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Doc#: 0502702089
Eugene "Gene" Moore Fee: \$36.00
Cook County Recorder of Deeds
Date: 01/27/2005 08:25 AM Pg: 1 of 7

MORTGAGE

THIS MORTGAGE, made the 2nd day of December, 2004 from **2033 THC LLC**, an Illinois limited liability company, ("Mortgagor"), to **John Kamysz and Loretta Kamysz and Michael Kamysz** having an address of 8646 W. North Terrace, Niles, Illinois 60714 ("Mortgagee" or "Lender".)

WITNESSETH, that to secure the payment of indebtedness in the sum of One Million (\$1,000,000) Dollars, lawful money of the United States of America, with interest thereon, to be paid according to a certain Note or Notes made by Mortgagor dated the same date as this Mortgage, with a maturity of all principal and interest not required to be sooner paid of December 2, 2006 (such Notes and any and all Notes issued in renewal thereof or in substitution or replacement therefor being hereinafter referred to as the "Note");

NOW, THEREFORE, to secure the payment of the principal and premium, if any, of and interest on the Note as and when the same becomes due and payable (whether by lapse of time, acceleration or otherwise), the payment of all other indebtedness, obligations and liabilities which this Mortgage secures pursuant to any of its terms and the observance and performance of all covenants and agreements contained herein or in the Note, in the Inter-Creditor Agreement among Bridgeview Bank Group, John Kamysz and Loretta Kamysz and Michael Kamysz, and Mortgagor and Bluestone Land Company LLC, or in any other instrument or document at any time evidencing or securing any of the foregoing or setting forth terms and conditions applicable thereto (all of such indebtedness, obligations and liabilities being hereinafter collectively referred to as the "indebtedness hereby secured" or "Secured Indebtedness" and all such documents being hereinafter collectively referred to as "Loan Documents"), Mortgagor does hereby grant, sell, convey, mortgage, assign, and pledge unto Mortgagee, its successors and assigns, and grant to Mortgagee, its successors and assigns a security interest in all and singular the property described on the attached Exhibit A, referred to herein as the "Mortgaged Property":

This Document Prepared By:

Mark R. Ordower
333 S. Desplaines Street
Suite 307
Chicago, Illinois 60661

Box 15

990033036 2/8

TICOR TITLE INSURANCE

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The Mortgagor hereby covenants with the Mortgagee as follows:

1. Indebtedness and Future Advances. The Mortgagor will pay the indebtedness evidenced by the Note in accordance with the terms thereof. Mortgagee may advance additional sums secured by additional notes, but the indebtedness secured by this Mortgage may never exceed Two Million Five Hundred Thousand (\$2,500,000) Dollars.

2. Fees and Expenses. The Mortgagor will pay all filing, registration and recording fees and other expenses relating to this Mortgage, any financing statements filed in connection therewith, any supplements or additions to the foregoing, any satisfaction or assignment requested by the Mortgagor and all taxes or assessments relating to this Mortgage or the indebtedness secured hereby. The Mortgagee shall be entitled to recover the reasonable fees and expenses of its counsel incurred in connection with any default under the Note or this Mortgage including fees and expenses incurred in any foreclosure proceeding pursuant to this Mortgage. If the holder of this Mortgage shall become a party in any action or proceeding in which it becomes necessary to defend or uphold any rights of Mortgagee, all sums paid by said holder in connection therewith, including reasonable counsel fees, shall be paid by the Mortgagor and said amount shall be a lien on the Mortgaged property. If the Mortgagor shall fail to pay such sums upon request by the Mortgagee, the amount thereof shall bear interest at the Default Interest Rate set forth in paragraph 3 hereof from the date of request to the date of payment.

3. Default Interest Rate. If the principal balance of this Mortgage is not paid when due and payable whether by maturity or acceleration, and after an Event of Default, the outstanding balance shall bear interest from the due date to the date of payment in full at the rate of three (3) percent in excess of the Interest Rate set forth in the Note.

4. Event of Default. Each of the following shall constitute an event of default ("Event of Default") under this Mortgage:

(a) Mortgagor's failure to pay any amount due herein or secured hereby, or any installment of principal or interest when due and payable whether at maturity or by acceleration or otherwise under the Note, this Mortgage, or any other Loan Document, which failure continues for more than ten (10) days; provided, however, that such ten (10) day cure period shall not apply to the other sub-paragraphs of this paragraph;

(b) Mortgagor's failure to perform or observe any other covenant, agreement, representation, warranty or other provision contained in the Note, this Mortgage or any other Loan Document and such failure continues for a period of twenty-one (21) days after the earlier of Mortgagor's becoming aware of such failure or the effective date of notice thereof given by Lender to Mortgagor; provided, however, that this grace period shall not apply to the other sub-paragraphs of this paragraph;

(c) The occurrence of any breach of any representation or warranty contained in this Mortgage or any other Loan Document;

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(d) A court having jurisdiction shall enter a decree or order for relief in respect of Mortgagor, or Maker of the Note, in any involuntary case brought under any Bankruptcy, insolvency, debtor relief, or similar law; or if Mortgagor shall: (i) file a voluntary petition in Bankruptcy, insolvency, debtor relief or for arrangement, reorganization or other relief under the Federal Bankruptcy Act or any similar state or federal law; (ii) consent to or suffer the appointment of or taking possession by a receiver, liquidator, or trustee (or similar official) of the Mortgagor or for any part of the Property or any substantial part of the Mortgagor's other property; (iii) make any assignment for the benefit of Mortgagor's creditors; (iv) fail generally to pay Mortgagor's debts as they become due;

(e) All or a substantial part of Mortgagor's assets are attached, seized, subjected to a writ or distress warrant, or are levied upon;

(f) This Mortgage shall not constitute a valid lien on and security interest in the Property (subject only to the Permitted Encumbrances), or if such lien and security interest shall not be perfected;

(g) The Property is abandoned; or

(h) An indictment or other charge is filed against the Mortgagor or Beneficiary, in any jurisdiction, under any federal or state law, for which forfeiture of the Property or of other collateral securing the Secured Indebtedness or of which other funds, property or other assets of Mortgagor, Beneficiary or Lender is a potential penalty.

5. ACCELERATION; REMEDIES. AT ANY TIME AFTER AN EVENT OF DEFAULT, LENDER, AT LENDER'S OPTION, MAY DECLARE ALL SUMS SECURED BY THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS TO BE IMMEDIATELY DUE AND PAYABLE WITH OR WITHOUT NOTICE 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 INCLUDING APPRAISALS, ENVIRONMENTAL REPORTS AND TITLE REPORTS, ALL OF WHICH SHALL BECOME A PART OF THE SECURED INDEBTEDNESS AND IMMEDIATELY DUE AND PAYABLE, WITH INTEREST AT THE DEFAULT RATE.

6. Prior Encumbrances. This Mortgage is a junior mortgage subordinate to a mortgage to Bridgeview Bank & Trust ("BANK"), securing a note for \$3,910,000. Mortgagor covenants and agrees to keep the prior mortgage in good standing and also to pay before delinquent all taxes and other impositions on the property that have priority over this Mortgage. Mortgagee shall have the right to satisfy or cure any delinquencies in prior mortgages or other impositions and add the amount of the payments made for such purpose to the balance of the Note secured by this Mortgage, and such additional advances shall be immediately due and payable.

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Notwithstanding the foregoing paragraph or any other provision of this Mortgage, Mortgagee shall have the right to pay off the first mortgage only if first mortgagee declares a default and begins to charge default interest. The amounts advanced by Mortgagee to pay off first mortgagee shall be added to the Note, but shall bear interest at the default rate charged by first mortgagee rather than the Note rate. Monthly payment amounts or other sums advanced to cure defaults in the first mortgage shall accrue interest at the Note rate.

7. Assignment of Leases and Rents. All right, title and interest of Mortgagor in and to those leases, if any, listed on Exhibit B, and all present and future leases affecting the Property, written or oral (collectively "Leases"), and all rents, income, receipts revenues, issues, avails and profits from or arising out of the Property (collectively "Rents") are hereby transferred and assigned to Mortgagee as further security for the payment of the Secured Indebtedness, and Mortgagor hereby grants a security interest to Mortgagee in and to the same. If requested by Mortgagee, Mortgagor shall submit all future Leases affecting the Property to the Mortgagee, for its approval prior to execution, and all approved and executed Leases shall be specifically assigned to Mortgagee by an instrument satisfactory to Mortgagee. Each Lease shall, at the option of Mortgagee, be paramount or subordinate to this Mortgage. Mortgagor shall furnish Mortgagee with executed copies of each Lease and, if requested by Mortgagee, with estoppel letters from each tenant, which estoppel letters shall be in a form satisfactory to Mortgagee and shall be delivered not later than thirty (30) days after Mortgagee's written demand.

If, without Mortgagee's prior written consent, Mortgagor: (i) as lessor, fails to perform and fulfill any term, covenant, or provision in any Lease; (ii) suffers or permits to occur any breach or default under the provisions of any separate assignment of any Lease given as additional security for the Secured Indebtedness; (iii) fails to fully protect, insure, preserve, and cause continued performance by the lessee or the lessor of any other Lease or Leases hereafter assigned to Mortgagee; (iv) cancels, terminates, or materially amends or modifies any Lease, or (v) permits or approves an assignment by lessee of a Lease or a subletting of all or any part of the Property demised in the Lease; such occurrence shall constitute an Event of Default hereunder.

Mortgagee shall have the right to assign Mortgagor's right, title and interest in any Leases to any subsequent holder of this Mortgage or the Note and other Loan Documents or to any person acquiring title to all or any part of the Property through foreclosure or otherwise.

Upon an Event of Default, this Mortgage shall constitute a direction to each lessee under the Leases and each guarantor thereof, if any, to pay all Rents directly to Mortgagee without proof of the Event of Default. Mortgagee shall have the authority, as Mortgagor's attorney-in-fact (such authority being coupled with an interest and irrevocable) to sign the name of Mortgagor and to bind Mortgagor on all papers and documents relating to the operation, leasing and maintenance of the Property. While this assignment is a present assignment, Mortgagee shall not exercise any of the right or powers conferred upon it by this paragraph until such Event of Default shall occur under this Mortgage, nor shall any such right or power be exercised if a prior mortgagee has exercised a similar right or power under any prior assignment of leases or rents. **MORTGAGEE ACKNOWLEDGES THAT THIS ASSIGNMENT IS SUBORDINATE TO A PRIOR ASSIGNMENT OF RENTS IN FAVOR OF BANK.**

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If Mortgagor, as lessor, shall neglect or refuse to perform and keep all of the covenants and agreements contained in the Lease or Leases, then Mortgagee may perform and comply with any such Lease covenants and agreements. All related costs and expenses incurred by Mortgagee shall become a part of the Secured Indebtedness and shall be due and payable upon demand by Mortgagee with interest thereon accruing thereafter at the Default Rate.

Mortgagee, however, shall not be obligated to perform or discharge any obligation, duty or liability under any Lease. Mortgagor shall defend, protect, indemnify and hold Mortgagee harmless from and against any and all liability, loss or damage to Mortgagee under the Leases or under or by reason of their assignments and of and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of all alleged obligations or undertakings on its part to perform or discharge any Lease terms, covenants or agreements. The amount of any such liability, loss or damage arising under the Leases or under or by reason of their assignment, or in the defense of any claims or demands, including costs, expenses and reasonable attorneys' fees incurred by Mortgagee shall be a part of the Secured Indebtedness due and payable upon demand with interest thereon accruing thereafter at the Default Rate.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the day and year first above written.

2033 THC LLC, an Illinois limited liability company

By 

Mark F. Ordower, Manager

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STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Mark R. Ordower personally known to me to be the Manager of 2033 THC LLC, an Illinois limited liability company, appeared before me this day in person and acknowledged that as such Manager he signed and delivered the said instrument pursuant to authority, given by the company, as his free and voluntary act and deed of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 2nd day of December, 2004.



Georgette Phillos

 Notary Public

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EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1

LOTS 1, 2, 3 AND 4 (EXCEPT THE WEST 34.00 FEET THEREOF) IN CHARLES BUSBY'S SUBDIVISION OF LOTS 6 AND 7 IN BLOCK 4 IN GEORGE SMITH'S ADDITION TO CHICAGO IN THE SOUTHWEST FRACTIONAL $\frac{1}{4}$ OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2

LOTS 10, 11, 14, 15 AND 18 IN BLOCK 4 IN GEORGE SMITH'S ADDITION TO CHICAGO IN THE SOUTHWEST FRACTIONAL $\frac{1}{4}$ OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBERS: 17-22-314-024-0000
 17-22-314-028-0000

STREET ADDRESS: 2033 SOUTH INDIANA AVENUE
 CHICAGO, ILLINOIS

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