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2000-02-22 14:20:45
Cook County Recorder 39.00



BOX 9
DSB

Property of Cook County Clerk's Office

(The Above Space For Recorder's Use Only)

SECOND MORTGAGE

THIS SECOND MORTGAGE ("Mortgage") dated as of the 22 day of February, 2000 is made by **MARTHA V. WATTERSON**, also known as Dixie Watterson, a divorced woman not remarried (the "Mortgagor"), in favor of **MARTHA S. WATTERSON**, a single woman never married (Mortgagee").

RECITALS

A. Mortgagor is the fee owner of certain real property located at 704 Judson Avenue, Evanston, Illinois and legally described in **Exhibit A** attached hereto and by this reference made a part hereof (such real property and the improvements now or hereafter located thereon, are referred to collectively herein as the "Real Estate").

B. The Real Estate is currently encumbered by a First Mortgage in favor of CDK Mortgage, Inc. dated March 8, 1994 in the original principal amount of TWO HUNDRED THREE THOUSAND ONE HUNDRED FIFTY AND NO/100 US DOLLARS (\$203,150) (the "First Mortgage").

C. In order to secure the payment when and as due and payable of an indebtedness in the sum of ONE HUNDRED FIFTY SEVEN THOUSAND EIGHT HUNDRED AND NO/100 U.S. DOLLARS (\$157,800) in lawful money of the United States to be paid with interest thereon according to that certain Note bearing even date herewith from Mortgagor to Mortgagee, Mortgagee requires that Mortgagor execute, deliver and record this Second Mortgage, subject only to the First Mortgage.

AGREEMENTS

NOW, THEREFORE, Mortgagor, to secure the (a) payment of the indebtedness evidenced by the Note and (b) the performance and observance of all of the provisions of

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this Mortgage and the Note, hereby GRANTS, CONVEYS, SELLS, MORTGAGES, PLEDGES AND ASSIGNS the Real Estate and all of its estate, title and interest therein unto Mortgagee, its successors and assigns (the Real Estate, together with all improvements, tenements, easements, appurtenances and fixtures thereto belonging and all replacements and additions thereof, is hereinafter referred to as the "Property");

TO HAVE AND TO HOLD the Property unto Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. **Recitals.**

All of the foregoing recitals are made a part hereof.

2. **Payment of Principal and Interest.**

Mortgagor shall promptly pay when due the principal and interest on the debt evidenced by the Note and any late charges due under the Note.

3. **Preservation, Maintenance and Protection of the Property.**

Mortgagor shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Mortgagor shall be deemed in default hereunder if any forfeiture action or proceeding, whether civil or criminal, is begun which, in Mortgagee's good faith judgment, could result in forfeiture of the Property or otherwise materially impair the lien created by this Mortgage. Mortgagor may cure such a default and reinstate, as provided in **Paragraph 12** hereof, by causing the action or proceeding to be dismissed with a ruling that, in Mortgagee's good faith determination, precludes forfeiture of the Mortgagor's interest in the Property or other material impairment of the lien created by this Mortgage.

4. **Taxes, Charges and Liens.**

Mortgagor shall promptly pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Mortgage and leasehold payments or ground rents, if any.

Mortgagor shall promptly discharge any lien, other than the First Mortgage, which has priority over this Mortgage unless Mortgagor either: (a) agrees in writing to pay the obligation secured by the lien in a manner acceptable to Mortgagee; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which operate to prevent the enforcement of the lien or (c) secures from the holder of the lien an agreement satisfactory to Mortgagee subordinating the lien to this Mortgage.

5. **Insurance.**

Mortgagor shall keep the improvements now existing or hereafter erected on the Property insured against loss by (i) fire, (ii) hazards included within the term "extended coverage" and (iii) any other hazards, including floods or flooding, for which Mortgagee

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reasonably requires insurance. Such insurance shall be in form, companies and amounts reasonably acceptable to Mortgagee and contain a standard mortgagee clause. Mortgagee shall have the right to hold the policies and renewals, and if Mortgagee so requires, Mortgagor shall promptly provide to Mortgagee all receipts of paid premiums and renewal notices. If Mortgagor fails to maintain the insurance coverage as described above, Mortgagee may, at Mortgagee's option, obtain coverage to protect Mortgagee's rights in the Property.

In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and Mortgagee may make proof of loss if not promptly made by Mortgagor.

Unless Mortgagee and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to the restoration or repair of the Property if such restoration or repair is economically feasible and Mortgagee's security is not lessened thereby. If the restoration or repair is not economically feasible or Mortgagee's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess being paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within thirty (30) days of receipt of a notice from Mortgagee that the insurance carrier has offered to settle a claim, then Mortgagee may collect the insurance proceeds. Mortgagee may use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, whether or not then due.

Unless Mortgagee and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the payments due under the Note or change the amount of such payments.

6. 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 Mortgagee. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Mortgagor. 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 Mortgage immediately before the taking, unless Mortgagor and Mortgagee otherwise agree in writing, the sums secured by this Mortgage shall be reduced by the amount of the proceeds multiplied by a fraction, the numerator of which shall be the total amount of the sums secured immediately before the taking and the denominator of which shall be the fair market value of the Property immediately before the taking. Any balance remaining after such reduction shall be paid to Mortgagor. 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 Mortgagor and Mortgagee otherwise agree in writing, or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Mortgage whether or not the sums are then due.

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If the Property is abandoned by Mortgagor, or if, after notice by Mortgagee to Mortgagor that the condemnor offers to make an award or settle a claim for damages, Mortgagor fails to respond to Mortgagee within thirty (30) days after the date of Mortgagor's receipt of such notice, Mortgagee 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 Mortgage, whether or not then due.

Unless Mortgagee and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the payments due under the Note or change the amount of such payments.

7. Hazardous Substances.

Mortgagor shall not cause or permit the presence, use, disposal, storage or release of any Hazardous Substances on the Property. Mortgagor shall not perform or permit any action 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 uses and maintenance of the Property.

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

As used in this **Paragraph 7**, "Hazardous Substances" shall mean those substances defined as toxic or hazardous substances by any Environmental Law, as well as the following substances: gasoline, kerosene and 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 7**, "Environmental Law" shall mean all federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

8. Inspection.

Mortgagee or its agent may make reasonable entry upon the Property for the purpose of inspecting the Property, provided that Mortgagee shall give Mortgagor at least three (3) days prior written notice of Mortgagee's desire to inspect the Property and the reasons therefor.

9. Protection of Mortgagee's Rights in the Property.

If Mortgagor fails to perform the covenants and agreements contained in this Mortgage or there is a legal proceeding that may significantly affect Mortgagee's rights in the Property, such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations, then Mortgagee may take whatever action is

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necessary to protect the value of the Property and Mortgagee's rights in the Property. Such actions may include paying any sums secured by a lien which has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Any amounts expended by Mortgagee under this **Paragraph 9** shall become additional debt of Mortgagor secured by this Mortgage. Unless Mortgagor and Mortgagee agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the rate of interest stated in the Note and shall be payable, with interest thereon, upon notice from Mortgagee to Mortgagor requesting payment.

10. Transfer of the Property or a Beneficial Interest in Mortgagor.

If all or any part of the Property or any interest therein is sold or transferred by Mortgagor (or if a beneficial interest in Mortgagor is sold or transferred and Mortgagor is not a natural person) without Mortgagee's prior written consent, Mortgagee may, at its option, require immediate payment in full of all sums secured by this Mortgage in accordance with the provisions of **Paragraph 11** below.

11. Acceleration; Remedies.

Mortgagee shall give notice to Mortgagor prior to acceleration following Mortgagor's breach of any covenant or agreement in this Mortgage or the Note. Such notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date such notice is received by Mortgagor, 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 Mortgage, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Mortgagor of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Mortgagor to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Mortgagee at its option may require immediate payment in full of all sums secured by this Mortgage without further demand and may foreclose this Mortgage by judicial proceeding. Mortgagee shall be entitled to collect all expenses incurred in pursuing the remedies provided in this **Paragraph 11**, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

12. Mortgagor's Right to Reinstate.

If Mortgagor meets the conditions in the next succeeding sentence, Mortgagor shall have the right to have enforcement of this Mortgage discontinued at any time prior to the earlier of: (a) five (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 Mortgage or (b) entry of a judgment enforcing this Mortgage. In order to have enforcement of this Mortgage discontinued, Mortgagor must: (a) pay Mortgagee all sums then due under this Mortgage and the Note as if no acceleration had occurred, (b) cure any default of any other covenants or agreements, (c) pay all expenses incurred by Mortgagee in enforcing this Mortgage, including, but not limited to, reasonable attorneys' fees and (d) take such action as Mortgagee may reasonably require to assure that the lien of this Mortgage, Mortgagee's rights in the Property and Mortgagor's obligation to pay the sums secured by this Mortgage shall remain unchanged. Upon reinstatement by Mortgagor, this Mortgage and the obligations secured hereby shall

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remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under **Paragraph 10**.

13. **Mortgagor Not Released; Forbearance By Mortgagee Not a Waiver.**

Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Mortgagee to any successor in interest of Mortgagor shall not operate to release the liability of the original Mortgagor or Mortgagor's successors in interest. Mortgagee 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 Mortgage by reason of any demand made by the original Mortgagor or Mortgagor's successors in interest. Any forbearance by Mortgagee in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

14. **Release.**

Upon payment of all sums secured by this Mortgage, Mortgagee shall release this Mortgage without charge to Mortgagor. Mortgagor shall pay any recordation costs in connection with such release.

15. **Waiver of Homestead Rights.** Mortgagor hereby releases and waives all right under and by virtue of any Homestead Exemption Laws, and Mortgagor hereby covenants that as of the date of this Mortgage, Mortgagor is well seized of said Property in fee simple, and with full legal and equitable title to the Property, with good right, full power and lawful authority to sell, assign, convey and mortgage the same, and that it is free and clear of encumbrances, except for any encumbrances of record consented to by Mortgagee, and that Mortgagor will forever defend the same against all lawful claims.

16. **Notices.**

Any notice, demand, request or other communication that any party may desire or may be required to give to any other party hereunder shall be given in writing (at the addresses set forth below) by any of the following means: (a) personal service; (b) electronic communication, whether by telegram or telecopier, together with confirmation of transmission; (c) overnight courier; or (d) registered or certified United States mail, postage prepaid, return receipt requested.

Mortgagor: Dixie Watterson
704 Judson Avenue
Evanston, Illinois 60202

Mortgagee: Martha S. Watterson
1423 W. Addison Street
Apartment #2
Chicago, Illinois 60613
Tel: 1-773-477-3429
Fax: 1-773-477-4163

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Such addresses may be changed by notice to the other parties given in the same manner as herein provided. Any notice, demand, request or other communication sent pursuant to either subparagraph (a) or (b) hereof shall be served and effective upon such personal service or upon confirmation of transmission by such electronic means. Any notice, demand, request or other communication sent pursuant to subparagraph (c) shall be served and effective one (1) business day after deposit with the overnight courier. Any notice, demand, request or other communication sent pursuant to subparagraph (d) shall be served and effective three (3) business days after proper deposit with the United States Postal Service.

17. **Miscellaneous.**

(a) The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Mortgagee and Mortgagor.

(b) If the loan secured by this Mortgage 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 Mortgagor which exceeded permitted limits will be refunded to Mortgagor. Mortgagee may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Mortgagor. If a refund reduces principal, the reduction will be treated as a partial prepayment.

(c) This Mortgage shall be governed by federal law and the law of Illinois. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision. To this end the provisions of this Mortgage and the Note are declared to be severable.

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IN WITNESS WHEREOF, the undersigned has caused this Mortgage to be executed as of the day and year first above written.

MORTGAGOR

Martha V. Watterson
MARTHA V. WATTERSON
(a/k/a Dixie Watterson)

MORTGAGEE

Martha S Watterson
MARTHA S. WATTERSON

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STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Martha V. Watterson (a/k/a Dixie Watterson), personally known to be the same person whose name is subscribed to the foregoing instrument as such, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and official seal this 22 day of February, 2000.

[Handwritten Signature]
 OFFICIAL SEAL
 DOUGLAS S. BUCK
 NOTARY PUBLIC, STATE OF ILLINOIS
 MY COMMISSION EXPIRES 10-28-2001

STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Martha S. Watterson, personally known to be the same person whose name is subscribed to the foregoing instrument as such, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and official seal this 22 day of February, 2000.

[Handwritten Signature]

 Notary Public

OFFICIAL SEAL
 DOUGLAS S. BUCK
 NOTARY PUBLIC, STATE OF ILLINOIS
 MY COMMISSION EXPIRES 10-28-2001

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EXHIBIT A

Legal Description

LOT 25 IN BLOCK 3 IN KEDZIE AND KEENEY'S ADDITION TO EVANSTON IN SECTION 19, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**Property Address: 704 Judson Avenue
Evanston, Illinois 60202**

PIN: 11-19-408-029 VOLUME 059

**Prepared By and After
Recording Return To:**

Hopkins & Sutter
Three First National Plaza
Suite 4300
Chicago, Illinois 60602
Attention: Douglas S. Buck, Esq.