

# UNOFFICIAL COPY



Doc#: 0331801092  
Eugene "Gene" Moore Fee: \$44.00  
Cook County Recorder of Deeds  
Date: 11/14/2003 09:29 AM Pg: 1 of 11

After Recording Return To:

GMAC Mortgage Corp.  
100 Witmer Road  
Horsham, PA 19044-0963  
ATTN: Capital Markets

ATTN: HX9409450 3013

[Space Above This Line For Recording Data]

**MORTGAGE** Loan No. 553876004

**THIS MORTGAGE** is made this 11th day of September, 2003, between the Mortgagor, Rogelio Brito and Maria Brito Tenants by the Entirety

who reside(s) at 7711 S Austin  
Burbank, IL 60459  
(herein "Borrower" or "Mortgagor"), and the Mortgagee.

GMAC Mortgage Corporation

as agent for the District of Columbia Housing Finance Agency acting as nominee for the District of Columbia Affordable Housing Finance Trust (herein after, including its assigns, called "Mortgagee" or "Lender") and any future Holder or Holders.

**WHEREAS**, Borrower is indebted to Lender in the principal sum of U.S. \$ 6,143.56 (the "Loan") which indebtedness is evidenced by Borrower's Note dated September 11, 2003 and extensions and renewals thereof (herein "Note") with the balance of the indebtedness, if not sooner paid, due and payable on October 1, 2013;

**TO SECURE** to Lender the repayment of the indebtedness evidenced by the Note, the payment of all other sums, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of Cook, State of Illinois:

FHA ILLINOIS - AHFT Mortgage 2/01

(Page 1 of 9) Initials: MB

808

GMACM - FMS.1238.IL (0104) <sup>213164451</sup>  
R.B.

RECORDED

# UNOFFICIAL COPY

Initials: MB KB

(Page 2 of 9)

FHA ILLINOIS AHFT Mortgage 2/01  
GMACM - FMS.1238.IL (0104)

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have

periods as Lender may require.  
and such other hazards as Lender may require and in such amounts and for such coverage", and the property insured against loss by fire, hazards included within the term "extended coverage", Borrower shall keep the improvements now existing or hereafter erected

3. **Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any.

2. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraph 1 hereof shall be applied by Lender to the principal of the Note.

1. **Payment of Principal.** Borrower shall promptly pay when due the principal indebtedness evidenced by the Note.

### UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, and that the Property is unencumbered, except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

**TOGETHER** with all the improvements now or hereafter erected on the Property, and all easements, rights, appurtenances and rents, all of which shall be deemed to be and remain a part of the Property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property" or "Residence".

(herein "Property Address" or "Residence");

7711 S Austin, Burbank, IL 60459  
(Street) (City) (State) (Zip Code)

which has the address of:

See Attached Schedule A

# UNOFFICIAL COPY

the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

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

If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the property or to the sums secured by this Mortgage.

**5. Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

**6. Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to this paragraph 6, with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 6 shall require Lender to incur any expense or take any action hereunder.

**7. Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

**8. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

**9. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for

LOAN NO: 553876004  
 FHA ILLINOIS AHFT Mortgage 2/01  
 GMACM - FMS.1238.IL (0104)

(Page 3 of 9)

Initials: MB

R.B.

# UNOFFICIAL COPY

FHA ILLINOIS AHEFT Mortgage 2/01  
GMACM - FMS.1238.II. (0104)

(Page 4 of 9)

Initials: MS R.B.

14. **Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent,

13. **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.

12. **Governing Law; Severability.** The state and local laws applicable to this Mortgage shall be limited to the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Mortgage. 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, and to this end the provisions of this Mortgage and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

11. **Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

10. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 14 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Note, (a) is co-signing this Mortgage only of this Mortgage, (b) is not personally liable on the Note or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Note without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceeding against such successor 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 Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

# UNOFFICIAL COPY

Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercise is prohibited by Federal law as of the date of this Mortgage.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**15. Acceleration; Remedies.** Except as provided in paragraph 14 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender prior to acceleration shall give notice to Borrower as provided in paragraph 11 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach 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 Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Borrower to acceleration and foreclosure. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees and costs of documentary evidence, abstracts and title reports. The parties to this document are subject to the provision for Arbitration as set forth in the Closed End Note which is incorporated by reference as if set forth at length herein.

**16. Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Borrower pays Lender all sums which would be then due under this Mortgage and the Note had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage, and in enforcing Lender's remedies as provided in paragraph 15 hereof, including, but not limited to, reasonable attorneys' fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

LOAN NO: 553876004  
 FHA ILLINOIS AHFT Mortgage 2/01  
 GMACM - FMS.1238.IL (0104)

(Page 5 of 9)

Initials: MB  
R.B.

# UNOFFICIAL COPY

Initials:                     

The parties hereto acknowledge and agree that this mortgage is subject and subordinate to the mortgage on the Property.

This mortgage is and shall be automatically subordinate to any existing first lien real estate mortgage on the Property. Upon the due payment of said indebtedness and the performance of the covenants and agreements hereof by the Mortgagee, this mortgage shall become null and void. Mortgagee agrees to pay to the Mortgagee a sum equal to ten percent (10%) of the amount due as attorneys' fees, in addition to the other sums due, which shall be a further lien secured hereby. In the event the Mortgagee defaults in the prepayment of said indebtedness, or fails to perform the other covenants and agreements hereof, the Mortgagee may foreclose this mortgage, as provided by law; and as often as any proceedings may be taken to foreclose this mortgage, the Mortgagee agrees to pay to the Mortgagee a sum equal to ten percent (10%) of the amount due as attorneys' fees, in addition to the other sums due, which shall be a further lien secured hereby.

In the event the Mortgagee defaults in the prepayment of said indebtedness, or fails to perform the other covenants and agreements hereof, the Mortgagee may foreclose this mortgage, as provided by law; and as often as any proceedings may be taken to foreclose this mortgage, the Mortgagee agrees to pay to the Mortgagee a sum equal to ten percent (10%) of the amount due as attorneys' fees, in addition to the other sums due, which shall be a further lien secured hereby. In the event the Mortgagee defaults in the prepayment of said indebtedness, or fails to perform the other covenants and agreements hereof, the Mortgagee may foreclose this mortgage, as provided by law; and as often as any proceedings may be taken to foreclose this mortgage, the Mortgagee agrees to pay to the Mortgagee a sum equal to ten percent (10%) of the amount due as attorneys' fees, in addition to the other sums due, which shall be a further lien secured hereby.

The Note secured by this mortgage has a maturity of ten years, but will be forgiven to the extent of twenty (20%) of the original principal amount on the fifth anniversary of the Loan Closing Date; and additional twenty percent (20%) of the original principal amount on the sixth anniversary of the Loan Closing Date; twenty percent (20%) of the original principal amount on the seventh anniversary of the Loan Closing Date; twenty percent (20%) of the original principal amount on the eighth anniversary of the Loan Closing Date. This mortgage will be fully forgiven on the tenth (10th) anniversary of the Loan Closing Date. Unless the obligations under the Note and this mortgage are assumed by the transferee of the Residence qualified under the Program in the opinion of the Servicer (described in the Note) of the Loan to assume such obligations, the Note and this mortgage securing the Property will be accelerated at the then principal balance if the Mortgagee sells the Residence or voluntarily refinances or prepays more than 20% of the original principal balance of the first mortgage note within ten years of the Loan Closing Date.

19. **Waiver of Homestead.** Borrower hereby waives all rights of homestead exemption in the Property.

18. **Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

17. **Assignment of Rents; Appointment of Receiver.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 15 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable. Upon acceleration under paragraph 15 hereof or abandonment of the Property, Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonably attorneys' fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

# UNOFFICIAL COPY

in all respects to the liens, terms, covenants, and conditions of the first lien real estate mortgage on the Property encumbered by this second lien real estate mortgage and to all advances heretofore made or which may hereafter be made pursuant to the first lien real estate mortgage including all sums advanced for the purpose of (a) protecting or further securing the lien of the first lien real estate mortgage, (b) curing defaults by the Mortgagor under the first lien real estate mortgage, (c) for any other purpose expressly permitted by the first lien real estate mortgage, or (d) constructing, renovating, repairing, furnishing, fixturing, or equipping the Property. The terms and provisions of the first lien real estate mortgage are paramount and controlling, and they supersede any other terms and provisions hereof in conflict therewith. In the event of a foreclosure or deed in lieu of foreclosure of the first lien real estate mortgage, and provisions herein or any provisions in any other collateral agreement restricting the use of the Property to low or moderate income households or otherwise restricting the Mortgagor's ability to sell the Property shall have no further force or effect on subsequent owners or purchasers of the Property (other than the Mortgagor or a related person or entity of the Mortgagor). Any person including its successors or assigns (other than the Mortgagor or a related person or entity of the Mortgagor), receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the first lien real estate mortgage shall receive title to the Property free and clear of such restrictions.

Further, if the holder of the first lien real estate mortgage (the "Senior Lien Holder") acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of the first lien real estate mortgage shall automatically terminate upon the Senior Lien Holder's acquisition of title provided that (i) Mortgagee has been given written notice of a default under the first lien real estate mortgage and (ii) Mortgagee has not cured the default (which cure option may be exercised in Mortgagee's sole discretion under the first lien real estate mortgage or diligently pursued curing the default as determined by the Senior Lien Holder within the 60-day period provided in such notice sent to Mortgagee).

## REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE UNDER SUPERIOR MORTGAGES OR DEEDS OF TRUST

Borrower and Lender request the holder of any mortgage, deed of trust or other encumbrance with a lien which has priority over this Mortgage to give Notice to Lender, at Lender's address set forth on page one of this Mortgage, of any default under the superior encumbrance and of any sale or other foreclosure action.

(THIS SPACE LEFT BLANK INTENTIONALLY)

# UNOFFICIAL COPY

LOAN NO: 553876004  
FHA ILLINOIS - AHFT Mortgage 2/01  
GMACM - FMS, 1238, IL (0104)

(Page 8 of 9)

Witnesses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Seal)  
-Borrower

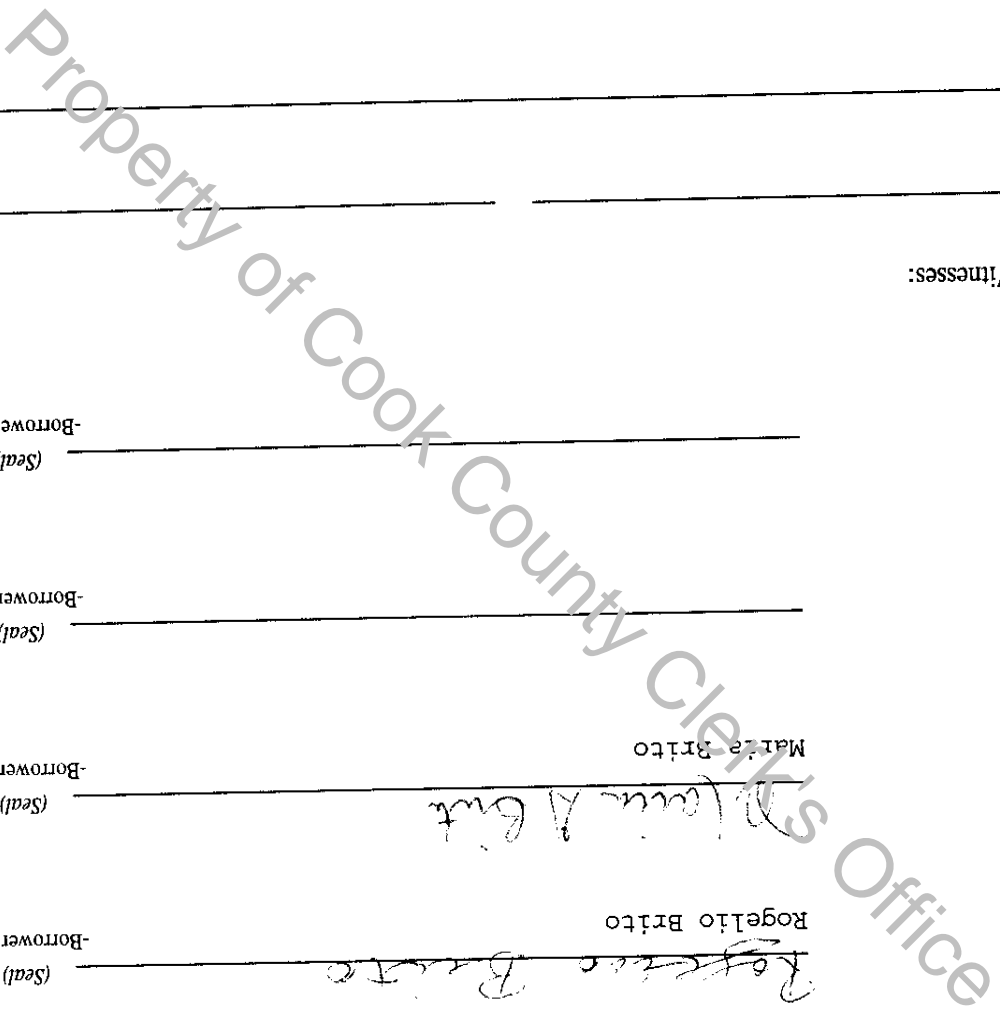
(Seal)  
-Borrower

(Seal) *Maria Brito*  
-Borrower Maria Brito

(Seal) *Rogelio Brito*  
-Borrower Rogelio Brito

Borrower (Maker):

IN WITNESS WHEREOF, Borrower has executed this Mortgage.





# UNOFFICIAL COPY

## INDIVIDUAL ACKNOWLEDGMENT

STATE OF ILLINOIS,

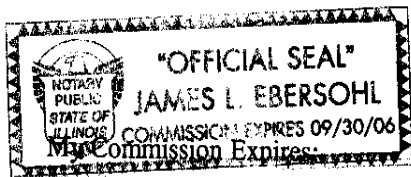
COUNTY OF Cook

} SS

I, JAMES L. EBERSOHL, a Notary Public  
in and for said county and state, do hereby certify that  
Rogelio Brito and Maria Brito, Tenants by the Entirety

personally known to me to be the same person(s) whose name(s) is/are subscribed to the  
foregoing instrument, appeared before me this day in person, and acknowledged that he/she/they  
signed and delivered the said instrument as his/her/their free voluntary act, for the uses and  
purposes therein set forth.

Given under my hand and official seal, this 11th day of September  
2003



[Signature]  
Notary Public

This instrument was prepared by:  
Eric Kopp  
2600 Troy Center Drive  
Troy, MI 48084-1565  
for: GMAC Mortgage Corporation

LOAN NO: 553876004

FHA ILLINOIS - AHFT Mortgage 2/01  
GMACM - FMS.1238.IL (0104)

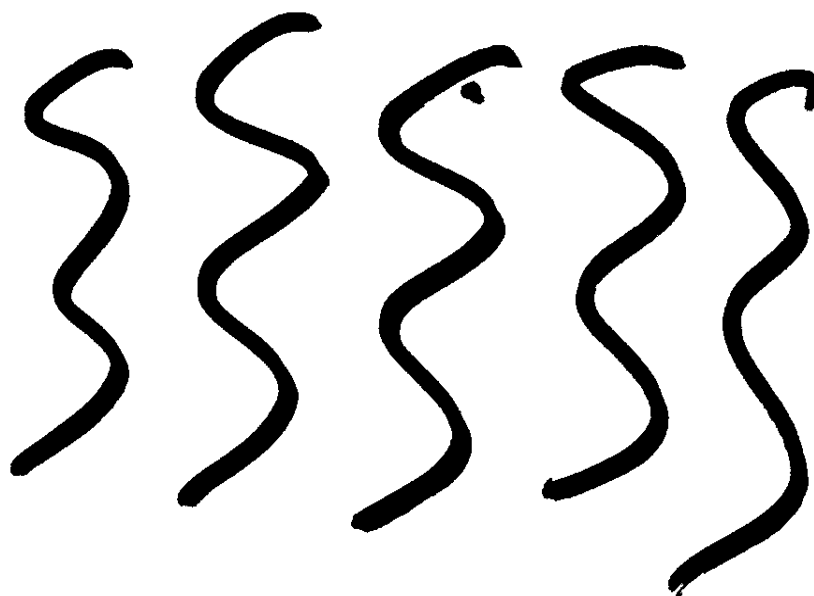
# UNOFFICIAL COPY

Schedule A  
Illinois Mortgage  
Given By: Rogelio Brito and Maria Brito

Page 1

See attached legal

Property of Cook County Clerk's Office

A series of five thick, black, wavy, handwritten scribbles arranged horizontally across the bottom of the page. Each scribble is a continuous, irregular line that starts and ends with a hook-like curve.

STREET ADDRESS: 7711 SOUTH AUSTIN

CITY: BURBANK

COUNTY: COOK

TAX NUMBER: 19-29-401-005-0000

**UNOFFICIAL COPY**

**LEGAL DESCRIPTION:**

LOT 40 IN BLOCK 25 IN FREDERICK H. BARTLETT'S GREATER 79TH STREET SUBDIVISION, BEING A SUBDIVISION OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, ALSO THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 29, ALSO THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 38 NORTH RANGE 13, EAST 1/4 OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office