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Doc#: 0609645132 Fee: \$78.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 04/06/2006 01:02 PM Pg: 1 of 10

MTC from [Signature]

OPTION AGREEMENT

OPTION AGREEMENT (this "Option") made June __, 2005 (the "Option Date") between Hubert Catchpole, 110 W. Oak Street, Chicago, Illinois (hereinafter called "Optionor"), and Jerry Gingerich (hereinafter called "Optionee"), 2218 N. Geneva Terrace, Chicago, Illinois.

In Consideration of the initial payment of \$55,000.00 (hereinafter called the "Option Price"), by Optionee to Optionor, the receipt of which the Optionor hereby acknowledges, and in further consideration of the promises and undertakings hereinafter contained, the parties agree as follows:

M.G.R. TITLE

1. **Grant of Option.** Optioner hereby irrevocably grants to Optionee the exclusive option to purchase from Optionor, on and subject to the terms and conditions hereinafter contained, the real property commonly known as 110 W. Oak Street, with a lot size of approximately 20 feet by 105 feet, in Cook County, State of Illinois, and legally described on **Exhibit A** attached hereto and incorporated herein by reference, together with all improvements, fixtures both interior and exterior, easements, rights of way, privileges and other rights appurtenant thereto (collectively hereinafter called the "Property").

2. **Option Term.** The "Option Term" shall commence on the date upon which a) Optionor permanently removes himself from the property; b) Optionor provides written notice to demand exercise of the option c) Optionor's passing. Notice shall be given within three (3) working days of the occurrence of alternatives. Optionee shall have 15 working days thereafter, at which point Option Term shall terminate, to exercise the option Optionor shall have 45 days to vacate the property upon the occurrence of b).

3. **Failure to Exercise Option.** If, on or prior to the expiration of the Option Term, Optionee has failed to exercise its right to purchase the Property as provided in section four (4) below, this Option and Optionee's option to purchase shall terminate and Optionor shall be entitled to retain the Option Price as consideration for the grant of this Option. At the Option Date, Optionee shall provide a release of this option to be held in escrow by Optionor's attorney to be recorded, if Optionee fails to close this transaction. Should Optionee default on this Option, and fail to cure said default within ten (10) working days of notice of same, Optionor shall have the right to terminate this agreement and retain the Option price.

4. **Exercise of Option.** At any time during the Option term (sometimes collectively referred to as the "Option Term"), Optionee may exercise its right to purchase the Property by written notice to Optionor in the manner prescribed in section 15 below, in which case, Optionor shall sell and convey the Property to Optionee, and Optionee shall purchase and accept the Property from Optionor on and subject to all of the terms and conditions contained in the Purchase and Sale Agreement (hereinafter called the "Agreement") attached hereto as **Exhibit B** and made a part hereof as reference. The date of the agreement shall be the date on which Optionee exercises its right to purchase the Property (hereinafter referred to as the "Exercise Date" or "Acceptance Date"). Closing of transaction shall occur within 45 days of Exercise Date, unless extended by mutual agreement.

After Recording Mail To:
Maureen PIKARSKI
St 1800 308 W. Madison
Chgo, IL 60606

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5. Actions During Option Term.

(a) Deliveries by Optionor. Within ten (10) days ("Due Diligence Document delivery Date") after the Option Date, Optionor shall, to the extent that same exist and are within the Optionor's actual or constructive possession and control, or can be reasonably obtained by Optionor, deliver to Optionee, at Optionee's address, true, accurate and complete copies of the documents enumerated below ("Due Diligence Documents") with respect to the Property. Optionor shall have a continuing obligation to deliver to Optionee those Due Diligence Documents which can be reasonably obtained by Optionor during the Option Term but which Optionor does not obtain and deliver to Optionee on or before the Due Diligence Document Delivery Date.

(i) Title documents consisting of and existing title policy later title commitment, survey and documents affecting title to the Property whether or not specified in any such policy or commitment;

(ii) Copies of the most recent property tax bills for the Property;

(iii) Any existing engineering and physical inspection reports, soil reports, environmental reports or studies and other reports or studies with respect to the Property;

(iv) Copies of any and all unresolved notice of code violations or unresolved pleadings filed in lawsuits affecting the Property, and copies of any and all notices of violations or pleadings filed or received within the last two (2) years which have been resolved by the Optionor.

(v) Documents relating to any pending or potential liens and lawsuits or condemnations (or any other matter adversely affecting the Property or the Optionor's interest therein) relating to the Optionor or the Property;

(vi) Documents relating to any pending zoning modification or appeal applications or special applications or special use permit applications submitted to the City of Chicago or other governmental agency, including without limitation, applications and supporting documentation, transcripts of hearings, correspondence or notices to or from Optionor and the City of Chicago or other governmental agency or third parties.

(b) Title

(i) Optionee's Review of Title. Within twenty-one (21) days after the current Option Date, Optionor shall obtain a current title insurance commitment or preliminary title report ("Title Commitment") issued by Chicago Title

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Insurance Company (hereinafter called the "Title Company") with extended coverage showing the conditions of the title of the Property, accompanied by copies of all documents referred therein. The Title Commitment shall show that Optionor is the legal, fee simple title holder of the Property, and shall indicate the amount of any real estate taxes attributable to the Property.

(c) Survey Optionee at Optionor's expense shall within 21 days of Option Date obtain an Alta standard staked Survey to of the property showing no encroachment unacceptable to Optionee.

(d) Zoning Application. During the Option Term. Optionee shall have the right, at its sole cost and expense, to apply to the City of Chicago or other applicable government agency (hereinafter referred to as the "Agency") for either a change to the existing zoning classification of the Property or for the issuance of a variation and building permits which will allow for the construction of, and for the Property to be used as, a mutli-unit building. Optionor agrees to fully cooperate with and assist Optionee in such efforts and attempt at no cost to Optionor, and to execute any and all documentation necessary to make application therefore which is required to be executed by the owner of the Property, including without limitation: completing and executing applications and other documents required as part of the application process; furnishing all required documentation or information relating to the Property as part of the application process; and, if necessary, appearing before the Agency.

(e) Optionee's Review of the Property. During the Option Term Optionee shall have the right to conduct and make such feasibility studies and inspections of the Property as Optionee deems necessary including but not limited to engineering studies, building inspections, appraisals and soil boring and testing and other invasive tests and studies (all collectively referred to as "Optionee's Inspection and/or Physical Testing"). Optionee shall notify Optionor prior to making Optionee's Inspection and/or Physical Testing and Optionor shall have the right to accompany Optionee's representatives on the Property. Optionee shall, at Optionee's sole cost and expense, return the property to its pre-inspection condition, reasonable wear and tear excepted.

Optionee shall have access to rear yard of option property for the minor staging of construction equipment and may remove a tree currently existing in the rear of the yard of the Option Property. The parties hereto acknowledge that Optionee may expend material sums of money in reliance on Optionor's promises under this option, in connection with negotiating and executing this Option and the Agreement, furnishing the Option Price, conducting the Inspections and/or Physical Testing contemplated by this Option and that Optionee would not have entered into this Option without the availability of the period for Inspections and/or Physical testing, and for the review of the Due Diligence Documents. The parties, therefore, agree that adequate consideration exists to support Optionor's obligations hereunder from and after the Option Date.

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a. Access to Property

i. Optionor hereby grants to Optionee a nonexclusive license to enter onto the Property upon 48 hours notice during normal business hours, or at other times consented to by Seller, which consent may not be unreasonably withheld by Optionor at his sole discretion, for the purposes of conducting Optionee's Inspection and/or Physical Testing. Optionee's Inspection and/or Physical Testing work shall be at the sole cost and expense of Optionee. Optionee shall provide proof of liability insurance to Optionor, which shall name Optionor a additional insured.

(ii) Optionee agrees to keep the Property free from any liens arising out of Optionee's Inspection and/or Physical Testing, materials furnished or obligations incurred by or on behalf of Optionee or Optionee's agents with respect to Option's Inspection and/or Physical Testing of the Property. If any such lien shall at any time be filed, Optionee shall cause the same to be discharged of record within twenty (20) days thereafter by satisfying same or, if Optionee in its discretion and in good faith determines that such lien should be contested, by recording a bond, or insuring over any such lien with title insurance reasonably acceptable to Optionor.

ii. Optionee shall, at its sole cost and expense, comply with all applicable federal, state and local laws, statutes, rules, regulations, ordinances, or policies in conducting Optionee's Inspection and/or Physical Testing.

(iii) Optionee hereby agrees to hold harmless, protect, defend and indemnify, and hereby releases, Optionor and its trustees, officers, directors, employees, contractors, agents, subsidiaries and affiliates, and its and their respective successors and assigns (collectively, the "Indeminities") and the Property from and against any and all claims, demands, causes of action, losses, liabilities, liens, encumbrances, costs of expenses (including without limitation reasonable attorney's fees and litigation costs) arising out of connected with or incidental to: (a) any injuries to persons (including death) or property (real or personal); or (b) any mechanic's, workers' or other liens on the Property, by reason of or relating to the work or activities conducted on the Property by Optionee or Optionor's agents.

(f) Encroachment Optionee acknowledges that east wall of option property encroaches upon the west wall of property owned by Optionee. Optionee shall not remove west wall of his building at 108 W. Oak Street during the option term.

(g) The Option Price is not contingent upon the due diligence listed in subparagraphs a; c; d; e; and f of this paragraph 5.

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8. **Purchase Price.** The total purchase price for the Property shall be the difference between \$900,000 less the sum of the Option Price paid to Optionor pursuant to this Option. The Purchase Price shall be payable as provided in the Agreement.
9. **Real Estate Tax** Should the rezoning of Option Property result in an increase in the real estate tax of the Property, Optionee shall be responsible for said increase.
10. **Assignment** This Option may be assigned by the Optionee, without the consent of Optionor, providing that, concurrently with such assignment, the Optionee notifies Optionor of such assignment (and of the name and address of the assignee) and send to Optionor a copy of such assignment.
11. **Broker** Optionor and Optionee acknowledge and agree that no broker brought about or participated in, this option or transaction.
12. **Recording Option** Optionee shall have the right to record a short form or memorandum of this Option and Optionor shall cooperate with Optionee in recording of any such memorandum with the Cook County Recorder of Deeds. If the Option Term expires and Optionee has not exercised the Option, Optionor, shall have the right and authority to, acting singly, record a release of the short form or memorandum of this Option recorded by Optionee hereunder.
13. **Non-Disclosure** The parties agree not to disclose the existence or terms of this Option (the "Information") to any third party, except: (i) as necessary in relation to the preparation, filing and prosecution of the Optionee's Zoning Application as provided for in Section 5 (d) hereof; (ii) as required by any ruling or order of court, or by any statute, law rule or regulation; and (iii) to their accountants, attorneys, and other advisors. This Non-Disclosure provision shall not apply to Information which becomes generally available to the public other than as a result of a disclosure by Optionee or to Information which becomes available to a party on a non-confidential basis from a third party.
14. **Entire Agreement** This Option, including the Agreement, constitute the entire agreement between the parties. No representations, warranties, or promises pertaining to this Option or any property affected by this Option have been made by, or shall be binding on, any of the parties, except as expressly stated in this Option and the Agreement. This Option and the Agreement may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any such change is sought.
15. **Notices.** Any notice required or permitted to be given under this Option shall be writing and shall be deemed to have been given: (a) on the same date on which such notice is delivered personally; (b) on the date that is three (3) business days after the date on which such notice is deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested; (c) on the date that is one (1) business day after the date on which such notice is sent by overnight courier service (such as

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Federal express or any other similar courier service); or (d) when faxed, if sent by facsimile transmission and, in each case, addressed as follows:

Herbert Catchpole
c/o Ty Miller
853 S. Millard
Palatine, IL 60067

Gary B. Shulman
Levin, Goodman & Cohen
500 Skokie Blvd.
#650
Northbrook, IL 60062

Jerry Gingerich
2218 N. Geneva Terrace
Chicago, IL 60614
John J. Pikarski, Jr.
303 W. Madison
Ste. 1800
Chicago, IL 60606

16. **General Provisions**

(a) **Governing Law** The interpretation, construction, and performance of this Option shall be governed by the laws of the State of Illinois.

(b) **Business Days** As used herein, "Business Day" means any day other than a Saturday or Sunday or any other day in which the County Recorder's office for Cook County, Illinois, is closed. If any notice or action should be scheduled herein to be given or occur on a day that is not a business day, such notice or action shall be given or occur on (or no later than) the next business day.

(c) **Capitalized Terms** Unless otherwise defined in this Option capitalized terms as used herein shall have the same meaning as set forth in the Agreement.

(d) **Counterparts** This Option may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(e) **Facsimile Signatures** Seller and Buyer agree that this Option may be executed by facsimile signatures and that such signatures shall for all purposes be equivalent to original signatures and shall create a binding agreement between the parties.

14. **Benefit** This Option shall inure to the benefit of, and shall bind, the heirs, successors and assigns of the respective parties.

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IN WITNESS WHEREOF, the parties hereto have executed and delivered this Option Agreement the day and year first above mentioned.

OPTIONOR:

Hubert Catchpole

Hubert Catchpole

OPTIONEE

Jerry Gingerich

Jerry Gingerich

Property of Cook County Clerk's Office

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CONDITIONS AND STIPULATIONS

1. Seller shall deliver or cause to be delivered to Purchaser or Purchaser's agent, not less than 5 days prior to the time of closing, the plat of survey (if one is required to be delivered under the terms of this contract) and a title commitment for an owner's title insurance policy issued by the Chicago Title Insurance Company in the amount of the purchase price, covering title to the real estate on or after the date hereof, showing title in the intended grantor subject only to (a) the general exceptions contained in the policy unless the contract price is \$100,000.00 or less and the real estate is improved with a single family dwelling or an apartment building of four or fewer residential units, (b) the title exceptions set forth above, and (c) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of closing and which the Seller may so remove at that time by using the funds to be paid upon the delivery of the deed (all of which are herein referred to as the permitted exceptions). The title commitment shall be conclusive evidence of good title as therein shown as to all matters insured by the policy, subject only to the exceptions as therein stated. Seller also shall furnish Purchaser an affidavit of title in customary form covering the date of closing and showing title in Seller subject only to the permitted exceptions in foregoing items (b) and (c) unpermitted exceptions or defects in the title disclosed by the survey, if any, as to which the title insurer commits to extend insurance in the manner specified in paragraph 2 below.

2. If the title commitment or plat of survey discloses either unpermitted exceptions or survey matters that render the title unmarketable (herein referred to as "survey defects"), Seller shall have 30 days from the date of delivery thereof to have the exceptions removed from the commitment or to correct such survey defects or to have the title insurer commit to insure against loss or damage that may be occasioned by such exceptions or survey defects, and, in such event, the time of closing shall be 35 days after delivery of the commitment or the time expressly specified in paragraph 5 on the front page hereof, whichever is later. If Seller fails to have the exceptions removed or correct any survey defects, or in the alternative, to obtain the commitment for title insurance specified above as to such exceptions or survey defects within the specified time, Purchaser may terminate this contract or may elect, upon notice to Seller within 10 days after the expiration of the 30-day period, take title as it then is with the right to deduct from the purchase price liens or encumbrances of a definite or ascertainable amount. If Purchaser does not so elect, this contract shall be null and void without further action of the parties.

3. Liens, premiums under assignable insurance policies, water and other utility charges, fuel, prepaid service contracts, general taxes, accrued interest on mortgage indebtedness, if any, and other similar items shall be adjusted ratably as of the time of closing. The amount of the current general taxes not then ascertainable shall be adjusted on the basis of (a), (b), or (c) below (Strike subparagraphs not applicable):

(a) 110% of the most recent ascertainable taxes;

(b) the latest recorded taxes; or

(c) Other _____

4. The amount of any general taxes which may become due by reason of new or additional improvements shall be adjusted as follows:

(a) All provisions are final unless otherwise provided herein. At the election of Seller or Purchaser upon notice to the other party not less than 10 days prior to the time of closing, this sale shall be closed through an escrow with Chicago Title and Trust Company, in accordance with the general provisions of the usual form of Deed and Money Escrow Agreement then in use by Chicago Title and Trust Company, with such special provisions inserted in the escrow agreement as may be required to conform with this contract. Upon the creation of such an escrow, anything herein to the contrary notwithstanding, payment of purchase price and delivery of deed shall be made through the escrow and this contract and the earnest money shall be deposited in the escrow. The cost of the escrow shall be divided equally between Seller and Purchaser (Strike paragraph if inapplicable).

5. If this contract is terminated without Purchaser's fault, the earnest money shall be returned to the Purchaser, but if the termination is caused by the Purchaser's fault, then at the option of the Seller and upon notice to the Purchaser, the earnest money shall be forfeited to the Seller and applied first to the payment of Seller's expenses and then to payment of broker's commission, the balance, if any, to be retained by the Seller as liquidated damages.

6. At the election of Seller or Purchaser upon notice to the other party not less than 10 days prior to the time of closing, this sale shall be closed through an escrow with Chicago Title and Trust Company, in accordance with the general provisions of the usual form of Deed and Money Escrow Agreement then in use by Chicago Title and Trust Company, with such special provisions inserted in the escrow agreement as may be required to conform with this contract. Upon the creation of such an escrow, anything herein to the contrary notwithstanding, payment of purchase price and delivery of deed shall be made through the escrow and this contract and the earnest money shall be deposited in the escrow. The cost of the escrow shall be divided equally between Seller and Purchaser (Strike paragraph if inapplicable).

7. There is of the essence of this contract.

8. Any payments herein required to be made at the time of closing shall be by certified check or cashier's check, payable to Seller.

9. All notices herein required shall be in writing and shall be served on the parties at the addresses following or signatures, The mailing of a notice by registered or certified mail, return receipt requested, shall be sufficient service.

10. It is further agreed between Purchaser and Seller that Purchaser shall have the right to enter into and inspect the premises prior to closing to ascertain that the heating, electrical and plumbing systems are in operation condition. In the event said heating, electrical and plumbing systems are not in operating condition then notice is to be given to Seller immediately in writing and Seller shall correct same as Seller's expense prior to closing. Closing is considered final and any costs involved after closing are those of the Purchaser. No warranties or guarantees, either expressed or implied, shall survive the closing.

11. Purchaser and Seller hereby agree to make all disclosures and do all things necessary to comply with the applicable provisions of the Real Estate Settlement Procedures Act of 1974. In the event that either party shall fail to make appropriate disclosure when asked, such failure shall be considered a breach on the part of said party.

12. Alternative 1: Seller represents that he is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and is therefore exempt from the withholding requirements of said Section. Seller will furnish Purchaser at closing the Exemption Certification set forth in said Section.

13. Alternative 2: Seller represents that he is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and is therefore exempt from the withholding requirements of said Section. Seller will furnish Purchaser at closing the Exemption Certification set forth in said Section.

14. Alternative 3: Seller represents that he is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and is therefore exempt from the withholding requirements of said Section. Seller will furnish Purchaser at closing the Exemption Certification set forth in said Section.

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Common Address 110 West Oak, Chicago, IL

PIN: 17-04-422-036-0000

Legal:

LOT 4 (EXCEPT THE WEST 20.13 FEET THEREOF) AND EXCEPT THE EAST 5 FEET OF THE WEST 25 FEET OF THE NORTH 25 FEET THEREOF) IN ASSESSOR'S DIVISION OF LOTS 10, 11, 13 AND 14 IN BLOCK 14 OF BUSHNELL'S ADDITIONS TO CHICAGO, IN THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

After Recording Mail To:
Maureen C. Pikarski
Suite 1800
303 West Madison Street
Chicago, IL 60606
312-521-7004
312-521-7000

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