

# UNOFFICIAL COPY



0517946124

PREPARED BY AND  
AFTER RECORDING,  
MAIL TO:  
Vilma Elizondo  
4<sup>th</sup> floor  
Cole Taylor Bank  
5501 W. 79<sup>th</sup> Street  
Burbank, IL 60459

Doc#: 0517946124  
Eugene "Gene" Moore Fee: \$36.00  
Cook County Recorder of Deeds  
Date: 06/28/2005 03:01 PM Pg: 1 of 7

## ASSIGNMENT AND ASSUMPTION AGREEMENT

**THIS ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "Agreement") is made as of this **31<sup>ST</sup>** day of **May, 2005** and between **520 Provident, LLC** (referred to herein as the "New Borrower" and/or "New Grantor") and **Archway Custom Homes, Inc.** (collectively referred to as the "Original Borrower" and as the "Original Grantor"), and **COLE TAYLOR BANK** (the "Existing Mortgagee").

### WITNESSETH:

**WHEREAS**, the Original Borrower executed and delivered to Existing Mortgagee that certain **Construction Mortgage, Assignment of Rents and Promissory Note** dated **November 30, 2004** in the original principal sum of **One Million One Hundred Fifty Thousand and 00/100 Dollars (\$1,150,000.00)** (the "Note");

**WHEREAS**, the Note is payable in monthly interest installments as therein described, with a final payment currently due on **November 30, 2005**;

**WHEREAS**, the Note is secured by a Mortgage and Assignment of Rents (the "Existing Mortgage") dated **November 30, 2004** and recorded on **December 08, 2004** in the Cook County Recorder's Office as Document No. **0434333084 & 0434333085**, from the Original Grantor to the Existing Mortgagee, covering certain improved real property located in the County of **Cook**, State of Illinois, and legally described in **Exhibit A** attached hereto and made a part hereof and commonly known as **520 Provident Ave. Winnetka, IL 60093** (the "Real Property") and certain other documents delivered by the Original Borrower and/or Original Grantor in favor of the Existing Mortgagee (collectively, the "Existing Loan Documents"); and

**WHEREAS**, (a) the Original Grantor has conveyed the Real Property to the **520 Provident, LLC** and (b) the New Borrower and/or New Grantor have assumed or currently herewith shall assume the obligations of the Original Borrower and/or Original Grantor under the Note, the Existing Mortgage and any of the other Existing Loan Documents; and

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**WHEREAS**, the Original Borrower and/or Original Grantor and/or New Borrower and/or New Grantor have requested that Existing Mortgagee consent to the assumption by the New Borrower and/or New Grantor of the Note, the Existing Mortgage and any of the other Existing Loan Documents executed by the Original Borrower and/or Original Grantor; and

**WHEREAS**, Existing Mortgagee shall consent to such request, provided the parties hereto execute and deliver this Agreement to Existing Mortgagee;

**NOW THEREFORE**, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of the Existing Mortgage is a valid and subsisting lien on the Real Property and that the execution of this Agreement will not impair the lien of the Existing Mortgage and that there is no existing mortgage or other liens subsequent to the lien of the Existing Mortgage that will not be paid in full and released concurrently herewith (for breach of which conditions, or either of them, this Agreement shall not take effect and shall be void), IT IS AGREED AS FOLLOWS:

1. The parties represent and agree that the foregoing recitals are true and correct.

2. The New Borrowers and/or New Grantors hereby assume all of the indebtedness, liabilities, and obligations of the Original Borrower and/or Original Grantor under the Note, the Existing Mortgage and any of the other Existing Loan Documents, as if the New Borrower and/or New Grantor were the original maker or grantor of such documents, and covenants and agrees to pay, perform and observe all of the indebtedness, liabilities, and obligations (including, without limitation, all covenants, agreements and undertakings) of the Original Borrower and/or Original Grantor under the Note, Existing Mortgage and any of the other Existing Loan Documents.

3. The outstanding principal balance of the loan evidenced by the Note is currently **\$511,790.11** and an available to fund of **\$638,209.89**.

4. Except for the modifications stated herein, the Note, the Existing Mortgage and any other Existing Loan Documents are not otherwise changed, modified or amended.

5. The property described in the Existing Mortgage, including the Real Property, shall remain in all events subject to the lien, charge or encumbrance of the Existing Mortgage, and nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge or encumbrance of the Existing Mortgage, or

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the priority thereof over any other liens, charges, or encumbrances or conveyances, or, except as expressly provided herein, to release or affect the liability of any party or parties whomsoever may now or hereafter be liable under or on account of the Note, the Existing Mortgage and any other Existing Loan Documents, nor shall anything herein contained or done in pursuance thereof affect or be construed to affect any other security or instrument, if any, held by Existing Mortgagee as security for or evidence of the aforesaid indebtedness.

6. The Original Borrower and/or Original Grantor and/or New Borrower and/or New Grantor hereby irrevocably consent to the aforesaid assumption by the New Borrower and/or New Grantor and the modification of the Note, the Existing Mortgage and any of other Existing Loan Documents and irrevocably agree that their respective obligations and liabilities under the Note, the Existing Mortgage and any other Existing Loan Documents, shall not in any way be affected, modified, or discharged in any fashion by this assignment, assumption and modification of the Note, the Existing Mortgage, and any other Existing Loan Documents.

7. The New Borrower and/or New Grantor hereby ratify, reaffirm and confirm their respective obligations and liabilities under the Note, the Existing Mortgage, and any other Existing Loan Documents, as hereby assigned, assumed and modified, and the liens and security interest created thereby, and acknowledge that they have no defenses, claims or set-offs against the enforcement by Existing Mortgagee of the respective obligations and liabilities of the Original Borrower and/or Original Grantor and/or New Borrower and/or New Grantor under such documents, as so assumed and modified.

8. This Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois, including all matters of construction, validity and performance.

9. This Agreement constitutes the entire agreement between the parties with respect to the aforesaid modification and shall not be amended or modified in any way except by a document in writing executed by all of the parties thereto.

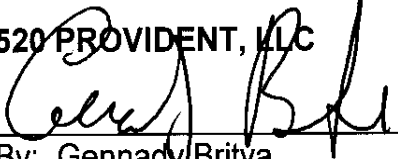
10. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be one agreement.

11. This Agreement shall extend to and be binding upon the parties hereto, their heirs, personal representatives, successors and assigns.

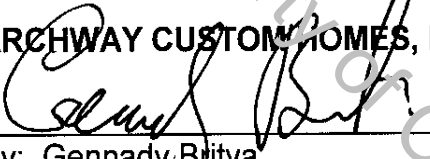
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IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the date first above written.

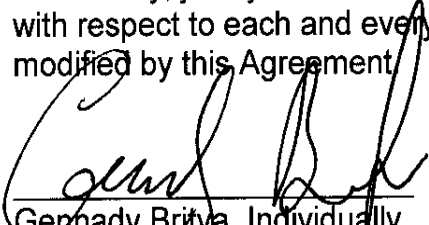
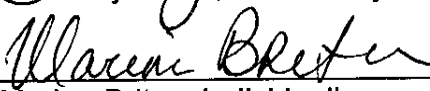
**“New Borrower and/or New Grantor”**

520 PROVIDENT, LLC  
  
By: Gennady Britva  
Its: Manager


**“Original Borrower and Original Grantor”**

ARCHWAY CUSTOM HOMES, INC.  
  
By: Gennady Britva  
Its: President/Secretary

Guarantors hereby consent to the execution and delivery of this Agreement. Guarantors hereby ratify and confirm their liabilities and obligations under the Guaranty(s) and with respect to the Loan Documents as modified by this Agreement and acknowledge that they have no defenses, claims, or set-offs to the enforcement by Lender of the liabilities and obligations under the Guaranty(s) as of the date of the execution and delivery of this Agreement. Each Guarantor hereby fully, unconditionally, irrevocably, jointly and severally agrees to be bound by the terms of the Guaranty (s) with respect to each and every one of the obligations and liabilities under the Loan as modified by this Agreement.

  
Gennady Britva, Individually  
  
Marina Britva, Individually

COLE TAYLOR BANK

By:   
Its: S.V.F.

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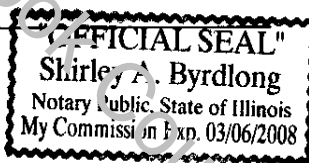
STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Gennady BRITVA, the ~~PRESIDENT~~ manager of **520 Provident, LLC**, and \_\_\_\_\_, \_\_\_\_\_ of said company, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as such officers of said company as their own free and voluntary acts and as the free and voluntary act of said company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 25<sup>th</sup> day of MAY, 2005.

Shirley A. Byrdlong  
Notary Public

My Commission Expires: \_\_\_\_\_



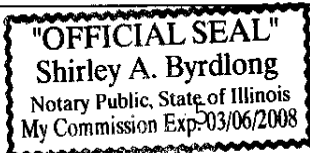
STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that GENNADY BRITVA, the PRESIDENT of **Archway Custom Homes, Inc.** and \_\_\_\_\_, \_\_\_\_\_ of said company, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as such officers of said company as their own free and voluntary acts and as the free and voluntary act of said company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 25<sup>th</sup> day of MAY, 2005.

Shirley A. Byrdlong  
Notary Public

My Commission Expires: \_\_\_\_\_



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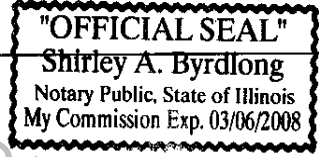
STATE OF ILLINOIS )  
 ) SS  
COUNTY OF Cook )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that **Gennady Britva and Marina Britva**, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, personally appeared before me this day and of their own free will, subscribed their names to the foregoing instrument for the uses and purposes therein contained.

Given under my hand and notarial seal this 25<sup>th</sup> day of MAY, <sup>2005</sup>2003.

Shirley A. Byrdlong  
Notary Public

My Commission Expires: \_\_\_\_\_



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 Gerald Eberhardt, Senior VP of COLE TAYLOR BANK, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Senior Vice President, appeared before me this day in person 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 bank, for the uses and purposes therein set forth

Given under my hand and notarial seal this 10 day of June, 2005

Cheryl Travis  
Notary Public

My Commission Expires: \_\_\_\_\_



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## EXHIBIT "A"

**LOT 3 IN BLOCK 6 OF THE PROVIDENT MUTUAL LAND ASSOCIATION  
SUBDIVISION OF BLOCKS 7 TO 12, 28 TO 33, 54 TO 59 INCLUSIVE IN VILLAGE  
OF WINNETKA BEING A SUBDIVISION OF THE WEST ½ OF THE NORTHEAST ¼  
OF SECTION 20, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD  
PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.**

**COMMON PROPERTY ADDRESS: 520 Provident Avenue., Winnetka Illinois 60093**

**PIN # 05-20-209-014**

Property of Cook County Clerk's Office