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Townhomedeclaration.Armitage

DECLARATION OF PARTY WALL RIGHTS EASEMENTS, RESTRICTIONS, AND COVENANTS FOR ARMITAGE TOWNHOMES

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THIS DECLARATION (the "Declaration") is made and entered into as of this 27 day of APRIL, 2005 by 3258 West Armitage, Inc., an Illinois Corporation (the "Developer").

WHEREAS, the Developer is the titleholder in fee simple of certain Property legally described on Exhibit A attached hereto in the City of Chicago, County of Cook and State of Illinois and Developer has an interest in the Property; and

WHEREAS, the Developers desire to provide for the preservation of the value and the harmonious, beneficial, and proper use of the Property and to this end the Developer desires to subject the property to the rights, easements, covenants, restrictions, charges, and liens hereinafter set forth; and

WHEREAS, it is intended that the Property be developed by the construction of attached single family homes ("Townhomes") which will be conveyed in fee simple to ultimate users and purchasers of same; and

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WHEREAS, the Developer intends that the several owners of the Property, their successors and assigns, and their mortgagees, guests, and invitees shall at all times enjoy the benefit of the Declaration, all of which are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of such property.

NOW, THEREFORE, the Developer hereby declares that the Property shall be held, conveyed, occupied, and encumbered subject to the rights, easements, covenants, restrictions, charges, and liens hereinafter set forth, each and all of which shall, with respect to the Property, attach to and constitute covenants running with the land.

ARTICLE I Definitions

The following terms shall have the following meanings:

1.1 Alteration. Any change in the exterior appearance of any Improvement, landscaping or in the grading or drainage pattern of any Parcel.

1.2 By-Laws. The By-Laws of the Association, as they may be amended pursuant thereto.

1.3 Development Site. The real estate legally described on Exhibit A attached hereto.

1.4 Dwelling Unit. An attached residential housing unit located on a lot and intended for use exclusively as residential living quarters as constructed by the Developer upon the parcel.

1.5 Easement Parcels. Easements for utility service, including cable television service and parking, as granted by Article II and III and by other instruments.

1.6 Improvement. Any permanent structure attached to the Property and for which the City of Chicago requires the issuance of a building permit and in addition any ancillary facilities such as garages or parking areas, driveways, curbs, fences, and sidewalks and landscaping for the remaining portion of the Parcels of the Common Area, as the case may be, not occupied by such Improvements and their ancillary facilities.

1.7 Lot. Any individual subdivided parcel of real estate of the Development Site or portion thereof.

1.8 Parcel. A parcel of land improved or intended to be improved with one Townhome.

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1.9 Parcel Owner. The person or persons whose estate or interests, individually or collectively, aggregate fee simple ownership of a Parcel (without reference to the interests of lien holders or tenants for terms of years or otherwise).

1.10 Person. A natural person, corporation, partnership, trustee or other entity capable of holding title to real property.

1.11 Townhome. Any Improvement, complete or incomplete, and intended only for occupancy as a residence and located on a Parcel.

ARTICLE II Easements

2.1 The Parcel Owners, their guests and invitees, but not the public generally, are hereby granted easements for use and enjoyment and ingress and egress from any portions of the Property over, upon, and across the Easement Area, or the portions thereof, and the Association shall have the power to grant such easements or licenses for such other purposes as may be appropriate to such Persons, and upon such terms and conditions, at such costs, if any, and for such duration as the Association deems appropriate.

Included as a part of the Easement Area shall be an easement for use and enjoyment and ingress and egress, in the unenclosed portion of the building erected over the land, and in the courtyard, as described on the attached plat of survey recorded with this document.

2.2 Each Parcel Owner shall maintain those portions of his or her Parcel which are subject to easements granted hereunder except as otherwise provided herein, provided the Association, in its sole discretion, shall have the authority to assume any such costs as it deems appropriate.

2.3 All easements and rights described in this Declaration are easements appurtenant, running with the land, and shall inure to the benefit of, burden and be binding upon the undersigned, their successors and assigns, and upon any owner, purchaser, mortgagee, or other Person having an interest in the Property, or any part thereof.

2.4 All persons who reside on a Parcel shall have the same rights to use and enjoy the Common Area and all improvements situated thereon as the Owner of that Parcel.

2.5 The SBC Ameritceh Company, ComEd Company, People's Energy Company, Chicago Cable TV Company, and all other suppliers of utilities serving the Property, are hereby granted the right to install, lay, construct, operate, maintain, renew,

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repair, and replace conduits, cables, pipes, wires, transformers, mains, switching apparatus and other equipment, including housings for such equipment into, over, under, on and through any non-dedicated roadways on the Property and the Easement Parcels for the purpose of providing utility services to the Property to any portion of the Additional Property, whether or not annexed hereto. Every Parcel is also hereby granted an easement of ingress and egress over and upon the common Area and any other Parcel for any and all purposes arising out of the construction, installation, repair, maintenance, replacement and inspection of utilities servicing such Parcel Owner's Parcel. Easements are also hereby declared and granted to the Developer or its assignee to install, lay, construct, operate, maintain, renew, repair and replace any conduits, cables, pipes, wires, or other equipment or components of a community antenna television service system into, over, under, on and through the Common Area and any Parcel for the purpose of utility installation, construction, service and maintenance under each and any of the Parcels and through the buildings constructed thereon. This shall include service and maintenance of utility lines which are no longer the responsibility of the utility provider.

2.6 Notwithstanding any provision herein to the contrary, the easements created under this Section shall be subject to the right of Developer to execute all documents and do all other acts and things which, in the Developer's opinion, are desirable in connection with Developer's rights hereunder, provided any such document or act or thing is not inconsistent with the property rights of any Owner.

2.7 In the event that (i) by reason of design, construction, location, repair, settlement, shifting or movement, any dwelling, garage or other Improvement as originally constructed by the Developer on any parcel overhangs or otherwise encroaches or shall hereafter encroach upon any other Parcel, or (ii) by reason of the design or construction of utility ventilation, and exhaust systems, as originally constructed by Developer, any mains, pipes, ducts or conduits servicing any Parcel, then, in any such case, perpetual easements for the maintenance of such encroachment, together with the right to enter upon such other Parcel to maintain, repair, and replace such encroachment are hereby established and shall exist for the benefit of such Parcel or other improvement shall remain standing, provided, however, that if any such dwelling, garage or other improvement is partially or totally destroyed and thereafter repaired or rebuilt, the same encroachment may be reestablished and the easements herein granted for the maintenance, repair and replacement thereof shall continue in force.

ARTICLE III

Restrictions as to Use and Occupancy

3.1 Use and Occupancy of the Parcels

(a) No part of the Property shall be used for any purpose other than housing, parking, and related common purposes for which the Property was designed.

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Each Parcel shall be used as a residence for a single family dwelling and for no other purposes.

(b) The outdoor parking areas shall be used for the parking of passenger automobiles, motorcycles and motor scooters, subject to: no boats, trailers, trucks, recreational vehicles, campers, snowmobiles, buses, vehicles bearing signs on their exteriors or other vehicles or property of any kind shall be parked or stored thereon unless permitted by such rules and regulations as may be adopted by the Board. No maintenance of any vehicle shall be performed on any of the property. No vehicle shall be parked on any portion of the Common Areas unless otherwise permitted pursuant to rules and regulations adopted by the Board. Every Parcel Owner, occupant and other person shall be responsible for his personal property in the outdoor parking areas. Neither the board nor the Association shall be considered the bailee of any such personal property, nor shall either be responsible for any loss or damage thereto, whether or not due to negligence of the Board and/or the Association. Developer may use the outdoor parking areas or other areas temporarily improved for parking as parking for model units.

(c) There shall be no obstruction of any portion of the Property, nor shall ready access to a garage, parking space or entrance to any Parcel be obstructed or impeded in any manner.

(d) No Parcel Owner shall permit anything to be done or kept on his Parcel which will increase the rate charged for or cause the cancellation of insurance carried by the unit owners or on the Property or which would be in violation of any law.

(e) Other than the Developer's improvements, no permanent structures shall be affixed to the parcel, such as outbuildings, barns and sheds. No outdoor clotheslines shall be permitted on the parcels and yards shall not be used for storage purposes. Garages shall be used for storage of vehicles and for no other purpose including the making of mechanical repairs to vehicles. Garage doors shall remain closed to the extent possible.

(f) No animals of any kind shall be raised, bred, or kept on any Parcel except dogs, cats, or other household pets which may be kept subject to rules and regulations adopted by the Board, provided they are not kept, bred, or maintained for any commercial purposes; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the property upon ten (10) days written notice from the Board. No snakes or poisonous insects shall be permitted to be kept in any Dwelling Unit or Parcel. Any dog, cat or other animal excrement shall be removed from the yards of each individual Parcel immediately by said animal's owner and all animal owners shall abide by rules and regulations of the Board.

(g) No noxious or offensive activity shall be conducted on the Parcel nor shall anything be done therein or thereon, either willfully or negligently, which may become an annoyance or a nuisance to other Owners or occupants.

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(h) No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted maintained or permitted on any Parcel, except as otherwise provided herein.

(i) All refuse, in containers or otherwise, shall not be placed out of doors, in fenced-in back yards, garages or common areas. Refuse shall be placed only in those areas specifically designated by the Developer or Board for the storage of trash containers for pick-up.

(j) All exterior and seasonal lighting and decorating shall be subject to rules and regulations of the Board shall be removed no later than thirty (30) days after the close of the holiday.

(k) The restrictions in this Section shall not, however, be construed in such a manner as to prohibit a Parcel Owner from: (i) maintaining his personal professional library therein; (ii) keeping his personal business records or accounts therein; or (iii) handling his personal or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal residential use and not in violation of this Section.

ARTICLE IV

Maintenance of Parcels and Common Areas

4.1 Parcels. Each Parcel Owner, at his sole cost and expense, shall maintain, repair and replace the interior and exterior of his Parcel and the Improvements therein, keeping the same sightly and in good condition and repair, including, without limitation, all routine watering of landscaping and plants enclosed by privacy fences, painting, staining, refinishing, maintenance, repair, replacement and tuckpointing of the exterior surfaces and structural components of the dwellings and garages, including, without limiting the generality of the foregoing, all roofs, sidings, outer walls of the dwellings, all screens, doors and glass surfaces, and window washing repair. No owner shall be permitted to alter the grading of his parcel or the landscaping originally furnished by the developer or remove or add any shrubbery, trees, gardens or other plants, rock gardens, fountains or other elements of landscaping.

4.2 Exterior Maintenance and Repair of Dwelling Units. The Owner shall maintain, repair and replace, the shrubbery, plantings, grass and trees on all Townhome Lots. Such maintenance, repairs and replacements shall be made when and as deemed necessary by the board to maintain the parcels in a first-class residential development. Each Owner shall maintain the parcels in a first-class residential development. Each owner shall maintain in first-class condition and repair all exterior portions of Dwelling Units

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not maintained by the Association, including by way of example and not limitation, trim, lighting, doors, walks, and patios.

4.3 Damage or Destruction. In the event of any damage to a Dwelling Unit by fire or other casualty, the Owner of such Dwelling Unit shall repair, restore and rebuild the portion of such Dwelling Unit so damaged or destroyed to its condition as near as possible, immediately preceding such fire or other casualty as rapidly as possible, but in all instances within one hundred twenty (120) days after the occurrence of such damage, unless prevented by inclement weather or other causes beyond such Owner's reasonable control, in which event reconstruction shall be completed within one hundred eighty (180) days after the occurrence of such damage.

ARTICLE V Rights Reserved to Developer

5.1 Developer's Promotional Rights. The right is reserved to the Developer to place and maintain on any area of the Parcel or Development Site, with the exception of a Parcel which has been sold and conveyed or sold on contract, or sold pursuant to an installment contract or articles of agreement for deed, to an Owner, all model dwelling units, construction trailers, sales offices, fencing, flag poles, advertising signs, banners and lighting in connection therewith and other promotional facilities at such locations and in such forms as shall be determined by the Developer for construction, sales and leasing purposes. There is also reserved to the Developer, its agents, employees and prospective purchasers and tenants, the right of ingress, egress and transient parking in and through the Parcel and Development Site for such sales and leasing purposes. The Developer also reserves the right to maintain on the Parcel without charge (a) a general office for the purpose of exercising the rights reserved in Paragraphs 9.1 and 9.2 hereof, (b) a general construction office for Developer's contractors and subcontractors and (c) appropriate parking facilities for the employees of Developer's agents and contractors. Developer's aforesaid reserved rights shall continue for so long as Developer is engaged in the construction, sale or leasing of Dwelling Units on any portion of the Development Site.

5.2 Developer's Easements. The declarant reserves unto itself and the Developer a non-exclusive easement to, through, over, under and across the Development Site and all portions thereof for the purpose of exercising the rights reserved to the Developer pursuant to this Declaration, and for the purpose of implementing the overall development of the Development Site, including, without limitation, the planning, construction, marketing, leasing, management and maintenance of improvements in any portion of the Development Site. Such easement shall continue for a period of five (5) years from the date of this Declaration unless Developer, by written notice to the Association, elects to terminate such rights prior to such date.

All rights and easements in favor of the Owners created by this Declaration shall be subject and subordinate to the aforescribed development rights and easements of Developer, whether or not inconvenience to any Owner shall result therefrom. The rights

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and easements reserved pursuant to this Section 5.2 and 5.3 shall inure to the benefit of the Developer, the Declarant, their respective successors and assigns including any successor to or assignee of the Developer's right under this Declaration.

5.3 Right of Developer to Make Dedications to Grant Utility Easements. As used in this

Paragraph 5.3, the term "utilities" means all public and private utility conduits, wires, ducts, pipes, cables and other lines, and all associated equipment, which serve the Development Site, including, without limitation, those for the transmission and/or distribution of water, electricity, gas, telephone, sewage, drainage, and television and other structures and facilities for the provision of fire protection services.

Declarant and Developer hereby reserve the following rights and easements:

(a) to dedicate streets and street lights, walks, malls, parkways, parkland, drives, open space and water rights to any governmental authority and to make such dedications as may be required to implement the ordinances of any governmental authority from time to time applicable to the Parcel and Development Site and to the public improvements therein.

(b) to dedicate space in the Development Site or any portion thereof to any portion thereof to any public or quasi-public utility or to any governmental authority of the location of utilities serving any portion of the Development Site.

(c) to reserve or grant easements in, over, under, to and across the Development Site or any portion thereof for ingress and egress to, and for installation, construction and maintenance of , any and all of the utilities.

(d) To record plats of subdivision and resubdivision of portion of the Development Site.

Any rights hereby reserved to the Developer and Declarant, to the extent affecting the common Area or Common Facilities, may be assigned and transferred by the Declarant and Developer to any successor, Developer, or to the Association by an instrument in writing, executed by the Declarant and Developer and recorded in the Office of the Cook County Recorder of Deeds, following which rights so assigned and transferred shall be exercised by such successor developer or the Association as the case may be. Until Developer's rights under Paragraph 9.2 hereof are terminated, Developer shall have the right to tap into all utilities for the purpose of exercising all such rights.

ARTICLE VI Party Walls

6.1 General Rules of Law to Apply. Each wall and fence which is built as a part of the original construction of a Townhome (or as reconstructed following fire or other

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casualty) which is located on the boundary line between separate Parcels, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability of property damage due to negligence or willful acts or omissions shall apply thereto. The said dividing walls are hereby declared to be party walls between the adjoining residences erected on said premises.

6.2 Repairs and Maintenance of Party Wall. The cost of maintaining each party wall shall be borne equally by the owners on either side of side wall. In the event of damage or destruction of said wall from cause, other than the negligence of either party thereto, the then owners shall, at joint expense, repair or rebuild said wall, and each party, his successors and assigns, shall have the right to the full use of said wall so repaired or rebuilt. If either party's negligence shall cause damage to or destruction of said wall, such negligent party shall bear the entire cost of repair or reconstruction. If either party's negligence shall cause damage or destruction of said wall, such negligent party shall bear the entire cost of repair or reconstruction. If either party shall neglect, or refuse to pay his share, or all of such cost in case of negligence, the other party may have such wall repaired or restored and shall be entitled to have a mechanic's lien on the premises of the party so failing to pay, for the amount of such defaulting party's share of the repair or replacement cost.

6.3 Penetration and Drilling Through Party Wall. No penetration into the party wall shall be allowed except that either party shall have the right to brake through the party walls for the purpose of repairing or restoring sewerage, water, utilities, subject to the obligation to restore said wall to its previous structural condition at his own expense and the payment, to the adjoining owner of any damages negligently caused thereby.

6.4 Destruction of Townhome. No dwelling located on said premises shall, at any time extend beyond the original in height; and in the event of partial or total destruction of any Townhome or any portion thereof; the dwelling so destroyed may be restored only in accordance with the same plan to which it was originally constructed.

6.5 Easement. Neither party shall alter or change said party walls in any manner, interior decoration excepted, and said party walls shall remain in the same location as when erected, and each party to said common or division wall shall have a perpetual easement in that part of the premises of the other on which side party wall or extension thereof is located, for party wall purposes and for maintenance of any existing extension of any party wall.

6.6 Maintenance of Roofs. Each owner shall maintain, repair and replace at his own expense the portion of the roof attributable to his or her Townhome.

6.7 Covenants Running With the Land. The easements hereby created are and shall be perpetual and construed as covenants running with the land and each and every person accepting a deed to any lot in the Development Site shall be deemed to accept said

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deed with the understanding that each and every other purchaser is also bound by the provisions herein contained, and each and every purchaser, by accepting a deed to any lot shall thereby consent and agree to be bound by the covenants herein contained to the same extent as though he had signed this instrument. The undersigned, in executing and delivering deeds to said lots shall insert in said conveyances, by reference, that the same are made subject to the terms, conditions, reservations and covenants herein contained, designated the Recorder's Document Number under which this instrument is recorded.

ARTICLE VII General Provisions

7.1 Notices. Notices required or permitted to be given to any Parcel Owner or Member may be delivered to such Parcel Owner or Member, as the case may be, either personally or by certified or registered mail with proper postage prepaid, addressed to such party, at the last address of such party shown in the records and shall be effective, in the case of personal delivery, upon such delivery, and in the case of mailing, as of the date of mailing.

7.2 Grantees. Each grantee of the Developer by the acceptance of a deed of conveyance, each purchaser under Articles of Agreement for Deed, and each mortgage or trustee under trust deed, accepts the portion of the Property covered by such instruments subject to all rights, easements, covenants, restrictions, charges and liens, and the jurisdiction, rights, and powers created in or reserved by, this Declaration, as it may at any time be amended pursuant to Section 7.3 hereof, as though the provisions of this Declaration were recited in their entirety in each and every instrument of conveyance or Articles of Agreement for Deed; it being further agreed that at such times and to such extent as the holder of any mortgage or other security instrument in the nature of a mortgage upon any Parcel or any successor of such holder shall come into actual possession or ownership (other than as security for debt) of any Parcel or Parcels, the said holder or such successor (as may be the case) shall succeed to all the rights and obligations of the owner of such Parcel or Parcels in this Declaration expressed.

7.3 Amendments. All provisions of this Declaration may be amended by an instrument in writing setting forth such amendment, signed and acknowledged by the Parcel Owners whose Percentage Interests aggregate at least seventy-five percent (75%) have approved such amendment. All amendments shall be effective upon recording in the office of the Recorder of Deeds of Cook County, Illinois.

7.4 Severability. The invalidity of any restriction hereby imposed, or of any provision hereof, or of any part of such restriction or provision, shall not impair or affect in any manner the validity enforceability or effect of the remainder of this Declaration and all of the terms hereof are hereby declared to be severable.

7.5 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purposes.

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7.6 Trustees. In the event title to any Parcel should be conveyed to a land title holding trust under which all powers of management, operation and control of the premises remain vested in the trust beneficiary of beneficiaries, then the Parcel held by such trust shall be liable for payment of any obligation, lien, or indebtedness chargeable or created under this Declaration against such Parcel. No claims shall be made against any such title holding trustee personally or the beneficiary thereof (other than to the extent of the value of the Parcel) for payment of any such obligations, lien or indebtedness, and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or obligation, but the amount thereof shall continue to be a charge or lien upon the Parcel, the title to which is held by the Trustee, notwithstanding any transfer of the beneficial interest or title to such Parcel.

14.9 Captions. The Article and Section heading herein are intended for convenience only and shall not be construed with any substantive effect in this Declaration.

ARTICLE VIII Violation of Certain Rules

If any of the options, privileges, covenants, or rights created by this Declaration should be unlawful or void for violation of (a) the rule against perpetuities or some other or analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of George W. Bush, the President, of the United States.

ARTICLE IX Abrogation of the Declaration

This Declaration may be abrogated upon recommendation by the Board and approval of all Parcel Owners, all mortgagees with then existing recorded liens on the Property, and the City. Such abrogation shall be evidenced by an instrument setting forth such abrogation shall be evidenced by an instrument setting forth such abrogation signed by the duly elected officers of the Association, all Parcel Owners and any such mortgagees, and shall be effective upon recording of the same in the office of the Recorder of Deeds of Cook County, Illinois. All property then owned by the Association shall be disposed of as provided in the By-Laws.

All easements created pursuant to Article II of this Declaration and in use as of the date of recording of such instrument shall remain in full force and effect until vacated by all parties having an interest therein.

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IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed on the day and year first above written.

3258 WEST ARMITAGE, INC., an Illinois Corporation,
Developers

3258 West Armitage, Inc.
BY: E. Rapoport
President
ATTEST: B. Schwartz
Secretary

STATE OF ILLINOIS
COUNTY OF COOK

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Eugene Rapoport President of 3258 West Armitage, Inc., and Boris Schwartz, Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act, for the uses and purposes therein set forth; and the said Secretary did also then and there acknowledge that he as custodian of the corporate seal, did affix the said corporate seal said instrument as his own free and voluntary act, and as the free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 27 day of April, 2005.



[Handwritten Signature]

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EXHIBIT A

LEGAL DESCRIPTION

LOT 12 IN BLOCK 11 IN C.N. SHIPMAN, W.A. BILL AND N.A. MERRILL'S
SUBDIVISION OF THE EAST ½ OF THE NORTH EAST ¼ OF SECTION 35,
TOWNSHIP 40 NORHT, RANGE 13, LYING EAST OF THE THRIRD PRINCIPAL
MERIDIAN IN COOK COUNTY, ILLINOIS.

Address: 3258-3264 W. ARMITAGE, CHICAGO, ILLINOIS 60647
Property Identification Number: 13-35-234-032-0000

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EXHIBIT

ATTACHED TO

B. C. P.

1 - Cook

14 - Total

DOCUMENT

SEE PLAT INDEX