Code"), or in any manner seeks relief, protection, reorganization, liquidation, dissolution or similar relief for debtors under any local, state, federal or other insolvency law or laws providing for relief of debtors, or in equity, or directly or indirectly causes any Obligated Party to file any such petition or to seek any such relief; or (ii) any Obligated Party directly or indirectly causes any involuntary petition under any chapter of the Bankruptcy Code to be filed against any Obligated Party or directly or indirectly causes any Obligated Party to become the subject of any proceeding pursuant to any other state, federal or other insolvency law or laws providing for relief of debtors; or (iii) any Obligated Party directly or indirectly causes the Property or any other interest of any Obligated Party in the Property to become the property of any bankrupt estate or the subject of any state or federal or other bankruptcy, dissolution, liquidation or insolvency proceedings. Exchange Party hereby further agrees that in the event of the filing of any voluntary or involuntary petition in bankruptcy by or against any one or more of the Obligated Parties, none of the Obligated Parties shall assert or request any other party to assert that the automatic stay provided in Section 362 of the Bankruptcy Code shall operate or be interpreted to stay, interdict, condition, reduce, or inhibit the ability Lender to enforce any rights it may have by virtue of this Agreement, the Loan Documents, or any other rights Lender has, whether now or hereafter acquired against any one or more of the Obligated Parties, or against the Property; and further that in the event of the filing of any voluntary or involuntary petition in bankruptcy by or against any one or more of the Obligated Parties, such parties shall not seek a supplemental stay or any other relief, whether injunctive or otherwise, pursuant to Section 105 of the Bankruptcy Code, or any other provision of the Bankruptcy Code to stay, interdict, condition, reduce or inhibit the ability of Lender to enforce any rights it has by virtue of this Agreement, the Loan Documents, or any of the rights Lender has whether now or hereafter acquired against any one or more of the Obligated Parties or against the Property. None of the Obligated Parties shall challenge or attempt to challenge or have any standing to challenge or attempt to challenge for its own benefit any foreclosure upon the Property, as a fraudulent conveyance under federal, state or other law; and none of the Obligated Parties shall oppose the appointment of a trustee, examiner or receiver, and to the extent permitted by law will stipulate that any "custodian" (as defined in the Bankruptcy Code) which is in custody, control or possession of the Property is excused complying with Section 543 of the Bankruptcy Code.

5. No Impairment of Lien. Nothing set forth herein shall affect the priority or extent of the lien of any of the Loan Documents, nor, except as expressly set forth herein, release or change the liability of any party who may now be or after the date of this Agreement, become liable, primarily or secondarily, under the Loan Documents. Except as expressly modified hereby, the Note, Mortgage, Guaranty and the other Loan Documents shall remain in full force and effect and this Agreement shall have no effect on the priority or validity of the liens set forth in the Mortgage or the other Loan Documents, which are incorporated herein by reference.

6. New Borrower's Obligations. From and after the effective date of this Agreement, any documents, actions or responsibility which are required to be undertaken by Original Borrower shall be deemed to be a responsibility of New Borrower. For example, but without limitation, New Borrower is now required to provide financial statements and information with respect to itself in lieu of the provision of financial information by Original Borrower as to Original Borrower. Additionally, circumstances in the Loan Documents which would or could create a default and/or an Event of Default and which are relative to the nature or condition of Original Borrower shall now be deemed effective as to the nature or condition of New Borrower (e.g., dissolution or bankruptcy of New Borrower shall now constitute a default rather than dissolution or bankruptcy of Original Borrower).

7. No Waiver of Remedies. Except as may be expressly set forth herein, nothing contained in this Agreement shall prejudice, act as, or be deemed to be a waiver of any right or remedy available to Lender by reason of the occurrence or existence of any fact, circumstance or event constituting a default under the Note or the other Loan Documents.

8. Ratification by Original Borrower. By its execution hereof, Original Borrower ratifies and confirms that the assumption by New Borrower of all of Original Borrower's obligations set forth in the Note, Mortgage, Guaranty and the other Loan Documents shall not relieve Original Borrower of any personal liability under the Note, Mortgage, Guaranty or any of the Loan Documents for any acts or events occurring or obligations arising prior to or simultaneously with the date hereof.

9. Ratification by Guarantor. By its execution hereof, Guarantor ratifies and confirms that the assumption by New Borrower of all of Original Borrower's obligations set forth in the Note, Mortgage, Guaranty and the other Loan Documents, and the affirmation by Guarantor of all of Guarantor's obligations set forth in the Guaranty, shall not relieve Guarantor of any personal liability under the Guaranty for any acts or events occurring or obligations arising prior to or simultaneously with the date hereof.

10. Release of Lender. By its execution hereof, Exchange Party hereby releases Lender, its officers, directors, employees and agents from all claims and liability relating to the transactions evidenced by the Note, Mortgage, Guaranty and the other Loan Documents, through and including the date hereof.

11. Notices. Any notices or other communications required or permitted under this Agreement or the Loan Documents shall be provided in accordance with the requirements therefor as set forth in the Loan Documents.

12. Costs and Expenses. Contemporaneously with the execution and delivery hereof, New Borrower and Original Borrower shall pay, or cause to be paid, all costs and expenses incident to the preparation, execution and recordation hereof and the consummation of the transaction contemplated hereby, including, but not limited to, reasonable fees and expenses of legal counsel to Lender.

13. Additional Documentation. From time to time, New Borrower and Guarantor shall execute or procure and deliver to Lender such other and further documents and instruments evidencing, securing or pertaining to the Loan or the Loan Documents as shall be reasonably requested by Lender so as to evidence or effect the terms and provisions hereof. Upon Lender's request, New Borrower shall cause to be delivered to Lender an opinion of counsel, satisfactory to Lender as to form, substance and rendering attorney, opining to (i) the validity and enforceability of this Agreement and the terms and provisions hereof, and any other agreement executed in connection with the transaction contemplated hereby; (ii) the authority of New Borrower and Guarantor, and any constituents of New Borrower and Guarantor, to execute, deliver and perform its or their respective obligations under the Loan Documents, as hereby modified; and (iii) such other matters as reasonably requested by Lender.

14. Effectiveness of the Loan Documents. Except as expressly modified by the terms and provisions hereof, each of the terms and provisions of the Loan Documents are hereby ratified and shall remain in full force and effect; provided, however, that any reference in any of the Loan Documents to the Loan, the amount constituting the Loan, any defined terms, or to any of the other Loan Documents shall be deemed, from and after the date hereof, to refer to the Loan, the amount constituting the Loan, defined terms and to such other Loan Documents, as modified hereby.

15. **GOVERNING LAW. THE TERMS AND PROVISIONS HEREOF SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN.**

16. Time. Time is of the essence in the performance of the covenants contained herein and in the Loan Documents.

17. Binding Agreement. This Agreement shall be binding upon the successors and assigns of the parties hereto; provided, however, the provisions of this Paragraph 15 shall not be deemed or construed to (i) permit, sanction, authorize or condone the assignment of all or any part of the Property or any of Purchaser's rights, titles or interests in and to the Property, except as expressly authorized in the Loan Documents; or (ii) confer any right, title, benefit, cause of action or remedy upon any person or entity not a party hereto, which such party would not or did not otherwise possess.

18. Headings. The section headings hereof are inserted for convenience of reference only and shall in no way alter, amend, define or be used in the construction or interpretation of the text of such section.

19. Construction. Whenever the context hereof so requires, reference to the singular shall include the plural and likewise, the plural shall include the singular; words denoting gender shall be construed to mean the masculine, feminine or neuter, as appropriate; and specific enumeration shall not exclude the general, but shall be construed as cumulative of the general recitation.

20. Severability. If any clause or provision of this Agreement is or should ever be held to be illegal, invalid or unenforceable under any present or future law applicable to the terms hereof, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and that in lieu of each such clause or provision of this Agreement that is illegal, invalid or unenforceable, such clause or provision shall be judicially construed and interpreted to be as similar in substance and content to such illegal, invalid or unenforceable clause or provision, as the context thereof would reasonably suggest, so as to thereafter be legal, valid and enforceable.

21. Counterparts. To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature and acknowledgment of, or on behalf of, each party, or that the signature and acknowledgment of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures and acknowledgment of, or on behalf of, each of the parties hereto. Any signature and acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures and acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature and acknowledgment pages.

22. **ENTIRE AGREEMENT.** THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS EMBODY THE FINAL, ENTIRE AGREEMENT AMONG THE PARTIES HERETO AND THERETO AND SUPERSEDE ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS, AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO OR THERETO. THERE ARE NO ORAL AGREEMENTS AMONG THE PARTIES HERETO OR THERETO. THE PROVISIONS OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS MAY BE AMENDED OR WAIVED ONLY BY AN INSTRUMENT IN WRITING SIGNED BY THE RESPECTIVE PARTIES TO SUCH DOCUMENTS.

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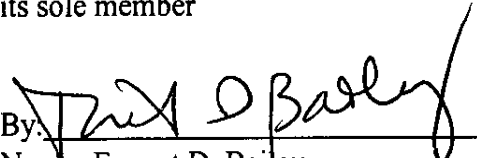
EXECUTED to be effective as of the date set forth in the first paragraph hereof.

ORIGINAL BORROWER:

D&K ELK GROVE INDUSTRIAL I, LLC,
a Delaware limited liability company


By: D&K ELK GROVE INDUSTRIAL
MANAGER I, LLC,
a Delaware limited liability company,
its Managing Member

By: DRAPER AND KRAMER,
INCORPORATED,
an Illinois corporation,
its sole member

By: 
Name: Forrest D. Bailey
Title: President

**D&K ELK GROVE INDUSTRIAL EXCHANGE,
LLC,** a Delaware limited liability company

By: CDECREE, Inc.,
an Illinois corporation and its sole member

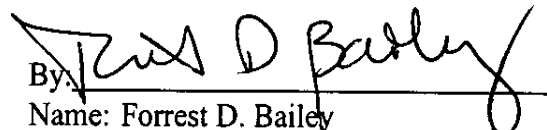
By: 
Name: Naomi Weitzel
Title: Vice President

NEW BORROWER:

D&K ELK GROVE INDUSTRIAL I, LLC,
a Delaware limited liability company


By: **D&K ELK GROVE INDUSTRIAL
MANAGER I, LLC,**
a Delaware limited liability company,
its Managing Member

By: **DRAPER AND KRAMER,**
INCORPORATED,
an Illinois corporation,
its sole member

By: 
Name: Forrest D. Bailey
Title: President

GUARANTOR:

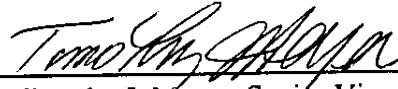
DRAPER AND KRAMER, INCORPORATED,
an Illinois corporation

By: 
Name: Forrest D. Bailey
Title: President

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LENDER:

COLUMN FINANCIAL, INC.,
a Delaware corporation

By: 
Timothy J. Meyer, Senior Vice President

Property of Cook County Clerk's Office

ASSUMPTION AGREEMENT - SIGNATURE PAGE

3011-743/Property Name: East State and Busse Road

STATE OF ILLINOIS §
§
COUNTY OF COOK §

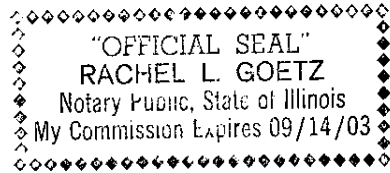
This instrument was ACKNOWLEDGED before me on the 4th day of October, 2001, by FORREST D. BAILEY, the President of DRAPER AND KRAMER, INCORPORATED, an Illinois corporation, the sole member of D&K ELK GROVE INDUSTRIAL MANAGER I, LLC, a Delaware limited liability company, the Managing Member of D&K ELK GROVE INDUSTRIAL I, LLC, a Delaware limited liability company, on behalf of said company.

[SEAL]

My Commission Expires:

Rachel L. Goetz
Notary Public - State of Illinois

Rachel L. Goetz
Printed Name of Notary Public



STATE OF ILLINOIS §
§
COUNTY OF COOK §

This instrument was ACKNOWLEDGED before me on the 4th day of October, 2001, by Naomi Whitzel, the vice president of CDECRE, INC., an Illinois corporation, the sole member of D&K ELK GROVE INDUSTRIAL EXCHANGE, LLC, a Delaware limited liability company, on behalf of said company.

[SEAL]

My Commission Expires:

3-26-05



Miriam Golden
Notary Public - State of Illinois

MIRIAM GOLDEN
Printed Name of Notary Public

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11134500

STATE OF ILLINOIS §
 §
COUNTY OF COOK §

This instrument was ACKNOWLEDGED before me on the 4th day of October, 2001, by FORREST D. BAILEY, the President of DRAPER AND KRAMER, INCORPORATED, an Illinois corporation, the sole member of D&K ELK GROVE INDUSTRIAL MANAGER I, LLC, a Delaware limited liability company, the Managing Member of D&K ELK GROVE INDUSTRIAL I, LLC, a Delaware limited liability company, on behalf of said company.

[SEAL]

My Commission Expires:

Rachel L. Goetz

Notary Public - State of Illinois

Rachel L. Goetz

Printed Name of Notary Public



STATE OF ILLINOIS §
 §
COUNTY OF COOK §

This instrument was ACKNOWLEDGED before me on the 4th day of October, 2001, by Forrest D. Bailey, the President of DRAPER AND KRAMER INCORPORATED, an Illinois corporation, on behalf of said corporation.

[SEAL]

My Commission Expires:

Rachel L. Goetz

Notary Public - State of Illinois

Rachel L. Goetz

Printed Name of Notary Public



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STATE OF ILLINOIS §
 §
COUNTY OF COOK §

This instrument was ACKNOWLEDGED before me on the 3rd day of October, 2001, by, TIMOTHY J. MEYER, the Senior Vice President of COLUMN FINANCIAL, INC., a Delaware corporation.

[S E A L]



Jane E Price
Notary Public - State of Illinois

My Commission Expires

5/19/03

Jane E Price
Printed Name of Notary Public

Exhibit List

Exhibit A - Legal Description

::ODMA\PCDOCS\Dallas_1\35214254
1192:3011-743

EXHIBIT A

PROPERTY DESCRIPTION

Parcel 1: Regent Industrial, 501-565 Busse Road & 1800-1872 Brummel Road, Elk Grove Village, Illinois, more particularly described as follows:

THE SOUTH 920.24 FEET, AS MEASURED ALONG THE EAST LINE OF A 200.0 FOOT STRIP OF LAND CONVEYED TO THE COUNTY OF COOK BY DEED RECORDED JANUARY 12, 1939 AS DOCUMENT NO. 12259408, OF THAT PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING SOUTHERLY AND WESTERLY OF THE CENTER LINE OF HIGGINS ROAD, EAST OF THE EAST LINE OF SAID 200.0 FOOT STRIP OF LAND AND LYING NORTHERLY OF A LINE DRAWN AT RIGHT ANGLES TO THE EAST LINE OF SAID 200 FOOT STRIP OF LAND FROM A POINT ON SAID EAST LINE OF SAID 200 FOOT STRIP OF LAND, 1957.80 FEET SOUTH, AS MEASURED ALONG THE EAST LINE OF SAID 200 FOOT STRIP OF LAND, OF THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 26, EXCEPTING THEREFROM THE EAST 30.0 FEET, MEASURED AS RIGHT ANGLES TO THE EAST LINE THEREOF, IN COOK COUNTY, ILLINOIS.

P.I.N. #:08-26-100-011

Parcel 2: 920 East State Street, Schaumburg, Illinois, more particularly described as follows:

PARCEL 1:

LOT 1 IN S.D.K. 2A, A RESUBDIVISION OF LOTS 7 AND 8 IN SCHAUMBURG CENTER FOR COMMERCE UNIT 2, A RESUBDIVISION OF PART OF OUTLOTS B AND C IN SCHAUMBURG INDUSTRIAL PARK, A SUBDIVISION OF THE SOUTHEAST 1/4 OF SECTION 11, PART OF THE NORTHEAST 1/4 OF SECTION 11, PART OF THE SOUTHWEST 1/4 OF SECTION 12, PART OF THE NORTHWEST 1/4 OF SECTION 13 AND NORTHEAST 1/4 SECTION 14 ALL IN TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY DECLARATION OF RECIPROCAL DRIVEWAY EASEMENT FILED MARCH 22, 1985 AS DOCUMENT LR 3426082 FOR PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS OVER

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THE SOUTH 220 FEET OF THE WEST 30 FEET OF LOT 1 IN SCHAUMBURG CENTER FOR COMMERCE UNIT 2A, BEING A RESUBDIVISION OF LOTS 4, 5 AND 6 IN SCHAUMBURG CENTER FOR COMMERCE UNIT 2, A RESUBDIVISION OF PART OF OUTLOTS B AND C IN SCHAUMBURG INDUSTRIAL PARK, A SUBDIVISION OF THE SOUTHEAST 1/4 OF SECTION 11, PART OF THE NORTHEAST 1/4 OF SECTION 11, PART OF THE SOUTHWEST 1/4 OF SECTION 12, PART OF THE NORTHWEST 1/4 OF SECTION 13 AND NORTHEAST 1/4 OF SECTION 14 ALL IN TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY ILLINOIS.

P.L.C. #: 07-11-202-039

PREPARED BY & MAIL TO:

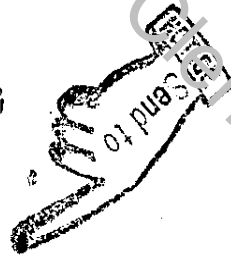
ROBERT PINNICK

WINSTEAD SECURITY & PINNICK P.C.

5400 RENAISSANCE TOWER

1201 ELM ST.

DALLAS, TX 75270



::ODMA\PCDOCS\Dallas_1\3521425\4

EXHIBIT A - Property Description - Page 2

3011-743/Property Name: East State and Busse Road