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Doc#: 0408327108  
Eugene "Gene" Moore Fee: \$44.00  
Cook County Recorder of Deeds  
Date: 03/23/2004 02:46 PM Pg: 1 of 11

THIS INSTRUMENT PREPARED BY  
AND AFTER RECORDING RETURN TO:

Arent Fox PLLC  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Attn: Kenneth S. Jacob, Esq.

Space Above For Recorder's Use Only

## MORTGAGE

LENDER: WHSLC Realty, L.L.C.  
C/o Goldman Sachs & Co.  
1000 Crescent Court  
Suite 1000  
Dallax, TX 75201

BORROWER: Senior Lifestyle Maplewood Limited Partnership  
C/o Horizon Bay Senior Communities  
5102 W. Laurel Street  
Suite 700  
Tampa, FL 33607

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Box  
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## MORTGAGE

This Mortgage (the "Mortgage") is made as of February 13, 2004 (the "Effective Date"), by **SENIOR LIFESTYLE MAPLEWOOD LIMITED PARTNERSHIP**, a Delaware limited partnership having an address at c/o Horizon Bay Senior Communities, 5102 W. Laurel Street, Suite 700, Tampa, FL 33607, Attention: Jon A. DeLuca (the "Borrower") to **WHSLC REALTY, L.L.C.**, a Delaware limited liability company, having an address at c/o Goldman Sachs & Co., 1000 Crescent Court, Suite 1000, Dallas, TX 75201, Attention: Thomas D. Ferguson (the "Lender").

Borrower has executed and delivered to Lender a Mortgage Note dated as of the Effective Date (the "Note") payable to the order of Lender in the principal sum of Eight Million Seven Hundred Eleven Thousand Two Hundred Eighty-Two and 01/100 Dollars (\$8,711,282.01) bearing interest and payable as set forth in the Note.

The Note was fully funded by the Lender on the Effective Date and Borrower used all of the proceeds from the Note to fully satisfy its obligations to GMAC Commercial Mortgage Corporation, a California corporation ("GMAC"), pursuant to that certain promissory note dated as of September 24, 1999 in the original principal sum of \$9,060,640 by Borrower in favor of GMAC which was secured by that certain Mortgage and Security Agreement dated as of September 24, 1999 and recorded with the Clerk of Cook County, Illinois on September 27, 1999, as Instrument No. 999912708, made by Borrower to GMAC as such mortgage was amended from time to time and that certain Assignment of Rents recorded with the Clerk of Cook County, Illinois on September 27, 1999, as Instrument No. 999912709, made by Borrower to GMAC.

In order to secure the payment of the principal indebtedness under the Note and interest and premiums on the principal indebtedness under the Note (and all replacements, renewals and extensions thereof, in whole or in part) according to its tenor, and to secure the payment of all other sums which may be at any time due under the Note or this Mortgage (collectively sometimes referred to herein as "Indebtedness"); and to secure the performance and observance of all the provisions contained in this Mortgage or the Note, and to charge the properties, interests and rights hereinafter described with such payment, performance and observance, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower DOES HEREBY MORTGAGE AND CONVEY unto Lender, its successors and assigns forever, the following described property, rights and interests (which are referred to herein as the "Premises"), all of which property, rights and interests are hereby pledged primarily and on a parity with the Land (as hereinafter defined) and not secondarily:

**THE LAND** located in the State of Illinois (the "Land") and legally described on **Exhibit A** attached hereto.

**TOGETHER WITH** all improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures and personal property of every nature

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whatsoever now or hereafter owned by Borrower and located on or used or intended to be used in connection with the Land or the improvements, or in connection with any construction thereon, and owned by Borrower, and all of Borrower's rights or payments now or hereafter made on such personal property or fixtures by Borrower or on its behalf (the "Improvements");

**TOGETHER WITH** all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Land, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Borrower of, in and to the same;

**TOGETHER WITH** all proceeds of the foregoing, including without limitation all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof.

**TO HAVE AND TO HOLD** the Premises, unto the Lender, its successors and assigns, forever, for the purposes herein set forth together with all right to possession of the Premises after the occurrence of any Default as hereinafter defined; the Borrower hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois.

**BORROWER COVENANTS** that it is lawfully seized of the Land, and that it has lawful authority to mortgage the same, and that it will warrant and defend the Land and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever.

**PROVIDED, NEVERTHELESS**, that if Borrower shall pay in full when due the Indebtedness and shall timely perform and observe all of the provisions herein and in the Note provided to be performed and observed by the Borrower, then this Mortgage and the interest of Lender in the Premises shall cease and become void and Lender shall execute and deliver a recordable release of this Mortgage, but shall otherwise remain in full force.

## **BORROWER FURTHER AGREES AS FOLLOWS:**

1. **Payment of Indebtedness and Performance of Covenants.** Borrower shall (a) pay the Indebtedness when due; and (b) punctually perform and observe all of the requirements of the Note and this Mortgage.

2. **Maintenance, Repair, Compliance with Law, Use, etc.** Borrower shall (a) promptly repair or restore any portion of the Improvements which may become

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damaged or be destroyed whether or not proceeds of insurance are available or sufficient for that purpose; (b) keep the Premises in good condition and free from waste; (c) pay all operating costs of the Premises; (d) complete, within a reasonable time, any building or other Improvements at any time in the process of erection upon the Premises; (e) comply with all requirements of law relating to the Premises and the use thereof; (f) refrain from any action and correct any condition which would increase the risk of fire or other hazard to the Improvements; (g) comply with any restrictions of record with respect to the Premises; and (h) comply with any conditions necessary to preserve and extend all rights that are applicable to the Premises.

**3. Liens, Prohibition.** Subject to the provisions of Paragraph 4 hereof, Borrower shall not create or suffer or permit any encumbrance to attach to or be filed against the Premises, excepting only (i) the lien of real estate taxes and assessments not due; and (ii) any liens and encumbrances of Lender.

**4. Taxes.**

**4.1. Payment.** Borrower shall pay when due all taxes, assessments, and charges of every kind levied or assessed against the Premises or any interest therein or any obligation or instrument secured hereby, and all installments thereof (all herein generally called "Taxes"), whether or not assessed against Borrower, and Borrower shall furnish to Lender receipts therefore on or before the date the same are due; and shall discharge any claim or lien relating to Taxes upon the Premises.

**4.2. Contest.** Borrower may, in good faith and with reasonable diligence, contest the validity or amount of any such Taxes, provided:

**4.2.1.** Such contest shall prevent the collection of the Taxes so contested and the sale or forfeiture of the Premises or any part thereof or interest therein to satisfy the same; and

**4.2.2.** Borrower has notified Lender in writing of the intention of Borrower to contest the same before any Tax has been increased by any interest.

**5. Insurance Coverage.** Borrower will insure the Premises against such perils and hazards, and in such amounts and with such limits, as are customarily maintained by owners or operators of like properties ("Insurance Policies").

**6. Insurance Policies.** All Insurance Policies shall be in form, companies and amounts reasonably satisfactory to Lender. All Insurance Policies shall (i) include, when available, non-contributing mortgagee endorsements in favor of and with loss payable to Lender, (ii) include standard waiver of subrogation endorsements, (iii) provide that the coverage shall not be terminated or materially modified without thirty (30) days advance written notice to Lender and (iv) provide that no claims shall be paid thereunder without ten (10) days, advance written notice to Lender. Borrower will deliver all

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Insurance Policies premium prepaid, to Lender and will deliver renewal or replacement policies at least thirty (30) days prior to the date of expiration of any policy.

7. **Proceeds of Insurance.** Borrower will give Lender prompt notice of any loss or damage to the Premises, and:

7.1. In case of loss covered by Insurance Policies, Lender (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option either (i) to settle and adjust any claim under such policies without the consent of Borrower, or (ii) to allow Borrower to settle or adjust such claims; provided that Borrower may itself adjust losses aggregating not in excess of Twenty Thousand Dollars (\$20,000) if such adjustment is carried out in a competent and timely manner. The expenses incurred by Lender in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness and Borrower shall reimburse Lender for such expense upon demand.

7.2. In the event of any insured damage to the Premises (herein called an "Insured Casualty"), the proceeds of insurance shall be assigned by Borrower to Lender to payoff the Indebtedness and after the Indebtedness is fully satisfied, Lender shall provide Borrower with any excess proceeds of insurance received by Lender from such Insured Casualty.

8. **Condemnation and Eminent Domain.** All awards made to the owner of the Premises, by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Premises, are hereby assigned by Borrower to Lender.

9. **Restrictions on Transfer.** Borrower shall not, without the prior written consent of Lender, effect, suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of the Premises ("Prohibited Transfer").

10. **Defaults.** If one or more of the following events (herein called "Defaults") shall occur:

10.1. If Borrower shall, after the expiration of any applicable grace periods, fail to make payments of amounts owed under the Note or this Mortgage when due;

10.2. If any default shall, after the expiration of any applicable grace periods, exist under any other document or instrument regulating, evidencing, securing or guarantying any of the Indebtedness;

10.3. A Prohibited Transfer; or

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**10.4.** If default shall continue for thirty (30) days after notice thereof by Lender to Borrower in the punctual performance or observance of any other agreement or condition herein contained;

then Lender may, at its option and without affecting the lien hereby created or the priority of said lien or any other right of Lender hereunder, to declare, without further notice, all Indebtedness to be immediately due with interest thereon at the Default Rate (as defined in the Note), whether or not such Default be thereafter remedied by Borrower, and Lender may immediately proceed to foreclose this Mortgage and to exercise any right provided by this Mortgage, the Note or otherwise.

**11. Foreclosure.** When the Indebtedness shall become due, whether by acceleration or otherwise, Lender shall have the right to foreclose the lien hereof in accordance with the Illinois Mortgage Foreclosure Act (the "Act") and to exercise any other remedies of Lender provided in the Note, this Mortgage, or which Lender may have at law, at equity or otherwise. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the decree of sale, all expenditures and expenses which may be paid or incurred by or on behalf of Lender for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Premises, and any other expenses and expenditures which may be paid or incurred by or on behalf of Lender and permitted by the Act to be included in such decree. All expenditures and expenses of the nature mentioned in this Paragraph, and such other expenses and fees as may be incurred in the protection of the Premises and rents and income therefrom and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Lender in any litigation or proceedings affecting this Mortgage, the Note or the Premises, including probate and bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so much additional Indebtedness and shall be immediately due and payable by Borrower, with interest thereon at the Default Rate until paid.

## **12. Successors and Assigns.**

**12.1. Holder of the Note.** This Mortgage and each provision hereof shall be binding upon Borrower and its heirs, successors and assigns (including, without limitation, each and every record owner from time to time of the Premises or any other person having an interest therein), and shall inure to the benefit of Lender and its heirs, successors and assigns. Wherever herein Lender is referred to, such reference shall be deemed to include the holder from time to time of the Note; and each such holder of the Note shall have all of the rights afforded hereby and may enforce the provisions hereof, as fully as if Lender had designated such holder of the Note herein by name.

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**12.2. Covenants Run with Land; Successor Owners.** All of the covenants of this Mortgage shall run with the Land and be binding on any successor owners of the Land. If the ownership of Premises or any portion thereof becomes vested in a person other than Borrower, Lender may, without notice to Borrower, deal with such person with reference to this Mortgage and the Indebtedness in the same manner as with Borrower without in any way releasing Borrower from its obligations hereunder.

**13. Effect of Extensions and Amendments.** If the payment of the Indebtedness be extended or varied, or if any part of the security or guaranties therefore be released, all persons at any time liable therefore, or interested in the Premises, shall be held to assent to such extension, variation or release, and their liability, and the lien, and all provisions hereof, shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by Lender, notwithstanding any such extension, variation or release. Any person, firm or corporation taking a junior mortgage, or other lien upon the Premises or any part thereof or any interest therein, shall take the said lien subject to the rights of Lender to amend, modify, extend or release the Note, this Mortgage or any other document or instrument evidencing, securing or guarantying the Indebtedness, in each case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien.

**14. Future Advances.** At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures as part of the Indebtedness the payment of all loan commissions, service charges, liquidated damages, attorney's fees, expenses and advances due to or incurred by Lender in connection with the Indebtedness, all in accordance with the Note and this Mortgage; provided, however, that in no event shall the total amount of the Indebtedness, including loan proceeds disbursed plus any additional charges, exceed two hundred percent (200%) of the face amount of the Note. All such advances are intended by the parties hereto to be a lien on the premises from the time this Mortgage is recorded, as provided in the Act.

**15. Subrogation.** If any part of the Indebtedness is used directly or indirectly to satisfy, in whole or in part, any prior encumbrance upon the Premises or any part thereof, then Lender shall be subrogated to the rights of the holder thereof in and to such other encumbrance and any additional security held by such holder, and shall have the benefit of the priority of the same.

**16. Governing Law.** This Mortgage shall be construed and enforced according to the laws of the State of Illinois, without reference to the conflicts of law principles of that State.

**17. Time of the Essence.** Time is of the essence of the Note, this Mortgage, and any other document or instrument evidencing or securing the Indebtedness.

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18. **Captions and Pronouns.** The captions and headings of the various sections of this Mortgage are for convenience only, and are not to be construed as limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall be freely interchangeable.

19. **Notices.** Any notice or other communication 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 given when (i) personally delivered, (ii) upon receipt if sent by a nationally recognized overnight courier addressed to a party at its address set forth above, or (iii) on the second business day after being deposited in United States registered or certified mail, postage prepaid, addressed to a party at its address set forth above, or to such other address as the party to receive such notice may have designated to the other party by notice in accordance herewith.

[SIGNATURE ON THE FOLLOWING PAGE]





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## EXHIBIT A

### LEGAL DESCRIPTION OF THE LAND

#### PARCEL 1:

LOTS 11, 12, 13, 14, 15, 16 AND 17 IN BLOCK 2 IN FRED W. BRUMMELL AND COMPANY'S LINCOLN BRYN-MAWR WESTERN SUBDIVISION, BEING A SUBDIVISION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12 AND THAT PART EASTERLY OF LINCOLN AVENUE OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 12 (EXCEPTING THEREFROM THAT PART THEREOF LYING SOUTH OF A LINE 200.0 FEET NORTH OF THE NORTH LINE OF BERWYN AVENUE) ALL IN TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT STREETS AND ALLEYS) ACCORDING TO THE PLAT OF SAID SUBDIVISION FILED FOR RECORD IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS ON THE 12TH DAY OF APRIL 1923, AS DOCUMENT NO. 7879542 AS CORRECTED BY CERTIFICATE FILED FOR RECORD IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS ON APRIL 30, 1923 AS DOCUMENT NO. 7905451, IN COOK COUNTY, ILLINOIS.

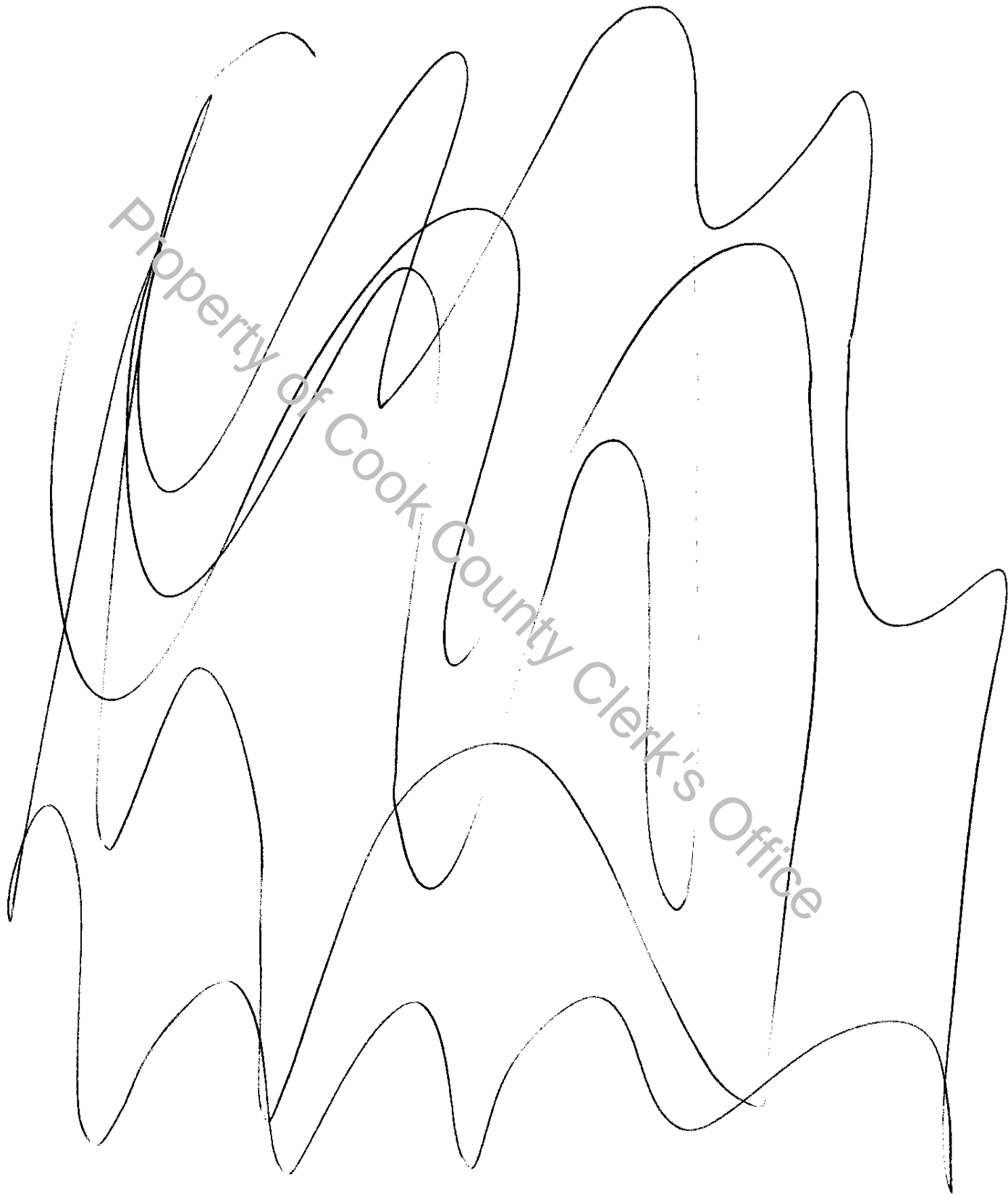
#### PARCEL 2:

LOT 18 AND LOT 19 (EXCEPT THAT PART THEREOF, LYING WEST OF A LINE DRAWN FROM THE NORTHWEST CORNER OF SAID LOT 19 TO A POINT IN THE SOUTH LINE OF SAID LOT, 60 FEET WEST SAID LOT) IN BLOCK 2 IN FRED W. BRUMMELL AND COMPANY'S LINCOLN BRYN MAWR WESTERN SUBDIVISION, BEING A SUBDIVISION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12, AND THAT PART EASTERLY OF LINCOLN AVENUE, OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 12 (EXCEPTING THEREFROM THAT PART THEREOF LYING SOUTH OF A LINE 200.0 FEET NORTH OF THE NORTH LINE OF BERWYN AVENUE) ALL IN TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT STREETS AND ALLEYS) ACCORDING TO THE PLAT OF SAID SUBDIVISION FILED FOR RECORD IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS ON THE 12TH DAY OF APRIL 1923, AS DOCUMENT NO. 7879542 AS CORRECTED BY CERTIFICATE FILED FOR RECORD IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS ON APRIL 30, 1923, AS DOCUMENT NO. 7905451, IN COOK COUNTY, ILLINOIS.

Property Address: 5527 N. Maplewood, Chicago, IL 60625

Property Tax Identification Numbers: 13-12-207-011; 13-12-207-012; 13-12-207-013; 13-12-207-014; 13-12-207-015; and 13-12-207-016

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