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Cook County Recorder 39.50



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Cook County Recorder 39.50

THIS INSTRUMENT PREPARED BY
AND PLEASE RETURN TO:
JENNIFER L. WORSTELL, ESQ.
100 WEST MONROE STREET #1500
CHICAGO, ILLINOIS 60603

SUBORDINATION AGREEMENT

THIS AGREEMENT is executed on March 20th, 2002, among Builders Capital, LLC, an Illinois limited liability company ("Junior Lender"), and Taughnaconnell Investors, L.L.C. ("Mortgagor") for the benefit of Heritage Community Bank ("Senior Lender").

WITNESSETH:

A. Mortgagor holds fee simple title to the property commonly known as 2725 N. Mildred, Chicago, Illinois ("Real Estate"), which is legally described on Exhibit A attached hereto. Junior Lender is the holder of the following security documents (collectively "Junior Security Documents") executed concurrently herewith and affecting the Real Estate:

1. Junior Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-2 Financing Statement (Junior Mortgage);
2. Promissory Note in the amount of \$90,000 ("Junior Note");
3. Construction Loan Agreement; and
4. other documents of a security, collateral and evidentiary nature.

B. The Junior Security Documents are encumbrances against the Real Estate, together with the buildings and improvements located thereon (the "Mortgaged Property").

C. The Junior Security Documents are subject and inferior to the following documents in favor of Senior Lender (collectively "Senior Security Documents") executed in connection with the loan from Senior Lender to Borrower in the amount of \$1,130,000 ("Senior Loan"):

1. Mortgage affecting the Real Estate ("Senior Mortgage");
2. Promissory Note in the amount of \$1,130,000 ("Senior Note"); and

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3. any and all other documents evidencing, securing or executed in connection with the Senior Loan.

D. As a condition to Senior Lender's approval of the placement of the lien of the Senior Mortgage and the Junior Mortgage on the Mortgaged Property, Senior Lender has required that Junior Lender execute this Agreement to confirm the priority of the Senior Security Documents over the Junior Security Documents and to confirm certain other agreements of the parties.

NOW THEREFORE, in consideration of Senior Lender's approval of the placement of the Junior Security Documents on the Mortgaged Property, Junior Lender does hereby covenant and agree with Senior Lender as follows:

1. The Junior Security Documents and any and all of the terms, modifications, amendments, renewals, additions, consolidations and extensions of the foregoing Junior Security Documents shall be subject and subordinate to all liens and security interests created under the Senior Security Documents for all sums which may be advanced, payable (including, without limitation, fixed, additional and contingent interest and prepayment premiums of all kinds) or secured thereunder (including without limitation, sums advanced to protect, perfect, preserve or defend such liens or security interests), without notice to the holders of the Junior Security Documents and to any and all modifications, amendments, renewals, additions, consolidations, extensions and replacements of any of the Senior Security Documents.

2. Notwithstanding anything to the contrary contained in the Junior Security Documents:

- (a) If any action or proceeding shall be brought to foreclose any of the Junior Security Documents, no tenant of any portion of the Mortgaged Property, no manager of the Mortgaged Property will be named as a party defendant in any such foreclosure action or proceeding, nor will any other action be taken with respect to any tenant of any portion of the Mortgaged Property, or with respect to any such manager, the effect of which would be to terminate any lease of any portion of the Mortgaged Property, or any such management agreement, without the written consent of the holder of the outstanding Senior Security Documents.

- (b) If a notice of default or any action or proceeding shall be brought to foreclose the Junior Security Documents, due notice of such notice of default or of the commencement of such action or proceeding will be given to the holder of the outstanding Senior Lender Loan Documents and true copies of all such notices and all papers served or entered in any such action or proceeding will be served upon the holder of such Senior Security Documents.

- (c) In the event the holder of the Senior Security Documents shall release, for the purposes of restoration of all or any part of the Mortgaged Property, its right, title and interest in and to the proceeds under policies of insurance thereon, and/or in and to any awards, or in and to other compensation made for any damages, losses or compensation for other rights by reason of a taking in eminent domain, the holders of the Junior Security Documents shall likewise for such purpose releases all of their rights, title and interest, if any, in and to such insurance proceeds or awards.

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(d) Any assignment of rents or leases contained in the Junior Security Documents, or in any collateral assignment thereof if separate therefrom, shall be in all respects subject and subordinate to the Senior Security Documents and any collateral assignment of such rents or leases if separate therefrom.

(e) The holders of the Junior Security Documents shall not acquire, by subrogation or otherwise, any lien, estate, right or other interest in the Mortgaged Property which is or may be prior in right to the Senior Security Documents, including, without limitation, advances for real estate taxes and assessments or advances to cure any default under the Senior Security Documents.

(f) If there is proposed any amendment, modifications, consolidation, extension or alteration of either the Junior Security Documents or the terms of the Junior Security Documents, then, prior to making any such amendment, modification, consolidation, extension or modification, Mortgagor and Junior Lender shall Senior obtain the consent of the holder of the Senior Security Documents and further shall be required to (i) have any guarantor of the Senior Security Documents consent to same and (ii) provide evidence satisfactory to the holder of the Senior Security Documents that foreclosure of the Junior Security Documents will not terminate or constitute a default under any lease or management agreement.

(g) All provisions of the Junior Security Documents relating to the rights of the holders of the Junior Security Documents to receive insurance proceeds and condemnation awards or to have such insurance proceeds and condemnation awards assigned to such holder, or to determine the application or use of such insurance proceeds and condemnation awards (whether to restoration, costs or as and to the extent provided in the Senior Security Documents, the sums secured by such Senior Security Documents) shall have no force of effect until satisfaction and discharge of all obligations under the Senior Security Documents and release of the security interests set forth therein.

(h) The indebtedness secured by the Junior Security Documents shall be limited to the principal amount of the promissory notes or instruments evidencing grants secured by the Junior Security Documents (in the aggregate amount of \$90,000) plus certain accrued but unpaid interest. No other indebtedness of Mortgagor and no other further advances, if made, shall be secured by the lien of the Junior Security Documents.

(i) To further evidence the subordinations referred to in (a) through (i) above, Junior Lender agrees that, within twenty (20) days after request by the holder of the Senior Security Documents (which requests may be made from time to time, including, such times as future advances may be made to the Mortgagor by Senior Lender) it will do, execute, acknowledge and deliver any and all such further acts, deeds, conveyances and instruments, or reaffirmations of this subordination, as the holder of such Senior Security Documents may reasonably request for the better assuring and evidencing of the foregoing subordinations.

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(j) In no event shall the provisions of the Junior Security Documents prohibit or restrict Mortgagor from executing, acknowledging and delivering all and every such further acts, deeds, conveyances and instruments that Mortgagor is obligated to deliver under the Senior Security Documents.

(k) The holders of the Senior Security Documents and the Junior Security Documents shall send true copies of all default or acceleration notices, or of notices of the commencement of any action or proceeding under the Senior Security Documents or Junior Security Documents, and of all papers served or entered in any such action or proceeding, to the holder of the Senior Security Documents and Junior Security Documents, in the manner for notices specified herein, contemporaneously with sending or serving the same to or on Mortgagor, or entering the same in such action or proceeding. Any notice which any party hereto may desire or may be required to give to any other party shall be in writing, and the mailing thereof by certified mail to the addresses hereafter set forth or to such other place as any party hereto may by notice in writing designate, shall constitute service of notice hereunder:

IF TO SENIOR LENDER: Heritage Community Bank
18301 S. Halsted
Glenwood, Illinois 60425
Attention: Patrick G. Fanning

IF TO MORTGAGOR: Taughnaccornell Investors, L.L.C.
2724 N. Lincoln Avenue
Chicago, Illinois 60614

IF TO JUNIOR LENDER: Builders Capital, LLC
210 Quail Ridge Drive
Westmont, Illinois 60559
Attn: Denis J. Daly, Jr.

(l) If a default shall occur beyond applicable grace periods under either of the Junior Security Documents, the holder of the Junior Security Documents shall not accelerate the debt secured by the Junior Security Documents without notifying the holder of the Senior Security Documents of such fact and giving the latter at least ten (10) days to cure the specified default (and shall accept any cure of the default tendered by or on behalf of the holder of such Senior Security Documents) subject to the additional limitations set forth in the Junior Security Documents.

(m) Within twenty (20) days after request from the holder of the Senior Security Documents, the holders of the Junior Security Documents shall execute and deliver to the former an estoppel certificate stating (i) the outstanding principal balance of the Junior Security Documents and any accrued but unpaid interest thereon, (ii) the date to which interest and principal has been paid, (iii) that the Junior Security Documents and promissory notes thereby secured have not been modified or amended, except as specified therein, and (iv) whether a notice of default has been sent

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under the Junior Security Documents, as the case may be, or the promissory notes thereby secured, which default remains uncured.

3. All of the foregoing subordination provisions and other agreements in this Subordination are for the express benefit of Senior Lender and any future holder of the Senior Security Documents.

4. In the event of any conflict between the provisions of this Subordination and any other provisions of the Junior Security Documents, the provisions of this Subordination shall take priority and shall control and apply.

IN WITNESS WHEREOF, Junior Lender, Mortgagor and Senior Lender have caused this Agreement to be executed as of the day and year Senior above written.

SENIOR LENDER:

Heritage Community Bank, an Illinois banking corporation

By: [Signature]
Its Vice President

Attest: [Signature]
Its Commercial Credit Officer

JUNIOR LENDER:

Builders Capital, LLC, an Illinois limited liability company

By: _____
Denis J. Daly, Jr., its Managing Member

MORTGAGOR:

Taughtnaconnell Investors, L.L.C., an Illinois limited liability company

By: _____
John D. Colbert, its Manager

By: _____
Joseph T. Geoghegan, its Manager

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under the Junior Security Documents, as the case may be, or the promissory notes thereby secured, which default remains uncured.

3. All of the foregoing subordination provisions and other agreements in this Subordination are for the express benefit of Senior Lender and any future holder of the Senior Security Documents.

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IN WITNESS WHEREOF, Junior Lender, Mortgagor and Senior Lender have caused this Agreement to be executed as of the day and year Senior above written.

SENIOR LENDER:

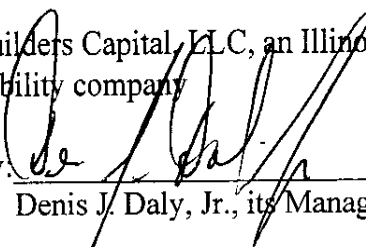
Heritage Community Bank, an Illinois banking corporation

By: _____
Its _____

Attest: _____
Its _____

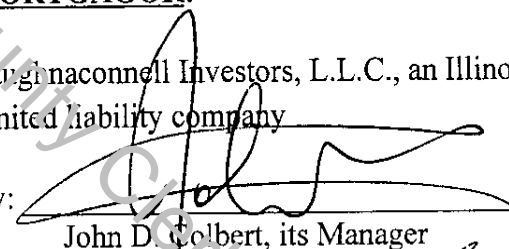
JUNIOR LENDER:

Builders Capital, LLC, an Illinois limited liability company

By: 
Denis J. Daly, Jr., its Managing Member

MORTGAGOR:

Toughnaconnell Investors, L.L.C., an Illinois limited liability company

By: 
John D. Colbert, its Manager

By: 
Joseph T. Geoghegan, its Manager

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STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that _____ and _____, _____ and _____ of Taughnaconnell Investors, L.L.C., an Illinois liability company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal _____, 2002.

Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Lori Moseley and Patrick Fanning, _____ and _____, respectively, of Heritage Community Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 3-21, 2002.



Dion F. Grey
Notary Public

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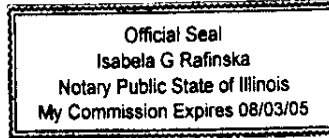
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STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that John Colbot and Terence George Lopez and _____ of Taughnaconnell Investors, L.L.C., an Illinois liability company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal March 20, 2002.

Isabela G. Rafinska
Notary Public



STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Patrick Fanning and Levi Massey and _____, respectively, of Heritage Community Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal March 20, 2002.

Isabela G. Rafinska
Notary Public



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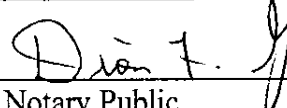
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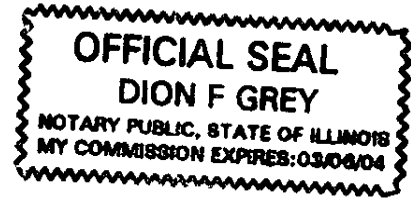
The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Denis J. Daly, Jr., Managing Member of Builders Capital, LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 3-21, 2002.



Notary Public

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EXHIBIT A

LEGAL DESCRIPTION:

LOT 16 IN BLOCK 3 IN BERGMAN AND OTHERS' SUBDIVISION OF THE WEST 3/4 OF THE BLOCK 9 IN THE CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS: 2725 N. Mildred, Chicago, Illinois
P.I.N.: 14-29-406-016-0000

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