



0612206128

THIS INSTRUMENT PREPARED BY:  
Bruce A. Salk  
Cohen, Salk & Huvad, P.C.  
630 Dundee Road, Suite 120  
Northbrook, Illinois 60062

Doc#: 0612206128 Fee: \$40.50  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 05/02/2006 01:28 PM Pg: 1 of 9

AND AFTER RECORDING MAIL TO:  
Bank of Shorewood  
700 West Jefferson Street  
Shorewood, Illinois 60431  
Attn: Robert Slowinski

## MODIFICATION AGREEMENT

**THIS MODIFICATION AGREEMENT** (hereinafter referred to as this "Modification Agreement") made as of this 9 day of February, 2006, by and among TPB DEVELOPMENT, INC., an Illinois corporation (the "Borrower"), STATE BANK OF COUNTRYSIDE as Trustee under Trust Agreement dated April 30, 2004 and known as Trust No. 04-2637 (the "Trustee"), THOMAS P. BOYLE (the "Guarantor") (Borrower, Trustee and Guarantor are hereinafter collectively referred to as the "Obligors") and BANK OF SHOREWOOD ("Lender").

### WITNESSETH:

**WHEREAS**, Borrower has executed and delivered to Lender that certain promissory note dated as of May 20, 2004 in the original principal sum of Five Hundred Thousand and 00/100 (\$500,000.00) Dollars (the "Note"), which Note is secured by the following documents (the following documents and any and all other instruments executed by any Obligor are hereinafter collectively referred to as the "Loan Documents"):

- (i) construction mortgage of even date therewith made by Trustee, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, as Document No. 0418905049 (the "Mortgage") on property commonly known as 6621 S. Ellis Avenue, Chicago, Illinois and legally described on Exhibit "A" attached hereto and made a part hereof (the "Premises");
- (ii) assignment of rents dated of even date with the Note made by Trustee in favor of Lender, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, as Document No. 04180905050 (the "Assignment of Rents");
- (iii) commercial guaranty dated of even date with the Note made by Guarantor in favor of Lender;
- (iv) change in terms agreement dated as of May 20, 2004 made by Borrower in favor of Lender;
- (v) commercial guaranty dated as of May 20, 2005 made by Guarantor in favor of Lender;
- (vi) change in terms agreement dated as of September 28, 2005 made by Borrower in favor of Lender; and
- (vii) commercial guaranty dated as of September 28, 2005 made by Guarantor in favor of Lender.

*Handwritten signature/initials*  
S.E.  
B.Y.  
M.Y.  
P.L.  
R.W.

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**WHEREAS**, Obligors are desirous of (i) extending the Maturity Date of the Note to July 24, 2006; (ii) cross-defaulting and cross-collateralizing the above described Loan with other with other loans in favor of both Borrower, Guarantor and Patricia Boyle; and (iii) pledging as additional security for the Note, Thomas P. Boyle's membership interest in Fields of Minooka, L.L.C., an Illinois limited liability company ("Fields"), and Lender is willing to consent to such changes subject to the terms and provisions hereinafter provided.

**NOW THEREFORE**, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of the Mortgage held by Lender is a valid, first and subsisting lien on the Premises (as defined in the Mortgage) and that the execution of this Modification Agreement will not impair the lien of said Mortgage and that there is no existing second mortgage or other liens subsequent to the lien of the Mortgage held by Lender that will not be paid in full and released concurrently herewith (for breach of which conditions, or either of them, this Modification 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 Note is hereby modified as follows:
  - a. the Maturity Date of the Note is hereby extended to July 24, 2006. Borrower shall continue to make monthly payments of interest on the first day of each month through and including July 1, 2006, with the final payment of all amounts due under the Note and the other Loan Documents to be made on July 24, 2006.
  - b. it shall be deemed to be an additional "Event of Default" under the Note if a default shall occur under (i) that certain credit agreement and disclosure dated as of February 23, 2004 in the original principal amount of \$100,000.00 made by Thomas P. Boyle and Patricia M. Boyle in favor of Bank of Shorewood as amended and modified from time to time, or (ii) that certain promissory note dated as of April 1, 2002 in the original principal amount of \$165,000.00 made by Guarantor and Patricia M. Boyle in favor of Bank of Shorewood, as amended, modified, restated and renewed from time to time, or (iii) any now existing or hereafter executed note, guaranty or other instrument executed by Thomas P. Boyle, Patricia Boyle and/or TPB Development, Inc. in favor of Bank of Shorewood, as amended and modified from time to time.
3. The Mortgage is hereby modified as follows:
  - a. the word "Indebtedness" as defined in the Mortgage, is hereby deleted in its entirety and replaced with following: "Indebtedness. The word "Indebtedness" means all of following: (i) all principal, interest and other amounts due under that certain promissory note dated as of April 1, 2002, in the original principal amount of \$165,000.00 made by Thomas P. Boyle and Patricia M. Boyle in favor of Bank of Shorewood, as modified and amended from time to time; (ii) all principal, interest and other amounts due and payable pursuant to that certain credit agreement and disclosure dated as of February 23, 2004 in the original principal amount of \$100,000.00 made by Thomas P. Boyle and Patricia M. Boyle in favor of Bank of Shorewood as amended and modified from time to time; (iii) all principal, interest and other amounts payable under that certain promissory note dated as of May 20, 2004 in the original principal amount of \$500,000.00 made by TPB Development, Inc., an Illinois corporation, in favor of Bank of Shorewood, as amended, modified, restated and renewed from time to time; and (iv) all now existing or hereafter executed notes, guaranties and other instruments executed by Thomas P. Boyle, Patricia Boyle and/or TPB Development, Inc. in favor of Bank of Shorewood, as amended and modified from time to time."
4. Concurrent with the execution of this Agreement, Boyle shall execute and deliver to Lender an assignment of membership interest (the "Assignment") in such form and content as required by Lender,

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whereby T. Boyle collaterally assigns all his membership interests and rights to distributions in Fields to Lender. The Assignment shall include the consent of the managers and members of Fields to the assignment.

5. The Loan Documents are hereby amended to secure the obligations and liabilities evidenced by the Note, as hereby modified.

6. Except for the modifications stated herein, the Note and Loan Documents are not otherwise changed, modified or amended. Except as expressly provided herein, the Note and other Loan Documents and each other instrument or agreement delivered by any Obligor to or for the benefit of Lender in connection with the loan evidenced by the Note shall remain in full force and effect in accordance with their respective terms and the execution and delivery of this Modification Agreement shall not operate to waive any rights or remedies that Lender may have with respect to the Note and other Loan Documents, to forgive or waive any violation, default or breach under the Note or any other Loan Document, or to obligate Lender in any manner to make any further extensions of credit other than as expressly set forth herein.

7. Contemporaneously with the execution of this Modification Agreement by Lender, Obligors shall pay to Lender all of Lender's attorneys' fees incurred in connection with the negotiation and documentation of the agreements contained in this Modification Agreement, all recording fees and charges, title insurance charges and premiums, appraisal fees, and all other expenses, charges, costs and fees necessitated by or otherwise relating to this Modification Agreement (the "Additional Fees"). If any of the Additional Fees are not paid at the time this Modification Agreement is executed by Lender, such Additional Fees shall be paid by Obligors within five days after written demand therefor by Lender, and if not timely paid, they shall bear interest from the date so incurred until paid at an annual rate equal to the Default Rate (as defined in the Note).

8. The Premises described in the Mortgage shall remain in all events subject to the lien, charge or encumbrance of the Mortgage, and nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge or encumbrance of the Mortgage, or 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 Mortgage and/or the Assignment of Rents, 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 Lender as security for or evidence of the aforesaid indebtedness.

9. This Modification Agreement shall extend to and be binding upon each of the Obligors and their heirs, legatees, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

10. Each Obligor hereby ratifies and confirms his or its respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as hereby amended, and the liens and security interest created thereby, and acknowledge that he or it have no defenses, claims or set-offs against the enforcement by Lender of their respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as so amended.

11. This Modification Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois (exclusive of choice of law principals), including all matters of construction, validity and performance.

12. This Modification 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.

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

14. This Modification Agreement is executed by State Bank of Countryside, not personally, but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in said Trustee, and it is expressly understood and agreed that nothing in this Modification Agreement shall be construed as creating any personal liability on said Trustee.

13. Lender=s consent to this Modification Agreement shall be subject to Lender (or Lender=s nominee) having received the following in a form and substance acceptable to Lender on or before March 15, 2006 (the AModification Termination Date@):

(a) An endorsement to \_\_\_\_\_ Loan Policy No. \_\_\_\_\_ (the ATitle Policy@) which (i) amends the description of the Mortgage insured under the Title Policy to include this Modification Agreement, (ii) amends the description of the Assignment of Rents to include this Modification Agreement, (iii) extends the effective date of the Title Policy to the date of the recording of this Modification Agreement, (iv) includes no additional exceptions to title other than those that have been approved in writing by Lender and (v) states that all real estate taxes and assessments applicable to the Premises which are due and payable as of the date of such endorsement have been paid in full;

(b) Certified copy of land trust agreement showing the Borrower is still the sole beneficiary; and

(c) Such other documents as Lender may reasonably require.

The Obligor=s failure to deliver the aforementioned documents and items to Lender on or before the Modification Termination Date shall, at the option of Lender, result in this Modification Agreement (including all agreements and waivers of Lender contained herein) being null and void.

14. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MODIFICATION AGREEMENT SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, OR, AT THE SOLE OPTION OF LENDER IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

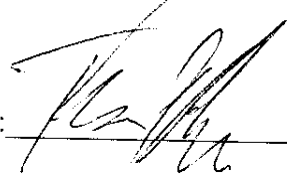
TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF OBLIGORS AND LENDER WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR THE TRANSACTION RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY AGREE THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY OBLIGOR OR LENDER MAY FILE A COPY OF THIS EXECUTED MODIFICATION AGREEMENT WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE

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CONSENT OF EACH OBLIGOR AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

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

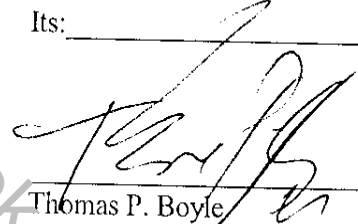
TPB DEVELOPMENT, INC.

By: 

State Bank of Countryside, not personally, but solely as Trustee as aforesaid

By: \_\_\_\_\_

Its: \_\_\_\_\_

  
Thomas P. Boyle

BANK OF SHOREWOOD

By: 

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## EXHIBIT "A"

PIN: 20-23-124-007

ADDRESS: 6621 S. Ellis Avenue, Chicago, IL 60637

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The image contains several large, black, handwritten scribbles that appear to be illegible signatures or marks. There are four distinct scribbles of varying lengths and shapes, some resembling stylized letters or symbols.

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## EXHIBIT A

LOT 20 IN BLOCK 13 IN WOODLAWN RIDGE SUBDIVISION OF THE SOUTH  $\frac{1}{2}$   
OF THE NORTH WEST  $\frac{1}{4}$  OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 14,  
EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

THE REAL PROPERTY ADDRESS IS COMMONLY KNOWN AS 6621 S. ELLIS  
AVENUE, CHICAGO, IL 60637

THE REAL PROPERTY TAX IDENTIFICATION NUMBER: 20-23-124-007

Property of Cook County Clerk's Office



