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Cook County Recorder 46.50

**COMBINED SECURITY AGREEMENT AND COLLATERAL ASSIGNMENT
OF BENEFICIAL INTEREST IN LAND TRUST**

Re: Elmdale Apartments Conversion, Des Plaines, Illinois



0030239380

THIS COMBINED SECURITY AGREEMENT AND COLLATERAL ASSIGNMENT OF BENEFICIAL INTEREST IN LAND TRUST ("Agreement") is made as of January 30, 2003, by **ELMDALE INVESTMENT LIMITED PARTNERSHIP**, an Illinois limited partnership (the "Beneficiary"), as the owner of the entire beneficial interest under a certain Trust Agreement dated November 4, 1977 ("Trust Agreement") and known as Trust No. 53348 (the "Trust") with **LASALLE BANK NATIONAL ASSOCIATION**, as successor Trustee ("Trustee"), in favor of **OAK BROOK BANK**, an Illinois banking corporation ("Secured Party").

1. **Grant of Security Interest; Assignment; Collateral.** To secure the Obligations (as such term is hereinafter defined), Beneficiary hereby grants a security interest in and assigns to Secured Party all of the rights and interests of Beneficiary under the Trust Agreement including, without limitation (a) the right to receive distributions of any property held by the Trust and all proceeds from all dispositions or realizations of any kind from any property owned by the Trust, whether disposition is by way of sale, rental, mortgage or otherwise and whether realization is by way of recovery of the proceeds of any insurance covering any property of the Trust; and (b) the absolute assignment and transfer to Secured Party of the entire beneficial interest in and all rights and powers of direction with regard to the Trust, the property of the Trust and the proceeds of any of the foregoing. The foregoing rights and interest of Beneficiary in, to and under the Trust Agreement are hereinafter collectively referred to as the "Collateral."

2. **Obligations.** The obligations secured by this Agreement (collectively, the "Obligations") are the following: (a) the indebtedness evidenced by a certain mortgage note (the "Note") in the principal amount of \$8,265,000.00 made as of even date herewith by Beneficiary and the Trust payable to the order of and delivered to Secured Party (the "Note"), pursuant to that certain Conversion Mortgage Loan Agreement of even date herewith among the Trust, Beneficiary, Guarantor (as defined therein) and Secured Party (the "Loan Agreement"), and any extensions, renewals or refinancings thereof; (b) any other obligations, liabilities, or indebtedness which may be due and owing from Trust and Beneficiary to Secured Party, or by any co-maker or guarantor of the Note, whether such obligations, liabilities or indebtedness are now existing or

THIS ASSIGNMENT IS FOR COLLATERAL PURPOSES ONLY AND IS
THEREFORE NOT SUBJECT TO ANY TRANSFER OR TRANSACTION TAX
IMPOSED BY ANY GOVERNMENTAL BODY

hereafter created, direct or indirect, absolute or contingent, joint or several, due or to become due, howsoever created, evidenced, evidenced or arising and howsoever acquired by Secured Party, and any extensions, renewals or refinancings thereof; (c) any sum paid or incurred by Secured Party pursuant to Paragraph 4(a) hereof; and (d) all costs and expenses paid or incurred by Secured Party in realizing upon or protecting the Collateral and enforcing the collection of the Obligations, including without limitation, court costs and attorneys' fees.

3. **Representations, Warranties, Covenants and Agreements.** Beneficiary represents, warrants, covenants and agrees as follows:

(a) Beneficiary is owner of one hundred percent (100%) of the beneficial interest in the Trust free and clear of any claim, encumbrance, restriction, right or option of any kind.

(b) Secured Party requires as a condition precedent to its making the Loan that Beneficiary collaterally assign to Secured Party all of Beneficiary's beneficial interest in the Trust as additional collateral for the repayment of the Note. Beneficiary desires to deliver this Agreement to Secured Party in order to induce Secured Party to accept the Note and make the Loan.

(c) Beneficiary will defend the Collateral and the property of the Trust at any time against any claims of any persons adverse to the claim of Secured Party.

(d) The Trustee is the owner of fee title to the property (the "Property") legally described in **Exhibit A** attached hereto. The Property is without any liens, restrictions or encumbrances of any kind except for that certain mortgage and security agreement (the "Mortgage") of even date herewith made by the Trust to Secured Party, and those additional liens, restrictions or encumbrances heretofore approved by Secured Party as permitted liens, restrictions or encumbrances.

(e) There is no Financing Statement now on file in any public office relating to all or any portion of the beneficial interest under the Trust or the property of the Trust, and so long as any amount remains unpaid on any of the Obligations of the Trustee and Beneficiary to Secured Party, Beneficiary shall not execute and there shall not be on file in any public office any additional Financing Statement or Statements describing or attempting to describe the Collateral secured herein. Beneficiary authorizes Secured Party to file Financing Statements pursuant to the Uniform Commercial Code as in effect from time to time in the State of Illinois (the "Code") and Beneficiary agrees to pay the fee for filing the same in all public offices where filing may be deemed necessary by Secured Party.

(f) Beneficiary and the Trust shall perform and comply with all obligations, agreements, covenants, terms and conditions contained in the Mortgage, including without limitation, the obligations to: maintain insurance covering the Property; pay when due general

taxes and special assessments covering the Property; and maintain the Property in good condition and repair.

(g) Beneficiary shall not hereafter assign, sell, transfer, encumber, pledge, hypothecate or grant a security interest in the Collateral or any interest therein to anyone other than Secured Party without the prior written consent of Secured Party. Beneficiary shall not direct the Trustee to, and the Trustee shall not, lease, sell, transfer or encumber any of the Property (nor suffer or permit anyone else to do so) or execute any document or written instrument without the prior written consent of Secured Party. Beneficiary expressly authorizes and directs the Trustee to refuse to accept or register upon its trust records any subsequent assignment or hypothecation of the beneficial interest in the Trust, for any purpose, without the prior written consent of Secured Party, until the security interest secured by this Agreement shall have been released. Secured Party may withhold any such consents, with or without cause, for so long as any amounts are owing under the Note.

(h) Beneficiary shall not revoke or amend the Trust Agreement until the security interest granted by this Agreement shall have been released pursuant to the Loan Agreement. In the event the Trust Agreement directs the Trustee to sell any Property remaining in the Trust twenty years from the date thereof or on any other specified date, and if the Mortgage has not been released of record at or prior to said date, Beneficiary hereby irrevocably authorizes and directs the Trustee to extend the Trust for an additional term which shall be co-extensive with the unexpired term of the Note.

4. **Rights and Obligations of the Secured Party.**

(a) At its option, Secured Party may, but need not, discharge taxes, liens or security interests or other liens or encumbrances at any time levied or placed on the Collateral or the Property from and after the failure by Beneficiary and/or Trustee to pay and/or discharge the same within the time limits provided herein and in the other Loan Documents. Secured Party also has the option to pay, in the amount and subject to the terms and conditions contained in the Mortgage, for insurance on the Property and to pay expenses for the maintenance and preservation of the Collateral or the Property, to the extent such items are required to be paid by Beneficiary or the Trust and are not in fact so paid by Beneficiary or the Trust as and when required. Any payment made, or any expense incurred by Secured Party pursuant to this paragraph 4(a) shall become a part of the Obligations hereby secured and Beneficiary shall reimburse Secured Party promptly upon receipt of written demand from Secured Party for the amount paid or incurred plus interest thereon at an annual rate equal to four percent (4%) plus the applicable Loan Rate (as defined in the Note) then in effect under the Note from and after the date so incurred by Secured Party.

(b) Notwithstanding anything to the contrary appearing in the Trust Agreement, the interest hereinabove described is granted and assigned to Secured Party by way of collateral security only and, accordingly, Secured Party by its acceptance hereof shall not be

deemed to have assumed or become liable for any of the obligations or liabilities of Beneficiary under the Trust Agreement, whether provided for by the terms thereof, arising by operation of law or otherwise; Beneficiary hereby acknowledging that it remains liable thereunder to the same extent as though this Agreement has not been made until such time as Secured Party has completed foreclosure proceedings against the Collateral and Beneficiary no longer has any right, title or interest in or to the Collateral.

(c) The acceptance by Secured Party at any time and from time to time of part payment on the Obligations shall not be deemed to be a waiver of any default then existing. No consent or waiver, express or implied, by Secured Party of any default shall be deemed to be a waiver of any other then existing or subsequent default, nor shall any such consent or waiver by Secured Party be deemed to be a continuing consent or waiver. No delay or omission by Secured Party in exercising any right, remedy or privilege hereunder shall impair any such right, remedy or privilege or be construed as a consent or waiver thereof or any acquiescence in the default giving rise thereto, nor shall any single or partial exercise of any such right, remedy or privilege preclude other or further exercise thereof, or the exercise of any other right, remedy or privilege of Secured Party hereunder.

(d) All rights, remedies and privileges available to Secured Party hereunder shall be cumulative of and in addition to all other rights, remedies and privileges granted to Secured Party at law or in equity, and may be exercised from time to time, and as often as may be deemed expedient by Secured Party.

5. **Events of Default.** The occurrence of any one or more of the following shall constitute an "**Event of Default**" for purposes of this Agreement:

(a) Failure by Beneficiary or the Trust to pay or cause to be paid on the date when due any installment of principal or interest, or failure to pay when due any other amount payable, pursuant to the Note, the Mortgage, this Agreement, the Loan Agreement or any of the other Loan Documents; or

(b) Failure by Beneficiary or the Trust to promptly perform any other obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by Beneficiary or the Trust under this Agreement, the Loan Agreement, the Note, the Mortgage or any other Loan Document, after ten (10) days written notice thereof from Secured Party provided, however, that in the event that such failure cannot be cured within said ten (10) day period, and Beneficiary or the Trust otherwise diligently commence to cure within said ten (10) days, then Beneficiary and the Trust shall have a period not to exceed sixty (60) days after the date that the original notice to cure the same and an Event of Default shall not be deemed to exist during said sixty (60) day period, unless the continued operation or safety of the Project, or the priority, validity or enforceability of the lien created by this Agreement, the Mortgage, or any other Loan Document or the value of the Real Estate is impaired, threatened or jeopardized. Notwithstanding the foregoing, if such failure to perform involves a negative

covenant including, without limitation, the single purpose entity covenants or the prohibition against sales or transfers of interest in the Real Estate, in each such case no cure period shall be provided; or

(c) The existence of any material inaccuracy or untruth in any representation, covenant or warranty contained in this Agreement or any other document securing the Note, or of any statement or certification as to facts delivered to Secured Party by Beneficiary or the Trust, any co-maker or guarantor of the Note, or any applicant for the loan evidenced by the Note; or

(d) At any time, the Beneficiary or Guarantor files a voluntary petition in bankruptcy, or is adjudicated a bankrupt or insolvent, or institutes (by petition, application, answer, consent or otherwise) any bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, dissolution, liquidation or similar proceedings under any present or future federal, state or other statute or law, or admits in writing his or its inability to pay his or its debts as they mature or makes an assignment for the benefit of his or its creditors, or seeks or consents to the appointment of any receiver, trustee or similar officer for all or any substantial part of his or its property; or

(e) The commencement of any involuntary petition in bankruptcy against the Beneficiary or Guarantor, or the institution against the Beneficiary or Guarantor of any reorganization, arrangement, composition, readjustment, dissolution, liquidation or similar proceedings under any present or future federal, state or other statute or law, or the appointment of a receiver, trustee or other officer for all or any substantial part of the property of the Beneficiary or Guarantor, which shall remain undismissed or undischarged for a period of ninety (90) days; or

(f) Any sale, transfer, lease, assignment, conveyance, pledge, lien or encumbrance made in violation of the Loan Documents; or

(g) The making of any levy, judicial seizure or attachment on the Collateral or any portion thereof, which shall remain undismissed or undischarged for a period of thirty (30) days; or

(h) The death or legal incompetence of the Guarantor.

6. **Rights of Parties Upon Default.** Upon the occurrence of an Event of Default, or at any time or times or from time to time thereafter, Secured Party may, either before or after taking possession of the Collateral:

(a) exercise any one or more or all the rights or remedies set forth in the Note, the Mortgage, the Loan Agreement or any other document or security instrument given to secure the Note, and in addition thereto Secured Party shall have full power and authority to exercise all or any one or more of the remedies and shall have all the rights of a secured party under the

Code. Any requirement of the Code for reasonable notice shall be met if such notice is mailed, postage prepaid, to Beneficiary at the address of Beneficiary as set forth in Paragraph 8 below at least ten (10) days prior to the time of the sale, disposition or other event or thing giving rise to the requirement of notice. Secured Party shall have the unqualified right, in connection with any such sale of collateral, to execute and deliver an assignment of said beneficial interest to the purchaser at any such sale, free of any right of redemption by Beneficiary, and upon the filing thereof with the Trustee of the Trust, said Trustee shall recognize said assignee as the absolute owner of said beneficial interest for any and all purposes whatsoever and shall act on directions of said assignee without any liability or obligation to Beneficiary whatsoever, without inquiry into the validity or propriety of such sale or assignment, and irrespective of any notice whatsoever from Beneficiary or any other person, unless and until said Trustee is served with an order of court prohibiting further action by the Trustee upon the direction of such assignee; and

(b) proceed immediately to exercise each and all of the powers, rights and privileges reserved or granted to Beneficiary under the Trust Agreement to manage, direct, control and deal with the property or any part thereof covered by the Trust Agreement, including without limitation, the right to collect and receive the proceeds from rentals and from mortgages, sales, conveyances or other dispositions or realizations of any kind or character of or from the Property or any part thereof; and

(c) proceed to protect and enforce this Agreement by suits or proceedings in equity, at law or otherwise, whether for the foreclosure hereof or for the appointment of a receiver of the Property or any part thereof, or for the enforcement of any other proper legal or equitable remedy available under applicable law.

Without limiting the generality of the foregoing, and by reason of the Trustee, upon the direction of Beneficiary, having expressly waived in the Mortgage (i) any and all rights to retain possession of the property after the occurrence of an Event of Default (as defined in the Mortgage) and (ii) all rights of redemption from sale under any order or decree of foreclosure, Beneficiary hereby agrees and acknowledges that in the event of a default under this Agreement, Secured Party shall have the right to enforce its rights and remedies under this Agreement, the Mortgage or either or both of the foregoing.

Any and all net proceeds received by Secured Party by reason of the foregoing subparagraphs (a), (b) and (c), after first deducting all legal or other costs and expenses in effecting such realization, shall be applied to pay any or all of the indebtedness hereby secured as Secured Party shall deem proper, any excess to be returned to Beneficiary. Upon full payment of all indebtedness hereby secured, this Agreement and the lien or charge created hereby or resulting herefrom shall cease to exist.

7. **Additional Provisions.** This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Illinois. All provisions of this Agreement shall be deemed valid and enforceable to the extent permitted by law. Any provision or

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provisions of this Agreement which are held unenforceable, invalid or contrary to law by a court of competent jurisdiction, or the inclusion of which would affect the validity or enforceability of this Agreement, shall be of no force or effect, and in such event each and all of the remaining provisions of this Agreement shall subsist and remain and be fully effective according to the tenor of this Agreement as though such invalid, unenforceable or unlawful provision or provisions had not been included in this Agreement. All rights, powers and remedies of Secured Party under this Agreement shall inure to the benefit of its successors and assigns, including all other holders, from time to time, of the Note, and all obligations and liabilities of Beneficiary and the Trust shall bind and be enforceable against Beneficiary and the Trust, and their respective successors and permitted assigns. Time is of the essence of this Agreement. The headings of paragraphs in this Agreement are for convenience only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof.

8. Notices. Any notice or demand required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or mailed by United States registered or certified mail, return receipt requested, addressed as follows:

TO SECURED PARTY: OAK BROOK BANK
1400 Sixteenth Street
Oak Brook, Illinois 60523
Attention: John Bonino

WITH A COPY TO: MELTZER, PURTILL & STELLE, LLC
1515 East Woodfield Road
Second Floor
Schaumburg, Illinois 60173-5431
Attention: Randall S. Kulat

TO BENEFICIARY: ELMDALE INVESTMENT LIMITED PARTNERSHIP
810 Pleasant Lane
Glenview, Illinois 60025
Attention: James R. Walsh

TO TRUST: LASALLE BANK NATIONAL ASSOCIATION
135 South LaSalle Street
Chicago, IL 60603
Land Trust Department Trust No. 53348

WITH A COPY TO: HOWARD C. GOODE, ESQ.
707 Skokie Boulevard, Suite 410
Northbrook, Illinois 60062

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Either party may designate a different address for notice purposes by giving notice thereof in accordance with this paragraph; provided, however, that such notice shall not be deemed given until actually received by the addressee. Any notice or demand given by United States mail shall be deemed given on the second business day after the same is deposited in the United States mail as registered or certified mail, addressed as above provided, with postage thereon fully prepaid.

9. **Equitable Mortgage.** Beneficiary represents and warrants that this Agreement is solely a pledge of personal property, and that this document is not intended to be, nor shall it be construed as, an equitable mortgage. Notwithstanding anything herein to the contrary, in the event a court of competent jurisdiction determines that this Agreement constitutes an equitable mortgage, Beneficiary hereby expressly waives all rights and benefits under and by virtue of the Homestead Exception laws of the State of Illinois which may arise with respect to the Collateral. Beneficiary agrees that Beneficiary shall not and will not apply for or avail himself or itself of any appraisal, valuation, stay, extension, exemption, or redemption laws, now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Agreement should it be deemed an equitable mortgage, Beneficiary hereby specifically waiving to the extent permissible by law all rights and benefits under laws of the State of Illinois which may arise with respect to the Collateral.

10. **Counterparts.** This Agreement may be executed and delivered by any party hereto by way of counterpart, which, when taken together with all executed counterparts hereof shall constitute a single agreement; provided, however, that any counterpart, when taken separately from other counterparts shall be fully binding and enforceable as against the party signatory thereto, without respect to the other counterparts.

(the balance of this page is intentionally left blank)

This Agreement made by Beneficiary as of the date and year first above written.

ELMDALE INVESTMENT LIMITED PARTNERSHIP, an Illinois limited partnership, by its general partners

By: P.A.G., INC., an Illinois corporation, a General Partner

By: Robert W. Dineff
Its: VICE PRESIDENT

James R. Walsh
JAMES R. WALSH, a General Partner

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ACCEPTANCE BY SECURED PARTY

The undersigned accepts the foregoing Combined Security Agreement and Collateral Assignment of Beneficial Interest in Land Trust and agrees upon payment of the above-described Obligations to execute and deliver a reassignment to Beneficiary.

OAK BROOK BANK

By: 

Its: ELP

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TRUSTEE'S ENDORSEMENT

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LASALLE BANK NATIONAL ASSOCIATION, as successor to LaSalle National Trust, N.A., successor to LaSalle National Bank, not personally, but solely as Trustee ("Trustee") under Trust Agreement dated November 4, 1977 and known as Trust No. 53348, hereby acknowledges receipt of the foregoing Combined Security Agreement and Collateral Assignment of Beneficial Interest in Land Trust. Until the foregoing Combined Security Agreement and Collateral Assignment of Beneficial Interest in Land Trust is released by OAK BROOK BANK, the undersigned agrees that it shall not (a) permit or allow Beneficiary to deal with or amend the Trust Agreement, (b) acknowledge or accept any absolute assignment or collateral assignment by Beneficiary of all or any portion of the beneficial interest in the Trust (whether or not subordinate to this Agreement), (c) execute any note, mortgage, trust deed, contract or other written instrument, and (d) lease, sell, transfer or convey title to the Property, unless in each case such act is first approved in writing by Secured Party.

LASALLE BANK NATIONAL ASSOCIATION, as successor to LaSalle National Trust, N.A., successor to LaSalle National Bank, as Trustee under the terms of that certain Trust Agreement dated November 4, 1977 and known as Trust No. 53348

By: _____
Its: _____

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EXHIBIT A

Legal Description of the Property

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THAT PART OF THE WEST ½ OF THE NORTHWEST ¼ (EXCEPTING THE SOUTH 34 ACRES THEREOF) OF SECTION 24, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST ¼ OF SAID SECTION 24; THENCE EASTWARD ALONG THE NORTH LINE OF SAID SECTION 24, NORTH 89 DEGREES 30 MINUTES 00 SECONDS EAST, A DISTANCE OF 575.58 FEET TO A POINT BEING 757.12 FEET WEST OF THE NORTHEAST CORNER OF THE SAID WEST ½ OF THE NORTHWEST ¼ OF SECTION 24; THENCE SOUTH 1 DEGREE 29 MINUTES 20 SECONDS EAST, A DISTANCE OF 653.01 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 1 DEGREES 29 MINUTES 20 SECOND EAST, A DISTANCE OF 906.59 FEET TO A POINT ON THE NORTH LINE THE SAID SOUTH 34 ACRES OF THE WEST ½ OF THE NORTHWEST ¼ OF SECTION 24; THENCE EASTWARD ALONG THE SAID NORTH LINE, NORTH 89 DEGREES 01 MINUTES 09 SECONDS EAST, A DISTANCE OF 566.01 FEET TO A POINT BEING 191.01 FEET WEST OF THE EAST LINE OF THE WEST ½ OF THE NORTHWEST ¼ OF SAID SECTION 24; THENCE NORTH 01 DEGREES 29 MINUTES 20 SECONDS WEST, A DISTANCE OF 901.84 FEET; THENCE SOUTH 89 DEGREES 30 MINUTES 00 SECONDS WEST, A DISTANCE OF 566.08 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Cook County Clerk's Office

STATEMENT BY GRANTOR AND GRANTEE

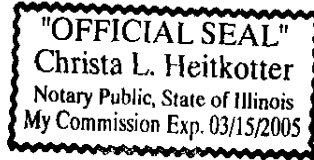
The grantor or his agent affirms that, to the best of his knowledge, the name of the grantee shown on the deed or assignment of beneficial interest in a land trust is either a natural person, an Illinois Corporation or foreign corporation authorized to do business or acquire and hold title to real estate in Illinois, a partnership authorized to do business or acquire and hold title to real estate in Illinois, or other entity recognized as a person and authorized to do business or acquire and hold title to real estate under the laws of the State of Illinois.

Dated JAN 29, 2003 19

Signature: Howard C. Goodell Grantor or Agent

Subscribed and sworn to before be by the said this 29th day of January 19 2003

Notary Public Christa L. Heitkotter



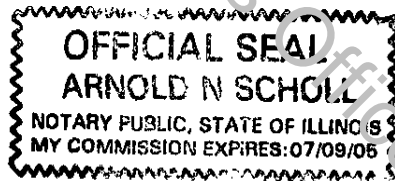
The grantee or his agent affirms and verifies that the name of the grantee shown on the deed or assignment of beneficial interest in a land trust is either a natural person, an Illinois Corporation or foreign corporation authorized to do business or acquire and hold title to real estate in Illinois, a partnership authorized to do business or acquire and hold title to real estate in Illinois, or other entity recognized as a person and authorized to do business or acquire and hold title to real estate under the laws of the State of Illinois.

Dated FEB 14, 2003 19

Signature: Arnold N. Scholl Grantee or Agent

Subscribed and sworn to before be by the said this 14th day of FEBRUARY 19 2003

Notary Public Arnold N. Scholl



NOTE: Any person who knowingly submits false statement concerning the identity of a grantee shall be guilty of a Class C misdemeanor for the first offense and of a Class A misdemeanor for subsequent offense.

(Attach to deed or ABI to be recorded in Cook County, Illinois, if exempt under the provisions of Section 4 of the Illinois Real Estate Transfer Tax Act)