

# UNOFFICIAL COPY



When recorded, return to:

Kenneth A. Latimer, Esq.  
Duane Morris, LLP  
227 West Monroe Street  
Suite 3400  
Chicago, Illinois 60606

Doc#: 0325133130  
Eugene "Gene" Moore Fee: \$48.00  
Cook County Recorder of Deeds  
Date: 09/08/2003 09:59 AM Pg: 1 of 13

8151583-Da-Tms (3 of 3)

ASSIGNMENT OF RENTS AND LEASES AND AGREEMENTS  
AFFECTING REAL ESTATE  
(Estate Homes of Lincoln Park Commons, LLC)

KNOW ALL PERSONS BY THESE PRESENTS: That

WHEREAS, the undersigned, **ESTATE HOMES OF LINCOLN PARK COMMONS, LLC**, an Illinois limited liability company ("**Assignor**"), is the present owner of a fee simple estate in property more particularly described on Exhibit "A" attached hereto (the "**Premises**"), and **OHIO SAVINGS BANK**, a federal savings bank ("**Assignee**"), is the owner and holder of (i) a Mortgage Note of even date in the original principal amount of FOURTEEN MILLION NINE HUNDRED THOUSAND AND NO/100 DOLLARS (\$14,900,000.00) executed and delivered by Assignor to Assignee (the "**Land Note**"), (ii) a Revolving Mortgage Note of even date in the original principal amount of EIGHT MILLION AND NO/100 DOLLARS (\$8,000,000.00) executed and delivered by Assignor to Assignee, evidencing a revolving line of credit, all or any part of which may be advanced to Assignor, repaid by Assignor, and readvanced to Assignor provided that the principal balance outstanding at any time shall not exceed the foregoing amount (the "**Unit Construction Note**" and, together with the Land Note, severally and collectively the "**Note**"), (iii) a Construction Mortgage, Assignment of Rents, Security Agreement and Fixture Filing of even date executed and delivered by Assignor for the use and benefit of Assignee to secure the Note, which Mortgage was filed for record in the records of Cook County, Illinois (the "**Mortgage**");

WHEREAS, Assignee, as a condition to granting the loan evidenced by the aforesaid Note, has required the execution and delivery of this Assignment of Rents and Leases and Agreements Affecting Real Estate (the "**Assignment**");

NOW, THEREFORE, in consideration of the loan and to further secure the payment of the Note and Assignor's obligations under the Mortgage, and as an essential and integral part of the security therefor, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby immediately and absolutely sell, assign, transfer and set over unto Assignee, its successors and assigns, all right, title, and interest and all benefits and privileges which Assignor as owner and developer has and may have in, from or with respect to any and all of the Additional Collateral (hereinafter defined), including without limitation, all of the rents, issues, income, revenue and profits due and becoming due therefrom.

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1. Additional Collateral Defined. The items which shall be the subject of this Assignment, and which are sometimes collectively referred to as "**Additional Collateral**" are as follows:

(a) Permits and Licenses. All permits, licenses, approvals, orders, certificates and agreements with, from or issued by any board, agency, authority, department, governmental or otherwise (collectively the "**Governmental Authorities**"), relating directly or indirectly to the ownership, use, development, operation or maintenance of the Premises, or the construction of improvements on the Premises, whether heretofore or hereafter issued or executed, together with all letters of credit, certificates of deposit, bonds or other agreements securing or guaranteeing payment or performance thereunder (collectively, the "**Permits**").

(b) Contracts. All contracts, subcontracts, agreements, utility agreements, cleaning, servicing or maintenance agreements, management or marketing agreements, warranties and purchase orders which have heretofore been or will hereafter be executed by or on behalf of Assignor, or which have been or will be assigned to Assignor, in connection with the use, operation and maintenance of the Premises, or the construction, installation, repair or rehabilitation of improvements on the Premises together with any deposits, fees or advance payments thereunder (collectively, the "**Contracts**"). The parties with whom Contracts have been or will be entered into are hereinafter collectively referred to as the "**Contractors**."

(c) Reimbursements. All reimbursements, paid or payable to Assignor, that are (i) for utilities, marketing fees, or the like, and/or (ii) under an agreement for the sharing of the costs of all or part of the development of the Premises between Assignor and another individual or entity (collectively, the "**Reimbursements**"). The parties with whom Reimbursements have been or will be entered into are hereinafter collectively referred to as the "**Reimbursers**."

(d) Sales Agreements. All contracts and agreements which have heretofore been or are hereafter executed by or on behalf of Assignor in connection with the sale of any unit, lot or all or any portion of the Premises, and, without limiting the foregoing, any monies received by Assignor in connection therewith (collectively, the "**Sales Agreements**"). The parties with whom the Sales Agreements have been or are entered into are hereinafter collectively referred to as the "**Purchasers**."

(e) Leases. All written or verbal agreements for the leasing, letting, rental, use or occupancy of all or any portion of the Premises which have heretofore been or are hereafter executed by or entered into on behalf of Assignor, together with the rents, issues and profits now due or which may hereafter become due thereunder and any advance rent, security deposits or other payments made or to be made pursuant thereto (collectively, the "**Leases**"). The parties with whom the Leases have been or are entered into are hereinafter collectively referred to as the "**Lessees**."

(f) Homeowners Documents. All declarations of covenants or restrictions, condominium declarations or documents or articles of incorporation or bylaws of any

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property owners associations now or hereafter affecting any portion of the Premises (collectively, the "**Homeowners Documents**").

2. Assignor's Limited License. So long as no default or Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, by Assignor under the Note, Mortgage, or any Additional Collateral, has occurred, Assignor shall have the right under a license granted hereby (but limited as provided in this Assignment) to retain, use and enjoy the benefits and privileges of the Additional Collateral, including the right to collect upon, but not prior to, accrual all of the rents arising from or out of the Leases and the Premises or any part thereof. After the occurrence of any such Event of Default, or an event which with notice or lapse of time or both would constitute such an Event of Default, Assignee may enforce this Assignment, with or without order of any court and with or without appointment of a receiver, and any rents, issues, income, revenues or profits received by Assignor shall thereupon be held in trust as security for Assignor's obligations hereunder and under the Note and Mortgage.

3. Assignor's Representations and Warranties. Assignor warrants and represents that: (a) there are no leases or subleases of all or any portion of the Premises as of the date hereof; (b) except for those Permits which by their nature are not transferable, it has full right and title to assign the Additional Collateral as provided herein; (c) no other assignment, pledge, transfer or hypothecation of Assignor's interest in any of the Additional Collateral, or grant of any security interest therein, has been made, and (d) there are no defaults under the provisions of any existing Additional Collateral, and none of the Additional Collateral is subject to any defenses, set-offs or counterclaims.

4. Assignee's Rights; Limitation of Liability.

(a) Assignor hereby authorizes Assignee, by its employees or agents, at its option, after the occurrence of a default or an Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default hereunder, under the Note, Mortgage, or any Permits, Contracts, Reimbursements, Sales Agreements, Leases or Homeowners Documents, without notice and without regard to the adequacy, value or condition of the security, and with or without court action, or by a receiver, to terminate the aforesaid license granted to Assignor, exercise any and all of Assignee's rights and remedies hereunder and with respect to the Additional Collateral, without any interference or objection from Assignor. In such event, Assignee may take over and enjoy the benefits of the Permits, Contracts, Reimbursements, Sales Agreements, Leases and Homeowners Documents, exercise Assignor's rights under the Additional Collateral and perform all acts in the same manner and to the same extent as Assignor might do. In connection with any and all of the foregoing powers, and without limiting the same, Assignee may effect new Permits, Contracts, Reimbursements, Sales Agreements, Leases and Homeowners Documents, cancel or surrender existing Permits, Contracts, Reimbursements, Sales Agreements, Leases and Homeowners Documents, alter and amend the terms of and renew existing Permits, Contracts, Reimbursements, Sales Agreements, Leases and Homeowners Documents, make concessions to Governmental Authorities, Contractors, Reimbursers, Purchasers, Lessees and others, bring or defend suits in connection with the Additional Collateral and its possession of the Premises in its

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own name or in Assignor's name, collect reimbursements, rents, income, issues, revenues and profits, enter upon the Premises and collect, sue for and receive in its own name or in Assignor's name, the rents accrued but unpaid and in arrears at the date of such default, as well as the rents thereafter accruing and becoming payable and do or not do any and all things Assignee deems desirable in its sole discretion. Assignor further agrees that it will facilitate in all reasonable ways Assignee's use and enjoyment of the benefits of the Permits, Contracts, Reimbursements, Sales Agreements, Leases and Homeowners Documents and the collection of said reimbursements, rents, income, issues, revenues and profits, and will, upon request by Assignee, execute a written notice of this Assignment to each of the Governmental Authorities, Contractors, Reimbursers, Purchasers, Lessees and all other appropriate persons.

(b) Assignor also hereby authorizes Assignee upon such entry, at its option, to take over and assume the management, operation, repair, maintenance and improvement of the Premises and to perform such other acts in connection therewith as Assignee in its discretion may deem desirable, and to expend so much of the income of the Premises as may be needed in connection therewith, in the same manner and to the same extent as Assignor theretofore might do, including without limitation the right to employ and engage management agents, leasing agents, brokers, accountants and attorneys, the right to expend moneys for the repair, maintenance, renovation, rehabilitation, remodeling, improvement, replacement, refurbishment or other alteration (structural or non-structural) of the Premises.

(c) Assignee shall be under no obligation to take any action authorized herein and shall have no liability for failure to take any such action or for any action taken pursuant hereto, except for its willful misconduct; and Assignor hereby waives and releases any and all claims against Assignee arising out of or in connection with such management, operation, repair and/or maintenance, alteration or other action or inaction, except for Assignee's willful misconduct, and excepting the liability of Assignee to account as hereinafter set forth.

(d) All of the foregoing powers herein granted Assignee shall be liberally construed. Assignee need not expend its own funds in the exercise of such powers, but if it does, such amounts shall be considered as advances for and on behalf of Assignor evidenced by the Note and secured by this Assignment and the Mortgage. Any amounts so advanced shall bear interest at the Default Rate (as defined in the Mortgage).

(e) Assignor shall indemnify Assignee against, and save it harmless from, any and all liability or claims arising from or in connection with any Permits, Contracts, Reimbursements, Sales Agreements, Leases or Homeowners Documents or this Assignment, and/or the control, care, operation, management or repair of the Premises. Assignee shall not be liable for any loss, cost, damage or expense sustained by Assignor or Governmental Authorities, Contractors, Reimbursers, Purchasers, Lessees or any other party resulting from any act or omission of Assignee, unless such loss is caused by the willful misconduct and bad faith of Assignee. Without limiting the generality of the foregoing, Assignee shall not be liable for any failure to lease all or any part of the Premises, or any failure to collect all or any part of any Reimbursement with respect to



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all or any part of the Premises, nor shall Assignee be obligated to perform or discharge, nor does Assignee hereby undertake to perform or discharge, any term, covenant, agreement, obligation, duty or liability under any Permit, Contract, Reimbursement, Sales Agreement, Lease or Homeowners Document or under or by reason of this Assignment, nor shall Assignee be responsible for the control, care, management or repair of the Premises or any part thereof; nor for the performance of any term, covenant or condition of any of the Permits, Contracts, Reimbursements, Sales Agreements, Leases or Homeowners Documents; nor for any waste committed on the Premises or any part thereof by any Lessee or by any other person, nor for any dangerous or defective condition of the Premises or any part thereof nor for any negligence in the management, upkeep, repair or control of the Premises or any part thereof resulting in loss or injury or death to any lessee, licensee, employee or other person, nor for any other loss, cost, damage or liability not caused directly by the intentional misconduct and bad faith of Assignee.

5. Application of Income by Assignee. Assignee shall, after payment of all charges and expenses incurred in connection with the enforcement of its rights and remedies under the Note, Mortgage and this Assignment, and the control, care, management, operation, repair, renovation, alteration, and maintenance of the Premises, including reasonable compensation to such managing agent and other agents or employees as it may select and employ, and after the accumulation of any reserve deemed advisable by Assignee for taxes, assessments, utilities, fire and casualty and liability insurance, and replacement and repair, credit the balance of income received by it from the Premises by virtue of this Assignment to any amounts due and owing to it by Assignor pursuant to the Note and Mortgage, in such order and manner as shall be determined in the sole discretion of Assignee. Assignee shall not be accountable for more money than it actually receives from the Premises nor shall it be liable for failure to collect rents.

6. Assignor's Covenants. Assignor agrees faithfully to observe and perform all of the obligations and agreements imposed upon Assignor under any of the Permits, Contracts, Reimbursements, Sales Agreements, Leases and Homeowners Documents and to notify Assignee of any defaults, or claimed defaults, asserted with respect to Assignor under the Permits, Contracts, Reimbursements, Sales Agreements, Leases and Homeowners Documents. Assignor will not: (a) collect any of the rents payable or accruing under any Lease in advance of the time when the same shall become due, other than as required to be paid in advance by the terms of such Lease, but in no event more than 30 days in advance; (b) pledge, transfer, Mortgage or otherwise encumber or assign any of Assignor's interest in any Permit, Contract, Reimbursement, Sales Agreement, Lease or Homeowners Document or any reimbursements, rents, issues, income, revenue or profits arising or accruing therefrom; (c) waive, excuse, condone, discount, set-off, compromise, or in any manner release or discharge any Governmental Authority, Contractor, Reimbursing, Purchaser or Lessee thereunder of or from any of its obligations, covenants, conditions or agreements; (d) cancel, terminate or consent to any surrender of any Permit, Contract, Reimbursement, Sales Agreement or Lease, nor agree to modify, alter or change any of the terms thereof or of any Homeowners Document, in each case without the prior written consent of Assignee; (e) consent to any assignment of any Permits, Contracts, Reimbursements, Sales Agreement or Lease or any subletting under any Lease without the prior written consent of Assignee; or (f) enter into, execute or deliver any Permit, Contract,

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Reimbursement, Sales Agreement, Lease or Homeowners Document without the prior written consent of Assignee.

7. Default. Violation of any of the covenants, representations or provisions contained herein by Assignor shall be deemed a default and Event of Default under the terms of the Note and Mortgage. A violation, breach of or failure to comply with any of the terms or provisions of the Note or Mortgage or any Event of Default thereunder, shall be deemed a default or event of default hereunder.

8. Insolvency. If any Contractor under any Contract, Reimbursing Party under any Reimbursement, Purchaser under any Sales Agreement or any Lessee under any Lease should be the subject of any proceeding under the Federal Bankruptcy Code, as amended from time to time, or any other federal, state, or local statute which provides for the possible termination or rejection of any Contract, Reimbursement, Sales Agreement or Lease assigned hereby, Assignor agrees that, if any Contract, Reimbursement, Sales Agreement or Lease is so terminated or rejected, no settlement for damages shall be made without the prior written consent of Assignee, and any check in payment of damages for termination or rejection of any such Contract, Reimbursement, Sales Agreement or Lease will be made payable to Assignee. Assignor hereby assigns any such payment to Assignee and further covenants and agrees that, upon the request of Assignee, it will duly endorse to the order of Assignee any such check, the proceeds of which will be applied to the indebtedness secured by this Assignment in such order and manner as Assignee may determine in its sole discretion.

9. Status of Assignee. Nothing herein contained or any action taken pursuant hereto shall be construed as making Assignee a "mortgagee in possession" in contemplation of law, except at the option of Assignee, including, without limitation, an entry by Assignee upon the Premises, or as constituting a waiver or suspension by Assignee of its rights to enforce payment of the debts under the terms of the Note or Mortgage. Assignee is not the agent of or partner or joint venturer with Assignor or any of the Governmental Authorities, Contractors, Reimbursing Parties, Purchasers or Lessees.

10. Copies of the Additional Collateral. Assignor shall, upon request of Assignee, furnish Assignee a complete list of all Permits, Contracts, Reimbursements, Sales Agreements, Leases and Homeowners Documents. Further, if requested, Assignor shall deliver to Assignee executed or certified copies of all Permits, Contracts, Reimbursements, Sales Agreements, Leases and Homeowners Documents and other written agreements, correspondence and memoranda between Assignor (and its predecessors in title) and any Governmental Authority, Contractor, Reimbursing Party, Purchaser or Lessee relating to the Premises. To the extent that Assignor does not have executed or certified copies of the foregoing in its possession, Assignor shall deliver copies of the foregoing in its possession, with a certification that, to the best of Assignor's knowledge and belief, each such copy is true, correct and complete and has not been amended, altered, superseded, supplemented or rescinded.

11. Successor Developer Status. Assignor covenants and agrees that, at Assignee's option, in the event of the foreclosure of the Mortgage or the granting of a deed in lieu thereof, Assignee and any subsequent purchaser of the Premises shall have the right to succeed to all of the right, title and interest of Assignor, as "Declarant" or "Developer" under any or all of the

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Homeowners Documents, by filing a Certificate in the public records of the County in which the Premises are located, setting forth that it has so elected, and such Certificate shall conclusively establish that Assignee or such subsequent purchaser of the Premises, and any person claiming by or through Assignee, is the "Declarant" or "Developer", as applicable. Such Certificate shall not require the consent, approval or joinder of Assignor, but Assignor hereby agrees to join in, consent to and approve such Certificate on request.

12. Governing Law; Separability; Time of Essence. This Assignment shall be governed by the laws of the State of Illinois. Wherever possible, each provision of this Assignment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Assignment or the operation thereof shall be prohibited by or invalid under such law, such provision and its operation shall be effective to the maximum extent permitted by law, without invalidating the remainder of such provision or the remaining provisions of this Assignment or the operation thereof. Time is of the essence of this Assignment.

13. Amendments; Interpretation. Neither this Assignment nor any provision hereof may be amended, modified, waived, discharged or terminated except in a writing executed by Assignor and Assignee. The Section headings used herein are for convenience of reference only and shall not define or limit the provisions of this Assignment. In this Assignment, the singular shall include the plural and the plural shall include the singular and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires. Capitalized terms not defined herein shall have the meanings set forth in the Mortgage.

14. Other Security. Assignee may take or release other security for the indebtedness secured hereby or by the Mortgage, may release any party primarily or secondarily liable therefor, and may apply any other security held by it to the satisfaction thereof, may exercise, fail to exercise or waive any other right or remedy available to it, and may grant extensions, renewals, forbearances or modifications with respect to such indebtedness, all without prejudice to any of its rights under this Assignment.

15. Remedies Cumulative. Nothing contained in this Assignment and no act done or omitted by Assignee pursuant to the powers and rights granted it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under the Note, Mortgage, this Assignment or any other instrument or by or pursuant to law or in equity, by statute or otherwise, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee. Accordingly, any failure on the part of Assignee promptly to exercise any option hereby given or reserved shall not prevent the exercise of any such option at any time thereafter. This Assignment may be enforced from time to time by Assignee at its discretion. Assignee may also at any time cease to enforce this Assignment. The right of Assignee to collect any and all indebtedness held by it may be exercised by Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

16. Notice. Any notice which any party hereto may desire or may be required to give to any other party hereto shall be in writing, and shall be deemed effective at the earlier of the time when actually received, or at 6:00 P.M. on the second (2nd) Business Day after deposit of the same in U.S. first class mail, certified or registered, postage prepaid, addressed to a party at

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its address set forth below, or at such other place as such party may have designated to all other parties by notice in writing in accordance herewith:

(a) If to Assignor:

Estate Homes of Lincoln Park Commons, LLC  
 c/o SR Builders, Inc.  
 2650 North Ashland Avenue  
 Chicago, Illinois 60614  
 Attention: Mr. Stuart R. Rose

(b) If to Assignee:

OHIO SAVINGS BANK  
 200 Ohio Savings Plaza  
 1801 East Ninth Street  
 Mail Code OH99-0205  
 Cleveland, Ohio 44114  
 Attention: Frank J. Bolognia, Executive Vice President

Except as otherwise specifically required herein, notice of the exercise of any right or option granted to Assignee by this Assignment is not required to be given.

17. Binding Effect. The provisions of this instrument shall be binding upon Assignor and its legal representatives, successors or assigns, and upon Assignee and its permitted successors or assigns, but shall not be assignable by Assignor.

18. Partial Release. To the extent, if any, that any provisions of the Mortgage may provide for the partial release thereof upon conditions therein stated, the Additional Collateral to the extent it relates to any portion of the Premises which may be released from the lien of said Mortgage pursuant to such provisions, and any rents, issues and profits thereafter accruing with respect thereto, shall ipso facto be immediately released from this Assignment without the necessity of further action or instrument; provided, however, nothing herein contained shall impair, alter or diminish the effect, lien and encumbrance of this Assignment with respect to the remaining portion of the Premises not so released and the Additional Collateral to the extent it relates to the unreleased portion of the Premises.

19. Effectiveness; Termination.

(a) No judgment or decree which may be entered on any debt secured or intended to be secured by this Assignment shall operate to abrogate or lessen the effect of this Assignment, but this Assignment shall continue in full force and effect until the payment, discharge and performance of any and all indebtedness and obligations evidenced by the Note or secured by the Mortgage, in whatever form, and until all costs and expenses incurred by virtue of the authority herein contained have been fully paid out of rents, income, issues and profits of the Premises, or by Assignor, or until such time as this Assignment may be voluntarily released. This Assignment shall also remain in full



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force and effect during the pendency of any foreclosure proceedings, both before and after sale, until the issuance of a deed or certificate of title pursuant to a foreclosure decree, unless all indebtedness evidenced or secured by the Mortgage is fully satisfied before the expiration of any period of redemption.

(b) Upon defeasance and satisfaction of the Mortgage encumbering the Premises and payment in full of any costs or expenses payable to Assignee hereunder, this Assignment shall become and be void and of no effect, but the affidavit, certificate, letter or statement of any officer, agent or attorney of Assignee stating that such Mortgage has not been discharged and satisfied, that any part of the principal, interest or premium on the Note or that any costs or expenses payable to Assignee thereunder, under the Mortgage or hereunder remain unpaid shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment, and any person is hereby authorized to rely thereon. Assignor hereby authorizes and directs all Governmental Authorities, Contractors, Reimbursees, Purchasers, Lessees and other persons, upon receipt from Assignee of written notice to the effect that a default exists under this Assignment, the Note or Mortgage, to rely thereon as conclusive evidence of such default for purposes of dealing with Assignee in the exercise of any of Assignee's rights hereunder, and any Reimbursor, Lessee or Purchaser is directed to pay over to Assignee all reimbursements, rents, issues, income, revenues and profits (including, without limitation, purchase prices), payable or accruing under the Reimbursees, Leases or Sales Agreements or from the Premises and to continue to do so until otherwise notified by Assignee. Assignee has not received any security deposit or earnest money deposit, down payment or other money with respect to any Reimbursement, Lease or Sales Agreement, and assumes no responsibility for any such security deposit, earnest money deposit, down payment or other money not actually received by Assignee.

**20. Waiver of Jury Trial. ASSIGNOR AND ASSIGNEE WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, ANY ASPECT OF THE TRANSACTION IN CONNECTION WITH WHICH THIS DOCUMENT IS BEING GIVEN OR ANY DOCUMENT EXECUTED OR DELIVERED IN CONNECTION WITH SUCH TRANSACTION. THIS WAIVER IS KNOWINGLY, INTENTIONALLY AND VOLUNTARILY MADE BY ASSIGNOR AND ASSIGNEE AND ASSIGNOR AND ASSIGNEE ACKNOWLEDGE THAT NO ONE HAS MADE ANY REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. ASSIGNOR AND ASSIGNEE FURTHER ACKNOWLEDGE HAVING BEEN REPRESENTED IN CONNECTION WITH THE TRANSACTION WITH RESPECT TO WHICH THIS DOCUMENT IS BEING GIVEN AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED BY EACH PARTY'S OWN FREE WILL, RESPECTIVELY, AND THAT ASSIGNOR AND ASSIGNEE HAVE HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH SUCH COUNSEL. ASSIGNOR AND ASSIGNEE FURTHER EACH ACKNOWLEDGE THAT THEY HAVE READ AND THAT THEY UNDERSTAND THE MEANING AND RAMIFICATIONS OF THIS WAIVER PROVISION.**

[signature on following page]

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IN WITNESS WHEREOF, Assignor has executed and delivered this instrument as of August 26, 2003.

**ASSIGNOR:**

**ESTATE HOMES OF LINCOLN PARK  
COMMONS, LLC**, an Illinois limited liability  
company

By: Stuart Rose  
Name: Stuart R. Rose  
Title: sole member and manager

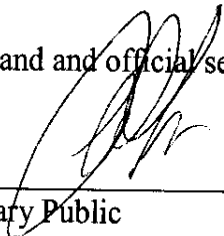
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STATE OF ILLINOIS     )  
  ) ss:  
COUNTY OF COOK     )

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of August, 2003, by **STUART R. ROSE**, the sole member and manager of **ESTATE HOMES OF LINCOLN PARK COMMONS, LLC**, an Illinois limited liability company, on behalf of said limited liability company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
\_\_\_\_\_  
Notary Public

My commission expires: 10/15/2005



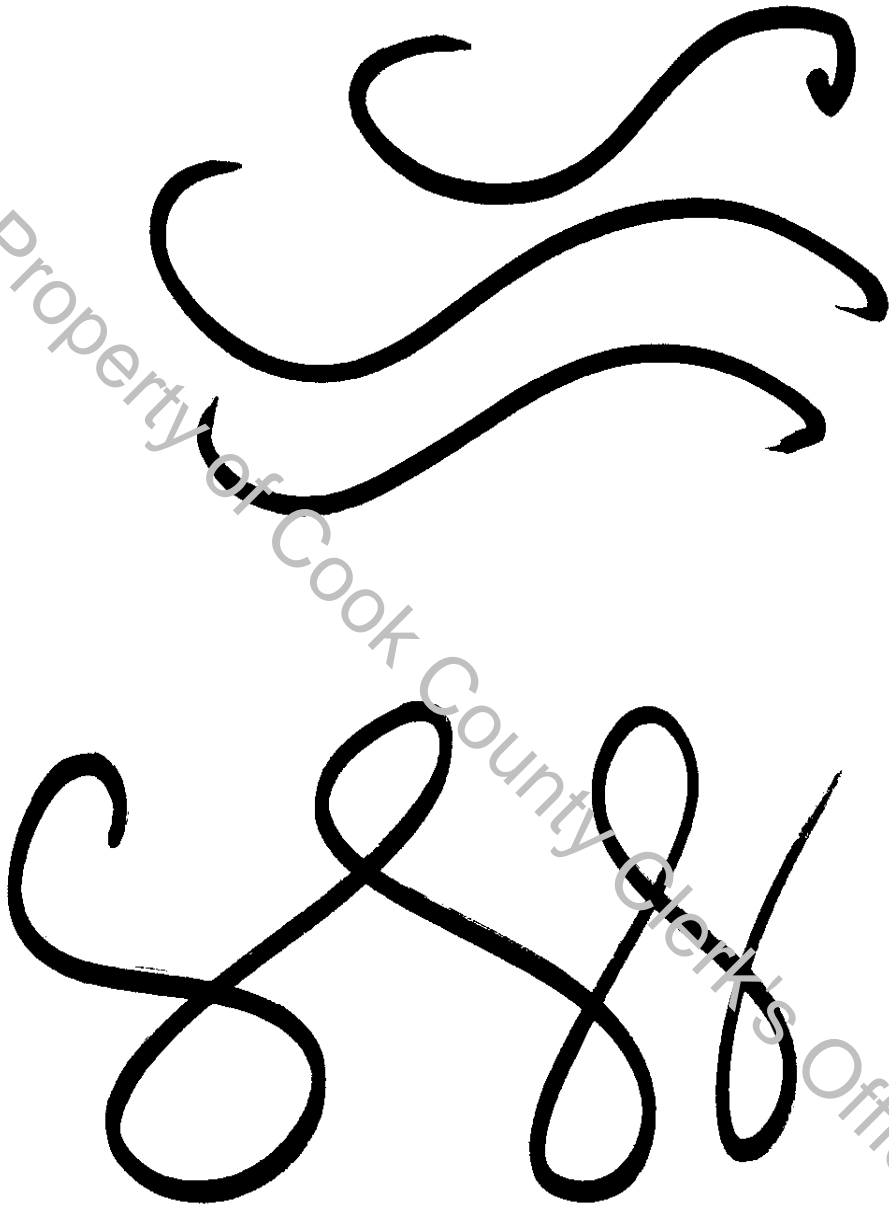
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EXHIBIT "A"

LEGAL DESCRIPTION

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A large, stylized handwritten signature in black ink, consisting of several loops and curves, positioned over the diagonal watermark text.



STREET ADDRESS:  
CITY: CHICAGO  
TAX NUMBER:

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COUNTY: COOK

LEGAL DESCRIPTION:

PARCEL 1:

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 36 AND 37 IN LINCOLN PARK CLUB SUBDIVISION, RECORDED JULY 9, 2002 AS DOCUMENT 0020749722 AND RE-RECORDED JULY 19, 2002 AS DOCUMENT 0020790850, BEING A RESUBDIVISION OF VARIOUS LOTS, PARTS OF LOTS AND VACATED STREETS AND ALLEYS IN VARIOUS SUBDIVISIONS IN THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.#S

14-28-304-016-0000

14-28-304-017-0000

14-28-304-018-0000

14-28-304-021-0000

14-28-304-033-0000

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