

UNOFFICIAL COPY

***This Document Prepared By And
When Recorded Return To:***

Richard C. Jones, Jr., Esq.
Tina M. Jacobs, Esq.
Tonya M. Parravano, Esq.
JONES & JACOBS
77 West Washington Street
Suite 2100
Chicago, Illinois 60602
(312) 419-0700



Doc#: 0432446211
Eugene "Gene" Moore Fee: \$48.00
Cook County Recorder of Deeds
Date: 11/19/2004 12:41 PM Pg: 1 of 13

For Recorder's Use Only

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (the "Agreement") is made as of this 5th day of November, 2004, between PRAIRIE BANK AND TRUST COMPANY, an Illinois banking corporation, whose principal place of business is 7661 South Harlem Avenue, Bridgeview, Illinois 60455 (the "Senior Mortgagee") and JOANNE YANGAS, as Independent Executor of the Estate of ANNA O. YANGAS, as successor-in-interest and heir to the Estate of LOUIS P. YANGAS, whose address is 1307 North Oakley, Chicago, Illinois 60622 (the "Junior Mortgagee").

RECITALS:

A. Senior Mortgagee is the owner and holder of a certain Construction Mortgage (the "Senior Mortgage") made by PRAIRIE BANK AND TRUST COMPANY dated as of November 5, 2004, and recorded in the Cook County Recorder's Office, Cook County, Illinois on November 19, 2004, 2004, as Document No. 0432446209, encumbering the property commonly known as 2323 West 183rd Street, Homewood, Illinois (the "Property"), as legally described on Exhibit A attached hereto.

B. The Senior Mortgage secures the indebtedness evidenced by a certain Construction Note (the "Senior Note") dated as of November 5, 2004, made by PRAIRIE BANK AND TRUST COMPANY, not personally, but as Trustee under Trust Agreement dated October 3, 2001, and known as Trust No. 01-089 ("Prairie Bank Trust") and the beneficiary of the Prairie Bank Trust (the Prairie Bank Trust and such beneficiary are jointly referred to as "Borrower"), payable to the order of Senior Mortgagee in the original principal amount of TWO MILLION FOUR HUNDRED SIXTY-FIVE THOUSAND FOUR HUNDRED NINETEEN AND 00/100 DOLLARS (\$2,465,419.00). The proceeds of the Senior Note shall be used by Borrower to finance the construction and development of twenty (20) residential condominium units located on the Property. The Senior Mortgage and the Senior Note, together with any and all other documents and instruments evidencing and securing the Senior Note are hereinafter collectively referred to as the "Senior Loan Documents."

C. Junior Mortgagee is the owner and holder of a certain Mortgage (the "Junior Mortgage") made by MIDLAND FEDERAL SAVINGS AND LOAN ASSOCIATION, as Trustee under Trust Agreement dated December 6, 1996, and known as Trust No. 1262-3 (the "Midland Trust") to the Junior Mortgagee, dated as of January 30, 1997, and recorded in the Cook County Recorder's Office, Cook County, Illinois, on January 31, 1997, as Document No. 97-070218 encumbering the Property.

UNOFFICIAL COPY

D. The Junior Mortgage secures the indebtedness evidenced by a certain Note (the "**Junior Note**") dated as of January 27, 1997, made by the Midland Trust payable to the order of Junior Mortgagee in the original principal amount of FOUR HUNDRED FIFTEEN THOUSAND THIRTY-FIVE AND 44/100 DOLLARS (\$415,035.44). The Junior Mortgage and the Junior Note, together with any and all other documents and instruments evidencing and securing the Junior Note, are hereinafter collectively referred to as the "**Junior Loan Documents**."

E. The Midland Trust conveyed title to the Prairie Bank Trust on or about March 26, 2002, by that certain Trustee's Deed in Trust, recorded in the Cook County Recorder's Office, Cook County, Illinois, on November 21, 2002 as Document No. 0021288382.

F. The Junior Mortgagee and the Junior Loan Documents are modified and amended by that certain Mortgage Modification Agreement dated ~~October 10~~, 2004, made by and between the Prairie Bank Trust and the Junior Mortgagee.

RECORDED IN DOCUMENT # 0932446208 ON November 19 2004

G. All obligations of Borrower to Senior Mortgagee now existing or hereafter arising, due or to become due, under the Senior Note and the Senior Loan Documents are herein called the "**Senior Liabilities**."

H. All obligations of Borrower to Junior Mortgagee now existing or hereafter arising, due or to become due, under the Junior Note and the Junior Loan Documents are herein called the "**Junior Liabilities**."

NOW, THEREFORE, in consideration of the foregoing and as an inducement to Senior Mortgagee to permit the loan evidenced by the Junior Note, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto represent, warrant and agree as follows:

1. *Incorporation of Recitals.* The Recitals of this Agreement are incorporated herein and made a part hereof by this reference hereto.
2. *Subordination of Liens.* Junior Mortgagee hereby agrees that the Junior Mortgage shall be subordinate and inferior to the Senior Mortgage and that the liens and security interests created by the Junior Loan Documents are and shall be subordinate and inferior to the liens and security interests created by the Senior Loan Documents and to any and all amendments, modifications, extensions, replacements or renewals of the Senior Loan Documents and to any and all advances heretofore made or hereafter to be made under the Senior Loan Documents pursuant to the terms thereof.
3. *Notices of Default; Forbearance.* Junior Mortgagee shall give Senior Mortgagee prompt written notice of the occurrence of any default under or with respect to the Junior Loan Documents. Junior Mortgagee hereby agrees that until the Senior Liabilities have been paid in full to Senior Mortgagee and the Senior Loan Documents have been released, Junior Mortgagee shall not take any action of any kind, without the prior written consent of Senior Mortgagee, to enforce any right or remedy provided for in the Junior Loan Documents, whether at law or in equity, specifically including, but not limited to, any proceeding seeking or contemplating foreclosure of the Junior Mortgage. Junior Mortgagee further hereby agrees that until the Senior Liabilities have been paid in

UNOFFICIAL COPY

full to Senior Mortgagee and the Senior Loan Documents have been released, Junior Mortgagee shall not demand or receive any payment of principal or interest on the Junior Liabilities.

Notwithstanding the foregoing, as a condition precedent to the issuance of a partial release from the Junior Mortgage of any condominium Unit in the Project, Junior Mortgagee shall receive a payment of \$9,000.00 from the proceeds of the sale of such Unit.

4. Permitted Actions by Senior Mortgagee. Senior Mortgagee may, from time to time, in its sole discretion and without notice to Junior Mortgagee, take any or all of the following actions: (a) retain or obtain a security interest in any property to secure any of the Senior Liabilities; (b) retain or obtain the primary or secondary obligation of any other obligor or obligors with respect to any of the Senior Liabilities; (c) extend or renew for one or more periods of time (whether or not longer than the original period), alter or modify any of the Senior Liabilities, or release or compromise any obligation of any nature of any obligor with respect to any of the Senior Liabilities; and (d) receive, collect and apply to the Senior Liabilities any and all rents, contract payments and other income from the Property.

5. Assignment. Senior Mortgagee may, from time to time, at its discretion and without notice to Junior Mortgagee, assign or transfer any or all of the Senior Liabilities or any interest therein; and notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, such Senior Liabilities shall be and remain Senior Liabilities for the purpose of this Agreement, and every immediate and successive assignee or transferee of any of the Senior Liabilities or of any interest therein shall, to the extent of the interest of such assignee or transferee in the Senior Liabilities, be entitled to the benefits of this Agreement to the same extent as if such assignee or transferee were Senior Mortgagee.

6. Successors and Assigns. This Agreement shall be binding upon Junior Mortgagee and Senior Mortgagee and their respective successors and assigns and shall inure to the benefit of Junior Mortgagee and Senior Mortgagee and their respective successors and assigns.

7. Effect on Due on Sale Provisions. Junior Mortgagee hereby waives any due on sale or due on refinancing provisions of the Junior Loan Documents as they relate to the Senior Liabilities.

8. Notice. Any notice, demand or other communication which any party may desire or may be required to give hereunder to any other party shall be in writing, and shall be deemed given (i) if and when personally delivered, (ii) upon receipt if sent by a nationally recognized overnight courier addressed to a party at its address set forth below, or (iii) on the second (2nd) business day after being deposited in United States certified mail, return receipt requested, postage prepaid, addressed to a party at its address set forth below:

IF TO SENIOR MORTGAGEE:	PRAIRIE BANK AND TRUST COMPANY 7661 South Harlem Avenue Bridgeview, Illinois 60455 Attn: Mark W. Trevor Executive Vice President
--------------------------------	---

UNOFFICIAL COPY**WITH A COPY TO:**

JONES & JACOBS
 77 West Washington Street
 Suite 2100
 Chicago, Illinois 60602
 Attn: Tonya M. Parravano, Esq.

IF TO JUNIOR MORTGAGEE:

Ms. Joanne Yangas, Executor of the Estate of
 Louis P. Yangas
 1307 North Oakley
 Chicago, Illinois 60622

WITH A COPY TO:

ROMANOFF & DICKETT, LTD.
 18106 Martin Avenue
 P.O. Box 1166
 Homewood, Illinois 60430-0166
 Attn: Gust W. Dickett, Esq.

Any party hereto may change the address at which notices hereunder are required to be given to such party by notice to the other parties in accordance herewith.

9. Governing Law and Interpretation of this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Wherever possible each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

10. Execution of Additional Documents. Junior Mortgagee agrees to execute such further documents or instruments and take such further actions as Senior Mortgagee may reasonably request from time to time to carry out the intent and purpose of this Agreement.

11. Counterparts. This Agreement may be executed by the parties hereto in any number of counterparts, each of which shall constitute an original document, and all of which when taken together shall constitute one and the same agreement.

12. Termination. This Agreement shall terminate upon full and final payment of any and all amounts due under the Senior Liabilities.

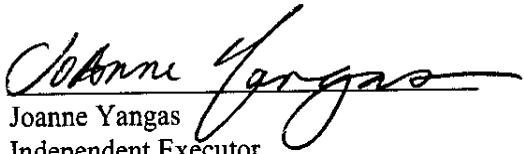
[THE REMAINDER OF THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK.]

UNOFFICIAL COPY

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the day and year first written above.

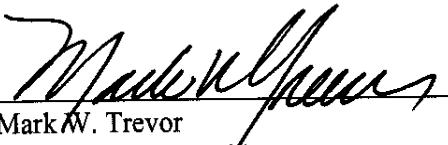
JUNIOR MORTGAGEE:

**JOANNE YANGAS, as Independent
Executor of the Estate of ANNA O.
YANGAS, as successor-in-interest and
Heir to the Estate of LOUIS P. YANGAS**

By: 
Joanne Yangas
Independent Executor

SENIOR MORTGAGEE:

**PRAIRIE BANK AND TRUST
COMPANY, an Illinois banking corporation**

By: 
Mark W. Trevor
Executive Vice President

Property of Cook County Clerk's Office

UNOFFICIAL COPY

CONSENT AND AGREEMENT OF BORROWERS AND GUARANTORS

Each of undersigned hereby acknowledges the terms of and consents to the foregoing Subordination Agreement and agrees that (i) said Agreement does not constitute a waiver or partial waiver by Senior Mortgagee of any of its rights under the Senior Loan Documents, or in any way release the undersigned from its obligations to comply with the terms and conditions contained in the Senior Loan Documents; (ii) said Agreement does not constitute a waiver or partial waiver by Junior Mortgagee of any of its rights under the Junior Loan Documents, or in any way release the undersigned from its obligations to comply with the terms and conditions contained in the Junior Loan Documents; and (iii) the undersigned will not take any action contrary to or inconsistent with this Agreement.

Dated as of November 5, 2004.

PRAIRIE BANK AND TRUST COMPANY, not personally, but A/T/U Trust Agreement dated 10/3/01, Trust No. 01-089

By: [Signature]
Its Trust Officer

EXCULPATORY CLAUSE

It is expressly understood and agreed by and between the parties hereto anything here to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form intended to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that the portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such trustee; and that no part, liability or personal responsibility is assumed by nor shall at any time be asserted or claimed against PRAIRIE BANK AND TRUST COMPANY under said Trust Agreement, or in respect of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

Attest: [Signature]
Asst. Trust Officer

FLOSSWOOD STATION, LLC, an Illinois limited liability company
By: **LUCCA, INC.**, an Illinois corporation,
its Managing Member

By: [Signature]
Luke Castrogiovanni
President and Secretary

PRAIRIE BANK AND TRUST COMPANY

LUCCA, INC., an Illinois corporation

By: [Signature]
Luke Castrogiovanni
President

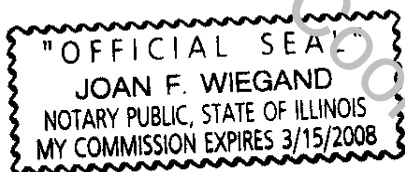
[Signature]
LUKE CASTROGIOVANNI, individually

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that JOANNE YANGAS, is personally known to me to be the Independent Executor of the Estate of ANNA O. YANGAS, as successor-in-interest and heir to the Estate of LOUIS P. YANGAS, and is the same person whose name is subscribed to the foregoing instrument as such Independent Executor, appeared before me this day in person and acknowledged to me that she signed and delivered the said instrument as her own free and voluntary act and as her free and voluntary act as Executor of the Estate of ANNA O. YANGAS as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 15 day of NOVEMBER, 2004.



Joan F. Wiegand

NOTARY PUBLIC

My Commission Expires:
3-15-2008

Cook County Clerk's Office

UNOFFICIAL COPY

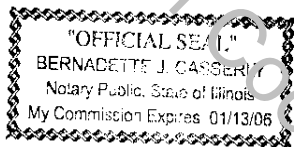
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that MARK W. TREVOR, who personally known to me to be the Executive Vice President of PRAIRIE BANK AND TRUST COMPANY, an Illinois banking corporation, is the same person whose name is subscribed to the foregoing instrument as such Executive Vice President, appeared before me this day in person and acknowledged to me that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 19th day of November, 2004.

Bernadette J. Cassady

NOTARY PUBLIC



My Commission Expires:
1-13-06

UNOFFICIAL COPY

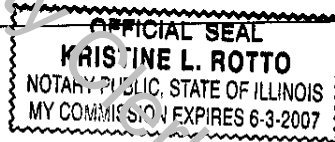
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that BRUNO M. FINA and TERESA M. DIORO, personally known to me to be the Asst. Trust Officer and Asst. Trust Officer respectively, of **PRAIRIE BANK AND TRUST COMPANY**, an Illinois banking corporation, and are the same persons whose names are subscribed to the foregoing instrument as such Asst. Trust Officer and Asst. Trust Officer respectively, appeared before me this day and acknowledged to me that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Trustee as aforesaid, for the uses and purposes therein set forth; and the said Asst. Trust Officer and there acknowledged that the Asst. Trust Officer, as custodian of the corporate seal of said Trustee, did affix the seal of said Trustee to said instrument as the free and voluntary act of said Asst. Trust Officer and as the free and voluntary act of said Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 10th day of November, 2004.

Kristine L. Rotto
NOTARY PUBLIC

My Commission Expires:

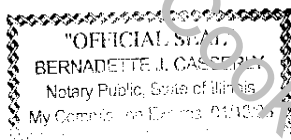


UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that LUKE CASTROGIOVANNI, personally known to me to be the President of LUCCA, INC., an Illinois corporation, which is the Managing Member of FLOSSWOOD STATION, LLC, an Illinois limited liability company, is the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 11th day of November, 2004.



Bernadette J. Caserly
NOTARY PUBLIC

My Commission Expires:
1-13-06

County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

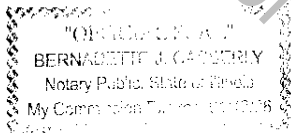
I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that LUKE CASTROGIOVANNI, personally known to me to be the President of LUCCA, INC., an Illinois corporation, is the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 11th day of November, 2007.

Bernadette J. Casserly
NOTARY PUBLIC

My Commission Expires:

1-13-06



Property of Cook County Clerk's Office

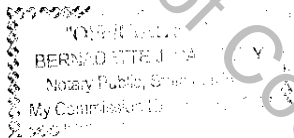
UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **LUKE CASTROGIOVANNI**, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 11th day of November, 2004.

Bernadette J. Casey
NOTARY PUBLIC



My Commission Expires:

1-13-06

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

THAT PART OF LOTS 1 AND 2 IN THE SUBDIVISION OF THE NORTH 462 FEET OF THAT PART OF THE NORTHWEST ¼ LYING WESTERLY OF THE WESTERLY RIGHT-OF-WAY LINE OF THE ILLINOIS CENTRAL RAILROAD AND THAT PART OF THE NORTHWEST ¼ OF SECTION 6, TOWNSHIP 35 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF A LINE 33 FEET SOUTH (MEASURED AT RIGHT ANGLES) OF THE NORTH LINE OF THE NORTHWEST ¼ OF SECTION 6 WITH A LINE 560 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE NORTHWEST ¼ OF SECTION 6; THENCE SOUTH ON SAID PARALLEL LINE A DISTANCE OF 120 FEET TO A POINT; THENCE WEST ON A LINE 153 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE NORTHWEST ¼ OF SECTION 6 A DISTANCE OF 60 FEET TO A POINT; THENCE SOUTH ON A LINE 500 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE NORTHWEST ¼ OF SECTION 6, A DISTANCE OF 30 FEET TO A POINT; THENCE WEST ON A LINE 183 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE NORTHWEST ¼ OF SECTION 6, A DISTANCE OF 170 FEET TO A POINT; THENCE SOUTH ON A LINE 390 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE NORTHWEST ¼ OF SECTION 6, A DISTANCE OF 279.10 FEET TO A POINT; THENCE WEST ON A STRAIGHT LINE WHICH MAKES AN ANGLE OF 89 DEGREES 55 MINUTES 15 SECONDS WITH THE LAST NAMED PARALLEL LINE WHEN TURNED FROM NORTH TO WEST, A DISTANCE OF 38.59 FEET TO A POINT; THENCE SOUTH ON A LINE 350.81 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE NORTHWEST ¼ OF SECTION 6, TO THE POINT OF INTERSECTION WITH A LINE 180 FEET NORTH OF AND PARALLEL TO THE NORTH LINE OF FLOSSWOOD SUBDIVISION, A SUBDIVISION OF PART OF THE NORTHWEST ¼ OF SAID SECTION 6; THENCE EASTERLY ON THE LAST NAMED PARALLEL LINE TO THE POINT OF INTERSECTION WITH A LINE 581 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE NORTHWEST ¼ OF SECTION 6; THENCE NORTH ON THE LAST NAMED PARALLEL LINE, A DISTANCE OF 286.95 FEET TO A POINT; THENCE EASTERLY ON A STRAIGHT LINE, SAID LINE WHICH IS 467 FEET NORTH OF AND PARALLEL TO THE NORTH LINE OF FLOSSWOOD SUBDIVISION, A DISTANCE OF 68 FEET TO A POINT; THENCE NORTHERLY ON A STRAIGHT LINE, SAID LINE WHICH IS 649 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE NORTHWEST ¼ OF SAID SECTION 6, TO THE POINT OF INTERSECTION WITH A LINE 33 FEET SOUTH (AS MEASURED AT RIGHT ANGLES) OF THE NORTH LINE OF THE NORTHWEST ¼ OF SECTION 6; THENCE WESTERLY ON THE LAST NAMED LINE TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Common address: 2323 West 183rd Street
Homewood, Illinois 60430

Permanent Index Nos.: 32-06-100-072-0000
32-06-100-076-0000